

**CANADIAN  
HUMAN RIGHTS  
TRIBUNAL**



**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

**FILE NO./N<sup>o</sup> CAUSE:**

T869/11903

**VOLUME:**

15

**LOCATION/ENDROIT:**

Oakville, Ontario

**DATE:**

2005/02/25

**PAGES:**

3548-3684

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

HEARING HELD IN THE LAKESHORE ROOM OF THE HILTON GARDEN INN, 2774  
SOUTH SHERIDAN WAY, OAKVILLE, ONTARIO, ON FRIDAY, FEBRUARY 25,  
2005, AT 9:30 A.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
Vahe Kulbashian	on behalf of Respondent (Alexan Kulbashian)
James Scott Richardson	on his own behalf as Respondent

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1 Oakville, Ontario

2 --- Upon commencing on Friday, February 25, 2005 at  
3 9:30 a.m.

4 REGISTRY OFFICER: Order, please.

5 All rise.

6 Please be seated.

7 THE CHAIRPERSON: Good morning.

8 MS MAILLET: Good morning.

9 THE CHAIRPERSON: Mr. Kulbashian.

10 ARGUMENT BY MR. KULBASHIAN (Cont'd):

11 MR. A. KULBASHIAN: Good morning.

12 Just get my papers together. So, I thank you for the  
13 copy of --

14 THE CHAIRPERSON: Yes, for the  
15 record, last night I decided to look at the website  
16 myself that I had directed Mr. Kulbashian to find the  
17 Vetovec decision.

18 I realized he missed by just one  
19 year, the SCR Reports, Supreme Court Reports go back  
20 only as far as 1983 and that was a 1982 case.

21 So, through another source and I was  
22 able to get a copy and it was formatted into doc. I  
23 don't know, did everyone get a copy. Okay, it was  
24 formatted into doc and Mr. Levac I think e-mailed a  
25 copy to all -- or to Mr. Kulbashian.

1                   Well, I don't have a copy. In case  
2 you are going to be referring to it, I will need a  
3 copy.

4                   MR. A. KULBASHIAN: I don't think  
5 I'll be referring to it, it's just a record, especially  
6 since the fact is I'm not a lawyer, I don't have....

7                   THE CHAIRPERSON: Earlier in your  
8 comments when you made that reference, it was to this  
9 decision, I have it in front of me, it's been given to  
10 me now by Mr. Levac.

11                  MR. A. KULBASHIAN: Okay. There's  
12 just a few other corrections that just going over  
13 things, I made a few corrections to information that  
14 was provided in closing statements.

15                  First of all, there was -- I guess, I  
16 never stated in any of the evidence provided that I had  
17 written a lot of articles, the only evidence provided  
18 was that I had written about a lot of stuff which was  
19 from my -- because as Ms Maillet stated in her closing  
20 argument apparently I had written a lot of articles.

21                  THE CHAIRPERSON: Let me just take a  
22 note here.

23                  So you are not returning to the text  
24 here at the moment, you're referring to comments made  
25 by counsel for the complainant and the Commission - for

1 the complainant himself and counsel for the Commission.

2 MR. A. KULBASHIAN: Right.

3 THE CHAIRPERSON: So, you say you did  
4 not write a lot of articles, but you wrote a lot of  
5 stuff.

6 MR. A. KULBASHIAN: I never stated  
7 that I written a lot of articles. The only evidence  
8 that was provided -- that was put in front of the court  
9 was that I had written about a lot of stuff and that  
10 was exact quotes and that's from my interview at the  
11 police station. It's page 62 of the interview, in  
12 fact. I don't know what tab it was on.

13 THE CHAIRPERSON: You wrote about a  
14 lot of stuff.

15 MR. A. KULBASHIAN: That's right.  
16 And, again, of any of the actual credible evidence put  
17 in front of the court which would, I guess, take out  
18 any of the media articles, there was never any  
19 evidence, credible evidence that stated that I had  
20 stated that I was one of the founders of the C.E.C.T.

21 The evidence was that I had told Det.  
22 Wilson that it was a collective and that was page 17 of  
23 my interview.

24 THE CHAIRPERSON: But is there  
25 indication anywhere in the evidence that you were not a

1 member of the C.E.C.T.?

2 MR. A. KULBASHIAN: No, I wasn't  
3 arguing about whether or not I was -- there was  
4 membership.

5 THE CHAIRPERSON: You are just  
6 talking about that reference to being a founder.

7 MR. A. KULBASHIAN: To being one of  
8 the founders. There was only a media article about  
9 that, so then again, I guess I'm basically stating that  
10 there is no credible evidence stating that I was a  
11 founder of the C.E.C.T. and the only evidence was that  
12 it was a collective.

13 Coming back to also Det. Wilson,  
14 this is just something that I noticed when I went over  
15 what I had said, just to finalize my conclusion.

16 THE CHAIRPERSON: Mm-hmm.

17 MR. A. KULBASHIAN: Talking about  
18 when Det. Wilson testified that -- I mean, aside from  
19 his testimony there is no actual evidence stating that  
20 I had told anybody that I was Totenkopf, and coming to  
21 I guess strengthen that fact is during the interview  
22 on page 58, Det. Wilson tells me that during the raid  
23 at James' house I called -- I introduced myself as Alex  
24 Krause to him and nothing stated about me introducing  
25 myself as Totenkopf, and he says later you were very

1           apologetic, that's what it says, but it doesn't say  
2           that I introduced myself as Totenkopf.

3                         And there's also no -- as we stated  
4           yesterday, no evidence at all about me stating that I  
5           was a member of Tri-City and it doesn't even say here  
6           that I told him that I was a member of Tri-City.

7                         And, again, re-enforced by that  
8           during the interview when I told Wilson that I wasn't  
9           Totenkopf he did not, I guess, contradict what I  
10          stated. He didn't say, no, you're Totenkopf, or I had  
11          previously told him I was Totenkopf, even though he had  
12          told me that I had previously identified myself as Alex  
13          Krause, but never at any time did he tell me that I  
14          told him that I was Totenkopf.

15                        And also the topic of the 80 sites,  
16          there's only evidence that there were 80 sites on a  
17          specific server in the Cari.net -- on the Cari.net  
18          property, there was never any evidence that there was  
19          80 servers as a whole as part of affordablespace.com,  
20          except for a media report --

21                        THE CHAIRPERSON: 80 sites on a  
22          server, versus 80 servers?

23                        MR. A. KULBASHIAN: Yeah. The only  
24          evidence was that there was 80 sites on the specific  
25          Cari.net server that was during an interview.

1                   There was never any evidence aside  
2                   from, I guess, less than credible sources in the media,  
3                   that stated there was only 80 sites in total, which  
4                   means there's no actual evidence contradicting there  
5                   being a possibility of upwards of a thousand sites.

6                   And by the admission of -- well,  
7                   during the interview with -- in the cross-examination  
8                   of Det. Wilson he suggested that it may well have been  
9                   over a thousand sites -- there may well have been over  
10                  a thousand sites.

11                  THE CHAIRPERSON: So, your submission  
12                  is that...?

13                  MR. A. KULBASHIAN: is that there was  
14                  never, like, any evidence -- there was never any  
15                  admission of there being I guess 80 sites as a whole  
16                  throughout affordablespace.com, I guess, the company.  
17                  The only evidence was that there were 80 sites on a  
18                  specific server in the Cari.net, I guess, company and  
19                  one of their accounts. So, a server that was at the  
20                  Cari.net. So, that was during the interview.

21                  And it does not contradict what  
22                  Wilson admitted to, that there's a possibility of over  
23                  a thousand sites.

24                  THE CHAIRPERSON: Possibility.

25                  MR. A. KULBASHIAN: Well, actually --

1 THE CHAIRPERSON: Is there any  
2 positive evidence --

3 MR. A. KULBASHIAN: -- I think there  
4 was evidence that there was over a thousand sites  
5 from -- actually that 's what I'm saying.

6 If you turn to HR-1, tab 38. HR-1,  
7 tab 38, this was brought to and referred by the  
8 complainant and the Commission under the heading where  
9 the Commission had mistaken this to mean president and  
10 that area which is --

11 THE CHAIRPERSON: Yes, at the bottom  
12 it says AffordableSpace--

13 MR. A. KULBASHIAN: Yeah,  
14 affordablespace.com.

15 THE CHAIRPERSON: --hosts a thousand  
16 plus accounts.

17 MR. A. KULBASHIAN: Exactly. Also, I  
18 would like to turn your attention to a line here that  
19 says, on the second page, page 2 of 4, and it says:  
20 yeah, hosting a thousand plus accounts and handling  
21 technical support as part of the duties you see on the  
22 resume.

23 It does not state here that I founded  
24 the company, it does not state here that I owned the  
25 company and it states on the third bullet on the second

1 page:

2 "Provide technical support  
3 for clients and manage  
4 accounts."

5 It does not state managing sites.

6 And at the very bottom, the second  
7 last paragraph under that heading it says:

8 "AffordableSpace.com started  
9 off as a private project  
10 that turned into a business  
11 that hosts a thousand plus  
12 accounts."

13 It does not state that I started up  
14 affordablespace.com, or that -- it doesn't state who  
15 started it up.

16 Okay. And also there's no indication  
17 that AffordableSpace is in Canada except mysterious, I  
18 guess, Whois record look up that Mr. Warman claimed to  
19 have done and Mr. Warman claimed that from his memory  
20 he remembers that there was the P.O. Box, the Canadian  
21 P.O. Box in the Whois record, however, Mr. Warman also  
22 claims he doesn't remember where he got the e-mails  
23 from with the copies of the Vinland Voice with the s.  
24 13, I guess, allegations in them.

25 So, I would consider like basically

1 ask the Tribunal to be wary of, I guess, taking that  
2 statement at face value and that there's no actual  
3 evidence placed that affordablespace.com, the actual  
4 company, is based in Canada or that it was entirely  
5 owned by me in any way. The only evidence, again, is  
6 that there was a server on Cari.net again.

7 I would also like to note that at the  
8 very end of my cross-examination of Det. Wilson, when I  
9 asked him whether or not it was possible that James had  
10 nothing at all to do with Vinland Voice, he stated that  
11 that was possible.

12 And I believe that as a Detective in  
13 charge of the case, if he had any concrete evidence,  
14 that Mr. Richardson had anything to do with Vinland  
15 Voice he wouldn't have said that that was possible,  
16 because my question was explicitly, if it's possible he  
17 had nothing at all to do with the Vinland Voice.

18 Coming back to yesterday, I tried to  
19 kind of look through a lot of the disclosure, coming  
20 back to yesterday's statement about Totenkopf in two  
21 articles, I did find one reference in my interview  
22 talking about articles written by Totenkopf that I  
23 admitted to Det. Wilson that I wrote which was talking  
24 about James in a cold, wet cell at the police station  
25 and I don't remember what the other article was because

1 I didn't have enough time to go through it, but now  
2 that leaves only one unknown document by Totenkopf that  
3 I admit to writing.

4 THE CHAIRPERSON: And that appears  
5 in...?

6  
7 MR. A. KULBASHIAN: In the interview.

8 THE CHAIRPERSON: In the interview?

9 MR. A. KULBASHIAN: That's right.

10 THE CHAIRPERSON: Do you have a page  
11 reference?

12 MR. A. KULBASHIAN: I wish I did. I  
13 only started taking page references --

14 THE CHAIRPERSON: That's fine.

15 MR. A. KULBASHIAN: I only started  
16 taking page references, like, after the second or third  
17 point that I was trying to make. I completely forgot.

18 THE CHAIRPERSON: That's fine. I'm  
19 going to consult the material.

20 MR. A. KULBASHIAN: Just because  
21 there was a lot of stuff to go through.

22 I would like to make two other points  
23 now about Mr. Warman's closing statement.

24 Mr. Warman's closing statement is  
25 all, I guess, innuendo and political history and that

1           there's no direct reference to facts and evidence, in  
2           my opinion there is no direct reference to facts and  
3           evidence brought before the Tribunal.

4                         And I would also suggest that the  
5           Tribunal verify information that Ms Maillet provided  
6           for accuracy in her closing statement, just because of  
7           like a few mistakes I found that I want to correct,  
8           including the president issue which she used later on  
9           her -- she used twice, where she stated I was the  
10          president in tab 38 and then she used it again later on  
11          in her closing argument, which is highly, I guess,  
12          prejudicial obviously to me.

13                        Now, another issue I want to bring up  
14          is the reason why the documents, which is a comment  
15          that they made yesterday and actually made me nervous  
16          in a sense.

17                        The reason why the document was  
18          written in the third person, the one that was submitted  
19          to you, was primarily because by our guidelines was  
20          supposed to be an idea of what we were going to be  
21          doing and a lot of the documents was either prepared by  
22          or, I guess, had a lot of aid by, like, my father.

23                        THE CHAIRPERSON:   You're talking  
24          about this document?

25                        MR. A. KULBASHIAN:   Yes, this

1 document, the document that -- well, the idea is I want  
2 to cover our bases.

3 THE CHAIRPERSON: It was our  
4 discussion we had back and forth in terms of possible  
5 arguments to the contrary to what you were referring  
6 with respect to that document.

7 MR. A. KULBASHIAN: That's kind of...

8 THE CHAIRPERSON: Certainly. No,  
9 it's perfectly normal to see it this way. I  
10 understand, you were working in cooperation with your  
11 father, so...

12 MR. A. KULBASHIAN: That's right, so  
13 it's hard for him to use "I", you know.

14 THE CHAIRPERSON: No, that's fine.

15 MR. A. KULBASHIAN: Okay. Now,  
16 coming back to the point of penalties, I believe that  
17 due to the, I guess, large monetary penalties  
18 associated with the case that the balance of  
19 probabilities should have a slight bias towards the  
20 respondents and the I believe the Tribunal should also  
21 take into account the fact the respondents were  
22 unrepresented and facing two seasoned lawyers as  
23 opposition, both with human rights experience and both,  
24 you know, with experience with the Human Rights  
25 Tribunal as well.

1 THE CHAIRPERSON: Could you repeat  
2 that first of part of your statement, please?

3 MR. A. KULBASHIAN: The first part  
4 was that I believe that due to the large monetary  
5 penalties associated with the case --

6 THE CHAIRPERSON: Yes.

7 MR. A. KULBASHIAN: -- the balance of  
8 probabilities should have a slight bias towards the  
9 respondents, and I believe that the Tribunal should  
10 also take into account the fact that the respondents  
11 were unrepresented and facing two seasoned lawyers as  
12 opposition, both with the human rights experience, you  
13 know, in the Tribunal as well as otherwise.

14 And both with knowledge of human  
15 rights law and the Human Rights Act.

16 Now, finishing off the Dr. Henry  
17 point, by her own admission during cross-examination,  
18 Dr. Henry gave testimony on some topics, events and  
19 about some individuals that she had no knowledge  
20 about - and that's by her own admission that she had no  
21 knowledge about those individuals, topics or events.

22 And the danger of having the Tribunal  
23 rely on her testimony is that it would require the  
24 Tribunal to know exactly where she spoke outside of her  
25 expertise or realm of knowledge in order to ignore the

1 information.

2                   Though I challenge her expertise in  
3 her field, I'm even more, I guess, anxious about the  
4 implications and unfair bias against myself and my  
5 co-respondent that could, you know, be caused by her,  
6 like, inconsistent and uninformed testimony in some  
7 sense.

8                   And the problem with being that it's  
9 hard to take, especially expert testimony where it's  
10 hard to corroborate her evidence, it's hard to take  
11 individual parts of the testimony except taking it as a  
12 whole, and if the testimony has a lot of, I guess,  
13 random statements - I don't know how else to put it,  
14 there's an exact word in my language but there's no  
15 other way of putting it in English - but there's a lot  
16 of statements that are, I guess, uninformed statements  
17 or statements that she made outside of her own  
18 knowledge, in a way, like guessing in a way, or  
19 assuming that would in a way would be dangerous for the  
20 Tribunal to rely on her testimony.

21                   And by her own admission, a lot of  
22 the statements that she made were guessing. It brings  
23 up a question as to what did she not admit to guessing.

24                   I mean, and I do respect the fact  
25 that she's done a lot of work in her field and,

1           however, I also believe that it's dangerous -- and it's  
2           an unfair bias against the respondents in this case for  
3           the Tribunal to actually take her testimony into  
4           account or to give it any weight, or any significant  
5           weight, for that matter.

6                           And I believe that the Tribunal is,  
7           to a certain extent, able to I guess form its own  
8           decision. That's my opinion. Ultimately the decision  
9           would be up to the Tribunal to decide.

10                           Again, by Mr. Warman's admission, a  
11           lot of the information that he received were either  
12           from sources that he doesn't remember where he got them  
13           from - the evidence I mean - as was information, as  
14           well as chat logs that he received from Wilson and he  
15           monitored the investigation to receive more  
16           information. I believe that if the Tribunal finds that  
17           Wilson is not a credible witness due to his admissions  
18           of distorting, you know, information or distorting  
19           facts and, I guess, generally distorting evidence then  
20           I believe that the Tribunal should be cautious about  
21           admitting information that was presented by Mr. Warman  
22           that might have had -- that might have been obtained by  
23           Mr. Wilson.

24                           Another point that I have about Mr.  
25           Warman's information about some of the disclosure that

1 he provided, is that I don't understand why he would go  
2 through the trouble of copy and pasting content from  
3 e-mails instead of just printing them, which would mean  
4 that he would be taking -- because every e-mail has,  
5 like, a program and every Internet browser for checking  
6 e-mail has a print function, I don't know why he would  
7 go through the trouble of copying and pasting them  
8 before printing them, and that would mean that he would  
9 take the e-mail from a less modifiable source to a  
10 completely modifiable source and printing it out,  
11 meaning from, say -- I'm sure everybody in the  
12 courtroom has used e-mail - I mean, in the Tribunal  
13 here, and how e-mail comes that in is not as easily  
14 modified as e-mail if you copy and paste it, it's in  
15 NotePad, say, or WordPad.

16 I would also have expected that he  
17 would have gone and downloaded the Vinland Voice issues  
18 himself, since he claimed that they were still up.

19 And he stated in his testimony that  
20 he didn't want to go through the trouble, so I don't  
21 understand how that's consistent with him going through  
22 this extra step to having his e-mails printed out.

23 And, coincidentally, all the e-mails  
24 that were copy and pasted are the ones with s. 13  
25 allegations in them, and other e-mails where there was

1 e-mails printed out directly from Yahoo.com mail  
2 service, davidmacLean@yahoo.com, or davidmaclean3,  
3 those ones have no allegations of s. 13 violations in  
4 them, however, the other ones that have no header, no  
5 print location, no print time, those ones have s. 13  
6 violations in them.

7 Mr. Warman has experience with the  
8 Human Rights Tribunal before. He's a lawyer, and I  
9 would expect him to be a lot more careful about the way  
10 he collects information and how he presents it.

11 And to use his own words, basically I  
12 would submit that the Tribunal draw an adverse  
13 inference from the fact that the e-mails with s. 13  
14 complaints in them on their original form and the  
15 trouble is taken to take them out of their original  
16 form, into modifiable information before they were  
17 printed out.

18 And I would submit that, like,  
19 basically kif the Tribunal would, I guess, take an  
20 adverse inference from our decision not to testify,  
21 then it should definitely take an adverse inference  
22 from that.

23 THE CHAIRPERSON: You are learning  
24 the terms well.

25 MR. A. KULBASHIAN: Well, I used his

1 exact words, so...

2 THE CHAIRPERSON: That's the  
3 appropriate word to use.

4 MR. A. KULBASHIAN: I will fight  
5 fire with fire.

6 So, that's just the points I wanted  
7 to touch on. I'm just going to read my closing  
8 argument.

9 THE CHAIRPERSON: Yes, go on, please.

10 MR. A. KULBASHIAN: I guess I will  
11 read the last two pages.

12 THE CHAIRPERSON: Okay.

13 MR. A. KULBASHIAN: The final  
14 remarks.

15 During this long trial, the  
16 complainants did not produce any reliable documents  
17 which would prove the extent of my involvement in the  
18 alleged racist sites or contradict my statement in the  
19 police station.

20 Moreover, some of their own documents  
21 corroborated my statement at the police station.

22 We demonstrate that Mr. Warman was  
23 not a trustworthy witness. In his testimony there were  
24 many inconsistencies, contradictions and assumptions,  
25 with no sustainable evidence whatsoever. Some of the

1 articles that he produced regarding Vinland Voice were  
2 not reliable; cut and paste and only portions of the  
3 articles. He admitted that he had not done any  
4 investigation about the site and the server. He didn't  
5 have any documents to prove the ownership of,  
6 management, control, the date those sites were on the  
7 server and when AffordableSpace was established,  
8 addresses, etc.

9 Also, contrary to his past actions  
10 Mr. Warman did not complain to the sites and the  
11 management of the server about the articles.

12 If you look at the decision of  
13 Kyburz -- of Warman v. Kyburz, there is evidence that  
14 Mr. Warman complained repeatedly about the content on  
15 the Kyburz site.

16 In this case regardless of that  
17 history and regardless of his, I guess, experience with  
18 the Tribunal, for some reason Mr. Warman decided not to  
19 complain this time and just file a complaint directly  
20 with the Commission rather than complain to the server  
21 and the owners of the sites.

22 We demonstrated to the court that any  
23 time someone made a complaint there has been a swift  
24 response to remedy the situation, and that was backed  
25 up by Det. Wilson's testimony when he stated that any

1 time he had a complaint about the content of a site  
2 that I was told and there was, I guess, action taken to  
3 notify either the owners of the sites, or like notify  
4 editors of the sites to take down the contents.

5 And the same, I guess, applies to  
6 Det. Wilson who was shown to be a very untrustworthy  
7 witness, and by his own admission was shown to be a  
8 very untrustworthy witness, and the Commission's only  
9 witness who tried to associate me to the sites.

10 There was remarkable scarcity of  
11 documents that he produced for such a long  
12 investigation and, by his own admission, there were no  
13 other documents at the police station.

14 If you remember at the beginning of  
15 the court case where there was the issue of Mr. Kierluk  
16 testifying. Mr. Kierluk in his letter to his lawyer  
17 wrote that he had no documents and all documents in  
18 disclosure would be with the police, and Det. Wilson  
19 over here testified that he had no documents and that  
20 all documents should be with the crown -- well, I mean  
21 no other documents than the ones he brought in and that  
22 other documents should be with the crown.

23 I have no reason to, I guess,  
24 mistrust the integrity of Peter Kierluk of the crown in  
25 London.

1                   We also demonstrate how some of his  
2                   fellow policemen that were involved in the  
3                   investigation misrepresented the truth and produced  
4                   some, basically untrue documents, I don't know how else  
5                   to put it, during my bail hearings or false reports to  
6                   implicate myself.

7                   I don't understand why documents  
8                   should have been missing from Det. Wilson's  
9                   investigative binders. I believe that there weren't  
10                  any or that possibly some others -- it's just a  
11                  possibly that they were forged and they had to get rid  
12                  of them.

13                  But I will note that during the  
14                  Tribunal hearing that when we went through the binders  
15                  and when the Chair asked why the binders have a lot of  
16                  missing information between the separators, Det. Wilson  
17                  stated that the rest of the information was at the  
18                  police station and later on in his testimony when asked  
19                  if there was any other information from these cases in  
20                  the police station he stated that there weren't.

21                  And I would believe that to be  
22                  inconsistent with his initial claims and I believe that  
23                  there was, basically I, again, suggest that the  
24                  Tribunal take, like, you know, make an adverse  
25                  inference from that.

1                   Coming to AffordableSpace, we  
2                   cannot -- I believe that AffordableSpace cannot be held  
3                   accountable for any materials posted on the sites and I  
4                   believe that AffordableSpace is not liable if any of  
5                   the sites that are hosted involved any unlawful acts.

6                   Moreover, only two domain  
7                   registration documents of the Canadian Ethnic Cleansing  
8                   Team and Tri-City Skins were, like, mentioned that  
9                   AffordableSpace is their service provider. Although  
10                  none of those documents had a date to prove exactly,  
11                  you know, when they started -- when they moved over to  
12                  AffordableSpace, etc., during the period basically  
13                  there was no dates proving whether or not the sites  
14                  were hosted at AffordableSpace during the period of  
15                  those alleged incidents or when the articles were  
16                  posted or removed, etc. Moreover, there are no  
17                  documents to prove if AffordableSpace hosted Vinland  
18                  Voice or the dates it hosted Vinland Voice when those  
19                  allegations happened.

20                  And moreover to the admission of Det.  
21                  Wilson, AffordableSpace had more than a thousand plus  
22                  sites hosted and only three or four of the alleged  
23                  sites, he stated, were possibly racist.

24                  The server and the management were in  
25                  the U.S. and accountable to U.S. laws.

1                   I, by my admission as well as by  
2                   documentation that was provided by the Commission was  
3                   only involved in the technical support aspect of the  
4                   server. And, moreover, by Det. Wilson's admission the  
5                   sign-up was on line and could have been automated and  
6                   that it's possible in an automated system no one would  
7                   know who was signing up during the sign-up process.

8                   And I believe it is impossible to  
9                   monitor sites -- to monitor all sites on a server, and  
10                  if we accept the authenticity of chat room documents,  
11                  it indirectly corroborated what I told the police, what  
12                  I'm basically I'm implying, about how busy I was and  
13                  how many projects I had been working on, as well as  
14                  work and, you know, other prior projects.

15                  And I believe that the only way that  
16                  AffordableSpace management would have known about the  
17                  allegations is if they had been informed by the  
18                  complainants or by the police, and by their own  
19                  admission there was no complaints and I believe that's  
20                  a mitigating factor if the Tribunal should find any  
21                  kind of liability on behalf of AffordableSpace.

22                  In a disclaimer on the  
23                  AffordableSpace site, it's like every company, there  
24                  are most likely detailed regulations about what  
25                  AffordableSpace does and, I guess, maybe by the

1 admission of the officer there was also an abuse  
2 contact, so the abuse department could have been  
3 contacted.

4 And the complainant admitted that he  
5 never read any disclaimers or terms of service or  
6 acceptable use policy.

7 THE CHAIRPERSON: Are they in  
8 evidence?

9 MR. A. KULBASHIAN: The disclaimer,  
10 no . He claimed -- he stated that he never read them.

11 THE CHAIRPERSON: But are they in  
12 evidence?

13 MR. A. KULBASHIAN: They're not, but  
14 the abuse e-mail was in evidence by the admission of  
15 Det. Wilson that he said there was an abuse e-mail. He  
16 never contacted the abuse e-mail or the info e-mail  
17 when he was being asked.

18 Also demonstrated that I was not  
19 involved with Tri-City Skins at all, aside from some  
20 false information provided by the main witness here,  
21 Det. Wilson to be clear.

22 And that I myself and AffordableSpace  
23 have not facilitated knowingly any materials contrary  
24 to s. 13, therefore, I myself and AffordableSpace are  
25 not accountable for any of the alleged "hate articles"

1           contrary to s. 13 that the site posted.

2                           Coming to the Canadian Ethnic  
3           Cleansing Team, I never denied that I was never a  
4           member of the C.E.C.T. I also stated that I designed  
5           the C.E.C.T. templates for the site but I did not  
6           control the templates.

7                           I also stated and with evidence  
8           provided to the court I had resigned when I realized  
9           that things were going wrong in the sense that I didn't  
10          agree with some of the opinions being expressed.

11                          I believe that the lawsuit, this suit  
12          here is specifically against the Canadian Ethnic  
13          Cleansing Team and not against the Vinland Voice.

14                          According to the main witness, the  
15          Canadian Ethnic Cleansing Team and the Vinland Voice  
16          are two legally different sites with different URL  
17          addresses.

18                          The Vinland Voice is an open forum  
19          with no restriction applied to the source of the  
20          articles and anyone could have posted anything on line,  
21          be it an infraction of s. 13 or anything, even the  
22          complainant himself.

23                          Also, by the complainant's and  
24          Detective's admission there was an automated mail  
25          system where they received mail from.

1                   The complainants have not produced  
2                   any documents alleging that the C.E.C.T. site had  
3                   posted any materials contrary to s. 13 on its own site,  
4                   aside from the Vinland Voice.

5                   Also, there is no claim that there is  
6                   any articles authored by myself on the C.E.C.T. site  
7                   contrary to s. 13.

8                   And the complainants did not complain  
9                   about the site themselves, about their contents, again  
10                  affirming that.

11                  Okay. So, there's no evidence of any  
12                  material -- sorry. I believe that, I guess, fair  
13                  notice that since Vinland Voice was not placed in the  
14                  list of respondents that Vinland Voice should be exempt  
15                  from this Tribunal hearing.

16                  And I believe that the only link that  
17                  Ms Maillet was providing to the sites, was a link --  
18                  saying that there was a link from one site to the  
19                  other, and I believe that anybody with basic knowledge  
20                  of the Internet could understand that an external link  
21                  from one site to another does not necessarily mean that  
22                  one site owns the other.

23                  Again -- so, aside from talking about  
24                  the link, Ms Maillet did not explain any direct  
25                  association between the C.E.C.T. and the Vinland Voice

1 sites, and Ms Maillet did try to make an association  
2 between AffordableSpace and Vinland Voice, and so did  
3 the complainants; however, no documents were provided  
4 to detail their association, to provide any concrete  
5 evidence in court.

6 The complainants did not produce any  
7 evidence that I was in control of the Vinland Voice or  
8 had authored or facilitated the posting of the articles  
9 contrary to s. 13. They did not produce any evidence  
10 that I knew of the content.

11 Dr. Henry has very limited knowledge  
12 of the content on the sites. She is also a biased  
13 witness with a selective memory and double standards  
14 and I don't believe she's qualified to deal with every  
15 aspect of the contents. I ask the court to disregard  
16 her opinion about the general nature of the sites. If  
17 the court feels that -- sorry, if the Tribunal feels  
18 that they will not be disregarding her comments as a  
19 whole, at least I would ask this Tribunal to disregard  
20 her opinion about the general nature of the sites.

21 And she did not acknowledge any  
22 articles that Alex Krause or myself have written that  
23 were contrary to s. 13.

24 THE CHAIRPERSON: I asked you  
25 something earlier about the linkage between the two

1 links.

2 Do you think any liability  
3 attaches -- what if the proposition is put to you that  
4 the C.E.C.T. should be liable for putting a link to a  
5 site that may contain material that is in violation of  
6 s. 13?

7 MR. A. KULBASHIAN: The problem with  
8 that kind of liability, is that would start -- it's a  
9 slippery slope and the problem is that stating that a  
10 site that posts a link to another site that may have  
11 infractions of s. 13 would first of all assume that  
12 everybody on the Internet knows about the Canadian  
13 Human Rights Act and has studied it well, that  
14 everybody on the Internet has to monitor every page of  
15 every site they link to and that assumes that everybody  
16 is responsible in the long run for everybody else's  
17 content, because it may not stop there.

18 To be fair, the link that they stated  
19 was from the C.E.C.T. site to the Vinland Voice. There  
20 would have been a subsequent link from the Vinland  
21 Voice to the content of the article on site.

22 If you say that linking means that  
23 there was some liability, that would mean that the link  
24 from one site to another site where it has a link to  
25 another site that creates an infraction would also

1 be -- create a liability in the first site or maybe  
2 even a possible link.

3 And it's kind of a never -- it's a  
4 way of opening the floodgates for liability, stating  
5 that, for example, it could open the doors for  
6 individuals with personal vendettas against certain  
7 sites to state that -- or, like, a certain person's  
8 vendetta against opinions or content to state that the  
9 reason why this site is being sued is because they have  
10 a link to another site with content that doesn't, you  
11 know.

12 THE CHAIRPERSON: How about the  
13 reverse argument though, Mr. Kulbashian, that could be  
14 made?

15 It's a bit of a hypothetical  
16 theoretical discussion with you which may or may not  
17 have implications for this case, but I think there was  
18 some allusion to this by the complainant and the  
19 Commission that an organization, a group of people who  
20 may want to circumvent the Act, may specifically set up  
21 this type of a scenario to limit the liability; that is  
22 to say, that you set up site A with a reference to a  
23 link to site B with another link to site C with a link  
24 to site D in order to -- and, you know, people  
25 eventually get through these links and the information

1 gets out there that's in breach of the Act and if  
2 anyone tries to investigate the reply will be exactly  
3 what you're telling me here: Well, site A, we don't  
4 know anything about it, we were just using link buttons  
5 all the way through.

6 MR. A. KULBASHIAN: I understand, but  
7 that would still open the complainants -- give the  
8 complainants the option to actually complain against  
9 site B with the content on it rather than complaining  
10 against site A.

11 THE CHAIRPERSON: It does implicate  
12 your discussion because, let's suppose the ultimate  
13 site is located somewhere outside the jurisdiction of  
14 Canada, but through linkages that are found in Canada  
15 we reach that point.

16 MR. A. KULBASHIAN: However, Vinland  
17 Voice never claimed to be outside the jurisdiction of  
18 Canada and the Vinland Voice came to be a Canadian  
19 newsletter.

20 THE CHAIRPERSON: Good of you to  
21 bring it to the facts of this case, okay.

22 MR. A. KULBASHIAN: But it was in the  
23 facts of this case.

24 THE CHAIRPERSON: Okay. So, you're  
25 saying because of the facts of this case --

1                   MR. A. KULBASHIAN: The Vinland Voice  
2 never claimed to be a U.S. site, it was information  
3 about Canadian articles, about Canadian events by  
4 majority and by the admission of Det. Wilson it was a  
5 Canadian site, then the complainant still has the  
6 option of complaining against the Vinland Voice, not  
7 against a site that links the Vinland Voice.

8                   Now, the other problem is that  
9 stating that a link to an article -- because basically  
10 liability is kind of a serious term because it means  
11 that somebody actually willfully might have done  
12 something that would have the effect -- for example,  
13 aside from posting a link, for somebody to be liable  
14 for content on a site -- somebody else's site would  
15 mean that they would have to know of the content.

16                   Again, by the admission of the  
17 complainant and one of the witnesses, there was no  
18 complaint posted that they knew of.

19                   THE CHAIRPERSON: Just be mindful  
20 that intent is not a factor when it comes to  
21 discrimination.

22                   MR. A. KULBASHIAN: I understand, but  
23 intent -- I'm not talking about intent, I'm talking  
24 about knowledge even.

25                   THE CHAIRPERSON: Okay.

1                   MR. A. KULBASHIAN: And the idea that  
2                   one site linking to another site, it means that  
3                   basically, the reason why the Internet is called the  
4                   hypertext terminal, you know, the protocol is because  
5                   one site links to another, links to another that causes  
6                   a network of sites and people to be able to find out  
7                   about sites and about information.

8                   Links are inherently a part of the  
9                   Internet, but each site is still distinct from the  
10                  other in the sense that maybe each site has its  
11                  complete separate URL or complete separate author or  
12                  complete separate owner and for the complainant to  
13                  complain against a site that links to another site that  
14                  is still within jurisdiction of Canada, is to say  
15                  that -- I guess I'll provide an example.

16                  If the complainant say had a site  
17                  with information and links about, you know, for  
18                  example, let's say, for example there's a complaint  
19                  process of the Canadian Rights Commission. If the  
20                  complainant has a site with its complaint form on there  
21                  and his site had links to all the contents that he was  
22                  saying was a breach of the Canadian Human Rights Act,  
23                  but not only just had the links typed up but actually  
24                  had them linked, would that make the complainant  
25                  himself --

1 THE CHAIRPERSON: The Commission I  
2 think you're talking about.

3 MR. A. KULBASHIAN: No, the  
4 complainant himself, I'm talking about the individual.

5 THE CHAIRPERSON: Okay.

6 MR. A. KULBASHIAN: Would that make  
7 the complainant himself liable for the content on those  
8 sites, because even more so the complainant knows of  
9 the content on those sites because he states he's  
10 complaining about those content and aside from just  
11 providing a text link he's actually providing a hyper  
12 link that you can click on to go to the next site.

13 So, it's like saying that everybody  
14 should be liable for everybody else's content.

15 THE CHAIRPERSON: I see.

16 MR. A. KULBASHIAN: And the  
17 complainant and the Commission have also shown that not  
18 all articles on the site were, according to them, were  
19 in violation of s. 13 meaning that in order for  
20 somebody to come to, I guess, a conclusion for himself  
21 saying I don't want to link to this site because it's  
22 in violation of s. 13 would mean that -- I mean, like  
23 there's no purpose of the site actually demonstrated.

24 A lot of the like later e-mails --  
25 the original e-mails that were printed out by Mr.

1 Warman have no allegations of s. 13 violations. So,  
2 would the original linker of the site know that some  
3 time in the future they might have a s. 13 violation.

4 It's like saying live in a house with  
5 no doors.

6 And I believe it's danger I guess to  
7 assign liability to somebody just based on the fact  
8 that he had a link to content that there's no evidence  
9 that that person knew about or that site knew about and  
10 actually opened the case against the initial site when  
11 both sites are under the jurisdiction --

12 THE CHAIRPERSON: I guess it depends  
13 on the related site. If I were to take your argument  
14 one step further. Suppose you yourself said that you  
15 do not agree with the opinions of the KKK, I believe I  
16 saw it in one of --

17 MR. A. KULBASHIAN: That was in the  
18 interview.

19 THE CHAIRPERSON: Yes. So, suppose a  
20 site in Canada puts a link to the KKK, an organization  
21 that's notorious for being against certain racial  
22 groups; right?

23 MR. A. KULBASHIAN: I understand.

24 THE CHAIRPERSON: In that case, would  
25 it not be more obvious that the organization should be

1           liable, or are you going to give me the example again  
2           of let's say an anti-racist organization that puts the  
3           link for discussion or commentary?

4                       MR. A. KULBASHIAN:     Then that's a  
5           slippery slope. That's the slippery slope, because if  
6           intent has nothing to do with the s. 13 complaint, then  
7           how do you set a limit as to what, as to how linkage  
8           has anything to do with why somebody would be liable,  
9           because as you just said yourself intent has nothing to  
10          do with it.

11                      If the anti-racist put a link to the  
12          KKK just for discussion, then they should still be  
13          found in violation of s.13, however, the fact of the  
14          matter is the sites as a whole have to be in violation  
15          of s. 13 or shown that they have a consistent pattern  
16          of being in violation of s. 13, as shown so far  
17          individual articles from this site in an open forum by  
18          multiple authors.

19                      THE CHAIRPERSON:    You are talking  
20          about the Vinland Voice?

21                      MR. A. KULBASHIAN:    In the Vinland  
22          Voice according to the expert witness here had, I  
23          guess, alleged s. 13 violations which would mean, since  
24          the entire site's purpose wasn't -- the difference  
25          between having a link to the KKK site and this is like,

1 is the difference between, let's say I don't like the  
2 KKK and as you stated a specific site in Canada had a  
3 link to another site, say a republican site, and that  
4 republican had links to the KKK on it ultimately  
5 somewhere down the line, would that be a violation  
6 because the difference between -- I guess the parallel  
7 between that scenario and the Vinland Voice is the  
8 articles came some time down the line. The initial  
9 content and the purpose of the Vinland Voice was not to  
10 be in breach of s. 13.

11 THE CHAIRPERSON: I understand. Go  
12 ahead, please return.

13 MR. A. KULBASHIAN: I'm finished my  
14 conclusions, if you have any questions.

15 THE CHAIRPERSON: You were saying  
16 something about E.

17 MR. A. KULBASHIAN: Actually --

18 THE CHAIRPERSON: Or have you already  
19 covered off?

20 MR. A. KULBASHIAN: Oh yeah, I  
21 thought I did but I guess I did not.

22 We demonstrated to this court that  
23 Mr. Warman, I guess, did not come with any concrete  
24 evidence to prove his claim and also talking about the  
25 compensation for, like being identified, Mr. Warman

1           himself identified himself in NOW Magazine.

2                               There's no concrete evidence that I  
3 wrote that article as is being claims, and there's even  
4 some indication by the article referring to my  
5 "official pseudonym" that somebody else might have  
6 written that article about Mr. Warman, and that also  
7 Det. Wilson's testimony was concerning the fact that  
8 Mr. Warman was a lawyer and he might have had lawsuits  
9 pending or something coming up, that people might have  
10 been able to google, I guess the term to use is search  
11 for his address on line at home and it would have been  
12 a matter of public record.

13                              And, again, according to Mr. Wilson,  
14 Mr. Warman is a public figure and figure who regards  
15 himself highly with a public image. Basically making  
16 him even less of a private person with any, I guess,  
17 assurances of privacy because in order for him to claim  
18 that he was exposed he would have had to have some, I  
19 guess like, expectation of privacy, but by going  
20 straight to the media and reporting the case before  
21 anyone else knew about it, he would have had to have no  
22 expectation of privacy and identifying himself as a  
23 lawyer from Ottawa would have made even his home  
24 address available to anybody searching up his  
25 information on line in court documents.

1                   So, again, exposing as the term was  
2                   used was about -- has to have some kind of -- a person  
3                   has to have some kind of, like, what's the word for it,  
4                   expectation of privacy in order to be exposed.

5                   Another thing is that, again, there  
6                   was no direct explanation or direct evidence as to, or  
7                   even -- there was some suggestions of individuals that  
8                   were, I guess - I don't know how to put it - that I  
9                   guess were informants according to both Mr. Wilson and  
10                  Mr. Warman, that informants had stated that I myself  
11                  was Totenkopf, however, again, looking again to the  
12                  Vetrovec decision, that somebody -- an informant has to  
13                  be taken as somebody who is either trying to get  
14                  information to get help or somebody who is already in  
15                  the "movement" who would be an accomplice in a  
16                  movement -- basically informant information, I believe,  
17                  should be taken with very little weight, considering  
18                  the fact that the informant was not here to be  
19                  cross-examined, the informant could be anybody -- the  
20                  informants both informants could have gotten their  
21                  source from the same individual. Both Mr. Wilson and  
22                  Mr. Wilson could have had the same informant for all  
23                  they know, and that's not corroborating evidence in  
24                  their attempt to state that I myself was Totenkopf.

25                  And I believe there's, in fact,

1 evidence that I myself was not Totenkopf was actually  
2 writing about my official, I guess, pseudonym as Mr.  
3 Wilson put it, but in the third party.

4 Another thing about the fact that he  
5 claimed that there was a threat against him, he stated  
6 that some measures were taken, he did not state exactly  
7 what measures were taken for his safety and there is no  
8 indication that there was any real, I guess, criminal  
9 charges filed or anything that if he claims that there  
10 was actually a threat in that article.

11 I believe that he might be  
12 exaggerating the contents of the article a little or  
13 using or interpreting it in such a way to secure some  
14 kind of financial, I guess, sorry my words aren't, it's  
15 too early in the morning -- some kind of financial  
16 compensation in this Tribunal hearing.

17 THE CHAIRPERSON: Is that it?

18 MR. A. KULBASHIAN: That's it.

19 THE CHAIRPERSON: Excellent. Thank  
20 you.

21 MR. A. KULBASHIAN: Thanks.

22

23 THE CHAIRPERSON: I that it

24 MR. A. KULBASHIAN: that's it.

25 THE CHAIRPERSON: Excellent. Thank

1           you.

2                           THE CHAIRPERSON: Mr. Richardson?

3                           MR. RICHARDSON: Can we take a  
4 five-minute break?

5                           THE CHAIRPERSON: No problem. We'll  
6 take a break.

7                           REGISTRY OFFICER: All rise.

8           --- Upon recessing at 10:20 a.m.

9           --- Upon resuming at 10:35 a.m.

10                          REGISTRY OFFICER: Order, please.

11           All rise.

12                          Please be seated.

13                          THE CHAIRPERSON: Mr. Richardson?

14           ARGUMENT BY MR. RICHARDSON:

15                          MR. RICHARDSON: Thank you very  
16 much. I won't be as long as Alex. It would be really  
17 hard to follow up with that.

18                          THE CHAIRPERSON: Well, I mean, if  
19 there are points you think he's covered off, you don't  
20 necessarily have to repeat them.

21                          MR. RICHARDSON: That's what I'm  
22 hoping.

23                          THE CHAIRPERSON: Okay.

24                          MR. RICHARDSON: I'd like to first  
25 start by apologizing to the Tribunal I'd first

1                   MR. RICHARDSON:    it fire like to  
2                   start by apologize to the Tribunal, the Commission and  
3                   my co-respondent for the last couple of days, I stopped  
4                   taking some medication on Monday because it makes me  
5                   very passive and docile and it's kind of taken a  
6                   reverse effect on me.

7                   I'm going to try to do it as quickly  
8                   possible, just going to go over a couple of points that  
9                   I want to the go over, like, a rebuttal of what the  
10                  Commission and the complainant went over with their  
11                  closing arguments.

12                  Starting off with, Mr. Warman said we  
13                  showed no remorse or had a lack of an apology from the  
14                  respondents.

15                  The only thing I can say is I don't  
16                  felt -- I don't think I've done anything wrong or  
17                  anything that would justify that I'd feel remorse or  
18                  need for an apology. I mean, I guess if I was trying  
19                  to evade it, we wouldn't be here in the first place,  
20                  you know, we fought really hard to clear our names and,  
21                  you know, we're definitely - what's the word I'm  
22                  looking for - we're definitely here to try to clear our  
23                  names, you know.

24                  I'm sorry.

25                  THE CHAIRPERSON:    Take your time.

1                   MR. RICHARDSON:  Neither Alex and I  
2                   are lawyers like Mr. Warman or the Commission.  He said  
3                   that he had a very strong case against us and that as  
4                   far as I see and my co-respondent sees that there's a  
5                   lot of holes in this case, there's a lot of things that  
6                   haven't been proven and there's a lot of testimony from  
7                   witnesses that haven't been -- I'm sorry.

8                   A lot of testimony from witnesses  
9                   that hasn't either been proven or we feel that we  
10                  showed that the witnesses have falsified information or  
11                  misled the Tribunal many times.

12                  I wanted to bring up a few points.  
13                  Mr. Warman has testified that he felt that it was  
14                  suspicious basically that Alex and I never testified  
15                  and I have three points that I'd like to make as to why  
16                  Alex and I never testified.

17                  The first one is that when we first  
18                  started making the dates for this case, we allocated a  
19                  week for the Commission, a week for Alex and I.  The  
20                  Commission's case took well over -- into the second  
21                  week, and we felt that there was a lack of time, Alex  
22                  and I probably would have taken another week just to  
23                  ourselves to be witness and be cross-examined and the  
24                  time frame doesn't go for that.

25                  We also felt very strong.

1 THE CHAIRPERSON: Mr. Richardson,  
2 though --

3 MR. RICHARDSON: I know there wasn't  
4 any pressure and that's not what I'm saying.

5 THE CHAIRPERSON: -- the Tribunal was  
6 going to hear the case as long as it ran. I mean, we  
7 never said otherwise, frankly.

8 MR. RICHARDSON: No, and I'm not  
9 saying that's the case.

10 THE CHAIRPERSON: To my recollection  
11 you never requested that we -- there was no reason to  
12 even request it. You are entitled to make your defence  
13 and you can lead as much evidence as it takes.

14 MR. RICHARDSON: Well, it's more or  
15 less the fact that neither of us is being paid to be  
16 here, Alexan's got school, due to medical restrictions  
17 I can't drive, so my mom has to take off work to get me  
18 back and forth to court. I mean, you know, another  
19 week is another week and it hurts, it hurts us all.

20 THE CHAIRPERSON: Okay, I think I  
21 understand what you're saying there. Okay.

22 MR. RICHARDSON: We felt very strong  
23 also that the case against us -- well, basically there  
24 wasn't really much of a case at all and that both Alex  
25 and I being inexperienced, getting us -- basically

1 getting us up here -- getting us caught in loop holes  
2 and legal mumbo-jumbo that we wouldn't be able to  
3 understand, we didn't feel it would be detrimental to  
4 our case. Looking back, maybe we feel that we probably  
5 should have, you know, but hindsight's 20/20, so...

6 I want to also point out like adding  
7 to that, is if we testified the possibility that we  
8 could incriminate other people that we were involved  
9 with at the time, and given Mr. Warman the chance to  
10 have more lawsuits against other people.

11 We also felt, and this is a very  
12 strong point, that if we did testify and bring up other  
13 names that our lives and our families' lives could be  
14 in jeopardy, Alex and I haven't been involved in the  
15 movement in the last three or four years, and if we  
16 leaked names of people that were in the movement or  
17 people that we dealt with at the time, it could come  
18 back to haunt us. So, we took that into consideration  
19 as well.

20 The Commission testifies that I was  
21 involved in the distribution of the Vinland Voice and I  
22 was the editor, when in fact all I ever admitted to was  
23 that I proofread materials for the Voice. I had little  
24 to no say over the running of the Vinland Voice or  
25 distribution or anything and the Commission has failed

1 to prove otherwise.

2 The Commission would have you believe  
3 that C.E.C.T. is linked to the Vinland Voice websites  
4 and they are responsible for contents in it.

5 As you can tell from tab 16, HR-1,  
6 CECT had 23 links to various sites around the world.  
7 Would that make us responsible for the actions of the  
8 groups may partake in material that is posted on line?

9 THE CHAIRPERSON: That touches upon a  
10 bit of the discussion I just had before with Mr.  
11 Kulbashian.

12 MR. RICHARDSON: Exactly. The whole  
13 linkage issue, I mean, as Alex was saying, it could  
14 just go on and on and on.

15 You know, the one good point I think  
16 Alexan brought up is that the C.E.C.T. hosted a link to  
17 the Vinland Voice who was up until September 14th,  
18 hadn't had any articles that would be considered under  
19 s.13. If C.E.C.T. monitored their site on the 13th and  
20 it was fine, were they supposed to go back and monitor  
21 the site on the 14th, you know, and then the 15th and  
22 the 16th to check back every day, you know, to make  
23 sure that everybody that it linked to wasn't in  
24 violation of ss. 13. So, that's the point I'd like to  
25 make on that.

1                   Now, this case involving ss. 13 of  
2                   the Canadian Human Rights Act, in this particular case  
3                   it isn't about doing the right thing as much as it is  
4                   financial gain.

5                   Mr. Warman chose to file his  
6                   complaint against us, myself and my co-respondent,  
7                   based on unfounded truths submitted to him through the  
8                   London Police Department and mainly Cst. Terry Wilson.

9                   It's my opinion that Mr. Warman used  
10                  the influence in the Commission to press forward the  
11                  case based on evidence in the London Police Department  
12                  had said that they had cracked a thousand CDs which we  
13                  know they didn't on Alexan's computer, which was  
14                  evidence that was first initially given to Mr. Steacy,  
15                  the investigator -- I don't know if Mr. Steacy's  
16                  opinion would have changed either way if he wasn't told  
17                  that he had all this information forthcoming, right.  
18                  But, I mean, it might have actually made that much of a  
19                  difference. We might not have been here today if it  
20                  wasn't for small discrepancies like this.

21                  He also -- just another small example  
22                  of the whole photo and the apartment thing and a thing  
23                  as small as that might seem, when it comes to even,  
24                  like, Alexan's bail restrictions, I mean, if you say  
25                  you seen the guy here and the judge is going to believe

1           you, you're a lawyer, you know, he has no other reason  
2           not to believe you. And we're under the impression  
3           that Mr. Wilson knew in fact at that time that it  
4           wasn't Alexan and there was never any linkage to Alexan  
5           in the Tri-City Skins and this was just one example of  
6           him misleading, not only the Tribunal but in the  
7           criminal aspects of the case and it shows, in my  
8           opinion, Mr. Wilson's true character.

9                           Okay. Mr. Wilson did testify at that  
10           time, he did say that it was Alexan in that photo.  
11           Fact is Alex's hard drive wasn't cracked at all and it  
12           wasn't Alexan in the photo but another gentleman. I  
13           note these things Mr. Wilson testified, oh, it was a  
14           mistake, no, that was not Alexan.

15                           You know, too bad that mistakes and  
16           others like it were not found until after the bail  
17           hearing. Makes me wonder how many of these minor  
18           errors, you know, if they were found in the first place  
19           we could have finished the criminal aspects of the  
20           case, thus saving us thousands of dollars in lawyer's  
21           fees and a lot of grief and maybe even saving us the  
22           time with the Commission itself and the Tribunal  
23           hearing, sorry.

24                           The Commission's witnesses contradict  
25           each other. The evidence was tainted from the

1 beginning through Mr. Wilson.

2 It is my opinion that in this case  
3 has only made it this far due to evidence that was said  
4 to exist that never did.

5 It's also my opinion that Mr. Warman  
6 uses influence in the Commission where he worked during  
7 points of this investigation and points throughout this  
8 case, shows the possibility of bias and unjust and  
9 prejudice in this case. This in itself should have led  
10 to the complaint against us dropped.

11 I also believe that Cst. Terry Wilson  
12 misled the Tribunal on the stand numerous times. He  
13 himself admitted going above and beyond the call of  
14 duty to do, and I quote, whatever it takes to keep Alex  
15 and I behind bars. Or stating that I resisted arrest  
16 and was combative which in all the police reports  
17 before the Tribunal - and not just his police report,  
18 all the arresting officers, or all the officers that  
19 were present for my arrest, not one of them in any of  
20 their logs--

21 --- (reporter appeals)

22 MR. RICHARDSON:: I'm so sorry.

23 Mr. Wilson failed to come up with,  
24 and the Commission itself to come up with any evidence  
25 that I was combative or resisted arrest.

1                   During the cross-examination of Mr.  
2                   Wilson I desperately tried to get -- desperately tried  
3                   to get Mr. Wilson basically to, you know, like to come  
4                   back and say that, you know, what he said wasn't true  
5                   and he fought me and if I had a stronger legal  
6                   background I would have been able to get him on that.

7                   But the evidence clearly shows that I  
8                   had given up right away. My only major concern was  
9                   making sure that the child that I was in care with at  
10                  the time was taken care of and that, in no way  
11                  whatsoever did I resist arrest or was I combative.

12                  He just used very loose terms to  
13                  decide basically what he thought combative was and  
14                  right off from the day I was arrested, you know, I feel  
15                  that Mr. Wilson started misleading evidence right from  
16                  that point on.

17                  One thing I'd like to -- a little  
18                  metaphor I'd like to add into this part about Mr.  
19                  Wilson. If you poison the root of a tree the branches  
20                  will die and the leaves will wither away to nothing,  
21                  and I believe that's the stem of the evidence before  
22                  us, most of it is based on the roots which is Mr.  
23                  Wilson, going up to the stem of the tree which would be  
24                  Mr. Steacy and then to the branches which would be  
25                  Mr. Warman, and then to the leaves which would be the

1 Commission and Tribunal.

2 The evidence was tainted from the  
3 beginning and then grew like a virus thereafter.

4 The Commission's expert witness Dr.  
5 Henry had very little to no relevance whatsoever to do  
6 with this case. She had no former knowledge of  
7 skinheads, white supremists, mythology - that's white  
8 supremacist mythology.

9 THE CHAIRPERSON: Mm-hmm.

10 MR. RICHARDSON: The NAACP, the Black  
11 Panthers or anything else relevant to these hearings.

12 It is also my belief that Dr. Henry  
13 was confronted with questions that contradicted what  
14 she stated earlier or was unwilling to answer, she just  
15 backed off and said she wasn't comfortable answering  
16 that.

17 Basically she is an expert witness  
18 and she has been on the stand numerous times and she  
19 evaded questions that she either didn't feel  
20 comfortable with or she knew that would go against what  
21 she had said at previous times.

22 Mr. Wilson testified about phone  
23 conversations that he alleges we had prior to my  
24 arrest, yet he failed to bring any logs in or the  
25 Commission failed to bring any logs of these

1           conversations.

2                               There is absolutely no evidence of  
3 relating myself to affordablespace.com. So anything  
4 against that entity should not be used against me. The  
5 same would go to the TCS website as well.

6                               The only evidence in relation to me  
7 and TCS is the fact that I was a member, which I have  
8 never denied and the Commission had failed in anyway to  
9 prove that I contributed, edited, posted or even  
10 monitored the TCS website.

11                              Fact is, I was in one guest book  
12 entry which was dated in 2000 which was a year before  
13 my arrest and the article on September 14th. There's  
14 really no linkage to me whatsoever. Being a member of  
15 an organization doesn't make that member reliable or  
16 liable for content in the organization.

17                              THE CHAIRPERSON: Was that quest book  
18 entry in evidence?

19                              MR. RICHARDSON: It was brought up  
20 through the Commission.

21                              THE CHAIRPERSON: Mr. Wilson's  
22 evidence from...

23                              MR. RICHARDSON: I actually believe  
24 it was Mr. Warman's evidence from the very beginning  
25 that that was brought into.

1                   Basically it stated that they had  
2                   seen a guest book entry that they assumed was me. I  
3                   believe, I'm not sure, I actually think it was Cox88  
4                   that the entry was under, but I'm not too sure, it  
5                   could have been something else but I believe that's  
6                   what it was.

7                   The case before the Commission is  
8                   against Alexan Kulbashian, James Scott Richardson,  
9                   Tri-CitySkins.com, Canadian Ethnic Cleansing Team and  
10                  AffordableSpace.com, not the Vinland Voice, any  
11                  evidence used relating to the Vinland Voice should be  
12                  stricken which basically was one of the last things  
13                  Alex covered up on, I'm not going to go into that, he  
14                  pretty much clarified that.

15                  The websites Tri-CitySkins.com,  
16                  Canadian Ethnic Cleansing Team and AffordableSpace.com  
17                  have bene defunct for three years now as stated by Cst.  
18                  Terry Wilson and I believe backed up by Mr. Warman.

19                  Testimony that all these sites were  
20                  operational and while I was in jail and thereafter. He  
21                  also testified that he believes I had not participated  
22                  in the websites - this is Mr. Wilson - or any other  
23                  junction related to the white supremacist movement after  
24                  my arrest.

25                  This in itself should prove that I

1 did not and could not have access or the means to  
2 change or alter the arrest prior to my arrest -- or  
3 after my arrest, sorry.

4 One thing I would like to add into  
5 that, when I was cross-examining Mr. Warman I asked him  
6 if he believed that I was still actively participating  
7 in websites with the Tri-CitySkins.com and C.E.C.T. and  
8 Vinland Voice after my arrest, and he said he wasn't  
9 sure, but he believed I was. I asked him if it was  
10 possible I was editing and submitting articles to the  
11 websites while I was in jail. He said that was out of  
12 the realm of his knowledge.

13 I believe that any lawyer in Ontario  
14 and anybody, at that, would know that computer access  
15 in a jail would not be given to inmates, especially  
16 inmates that are charges with Internet crimes.

17 So, that's why I could not have any  
18 access or any means of changing the websites while I  
19 was in jail and I believe it was brought up that  
20 articles were being posted and unposted on these sites  
21 while I was incarcerated, so I mean that in itself to  
22 me is one -- is showing that I wasn't doing the editing  
23 or the web mastering, I wasn't the one putting the  
24 articles up onto the websites.

25 Throughout testimony heard from the

1 case we have learned that many people belong to many  
2 organizations in the movement including, but not  
3 limited, to Tri-City Skins and C.E.C.T. but no one else  
4 was arrested in the investigation.

5 This incomplete investigation puts  
6 blame solely on two people instead of a network of  
7 people that were involved in the day-to-day activities  
8 of C.E.C.T.

9 When asked Mr. Wilson, when I was  
10 cross-examining, I asked him why no one else was  
11 brought up on evidence, he said he had no evidence or  
12 names to relate anybody else.

13 Later on in his testimony he stated  
14 that he was doing investigations with other police  
15 departments throughout Ontario; namely the Woodstock  
16 OPP, the Kitchener/Waterloo Police Department, the  
17 Hamilton Police Department and his own department, the  
18 Special Investigations Branch of the RCMP who were  
19 sharing photos and information in the investigation  
20 with each other years prior to the incident on  
21 September 14th, 2001.

22 He said that basically he compiled  
23 dozens of names and photos of people, none were Alexan  
24 Kulbashian, not either name or photo, and that if their  
25 investigation -- their investigation was so complete

1 and they had all these names and photos, they probably  
2 would have had other people and especially with the  
3 Tri-City Skins and other names. So, using the excuse  
4 that they didn't have anybody else to investigate to  
5 me, I don't buy it and I think that my personal  
6 opinion, it was a witch hunt and it was such a poor  
7 investigation to begin with and that was one of the  
8 reasons why only two names come forward.

9 The Commission also, as I said  
10 earlier, failed to prove that whatsoever that Alex and  
11 I had any involvement in TCS other than myself being a  
12 member and other than Alexan's role at  
13 AffordableSpace.com as being web master.

14 Also failed to prove I had anything  
15 to do with the TCS site at all other than that guest  
16 book entry, in fact other than being a member, that I  
17 admitted was common knowledge, they could not link me  
18 in any involvement with the TCS site whatsoever, and  
19 matter of fact it was testified that the TCS site was  
20 up and down and then "We're Back" site.com, and these  
21 were all times that --

22 THE CHAIRPERSON: Can you repeat that  
23 last, they were up then down --

24 MR. RICHARDSON: I guess they went  
25 down, the site come down and they changed the site and

1           it is actually the site that is submitted into the HR  
2           book which is the second site, which is the one "We're  
3           Back"

4                           THE CHAIRPERSON:  Oh, the "We're  
5           Back", quotation marks.

6                           MR. RICHARDSON:  Yeah, We're Back  
7           which would have been the new site and this was after I  
8           was incarcerated and Mr. Wilson did testify that he  
9           believed that I was -- basically kept myself, you know,  
10          out of trouble and to my bail restrictions after I was  
11          arrested, so I could not have, in his own words, had  
12          anything to do with the website itself.

13                           Can I just take a one second break  
14          please?  Thank you.

15                           THE CHAIRPERSON:  Mr. Richardson,  
16          your microphone again.

17                           MR. RICHARDSON:  I'm sorry.

18                           THE CHAIRPERSON:  Can you bring the  
19          microphone closer to you again.

20                           MR. RICHARDSON:  I'd like to correct  
21          something that I said a couple of minutes ago in my  
22          start.

23                           What I actually was trying to say and  
24          I guess it didn't come out the way I was trying to - to  
25          me it did - but, basically the third point about Alex

1           and I testifying, how I said that we'd have to use  
2           names of other people that we were associated with at  
3           the time, it wasn't the endanger of them coming after  
4           us, it was the endanger of the police coming after us  
5           and getting those names and using it against us.

6                        THE CHAIRPERSON:   Okay.   Well, it did  
7           come across as if --

8                        MR. RICHARDSON:   Yeah, I know, it's  
9           just because I'm ill and I'm having a hard time trying  
10          to get anything I'm trying to say across..   And I  
11          didn't think it was that -- yeah.

12                       From day one of the investigation,  
13          starting the criminal side, the case has been flawed  
14          from fake evidence that was never produced or the fact  
15          that no one else was investigated to truly find the  
16          sources of many other members of the C.E.C.T. and TCS  
17          even though the police had stated that -- or Mr. Wilson  
18          did state that they did know other members in Tri-City  
19          Skins, they just failed or didn't act or didn't feel  
20          the need that anybody else should be brought up on  
21          charges.

22                       Alex has not or never has been a  
23          member of Tri-City Skins and there is nothing to say  
24          otherwise that has come out in these hearings.

25                       Not only was there no evidence

1 received from Alexan's computer there was nothing at  
2 all other than a few cards and a drawing that was  
3 scribbled on when Alexan was still very young.

4 There was nothing from the TCS site  
5 and C.E.C.T. site or AffordableSpace.com were on my  
6 hard drive, sorry, the only linkage they had was my own  
7 admittance to being a member.

8 It has been proven that the only  
9 other thing related to this case found on my hard drive  
10 at 390 Southdale was related to an archived copy of the  
11 Vinland Voice.

12 Mr. Wilson testified that he found  
13 the boots and jacket at 390 Southdale in London.. He  
14 found a pair of boots size 13 double D where I am size  
15 10 narrow. Those boots are not mine or were they ever.  
16 I could not have possibly worn these boots which are  
17 three sizes too big and two sizes wider than my own  
18 feet.

19 Now, the Commission's closing  
20 argument they left out the boots even though that was a  
21 strong point throughout their case, it just suddenly  
22 didn't seem to make it in their closing arguments, that  
23 were found, knowing that it looked bad against their  
24 case, but again the mention of other clothes that had  
25 never mentioned before, you know, where are all these

1 clothes? They said that they found articles of  
2 clothing which were mine which proved that I was  
3 staying at 390 Southdale when in fact all they found  
4 was a pair of boots and a jacket that I proved with  
5 actual pictures that it was not mine.

6 Nor did they fail to mention that  
7 there was any other clothes, stating that I was there  
8 for a long-term stay, you know, like personal clothes  
9 in the closet or you know toothbrush in the bathroom or  
10 anything like that.

11 Mr. Wilson also testified in finding  
12 the jacket in the closet, there's no witnesses that  
13 seem me wear this jacket, no pictures of me wearing  
14 this jacket, no proof at all.

15 On the other hand we have see  
16 pictures of me wearing my actual jacket which is  
17 clearly not the one that he said is mine. If we could  
18 have had a real expert witness, she would have told you  
19 that a skinhead would never switch jackets or own more  
20 than one of them.

21 When asked, would you say that the  
22 skinheads flight jacket - and this is Mr. Wilson - is  
23 pretty much like wearing his honour, his pride on his  
24 sleeve, wearing his heart on his sleeve, he replied,  
25 absolutely, sir.

1                   He even said himself that the boots  
2 and jacket could belong to somebody else.

3                   What we did hear from Mr. Wilson is  
4 that there were no other clothes that could indicate a  
5 long-term stay other than a gym bag with two days'  
6 worth of clothes, but I don't think that was actually  
7 submitted. That's not proven, so I'll scrap that last  
8 comment.

9                   That would indicate that I was in  
10 fact just visiting and really, why would I be wearing a  
11 bomber jacket in the middle of the summer? Common  
12 sense.

13                   It is not all that uncommon for  
14 people who spend a few days out of town to bring  
15 supplies such as clothes and toiletries.

16                   There's no other way the computer at  
17 Maggie's apartment at 390 Southdale Road in London was  
18 not equipped to upload material on line, so it would be  
19 a hundred per cent impossible for it to be done from  
20 there. Nor, do I have the knowledge to build --

21                   THE CHAIRPERSON: Hold on, there's  
22 two negatives there. I'm not quite sure I understood  
23 what you said.

24                   There was no way the computer was not  
25 equipped.

1 MR. A. KULBASHIAN: Was equipped.

2 MR. RICHARDSON: Was equipped. I'm  
3 so sorry.

4 THE CHAIRPERSON: Yeah.

5 So, you're taking off --

6 MS MAILLET: Mr. Hadjis, I hate to  
7 interrupt, but just a worry that we're getting into Mr.  
8 Richardson attempting to lead evidence.

9 THE CHAIRPERSON: Evidence. If you  
10 were to look at my notes here, the ones that I've  
11 identified as not in evidence I've put a little red  
12 mark next to them.

13 I'm mindful of that.

14 MR. A. KULBASHIAN: I just have a  
15 quick comment about that. Since these are closing  
16 statements, we do have the option of drawing our own  
17 conclusions based on the evidence that was provided.

18 For example, admitted evidence could  
19 signify -- I mean, maybe since the fact that James  
20 isn't saying I believe, I believe every time it is  
21 still a paper of his opinions as to how this --

22 THE CHAIRPERSON: One could say it is  
23 possible that something else has occurred.

24 But a couple of times Mr. Richardson  
25 actually has gone beyond that, assertions.

1                   No. For instance, Mr. Richardson  
2                   said just before, if we had a real expert witness she  
3                   would have told you that a skinhead would never switch  
4                   jackets, all right.

5

6                   MR. A. KULBASHIAN: I understand.

7                   THE CHAIRPERSON: Mr. Richardson?

8                   MR. RICHARDSON: Sorry, can you  
9                   repeat...

10                  THE CHAIRPERSON: Yes, I'll repeat  
11                  that.

12                  For instance, just before the witness  
13                  said, if we had a real expert she would have told you  
14                  that a skinhead would never switch jackets or own more  
15                  than one of them.

16                  Well, I have no evidence to that  
17                  effect.

18                  MR. RICHARDSON: Mr. Wilson  
19                  testified --

20                  THE CHAIRPERSON: No, but the next  
21                  part, you said Mr. Wilson testified, and that's true,  
22                  Mr. Wilson did testify later on that a skinhead's  
23                  flight jacket is like wearing his honour, the  
24                  absolutely, sir comment that's true, so that is in  
25                  evidence.

1                   But what you said before that is a  
2                   hypothetical. I mean, you said if there was another  
3                   expert that person would say otherwise.

4                   MR. RICHARDSON: Oh, okay, okay, I  
5                   see what you're saying.

6                   THE CHAIRPERSON: I didn't hear that  
7                   other expert, so what I have to go by is what I did  
8                   hear and I did hear Mr. Wilson make this latter  
9                   statement.

10                  So, I'm drawing the appropriate  
11                  distinctions, but I'll ask the respondents -- the  
12                  Commission, complainant to keep track of these things  
13                  and draw my attention to them later on, all right.

14                  But you should be mindful of that,  
15                  Mr. Richardson, that you can't use this opportunity to  
16                  enter information into evidence.

17                  MR. RICHARDSON: I just kind of  
18                  thought it was all in the same and that Mr. Wilson  
19                  backed it up, but I understand what you're talking  
20                  about.

21                  THE CHAIRPERSON: You understand what  
22                  I'm saying?

23                  MR. RICHARDSON: Yeah, I do.

24                  MR. A. KULBASHIAN: Just a comment.  
25                  I would just ask the Tribunal to be a little mindful of

1 the fact that he doesn't have obviously experience with  
2 the law.

3 THE CHAIRPERSON: Of course not, and  
4 I appreciate that.

5 MR. A. KULBASHIAN: Also the fact is,  
6 like, if Ms Maillet made some factual errors in her  
7 closing statement, it's obviously very obvious that  
8 somebody with less experience would be able to also  
9 make some comments. It would not necessarily be  
10 intentional or try to --

11 THE CHAIRPERSON: I'm mindful of the  
12 circumstances of this case and that's why I didn't even  
13 interrupt Mr. Richardson at that point.

14 I would ask that if the  
15 Commission/complainant wish to make those kinds of  
16 comments, simply take note of them and bring them to my  
17 attention later on, and I will verify, if we get into a  
18 dispute.

19 Mr. Richardson is making an assertion  
20 that something was somewhere in the record and other  
21 says otherwise, I will verify it.

22 But, at this point, Mr. Richardson,  
23 if you see that coming on your own -- like, you said  
24 before, I'm deleting that section because it's not  
25 proven, it's another point - you asked me to - the gym

1 bag comment.

2 So, when you see those types of  
3 situations arising, you should omit it.

4 MR. RICHARDSON: I'll try, I'll try.

5 THE CHAIRPERSON: Not include it,  
6 but...

7 MR. RICHARDSON: I can actually  
8 rephrase that last part to actually word it to the way  
9 I needed to, so then I will.

10 The Commission and complainant failed  
11 to prove that the computer at 390 Southdale in London  
12 had the capabilities of uploading material.

13 THE CHAIRPERSON: I lost it, I'm  
14 trying to remember where it was.

15 MR. A. KULBASHIAN: it was page 4.

16 THE CHAIRPERSON: Oh yes. Okay,  
17 please repeat that, yes.

18 MR. RICHARDSON: The commission  
19 failed to prove that the computer at 390 Southdale Road  
20 had the capabilities of uploading material.

21 Now, if there is such a strong case  
22 and such factors of the case, would need to prove, as  
23 they are saying that I wrote the Vinland Voice articles  
24 and I published them on line, then they show have  
25 proved that I had the capabilities of doing that and

1           they did not.

2                                 Now, I wrote it all out nice but I  
3           don't want to get into this because I don't want a lot  
4           of this on the record.

5                                 Mr. Wilson testified that Ms Shearer,  
6           the other occupant at 390 Southdale had a lot of  
7           problems previous to me meeting her and everybody here  
8           can read it, so it doesn't need to be entered.

9                                 THE CHAIRPERSON:   But some of it may  
10          not be in evidence, so I will just say, the person in  
11          question had a series of problems, I'm noting to myself  
12          that I will refer to Mr. Wilson's evidence, that's  
13          where it comes from?

14                                MR. RICHARDSON:   It was during my  
15          cross-examination.

16                                THE CHAIRPERSON:   Yes, that's what I  
17          meant, the cross-examination of Mr. Wilson, all right.

18                                MR. RICHARDSON:   It is my belief  
19          that because of the incidents that happened with Ms  
20          Shearer prior to me meeting her because it led her to  
21          very strict financial problems and it was these reasons  
22          why I stepped in and I --

23                                THE CHAIRPERSON:   Well, you're going  
24          into evidence again, so you have to be careful.

25                                I'm not going to take into

1 consideration anything you're saying there, ignore  
2 these comments that are down here, other than what Mr.  
3 Wilson said.

4 Do you understand, Mr. Richardson, I  
5 can't let you testify.

6 MR. RICHARDSON: I'm looking for a  
7 way to rephrase it.

8 THE CHAIRPERSON: Well, okay, but you  
9 can't give information that's not on the record.

10 MR. RICHARDSON: I'll scrap that  
11 whole question, that's fine.

12 Mr. Wilson says he believes I'm  
13 WPCANADA but also states, but I have seen it at other  
14 times where it is as White Power Canada, not as  
15 WPCANADA used as a slogan for other racial or racist  
16 groups, which backs up what I've been saying all along  
17 that WPCANADA is not a singular person, but anyone  
18 would use popular slogan just like they would use other  
19 racist terms like 14 or 88, in fact many Canadian  
20 racists are still using it today.

21 And it was shown -- yeah, Mr. Wilson  
22 did say that he did see entries of WPCANADA after my  
23 arrest, because of other questions that I asked him.

24 So unless -- he's basically saying  
25 that, yes, I believe that you didn't do anything after

1 your arrest or you didn't break your bail restrictions  
2 and it was his opinion that I basically kept myself out  
3 of trouble, and if WPCANADA was used after that, so  
4 either. you know, those two just contradict each other  
5 right there.

6 Mr. Warman testified that he believed  
7 I was still involved in Vinland Voice after my release  
8 from jail, whereas Mr. Wilson stated that I, and I  
9 quote:

10 "No, I believe that you  
11 complied with your bail  
12 hearing conditions well  
13 after your arrest upon your  
14 release."

15 Which is to back up what I stated  
16 earlier.

17 During my bail hearing Mr. Wilson did  
18 whatever he could to keep me in jail from misleading  
19 info in my bail reports, for example, the resisting  
20 arrest and combative, even going as far as calling my  
21 future potential employer to let him know that he was  
22 hiring a dangerous offender and racist.

23 On numerous occasions throughout  
24 these proceedings Mr. Wilson said he would do whatever  
25 he could to keep us behind bars and even boasting about

1 winning an award. Did he go above and beyond the call  
2 of the duty? Yes, if course, he did. In his own words  
3 he wrote, and I quote:

4 "I think I've did more in  
5 this investigation than I've  
6 done in other  
7 investigations, yes."

8 Now, those are very strong words  
9 coming from a police officer who is supposed to be  
10 unbiased and supposed to protect the law and people,  
11 regardless if they're innocent or guilty and he has  
12 sworn testimony and that comment proves that he went  
13 above and beyond the call of duty.

14 So, he either only half investigated  
15 his cases before this one and worked a hundred per cent  
16 on ours, or he worked a hundred per cent on all the  
17 cases before ours and he went that little farther when  
18 he dealt with our case. And when you go a little  
19 farther than a hundred per cent, you're crossing the  
20 line as far as I'm concerned.

21 In my opinion it was these  
22 substandard police activities and less than adequate  
23 investigation techniques that led to the dismissal of  
24 our criminal case and the demotion and re-location of  
25 its material investigator Cst. Wilson.

1                   That's my opinion.

2                   When asked by Alexan if it is  
3 possible that I was not involved in the making of the  
4 Vinland Voice, Mr. Wilson stated: Yes, it is possible.  
5 Not that it matters, since the Vinland Voice was not  
6 mentioned in the suit against us. Mr. Wilson himself  
7 testified that wpcept.com and the Vinland Voice were  
8 two totally different groups.

9                   DSL logs show dates and times that  
10 the computer has logged in, at 390 Southdale, but not  
11 who logged into it.

12                   No one can prove either way who was  
13 sitting in front of the computer at the times it was  
14 being logged into.

15                   Which is kind of a significant point.  
16 He says that he has evidence that the computer was  
17 being logged into, just say example, February 13th at  
18 two or three in the morning, I can't remember what it  
19 was, but I mean, I could go to your computer and log  
20 into your computer as long as, you know, I have the  
21 password..

22                   THE CHAIRPERSON: What about the  
23 references to the name, a name similar to yours, James,  
24 that were identified in the Commission/complainants  
25 submissions?

1 MR. RICHARDSON: On the Execulink  
2 logs?

3 THE CHAIRPERSON: They took me  
4 through the logs and showed numerous occasions or  
5 several occasions where it said, James, you awake,  
6 those types of things.

7 MR. RICHARDSON: Well, it's quite  
8 obvious actually, I could have been in Toronto, I could  
9 have been in Hamilton. It just says that a person is  
10 talking, it doesn't say where he is.

11 The Commission failed to prove that I  
12 was in London while I was talking on those logs, or  
13 they didn't know if I was in B.C. or I could have been  
14 in Taiwan.

15 Not only that, I think we have proven  
16 the fact that the hard drive was not a mirror image, it  
17 didn't contain operating files and such which has been  
18 previously mentioned in the case and if it was an exact  
19 mirror image, then we could probably say that, but any  
20 of those logs could have been tampered with and faked.

21 Also believe that in the closing  
22 statements they said that, or in the logs themselves  
23 they said that they came from ICQ logs when it was  
24 actually MRIC logs. They are two different companies,  
25 ICQ is a chat program like MSN Messenger, MRIC is an

1 actual --

2 THE CHAIRPERSON: There were two  
3 things said. Could you go back. Stop a second, stop,  
4 please. Just a second.

5 The first thing you mentioned is that  
6 it was not a full copy of the computer because it  
7 lacked --

8 MR. RICHARDSON: Operating systems.

9 THE CHAIRPERSON: Operating systems.

10 MR. RICHARDSON: That's just as  
11 one --

12 THE CHAIRPERSON; As an example, yes,  
13 okay. But your second part is that those logs are not  
14 ICQ logs.

15 MR. RICHARDSON: No, they're not ICQ  
16 logs, they're MRIC logs.

17 MR. A. KULBASHIAN: That was part of  
18 the testimony from Det. Wilson that it was from IRC.

19 THE CHAIRPERSON; But do I have  
20 evidence that they're not from IRC?

21 MR. A. KULBASHIAN: The evidence is  
22 that they are were from IRC by Det. Wilson.

23 MR. RICHARDSON: But not ICQ. The  
24 logs strictly -- they are MRIC logs, that's where they  
25 got them from.

1 THE CHAIRPERSON: I want to be clear  
2 what you're saying here, please. Now, I have heard  
3 from both of you but I want Mr. Richardson to give me  
4 the answer. Okay.

5 Oh, sure, if you take me to the  
6 exhibit all the better.

7 MR. A. KULBASHIAN: But the testimony  
8 of Det. Wilson was that they were IRC logs and he was  
9 stating what IRC was and how chat rooms operate, et  
10 cetera.

11 THE CHAIRPERSON: Mm-hmm.

12 MR. A. KULBASHIAN: So...

13 MR. RICHARDSON: On page 16 --

14 THE CHAIRPERSON: Of...?

15 MR. RICHARDSON: The Commission...

16 THE CHAIRPERSON: Tab...?

17 MR. RICHARDSON: Oh, sorry. It's not  
18 in the HR book, sorry, it's in the Commission's --

19 THE CHAIRPERSON: Submissions?

20 MR. RICHARDSON: -- closing  
21 arguments, page 16, the very last paragraph.

22 "Det/Cst. Stumpf then

23 "copied out" "cect" and

24 "First-Edition"...

25 THE CHAIRPERSON: Page 16 -- hold on

1 a second.

2 MR. RICHARDSON: Page 16, sir.

3 THE CHAIRPERSON: I'm not there yet.

4 MR. RICHARDSON: And this is all  
5 actually in the HR book as well.

6 THE CHAIRPERSON: Okay. So, page 16.

7 MR. RICHARDSON: The very last  
8 paragraph, starting with:

9 "Det/Cst. Stumpf..."

10 THE CHAIRPERSON:

11 "...he copied a file which  
12 he believed to be...",

13 Det. Stumpf:

14 "...copied a file which he  
15 believed to be an ICQ chat  
16 program data file."

17 MR. RICHARDSON: And this is  
18 basically saying -- these are the logs that they're  
19 saying that they got all these from,

20 THE CHAIRPERSON: Okay. So, Stumpf  
21 believed that it was an ICQ.

22 MR. RICHARDSON: Well, apparently  
23 everybody did, but there's never been any ICQ logs  
24 entered into evidence, everything that was entered was  
25 actually an IRC log.

1 THE CHAIRPERSON: It's at HR-8. All  
2 right. Well then, can I ask you what the significance  
3 is on that?

4 MR. RICHARDSON: Oh. If you go to  
5 tab 58, the very first page, just to back up what I'm  
6 saying, the very, very last line down it will say:

7 "06 Notice: 02 IHATEJEWS has  
8 left IRC."

9 THE CHAIRPERSON: IRC, okay.

10 MR. RICHARDSON: So, that would  
11 differentiate between the two different chat programs.

12 THE CHAIRPERSON: I don't want  
13 evidence, but if it's not contradicted, what does IRC  
14 stand for? Do you have any objection if I --

15 MS MAILLET: Internet-relayed chat.

16 THE CHAIRPERSON: Internet relayed  
17 chat.

18 MS MAILLET: Internet relay chat.

19 MR. RICHARDSON: One's an actual --  
20 ICQ is like MSN, like a chat program.

21 THE CHAIRPERSON: Yes, I'm aware of  
22 that one.

23 MR. RICHARDSON: Okay, and IRC is an  
24 actual, like --

25 MR. A. KULBASHIAN: It's a relay

1 chat, basically it relays a message off a server and  
2 everybody gets it at the same time rather than being  
3 controlled...

4 THE CHAIRPERSON: This is kind of  
5 like of evidence, but I wanted to have someone --

6 MR. A. KULBASHIAN: There was actual  
7 evidence of Mr. Wilson.

8 THE CHAIRPERSON: It was in evidence,  
9 okay. All the better.

10 Now, what I want to know from you,  
11 Mr. Richardson - please, sit down, Mr. Richardson -  
12 what's the significance of this point just to show that  
13 Det. Stumpf may have made an error?

14 MR. RICHARDSON: Yeah, another error,  
15 you know, just to show that it wasn't an exact image,  
16 that the files could have been corrupt or fake and that  
17 they didn't go to spend the extra time investigating,  
18 you know whether I had the ability to upload or, you  
19 know, or even the fact that they couldn't even get the  
20 two different logs right.

21 And to reiterate on the point that  
22 you asked me about all the evidence that I logged on,  
23 James, James, James.

24 THE CHAIRPERSON: Yes.

25 MR. RICHARDSON: You'll also see

1 through those logs if you sit and read them, you'll see  
2 that other names were used that I used myself. Cox88  
3 was a great example. That was the actual pseudonym that  
4 I used all the time. That was what I signed up my DSL  
5 account with which is in the evidence itself. It's  
6 also in the e-mails.

7 If you look at some of Det/Cst.  
8 Wilson's testimony he said that he received e-mails,  
9 even though he didn't bring the proof of this, that he  
10 received e-mails from Coxwain24WPCANADA, that's not  
11 even an e-mail address. Come on. I mean, it has to be  
12 @hotmail.com or @something, you know.

13 Coxwain24@hotmail.com which was later  
14 proven through Mr. Wilson's testimony was the actual  
15 e-mail that he was receiving those e-mails from, not  
16 Coxwain24 or WHITE POWER CANADA -- or WPCANADA, sorry.

17 And WPCANADA was actually just the  
18 slogan that was used as the signing thing at the end of  
19 the page. And this is the whole point I was trying to  
20 get all along, WPCANADA is not a single person, it's a  
21 group of people, lots of people used it, it's a slogan,  
22 it's something that represents a Canadian group  
23 intra-Canadian thing and that every article that the  
24 Vinland Voice and C.E.C.T. - well, not every one but  
25 the majority of them had that on the bottom of it

1           because it was the slogan that they used.

2                           And as I said before that I could  
3           have accessed IRC or even ICQ at that point from  
4           anywhere in the world.

5                           THE CHAIRPERSON:   I have your point.

6                           MR. RICHARDSON:   So...

7                           THE CHAIRPERSON:   I understand your  
8           point.

9                           MR. RICHARDSON:   It's also possible  
10          that -- excuse me, one second.

11                           My co-respondent brought up a good  
12          point.  What if Det/Cst. Stumpf, like, what if there  
13          was actually no IRC logs or ICQ logs or vice versa,  
14          yeah, what if they were ICQ logs and not IRC logs, so  
15          basically it could have been another thing that he  
16          did --

17                           THE CHAIRPERSON:   So, you're saying  
18          if there were separate logs -- sorry.

19                           MR. RICHARDSON:   All the logs,  
20          because they're --

21                           THE CHAIRPERSON:   He may have omitted  
22          to print out some logs having printed out only certain  
23          logs?

24                           MR. RICHARDSON:   Like, basically he  
25          could have mixed and matched unknowingly right because

1 all the logs are stored in the same place in a data  
2 file in your computer I believe anyways. I'm not  
3 trying to give testimony.

4 But those two logs themselves, like,  
5 could have been confused with each other.

6 THE CHAIRPERSON: Mr. Kulbashian, I'm  
7 getting tired of this, back and forth, you're  
8 interfering. It is his submissions, all right. You  
9 had your opportunity. I'll allow you perhaps to  
10 intervene because you have heard his submissions but  
11 this is getting a bit problematic with your  
12 interrupting.

13 I'll just take a note here.

14 MR. RICHARDSON: I think it just all  
15 goes down to the point where I'm trying to show that  
16 not the utmost care has been put into dealing with the  
17 hard drive.

18 The investigation techniques, if it  
19 was so important that they were trying to prove that I  
20 was doing the Vinland Voice and I lived at 390  
21 Southdale and the computer was at 390 Southdale, the  
22 one that I was using to upload materials onto the  
23 website, and yet they failed to prove whatsoever that I  
24 had that ability.

25 THE CHAIRPERSON: Okay, okay.

1 MR. RICHARDSON: And it would just go  
2 along those terms as well, unreliable evidence.

3 Peter Kierluk, the crown prosecutor,  
4 in the criminal case developed a sudden case of  
5 amnesia. We believe his testimony would have given  
6 credibility to our case and proved the negligence of  
7 the London Police Department and its lead investigator  
8 Terry Wilson. Thus, resulting in the dismissal of the  
9 criminal charges against Alexan and I.

10 The C.E.C.T. publicly announced they  
11 were not violent on many occasions, in the papers and  
12 on their website. Mr. Wilson testified to the best of  
13 his knowledge that in his investigation C.E.C.T. had  
14 committed no violent acts and none of its "known"  
15 members have ever been convicted of a crime of any  
16 nature.

17 He also goes on to say that at the  
18 time of our arrest that neither Alexan and I had been  
19 convicted of any criminal charges in our lives, nor did  
20 they fail to prove that we had any violent past, other  
21 than me resisting arrest, so...

22 Now, Alex said it and it's pretty  
23 much exactly what he wanted to say - even though we  
24 both thought of it on our own, but I would like to  
25 reiterate it - the case against us is strictly about

1           monetary value, all of the sites have been closed down  
2           for years.

3                         Mr. Warman has shown a pattern over  
4           the last few years of bringing these cases all over  
5           Canada, from B.C. to out east, Alberta being the  
6           example with the Kyburz case.

7                         Basically, the evidence against us  
8           should be sure and proven. \$70,000 is a lot of money  
9           to lose over the kind of evidence that has been  
10          presented in this case. And that's my opinion.

11                        Starting from the beginning of this  
12          case there has been untruths, inconsistencies,  
13          cover-ups and general poor investigation procedures.  
14          We were dealing with a case that made national media  
15          spreads and spanned to investigations in the United  
16          States dealing with INS, the FBI, Canada Customs, the  
17          RCMP and Special Investigations Branches, throughout  
18          Canada, various Special Investigation Branches.

19                        Yet the crown prosecutor Peter  
20          Kierluk will have you believe he cannot remember  
21          actually nothing relating to this case even though he  
22          was in constant contact with both the respondents'  
23          lawyers, the investigators at the London Police branch  
24          and various police organizations in Toronto, Barrie,  
25          Woodstock and in the United States, he still seems to

1 remember nothing.

2 A lot of the evidence was produced by  
3 the lead investigator Mr. Wilson who (a) lied about  
4 evidence found and (b) falsified information on bail  
5 reports to do in his own words "whatever it takes to  
6 keep you off the streets".and even going as far as  
7 stating "I think I did more in this investigation than  
8 I have done in other investigations, yes". Mr. Wilson  
9 in his own words stating he went above and beyond the  
10 call of duty in the dealings of the criminal aspects of  
11 this case, even boasting about winning an award.

12 Did this officer do "whatever it  
13 takes" to get the job done? I believe that Mr.  
14 Wilson's own words and actions speak for themselves  
15 with so much of his personal time, prestigious awards  
16 and quite frankly his entire career on the line, I  
17 suggest to you he didn't do in fact "whatever it takes"  
18 to get the job done.

19 It is my opinion that these poor  
20 investigation techniques, the false portrayal of  
21 evidence submitted in various courtrooms and the  
22 untruthful, unlawful dealings with Alexan in regards to  
23 his immigration proceedings in the United States that  
24 led up to the release of the criminal charges against  
25 us.

1                   It is also my opinion that these same  
2                   falsehoods are the reasoning behind Mr. Kierluk's  
3                   sudden amnesia and the transfer of the lead  
4                   investigator out of the province.

5                   The subsequent cover-up of facts and  
6                   the missing or destroyed evidence and a general  
7                   unwillingness to release information detrimental to our  
8                   case are all results of a bigger picture which is a  
9                   cover-up to protect the London Police force and the  
10                  crown attorney's office in London.

11                  It is these facts and the majority of  
12                  evidence that were the basis of the Commission's  
13                  complaint against us, and if that's the case, the  
14                  majority of evidence used is tainted and unreliable

15                  The Commission will have you believe  
16                  that I was responsible for writing the Vinland Voice  
17                  articles and even went as far with Mr. Warman's  
18                  testimony as suggesting that I may have edited and  
19                  produced the Voice while I was incarcerated in jail  
20                  which is impossible.

21                  His response, I do not know the  
22                  activities that happens in jail. Any lawyer would know  
23                  that there's no computers in jail and especially not  
24                  for people who have been charged with Internet-related  
25                  crimes.

1                   They also failed to bring in any  
2                   expert testimony to prove either way if my computer had  
3                   the capabilities to actually  
4                   edit and upload web documents.

5                   Mr. Wilson testified that all the  
6                   groups were related to each other with respect to the  
7                   fact that they share membership between groups, .

8                   But that CECT.com, Tri-CitySkins.com,  
9                   AffordableSpace.com and VinlandVoice.com are all  
10                  separate entities. And since they are separate  
11                  entities, and since the Vinland Voice was not mentioned  
12                  in the particular complaint against us, I ask that all  
13                  evidence relating to the Vinland Voice and all its  
14                  newsletters should be omitted from evidence, and since  
15                  the majority of this case is based on the documentation  
16                  recovered from the websites of the Vinland Voice, I  
17                  suggest that the Tribunal, based on these facts alone,  
18                  should be just cause in itself to bring the Tribunal to  
19                  make no other decision but not guilty.

20                  The Commission, however, did find a  
21                  pair of boots that were three sizes too big in the  
22                  apartment that no one's ever seen me wear. There's not  
23                  a lot of possessions for someone who's living in an  
24                  apartment, even if it just one pair of boots and if it  
25                  a jacket and if they were mine, for someone who was

1 living in an apartment for over a year, you think he  
2 would have more personal items than that.

3 We did not find out in the  
4 Commission's case that I might be the only racist that  
5 has two flight jackets and I am capable of wearing  
6 boots that I could fit into wearing another pair of  
7 shoes.

8 The London Police never even inquired  
9 as to who owned the property; i.e., the boots and  
10 flight, nor did they ask Maggie Shearer if I lived  
11 there or if these articles of clothes were mine, which  
12 they had ample opportunity to do.

13 Once again, another selling point to  
14 what I've been saying about the investigating  
15 techniques of the London Police Department.

16 I wonder how many other people in  
17 London are arrested based solely on assumption? Also,  
18 everyone just assumed that the computer at Maggie's was  
19 mine -- strike that last part, I'm sorry.

20 Mr. Wilson stated he knows I was  
21 there all the time because he e-mailed me and called  
22 me. Is it possible that I replied to his e-mails after  
23 I got to my house in Hamilton when I returned from  
24 work? Is it possible when I was not visiting in London  
25 I had the phone on call forward directed to my Hamilton

1 line? Of course it is. Now, I can't prove that, but  
2 the Commission cannot disprove it either.

3 The Commission has introduced  
4 evidence of particular to bills in my name at 390  
5 Southdale -- I'm scratching that whole thing out too.

6 THE CHAIRPERSON: Okay. I'm just  
7 deleting the last paragraph?

8 MR. RICHARDSON: The whole last  
9 paragraph, yes, sir.

10 Just give me one second.

11 I can still use this paragraph.

12 Mr. Wilson testified and it's public  
13 knowledge in the proceedings that Mrs. Shearer had some  
14 problems. And that I'd like to say to the Tribunal  
15 that it wouldn't be uncommon for someone to just  
16 basically step in and help somebody else out, given the  
17 circumstances Mrs. Shearer was in, I think it's quite  
18 easy to explain why my name was on the lease of the  
19 apartment...

20 THE CHAIRPERSON: You're really there  
21 treading into evidence, sir.

22 MR. RICHARDSON: But it's just --

23 THE CHAIRPERSON: I'm noting that you  
24 said Mr. Wilson agreed that Ms Shearer had problems. I  
25 don't know where in the evidence --

1 MR. RICHARDSON: He also agreed that  
2 he knew what the problems were and the fact that she  
3 was stabbed. He also knew --

4 THE CHAIRPERSON: I don't remember  
5 that. Was there some testimony...

6 MR. V. KULBASHIAN: There was some  
7 testimony.

8 MR. A. KULBASHIAN: Her husband was  
9 trying to have he killed.

10 MR. RICHARDSON: I questioned him of  
11 his knowledge of Mrs. Shearer before.

12 THE CHAIRPERSON: Perhaps I don't  
13 recall it then.

14 I'm not getting an objection from the  
15 other side there.

16 MR. RICHARDSON: I lost where I was  
17 going. Can you read the last line I was saying off,  
18 please.

19 THE REPORTER: Certainly. Just a  
20 moment please.

21 "THE CHAIRPERSON: I'm  
22 noting that you said Mr.  
23 Wilson agreed that Ms  
24 Shearer had problems. I  
25 don't know where in the

1 evidence --

2 MR. RICHARDSON: He also  
3 agreed that he knew what the  
4 problems were and the fact  
5 that she was stabbed. He  
6 also knew --"

7 Okay, yeah.

8 THE CHAIRPERSON: And I didn't want  
9 to interrupt, since we have you here, a little earlier  
10 there was an interruption when you were adjusting your  
11 tape and I said good point, I don't want that on the  
12 record, what I was saying was good point about  
13 interrupting the proceedings while you changed your  
14 tape.

15 THE REPORTER: Yes.

16 THE CHAIRPERSON: I did not say good  
17 point for what...

18 THE REPORTER: I understand.

19 THE CHAIRPERSON: No, but you know  
20 sometimes things on paper appear differently than they  
21 are.

22 MR. RICHARDSON: Yes, exactly.

23 THE CHAIRPERSON: We speak with  
24 gestures as well, and the good point that I was saying  
25 at that point - and not to say that perhaps it wasn't a

1 good point - but I was referring specifically to the  
2 fact that we were interrupting for the recording. So,  
3 I would like that to be noted.

4 Go ahead.

5 MR. RICHARDSON: It is my opinion  
6 that it wouldn't be so hard to believe that after  
7 suffering such a tremendous thing happening to her that  
8 the possibility of -- the possibility of the fact that,  
9 you know, that she spent a long time in hospital, that  
10 was testified, and she suffered both physical and  
11 mental stress and injuries that it is not that hard to  
12 believe that it left her in a great financial strain  
13 which I would like to say that --

14 THE CHAIRPERSON: If there's an  
15 objection, I'm going to hear it.

16 MR. WARMAN: Sorry, this is going  
17 beyond what Det. Wilson testified to.

18 THE CHAIRPERSON: What was in  
19 evidence?

20 MR. WARMAN: Yes.

21 THE CHAIRPERSON: You know what I'm  
22 going to do, I'm going to put a note here just to refer  
23 to Mr. Wilson's testimony and that's it.

24 MR. RICHARDSON: All right.

25 THE CHAIRPERSON: No, I mean, because

1 I know it's difficult -- I appreciate your problem  
2 here.

3 MR. RICHARDSON: I'm also sick too,  
4 so I've got double point against me.

5 THE CHAIRPERSON: No, I'm not  
6 alluding to that. What I'm alluding to, is it's your  
7 life, this is always the difference between when a  
8 lawyer makes a final submissions and the individual  
9 personally involved because it's hard for you to  
10 distinguish what was heard in evidence and what was not  
11 because you've experienced as part of your life.

12 So, you have a natural tendency to  
13 include what is in your personal knowledge but that is  
14 not before the Tribunal.

15 MR. RICHARDSON: I'm trying not to do  
16 this, I swear I am.

17 THE CHAIRPERSON: No. So, what I  
18 will do -- I mean, I understand what you are saying.  
19 Basically you are turning my attention to Ms Shearer's  
20 situation, I will rely on whatever is in evidence  
21 related to her, but I will not go further than that.

22 MR. RICHARDSON: Okay. Really this  
23 comes down to a lot of circumstantial evidence mostly  
24 relied on by evidence produced by an over zealous  
25 self-promoting police officer who would, in his own

1 words, do whatever it takes to get us.

2 I notice that the Commission went  
3 through hours of testimony going over the video  
4 statement interview between Alexan and Det. Wilson just  
5 after Alexan's arrest related to the criminal case  
6 which launched this civil suit against us.

7 Mr. Wilson testified that it is  
8 because -- oh, I skipped a line here.

9 I notice that the Commission...

10 THE CHAIRPERSON: I don't think you  
11 did.

12 MR. A. KULBASHIAN: He missed a word.

13 MR. RICHARDSON: Mr. Wilson testified  
14 that because I --

15 I missed a whole paragraph in here  
16 somewhere.

17 THE CHAIRPERSON: Well, you actually  
18 didn't type it in.

19 MR. RICHARDSON: Well, that's the  
20 point, I missed a whole paragraph here. Basically, I  
21 asked Mr. Wilson why weren't my interrogation, my  
22 police interview brought into the court submission, why  
23 wasn't it used as evidence. He said that the reason  
24 was because I explored my right not to give a  
25 statement, but he did later on admit that -- I'd like

1 to say here, I don't know -- he did say that we did  
2 have a video statement later on, but he didn't say how  
3 long it was or anything, so...

4 Basically it is my belief that the  
5 reason why my interview wasn't brought in as evidence  
6 is because it would have only gone to further my case  
7 and vindicate me from the wrongdoings of the Vinland  
8 Voice.

9 THE CHAIRPERSON: So, you're using  
10 the famous term, adverse inference from that too?

11 MR. A. KULBASHIAN: Yeah, adverse  
12 inference.

13 MR. RICHARDSON: It is my opinion  
14 that if my logs, or if my video testimony was given or  
15 brought in as evidence that it would have actually hurt  
16 the Commission's case instead of help it, and that's  
17 why -- along with other evidence that was shredded or  
18 missing or we can't find, that was just one of the  
19 things -- we went on to the poor way I was treated, me  
20 being tossed around, me having a black eye and it's  
21 funny, just about the point, Mr. Wilson said something  
22 like, if the London Police Department gave you a black  
23 eye it would be a lot darker than that. And I think  
24 that comment alone in my -- you know, shows the ability  
25 and capabilities of the London Police Department and

1           their investigation techniques and the way they do it,  
2           because if they didn't beat people they wouldn't have  
3           evidence to show that, you know, I would have had a  
4           greater black eye.

5                           I think that alone is very damaging.  
6           I also got into the --

7                           THE CHAIRPERSON: Can I take you back  
8           a little bit. That investigation interview, the  
9           interrogation interview that you --

10                          MR. RICHARDSON: I was video  
11           interviewed as well.

12                          THE CHAIRPERSON: That's right. Was  
13           it disclosed to you; was it part of the disclosure?

14                          MR. RICHARDSON: My lawyer never got  
15           it.

16                          THE CHAIRPERSON: No, but I mean I'm  
17           talking about in the context of this case.

18                          MR. RICHARDSON: It wasn't disclosed  
19           anyway, sir.

20                          THE CHAIRPERSON: So you have never  
21           seen it?

22                          MR. RICHARDSON: No.

23                          THE CHAIRPERSON: And it's never been  
24           in your possession?

25                          MR. RICHARDSON: And it's not in my

1 possession.

2 THE CHAIRPERSON: Okay. And it  
3 wasn't in the documents that were communicated --

4 MR. RICHARDSON: It wasn't brought  
5 forward in any way. It wasn't even in Mr. Wilson's  
6 book.

7 THE CHAIRPERSON: Binder. Okay,  
8 thank you.

9 MR. RICHARDSON: It was just one of  
10 those pieces of paper that disappeared.

11 THE CHAIRPERSON: Well, what I'm  
12 saying, you have never seen it though, either. Okay.

13 MR. RICHARDSON: But I was there. I  
14 mean, I know what was said and I'm not going to testify  
15 to what was said because there is no proof of it.

16 THE CHAIRPERSON: That's right.

17 MR. RICHARDSON: But, I mean,  
18 regardless, it's missing. It's another one of those  
19 pieces of paper that went missing.

20 And also brought up the fact that in  
21 the video testimony, so the fact there was video  
22 testimony has been produced in court, that I was  
23 complaining to Mr. Wilson about the fact that they  
24 hosed me down and put me in a wet cell. His reply was,  
25 we would never do that. So, I mean, it's obvious --

1           that in itself that there was lies out there at one  
2           time, or there was...

3                           These are all points that Alex and I  
4           have been trying to make all along and it is very hard  
5           for us to prove any of this because no one will speak  
6           with us and everyone either forgets everything, has  
7           been transferred out of province or just won't talk.

8                           It also shows the lack of regard for  
9           evidence when everything from crown reports to police  
10          evidence was all conveniently shredded, right away  
11          after the criminal case.

12                           That mixed in with our very limited  
13          knowledge of these proceedings and other aspects of  
14          law-related investigation techniques has hampered our  
15          ability --

16                           THE CHAIRPERSON:   It is hampered.

17                           MR. RICHARDSON:   ...has hampered

18                           THE CHAIRPERSON:   For the record it's  
19          hampered.

20                           MR. RICHARDSON:   What did I say?

21                           THE CHAIRPERSON:   Tampered.

22                           MR. RICHARDSON:   Hampered, thank you.

23                           And that would have taken us to help  
24          our case.  The one hope we had was squashed when Mr.  
25          Peter Kierluk forgot this little criminal matter and we

1           were left in the dark.

2                                 It also didn't help when we  
3           repeatedly got -- sorry, I'll scratch that last part  
4           out.

5                                 In HR-1 tab 3 through 15 are all  
6           related to Tri-CitySkins.com and since the Commission  
7           failed to prove any link between the respondents and  
8           the website itself, such as names on articles or  
9           anything else related to the website other than the  
10          fact that I was a member of the group which does not  
11          automatically mean that I have control of that  
12          particular group's website.

13                                They failed to show that we had any  
14          control over that website whatsoever. Again with no  
15          knowledge on how to and no means to on the computer  
16          itself, I could not have had control.

17                                Mix this in with the facts that  
18          Tri-City Skin's website was being changed during my  
19          incarceration even as far as having a new website  
20          starting with "We're Back" dated as early as February  
21          02/02 as noted in HR-1 tab 2. That even predates 2001.

22                                So, once again I believe this  
23          timeframe clears me of any knowledge of the materials  
24          being posted due to the fact the computer I used was in  
25          the possession of the London Police Force so I could

1 not have possibly by any means have knowledge or say in  
2 it's day-to-day upkeep of the Tri-City Skin's website.

3 Going back to the ICQ and IRC logs,  
4 what if there were actually ICQ logs on the computer  
5 which weren't brought into evidence.

6 THE CHAIRPERSON: I understood your  
7 submission on your part, the suggestion that perhaps  
8 Mr. Stumpf omitted copying --

9 MR. RICHARDSON: Yeah. Then my  
10 second point would be, what if because it's that they  
11 were ICQ logs, what if the ICQ logs were made up?

12 Like, I'm just throwing out a  
13 possibility to you, that the possibility, since the  
14 fact they listed them as ICQ logs, is there a  
15 possibility that the actual IRC logs were made up  
16 because they are not ICQ logs which are two different  
17 programs.

18 In closing I would like to say I hope  
19 that the Tribunal sees that the Commission's case has  
20 not shown sufficient evidence that would warrant a  
21 decision in their favour and that Alexan and I are  
22 innocent of these allegations against us.

23 I thank you, Mr. Chair, Mr. Levac,  
24 and the Commission for being patient with me throughout  
25 this long ordeal and I hope the Tribunal comes to the

1 fair and right decision and find in favour of the  
2 respondents.

3 Thank you.

4 THE CHAIRPERSON: Thank you, Mr.  
5 Richardson.

6 So, Commission/complainant do wish to  
7 proceed immediately? I mean, I'm in your hands. It's  
8 12 o'clock, it might be a good time for the lunch  
9 perhaps.

10 MR. WARMAN: I certainly would be the  
11 last person to suggest that the Tribunal should not  
12 fully indulge its interest in having a one and a half  
13 hour lunch, but perhaps if a one-hour lunch may be  
14 appropriate under the circumstances.

15 THE CHAIRPERSON: Yes. It's a  
16 cultural thing, I'm from Montreal.

17 MR. WARMAN: I know, I know, remember  
18 already having spoken on this point, I duly note and  
19 with great caution have broached the subject.

20 THE CHAIRPERSON: In Montreal we  
21 don't brown bag too often.

22 So, maybe we will do the one-hour  
23 lunch in order to advance things, since it is the end  
24 of the day of the week.

25 How long do you think you will be?

1 MS MAILLET: I don't think I'll be  
2 more than half an hour, maybe 20 minutes.

3 THE CHAIRPERSON: Mr. Warman, same?

4 MR. WARMAN: Ten, fifteen minutes,  
5 max.

6 THE CHAIRPERSON: All right. So, we  
7 will take our break at this time and return at one  
8 o'clock and I'm giving myself an extra five minutes.

9 REGISTRY OFFICER: Order, please,  
10 All rise.

11 --- Upon recessing at 11:55 a.m.

12 --- Upon resuming at 1:30 p.m.

13 REGISTRY OFFICER: Order, please.  
14 All rise.

15 Please be seated.

16 MS MAILLET: I apologize, Mr. Chair.

17 THE CHAIRPERSON: I would have had a  
18 nice long lunch.

19 MS MAILLET: I apologize.

20 THE CHAIRPERSON: These things are  
21 understandable and forgivable.

22 MS MAILLET: And I do have to say,  
23 Mr. Chair, that in terms of a business centre, the  
24 facilities here are less than...

25 THE CHAIRPERSON: They always seem to

1 be broken down for some reason. I mean, it's a nice  
2 place, but that's unfortunate.

3 MS MAILLET: What should have taken a  
4 five-minute photocopy job took a half hour.

5 In any case, Mr. Warman is going to  
6 start and then I'll conclude.

7 THE CHAIRPERSON: Yes. Let me just  
8 set myself up here.

9 I should tell you, and perhaps it's a  
10 little unfortunate, in light of the fact that it  
11 sounded like we were going to be finishing early, we  
12 have changed our departure arrangements and I think we  
13 would have to be out of here by three from our end.

14 So, I mean if we are going to exceed  
15 that I will need to know at some --

16 MS MAILLET: I don't believe so.

17 THE CHAIRPERSON: Meaning we would  
18 have to end about 2:30, 2:35, 2:40 so we can pack up.  
19 Okay.

20 MS MAILLET: I don't think we'll be  
21 more than an hour.

22 THE CHAIRPERSON: Go ahead, Mr.  
23 Warman, when you are ready.

24 REPLY ARGUMENT BY MR. WARMAN:

25 MR. WARMAN: Thank you.

1                   Mr. Chair, before I commence my  
2                   reply, I would just like to indicate that although the  
3                   submissions with regard to the remedies that I would be  
4                   seeking were essentially, again, cut and pasted from  
5                   the questionnaire that I originally submitted to the  
6                   Tribunal, having had an opportunity to review the  
7                   remedies that were sought in the past couple of days, I  
8                   would just like to withdraw the request for  
9                   compensation against the respondent James Scott  
10                  Richardson.

11                  MR. RICHARDSON: Just to clarify  
12                  that, did Mr. Warman say he was dropping the financial  
13                  aspect of the case against me?

14                  THE CHAIRPERSON: Yes.

15                  The claim for compensation --

16                  MR. WARMAN: The claim for  
17                  compensation for having been directly named in the  
18                  material in question.

19                  THE CHAIRPERSON: So, no compensation  
20                  is sought against Mr. Richardson.

21                  MR. WARMAN: Yes.

22                  THE CHAIRPERSON: All right. So, the  
23                  only remedy against Mr. Richardson would be the cease  
24                  and desist.

25                  MR. WARMAN: And the fine as well.

1 THE CHAIRPERSON: And the fine.

2 MR. WARMAN: Yes.

3 THE CHAIRPERSON: So, no compensation  
4 as per 54.1(b); is that it?

5 MS MAILLET: That's correct.

6 THE CHAIRPERSON: Okay. So, only the  
7 penalty and the cease and desist order; correct?

8 MR. WARMAN: Yes.

9 THE CHAIRPERSON: Okay.

10 MR. WARMAN: The second point that I  
11 would like to address is with regard to the question of  
12 the ICQ versus the IRC issue.

13 THE CHAIRPERSON: Yes.

14 MR. WARMAN: I'd like to submit that  
15 it's irrelevant, that they're both chat programs. That  
16 if I were to use an automotive analogy, if one's a Ford  
17 and one's a Chrysler, they're both cars.

18 MR. A. KULBASHIAN: That's testimony.

19 THE CHAIRPERSON: No, no.

20 MR. RICHARDSON: Actually, one would  
21 be a motorcycle and one would be a car because they are  
22 two different things.

23 MR. WARMAN: That's not testimony,  
24 that's an analogy that I'm making between the two  
25 different things.

1 MR. A. KULBASHIAN: But they are both  
2 the same thing.

3 THE CHAIRPERSON: I don't want a  
4 debate going on, that's what my no was, okay. I'm just  
5 hearing argument.

6 Your suggestion is that they're both  
7 chat lines.

8 MR. WARMAN: Exactly.

9 THE CHAIRPERSON: But what I gather  
10 from the interventions that are coming from the other  
11 side, is that that's a technical matter that wasn't  
12 really discussed in the evidence. But I understand  
13 your submission, they're both chat lines.

14 MR. WARMAN: Perhaps I will just  
15 summarize by just saying the chats were found on Mr.  
16 Richardson's hard drive.

17 THE CHAIRPERSON: Yes, sir.

18 MR. WARMAN: The third point that I  
19 would make is simply to note that the respondents'  
20 repeated attempts to impugn my motives in filing this  
21 complaint ignore the actual sequence of events that  
22 took place.

23 The first incident was my having  
24 discovered the material upon the websites in question.

25 The second is to have filed the

1 complaints.

2 The third is that the named  
3 respondents retaliated and named me personally in  
4 further discriminatory material.

5 And the last part, that the revenues  
6 were claimed after the point where the Commission  
7 referred the matter to Tribunal, pursuant to the normal  
8 course of events.

9 THE CHAIRPERSON: The remedies were  
10 named, but the complaint was filed prior.

11 MR. WARMAN: Without any remedies  
12 having been specified.

13 THE CHAIRPERSON: Right. Except that  
14 it does flow from s. 54 that the remedies exist; does  
15 it not?

16 MR. WARMAN: But, in fact, at the  
17 time the complaint was originally filed there was no --  
18 the material that --

19 THE CHAIRPERSON: Well, the point I'm  
20 making, just to be clear --

21 MR. WARMAN: Yes.

22 THE CHAIRPERSON: -- no human rights  
23 complaints ever make reference, to my knowledge --

24 MR. WARMAN: Exactly.

25 THE CHAIRPERSON: -- to the remedial

1 aspect; that always emerges later on the process after  
2 referral, and -- well, at least from the point of view  
3 of the Tribunal, during the question -- not even the  
4 questionnaires, during the statements of cases.

5 MR. WARMAN: True.

6 THE CHAIRPERSON: That's when we  
7 usually see the first reference to remedies.

8 MR. WARMAN: Yes. In this case what  
9 transpired was that there was information that came out  
10 in the NOW Magazine that I had, in fact, filed a  
11 complaint against the respondents and that it was the  
12 C.E.C.T., Vinland Voice, Mr. Kulbashian response to  
13 that article that, in fact, named me personally in the  
14 further discriminatory material and thus gave rise to  
15 the request for damages under that heading.

16 THE CHAIRPERSON: Okay. So, the  
17 remedies -- I see what you are saying. The remedies  
18 are related to the incident that occurred post  
19 complaint.

20 MR. WARMAN: Yes.

21 THE CHAIRPERSON: I understand.

22 MR. WARMAN: The next point I would  
23 make is that there was some suggestion that because I  
24 had spoken with NOW Magazine about the fact that I had  
25 filed human rights complaints against the respondents

1           that this somehow mitigated the subsequent attack that  
2           was made upon me.

3                         The attack referred to me as a Jewish  
4           lawyer, referred to what happened to the Jews during  
5           the Holocaust including the suggestion that my family  
6           had been at Auschwitz and they gave out my home address  
7           at the time.

8                         I just think it's important for the  
9           Tribunal to imagine for a moment the effect that that  
10          would have had on someone whose family members had, in  
11          fact, been murdered at Auschwitz.

12                        Or, for that matter, any member of  
13          the Jewish community, given the history of the  
14          Holocaust and that that was, in fact, the intent of the  
15          attack.

16                        I would note that neither the NOW  
17          Magazine article, nor any other media I have dealt with  
18          in the past have ever behaved in this manner.

19                        MR. A. KULBASHIAN: That's testimony.  
20          That's testimony.

21                        THE CHAIRPERSON: Fine.

22                        MR. WARMAN: Mr. Kulbashian, in his  
23          interview with Det. Wilson, indicated at page 57 of tab  
24          62 of HR-1, and I quote:

25                                 'MR. KULBASHIAN: No, that,

1 that I don't remember.

2 Actually don't, um, if you  
3 ever read my articles I'm  
4 very moderate in the way I  
5 write...

6 DET. WILSON: Okay.

7 MR. KULBASHIAN: Unless I'm  
8 writing a sarcastic  
9 article."

10 I would bring the attention of the  
11 Tribunal to the fact that the attack in question is  
12 extremely sarcastic.

13 MR. A. KULBASHIAN: There was no  
14 testimony about that.

15 THE CHAIRPERSON: Hold on. You know  
16 what, I'm not going to allow this, Mr. Kulbashian.

17 No, take some notes, if you really  
18 think you have something to contribute, add them later.  
19 I can't have this going on. This is not a tennis  
20 match.

21 MR. V. KULBASHIAN: Are we allowed  
22 to...

23 THE CHAIRPERSON: No, you're not  
24 really, but I'll see. You'll make your submissions at  
25 that time if I think it's appropriate for you to get

1           into it, but I can't have remarks from the peanut  
2           gallery constantly here, please.

3                       MR. WARMAN; The last submission that  
4           I would make is that in the closing submissions of the  
5           respondents, many of their arguments are an invitation  
6           to the Tribunal to stretch credulity beyond the  
7           breaking point and that they should not be accepted.

8                       The last thing that I wish to draw  
9           the attention of the Tribunal to - and I apologize both  
10          for the photocopying delay and the somewhat distorted  
11          nature of the photocopies, there may be pages that are  
12          duplicated, but if there are any pages that are  
13          missing, we have endeavoured to avoid that, and we will  
14          provide any pages that may be missing.

15                      This is a decision that came down  
16          just yesterday from the Federal Court in the case of  
17          Ernst Zundel --

18                      THE CHAIRPERSON: Before you go any  
19          further on this point, I just want to ask you, I want  
20          to clarify one thing.

21                      MR. WARMAN: Yes.

22                      THE CHAIRPERSON: By pure coincidence  
23          I was checking Globe and Mail on line and there was  
24          also a decision issued today by the Supreme Court of  
25          Canada regarding --

1 MR. WARMAN: Cromouski?

2 THE CHAIRPERSON: I'm sorry?

3 MR. WARMAN: Is it the Cromouski  
4 decision?

5 THE CHAIRPERSON: I don't remember, I  
6 didn't catch the -- it's the one where they protest  
7 involving the --

8 MR. WARMAN: The Roman mask, yes.

9 THE CHAIRPERSON: Okay. So, there  
10 appears to be some reference there to - I just saw the  
11 headlines - hate propaganda or something. It may have  
12 some bearing on this case. We have not had the time to  
13 look at it.

14 So, what I am going to do simply is  
15 say, I would suggest since we are a bit time  
16 constrained now, that all parties if you wish to make  
17 any comments with regard to that decision, if any of  
18 you think it's somewhat relevant to what's going on  
19 today. You'll be able to see it, that's available on  
20 the Supreme Court website, you'll all be able to see  
21 it.

22 MR. RICHARDSON: We have copies.

23 THE CHAIRPERSON: No, it's another  
24 one. It's another case, it just came out today. If  
25 you look at the Globe and Mail or the newspapers

1           tomorrow you'll see what the case is and if any of you  
2           want to make any comments in writing, in the next week,  
3           let's say, please send them to the Tribunal and I will  
4           look at them, okay.

5                           But I think it's far too quick for  
6           any -- it probably was released two hours ago and I  
7           happened to see it on the Globe and Mail website.

8                           So, returning to the Zundel case,  
9           Federal Court decision by Mr. Justice Blais, yes?

10                           MR. WARMAN: Yes. I would just  
11           briefly wish to go through some points and draw the  
12           attention of the Tribunal to a few of the passage from  
13           Justice Blais.

14                           First, would be paragraph 7 on page  
15           5.

16                           THE CHAIRPERSON: Paragraph 7, yes.

17                           MR. WARMAN: Justice Blais states  
18           that:

19   "The Ministers also suggest  
20   that Mr. Zundel intends  
21   serious violence to be a  
22   consequence of his  
23   influence, and to this  
24   extent Mr. Zundel is engaged  
25   in the propagation of



1 evidence a document by the  
2 Security Intelligence Review  
3 Committee entitled, The  
4 Heritage Front Affair  
5 Report. The Ministers  
6 zeroed in on a particular  
7 part of this report, and I  
8 quote:  
9 "Finally we would like to  
10 put on the record our  
11 unshakeable conviction that  
12 the Government of Canada,  
13 through all means at its  
14 disposal, should continue to  
15 ensure that it is always  
16 aware of what is going on  
17 within the extreme  
18 right-wing racist and  
19 neo-Nazi groups. Canadians  
20 should never again repeat  
21 the mistakes of the past by  
22 under estimating the  
23 potential for harm embodied  
24 in hate-driven  
25 organizations." "

1                   Page 16, paragraph 30, with regard to  
2                   the fact that the respondents in this case chose not to  
3                   give evidence. Similarly Justice Blais in the Zundel  
4                   case observes:

5                                   "Mr. Zundel was given the  
6                                   opportunity to respond to  
7                                   these findings. He also had  
8                                   the possibility of providing  
9                                   witnesses that could  
10                                  address, explain and give me  
11                                  a more adequate and real  
12                                  picture of his true  
13                                  relationship with these  
14                                  people."

15                                   In this case, 'these people'  
16                   referring to the individuals named in paragraph 29  
17                   above that paragraph who were also members of the white  
18                   supremacist and neo-Nazi movement.

19                                   "Mr. Zundel opted to pass up  
20                                   this opportunity and to keep  
21                                   the nature of his  
22                                   affiliation with these  
23                                   people private."

24                                   And then Justice Blais goes on to say  
25                   that: ,...despite this, there was sufficient evidence,

1           either in open court or in camera that he could in fact  
2           find that Mr. Zundel's association with these  
3           individuals either bore an explanation or helped lead  
4           him to the conclusion that he did."

5                           Page 18, paragraph 35. Maître  
6           Maillet is just locating "The Heroes of the Movement",  
7           page from the Tri-City Skins website.

8                           In the mean time, paragraph 35, tab 3  
9           of HR-1. At the bottom of that page is Ernst Zundel,  
10          next to him is Marc Lemire, and on the back of that  
11          page is Wolfgang Droege.

12                          Justice Blais:

13                                 "Furthermore, Wolfgang  
14                                 Droege and Marc Lemire, two  
15                                 successive presidents of the  
16                                 Heritage Front, spent a lot  
17                                 of time in Mr. Zundel's  
18                                 house. Mr. Lemire, the last  
19                                 known president of the  
20                                 Heritage Front was working  
21                                 for Mr. Zundel part time and  
22                                 then full time for many  
23                                 years until Mr. Zundel left  
24                                 for the United States."

25                                 I believe this helps give context to

1 the nature of the individuals that were described on  
2 the Tri-City Skins website as "Heroes of the Movement".

3 MR. A. KULBASHIAN: I have something  
4 to...

5 THE CHAIRPERSON: Can you just hold  
6 on to it?

7 MR. A. KULBASHIAN: Isn't the  
8 response supposed to be in response to what we said or  
9 just bringing up new information for...

10 MR. WARMAN: This is a further case  
11 that was unavailable until yesterday and that I was  
12 unable to obtain a copy of until today.

13 THE CHAIRPERSON: For that reason,  
14 this is why it's important that this matter be  
15 discussed.

16 In the same manner that I have just  
17 told you that there is a case from the Supreme Court of  
18 Canada that may have some bearing on what's going on  
19 here in this case, so because that would be pushing  
20 things too much.

21 And by the way, to be fair here, I  
22 don't know how much time you had, Mr. Warman to look at  
23 this material, but it is being presented somewhat  
24 rushed to the respondents.

25 If you choose, if you want to respond

1 to what's being discussed in that decision, also in the  
2 context of the same letter that I'm saying you can  
3 submit to us within the next week - unless you have  
4 some reason that you can't for the next week, and you  
5 can indicate to me - I'll allow you to discuss this  
6 decision as well. I think it's only fair.

7 But it's also fair that we try to  
8 enlighten our discussions as much as possible with the  
9 extent of the material that's out there. This is  
10 clearly an authority of some sort related to the issues  
11 that are before us. So, I should not be dealing with  
12 this case without taking notice of some of these  
13 decisions.

14 MR. RICHARDSON: My only concern is  
15 that we are so late into this and you're bringing in  
16 something new.

17 THE CHAIRPERSON: This is not new,  
18 this is not new, this is not new evidence, this is  
19 authorities, this is something that normally is  
20 discussed at this stage.

21 MR. RICHARDSON: Okay, okay.

22 THE CHAIRPERSON: Remember I said,  
23 authorities means jurisprudence, means cases. There's  
24 a decision from the Federal Court that talks about some  
25 of the issues that are involved in this case.

1                   So, if this was three weeks, this  
2                   decision, it would have been discussed by Mr. Warman or  
3                   Ms Maillet on Monday, or Wednesday.

4                   MR. RICHARDSON:   Okay, fair enough.

5                   THE CHAIRPERSON:   When did we get  
6                   there?   Wednesday.

7                   But as it comes at a rather late  
8                   moment in the course of this week, I will give you some  
9                   time to --

10                  MR. V. KULBASHIAN:   I'm sorry, when  
11                  was this decision made?

12                  THE CHAIRPERSON:   Yesterday.   And the  
13                  Supreme Court decision was about two hours ago, three  
14                  hours ago.

15                  MR. WARMAN:   I should draw the  
16                  Tribunal's attention to paragraph 37 on the same page.  
17                  And Justice Blais states:

18                                 "It is troubling to hear Mr.  
19                                 Zundel proclaim that he is  
20                                 defending freedom of  
21                                 expression and advocating  
22                                 the use of non-violence  
23                                 while at the same time  
24                                 spending most of his time  
25                                 working in close quarters

1 with the most extreme  
2 individuals and  
3 organizations in the white  
4 supremacist movement."

5 The next paragraph gives a small  
6 amount of further detail, paragraph 38, with regard to  
7 the nature of the Heritage Front and its activities.

8 THE CHAIRPERSON: The next paragraph,  
9 38, yes?

10 MR. WARMAN: Yes. The next two  
11 paragraphs, let's say. Paragraph 45 on page 21.

12 THE CHAIRPERSON: Yes.

13 MR. WARMAN: Justice Blais in  
14 describing the nature of the affiliations between Mr.  
15 Zundel and these variety of individuals that are  
16 prevalent within the neo-Nazi movement states:

17 "These serious  
18 contradictions required  
19 explanation. If Mr. Zundel  
20 did not subscribe to the  
21 views expressed by all those  
22 people and organizations,  
23 then he should have clearly  
24 expressed both publicly and  
25 privately his total

1                   opposition to the kind of  
2                   material, propaganda,  
3                   violence and hatred promoted  
4                   by those individuals and  
5                   associations. I simply  
6                   cannot accept the  
7                   proposition that Mr. Zundel  
8                   is a pacifist, while at the  
9                   same time he continues to  
10                  maintain a close association  
11                  and to support the  
12                  above-mentioned extremists."

13                   He then goes on to state:

14                    "In my view, although Mr.  
15                    Zundel was not impressed by  
16                    the lack of subtlety of  
17                    those people and  
18                    organizations, he  
19                    nevertheless cooperated with  
20                    them, feeling it was better  
21                    to have some support than to  
22                    go it alone, but he simply  
23                    cannot depict himself as a  
24                    champion of free speech and  
25                    of non-violence while

1                   spending most of his time in  
2                   touch with people who  
3                   promote the opposite. Mr.  
4                   Zundel could not for ever  
5                   sit on the fence and, in my  
6                   view, he fell to one side."

7                   I would simply draw that to the  
8                   attention of the Tribunal in the nature of, there was  
9                   some attempt by the respondents that while they didn't  
10                  necessarily approve or condone the views that appeared  
11                  on the Tri-City Skins and Canadian Ethnic Cleansing  
12                  Team websites, there is at some point a time that it  
13                  becomes incumbent to say there are so many feathers  
14                  that have combined that they crush the camel's back and  
15                  that without any statement to the contrary to say, we  
16                  do not approve of these views, we do not subscribe to  
17                  them and yet we put them all over our websites  
18                  repeatedly.

19                  I would suggest that that goes to the  
20                  question of whether they do, in fact, agree with those  
21                  views.

22                  The last paragraph I would draw your  
23                  attention to is page 30, paragraph 65.

24                  THE CHAIRPERSON: Paragraph 65, yes.

25                  MR. WARMAN: And I point this out

1           because there are numerous disavowals put forward by  
2           the respondents and claims that those same disavowals  
3           appeared on their websites, that they are not, in fact,  
4           violent and do not, in fact, promote violence within  
5           the neo-Nazi movement.

6                           Mr. Zundel - and I believe this is  
7           apropos to this case, states:

8   "I sow the seeds and other  
9   people then build on those  
10    ideas."

11                           And that is the extent of my  
12           submissions on reply, Member Hadjis.

13                           THE CHAIRPERSON:   Okay.

14                           MR. WARMAN:   Thank you.

15                           THE CHAIRPERSON:   Thank you.   Ms  
16           Maillet.

17           REPLY ARGUMENT BY MS MAILLET:

18                           MS MAILLET:   Yes, sir.

19                           I just wanted to point out, and I  
20           know that it is obvious in this case what the burden of  
21           proof is, but that the respondents continued in their  
22           closing to suggest things that may be possible in this  
23           case.  It may be possible that it was somebody else.

24                           What this Tribunal needs to determine  
25           is what was probable.

1                   I would also like to state that where  
2                   there is a conflict between their denials and my  
3                   closing arguments and what my assertions were in those  
4                   closing arguments, I'd invite the Tribunal to look at  
5                   the evidence.

6                   I won't go back through and submit my  
7                   closing argument again.

8                   I'd like to clarify a couple of  
9                   points that Mr. Kulbashian made. He indicated that I  
10                  stated that there was weak evidence connecting  
11                  AffordableSpace and Tri-City Skins. In fact, what I  
12                  did say was that there was not a lot of evidence, or  
13                  there was weak evidence directly him with the Tri-City  
14                  Skins.

15                  THE CHAIRPERSON: Connecting Mr...?

16                  MS MAILLET: Connecting Mr.  
17                  Kulbashian. As opposed to the evidence that we have  
18                  connecting him to the Canadian Ethnic Cleansing Team.

19                  But then I stated what the connection  
20                  was with Tri-City Skins is through AffordableSpace and  
21                  that AffordableSpace was a hosting server for Tri-City  
22                  Skins.

23                  There was, as well, an attempt by Mr.  
24                  Kulbashian to confuse the role that AffordableSpace has  
25                  played in causing these messages to be communicated.

1 THE CHAIRPERSON: Sorry, an attempt  
2 by... I missed --

3 MS MAILLET: By Mr. Kulbashian to  
4 confuse what exactly the role was that AffordableSpace  
5 played.

6 The evidence, it was clear - I would  
7 just like to reiterate - that AffordableSpace was a  
8 host server, that in fact this was explained by Mr.  
9 Kulbashian to Terry Wilson in his interview, and I'll  
10 draw your attention, not at this point, but it's at tab  
11 62 of course, starts at page 42 at the bottom and it  
12 continues to page 55.

13 Mr. Kulbashian also brought up the  
14 issue of the transferring ownership to Mr. Steve  
15 Weingand and, again, the support in the documents for  
16 that is as in the bail conditions found at tab 43.

17 Mr. Kulbashian states in his closing  
18 that he doesn't visit the sites as a person that's  
19 running AffordableSpace and that he didn't know the  
20 contents of the sites.

21 It's our submission that Mr.  
22 Kulbashian actually knew the contents of the site so  
23 well, both by being an author himself, an editor, a  
24 director of the Canadian Ethnic Cleansing Team, that he  
25 in fact feared that it breached the Canadian Human

1 Rights Act. In that vein he even made himself aware of  
2 some of the jurisprudence of this Tribunal on s. 13.

3 In the interview with Terry Wilson,  
4 when Det. Wilson asks him why he was getting space for  
5 his host server through a provider in the United  
6 States, the very first reason that Mr. Kulbashian gave  
7 was that it was to evade the application of the Human  
8 Rights Act. And that's found at tab 62, pages 93 to  
9 95.

10 It's my position, sir, that although  
11 Dr. Henry may have answered a question that is  
12 ultimately for the Tribunal to decide, she is a very  
13 well-respect expert in her field and Mr. Kulbashian  
14 stating that she was evasive, it is our submission that  
15 she was not answering the questions the way he wanted  
16 her to and he kept trying to push her into that corner  
17 and she refused to do so.

18 He made reference to -- I believe he  
19 said she changed her mind about an article in one of  
20 the materials relating to the Human Bomb article.

21 I'd like to point out to the  
22 Tribunal, again it's all in the evidence, what actually  
23 happened there is that one of the respondents had her  
24 read that article --

25 THE CHAIRPERSON: Excerpt only.

1 MS MAILLET: Yes.

2 THE CHAIRPERSON: I recall that.

3 MS MAILLET: Mr. Warman went back,  
4 she read the last two paragraphs and changed her mind,  
5 that it was in fact racist.

6 The respondents also are submitting  
7 that because the material is on Vinland Voice --  
8 actually there's been a couple of submissions; one, is  
9 that they're not connected with Vinland Voice; and two  
10 is that, because it has a separate website, they  
11 shouldn't be responsible for that website.

12 Mr. Chair, the Vinland Voice does not  
13 need to be a separate respondent named here in order  
14 for these respondents to be found to be communicating  
15 the material that was on it.

16 There were several articles in the  
17 Vinland Voice that were signed by WPCANADA.

18 At tab 19 of HR-1 it's a Vinland  
19 Voice article and at the end of it it indicates that  
20 you e-mail C.E.C.T. in order to be put on the Vinland  
21 Voice mailing list.

22 At tab 26 of HR-1, and I stated this  
23 at page 4 of my closing submissions, the article from  
24 the editor of Vinland Voice and signed Alex Krause at  
25 the bottom states that he is leaving the Vinland Voice.

1                   I would also like to point out to the  
2 Tribunal that not only do people not need to  
3 necessarily author but, of course, just to be a group  
4 of persons found to be acting in concert, to cause to  
5 be communicated those materials, of course.

6                   I'd also like to point out to the  
7 Tribunal that in the case of Machiavelli and Schnell,  
8 which is found at page 4, 5 and 41 - perhaps we could  
9 just go to that.

10                   THE CHAIRPERSON: Which tab?

11                   MS MAILLET: I'm sorry, 11 of the  
12 book of authorities.

13                   THE CHAIRPERSON: Which page?

14                   MS MAILLET: Starting at page 4.  
15 Firstly, I'd like to point out that the Tribunal in  
16 that case made an order against people that were acting  
17 in concert without them being named respondents.

18                   THE CHAIRPERSON: The Tribunal made  
19 an order against people...?

20                   MS MAILLET: That were found to be  
21 acting in concert with the respondents.

22                   THE CHAIRPERSON: Is that the  
23 interested party? No.

24                   MS MAILLET: And they were in fact  
25 not even named as a respondent in this case.

1                                   At paragraph 17 - I'll take you to  
2                   that, Mr. Chair.

3                                   THE CHAIRPERSON:   Okay.

4                                   MS MAILLET:   At paragraph 17 of that  
5                   case:

6   "The evidence also shows  
7   there are a number of actors  
8   involved in the website  
9   scenario..  They include  
10   Machiavelli, Mr. Micka, Mr.  
11   Fast and Ms Vestvik, all of  
12   whom were responsible, each  
13   in their own way, for  
14   putting the website onto the  
15   Internet and making it  
16   available to anyone who,  
17   through one means or  
18   another, was able to access  
19   the website.

20   Machiavelli was the  
21   registrant of the domain  
22   name and engaged Uniserve to  
23   host the website.  Mr. Micka  
24   is the author of the content  
25   of the website.  Mr. Fast is

1                                   the web master for the  
2                                   website."

3                                   And just as Mr. Kulbashian did, it  
4 indicates that he designed it, uploaded it onto the  
5 server and makes revisions.

6                                   At paragraph 18 he indicates:

7                                   "On the basis of the above  
8 facts, I find that Mr.  
9 Micka, Machiavelli, Mr. Fast  
10 and Ms Vestvik were a group  
11 of persons acting in  
12 concert."

13                                  Paragraph 20, he indicates:

14                                  "In my view, s. 13.1 does  
15 not require proof of  
16 ownership to attract  
17 liability. There need only  
18 be proof that Machiavelli is  
19 one of a group of persons  
20 acting in concert and the  
21 evidence shows this to be  
22 the case."

23                                  And then at paragraph 164 he orders  
24 that the other individuals along with the named  
25 respondents to whom he found to be acting in concert

1 with the respondents actually cease and desist the  
2 discriminatory practice.

3 THE CHAIRPERSON: 164?

4 MS MAILLET: Yes, the very last -- at  
5 page 42.

6 THE CHAIRPERSON: So, the unnamed  
7 respondents are Vestvik and Fast?

8 MS MAILLET: Yes, that's correct.

9 Also, Mr. Kulbashian states and he's  
10 like us to believe that he left the Canadian Ethnic  
11 Cleansing Team when he realized it was against his  
12 beliefs.

13 It's our submission, sir, that his  
14 beliefs are clear by being a so integral part of a  
15 group whose name is the Canadian Ethnic Cleansing Team.

16 His beliefs are also clear by the  
17 material that was found at his resident and found at  
18 HR, I believe it's 9 or 10.

19 He talks of only knowing of a general  
20 theme of a website, and again, one need not ask what  
21 the general theme of a website called the Canadian  
22 Ethnic Cleansing Team would be.

23 With respect to Det. Wilson, it's our  
24 submission, sir, that the respondents took the  
25 opportunity to have Det. Wilson on the stand in order

1 for them to attempt to re-try or to try Mr. Wilson for  
2 some actions related to a criminal case they were  
3 involved in.

4 Their attempt was to track the focus  
5 of this Tribunal to the actions of Mr. Wilson as  
6 opposed to sticking with their own actions and  
7 defending their own actions.

8 They discussed his lack of  
9 documentation that he brought for such a big criminal  
10 case. Again, the documents that Mr. Wilson brought  
11 with him were those documents that I felt were relevant  
12 to the Human Rights Tribunal and not to the criminal  
13 case.

14 When I talked about his  
15 qualifications in my opening submissions, they denied  
16 that this was in evidence, however, it's found at the  
17 last pages of his direct evidence and it is in the  
18 transcripts.

19 THE CHAIRPERSON: Can you repeat that  
20 last part?

21 MS MAILLET: Yes. Mr. Kulbashian  
22 denied that he had lectured to officers and so on, this  
23 was a submission I had made in my closing statement.

24 THE CHAIRPERSON: Denied that Mr.  
25 Wilson has lectured officers.

1 MS MAILLET: That's correct.

2 THE CHAIRPERSON: And...?

3 MS MAILLET: And I can tell the  
4 Tribunal that those qualifications are found in the  
5 last pages of his direct evidence. I had him go  
6 through his qualifications, where he did state that he  
7 lectured to, I believe it was teachers, police  
8 officers, I don't remember who else.

9 There were allegations made by the  
10 respondents that not only did Mr. Wilson lie, but it  
11 seems that everybody here involved in this case had an  
12 ulterior motive of some sort.

13 Mr. Chair, it's the Commission's  
14 position that it's ludicrous to suggest that anyone  
15 altered documents, that anyone tampered with evidence,  
16 and I submit there is absolutely no evidence of that  
17 before this Tribunal.

18 All of the evidence that's relied  
19 upon, be it the evidence of Mr. Wilson or the evidence  
20 of Mr. Warman, that's required for the Tribunal to make  
21 a decision is supported by documentary evidence and  
22 there's absolutely no evidence, again, that would put  
23 into issue the authenticity of those documents.

24 The documents of the Commission and  
25 the complainant I believe comprise 65 to 70 documents.

1 I believe that's the material that proves that they  
2 communicated these messages.

3 It seems to me that when the  
4 respondents are suggesting all of these kinds of  
5 possibilities that it may not be them; again, it's our  
6 position that it would have been very easy for them to  
7 establish that, had they decided to give evidence.

8 Those are my submissions.

9 THE CHAIRPERSON: Thanks.

10 So, my suggestion -- the only -- I  
11 think, Ms Maillet for the most part directly addressed  
12 the respondents' submissions, it was Mr. Warman who  
13 introduced something novel which was the reference to  
14 the decisions.

15 I think it might be best for you,  
16 instead of you giving me any submissions at this point,  
17 that you submit it in writing. I would much prefer  
18 that everyone including -- particularly the respondents  
19 take the opportunity to read the decision and if  
20 there's anything they wish to bring to my attention,  
21 I'll be glad to see it.

22 I mentioned a period of one week.  
23 Does that pose any problems. I'll two weeks. It takes  
24 10 days for us to get the transcript ordinarily anyway,  
25 so two weeks.

1 MR. A. KULBASHIAN: Quick question?

2 THE CHAIRPERSON: Yes?

3 MR. A. KULBASHIAN: About whether or  
4 not there's relevance on this issue where Mr. Warman  
5 brought up this document talking about the individuals  
6 on the Heroes page, et cetera.

7 THE CHAIRPERSON: I'm sorry, are you  
8 referring to the decision?

9 MR. A. KULBASHIAN: About the  
10 decision, yes, that he was referring to the Heroes  
11 page. Now, there was no evidence at all about those  
12 individuals that he was talking about and there was no  
13 cross-examination about the individuals.

14 I was wondering --

15 THE CHAIRPERSON: That exhibit was  
16 entered into evidence and there was discussion about  
17 who they were, Mr. Warman testified on that. I have  
18 notes right on the document.

19 MR. A. KULBASHIAN: The other  
20 question is, as far as that letter that we're going to  
21 be writing, would be just based on only the decision?

22 THE CHAIRPERSON: Look, there's no  
23 reason to re-hash all the other points. I think I have  
24 heard both sides completely on all the other points.

25 And I think Ms Maillet did a

1 commendable job of dealing specifically with each one  
2 of the points that she wanted to refer to that was  
3 mentioned by you.

4 So, I don't want you to just go  
5 further into this debate.

6 The only new portion, in my opinion,  
7 would appear the discussion about this decision  
8 involving Mr. Ernst Zundel and, as I say, I believe  
9 there's one out today from the Supreme Court, I have no  
10 idea if it's relevant or not. All I know is there's  
11 some reference to -- I saw in the headline hate  
12 propaganda which are words to somewhat akin to what we  
13 find in our legislation. So, it might be relevant, I  
14 don't know. Take a look at it.

15 Maybe what I will do to make things  
16 easier for the respondents is, if not today, then some  
17 time early next week I will have Mr. Levac forward you  
18 an e-mail with either the URL or the actual text if we  
19 get it off the Supreme Court site. All right.

20 I think that should be the end of it  
21 there.

22 Mr. Richardson looks pleased.

23 Anything else, Mr. Kulbashian?

24 You're standing up. Is that it?

25 MR. A. KULBASHIAN: I was actually

1 going to ask you where to get it from, and I guess  
2 actually that's my last question.

3 THE CHAIRPERSON: Well, I have no  
4 problem with providing it. Maybe I won't provide it to  
5 the Commission, I expect them to get it themselves.

6 But, no, I think we will send a  
7 general e-mail to everyone.

8 But if you wish to see it yourselves,  
9 I don't know, you should look -- Supreme Court's  
10 websites are usually CSC-SCC; isn't that it?  
11 SCC-CSC.gc.ca.

12 MR. WARMAN: SCC-.

13 THE CHAIRPERSON: SCC for Supreme  
14 Court Canada, -...

15 MR. WARMAN: CSC.

16 THE CHAIRPERSON: Cour Supreme  
17 Canada.

18 MR. WARMAN: .gc.ca.

19 THE CHAIRPERSON: .gc.ca. But  
20 sometimes there's a delay in posting, so it might not  
21 be available until Monday or something.

22 MR. WARMAN: I have in fact accessed  
23 the decision. It is available.

24 THE CHAIRPERSON: You have access to  
25 the decision. Yes, okay, so it's available.

1 MR. A. KULBASHIAN: Some of the  
2 documents have been transferred from some university  
3 site; is that correct?

4 THE CHAIRPERSON: It does come from  
5 the University of the Montreal. Very good, yes, Lexum.

6 MR. A. KULBASHIAN: I was looking at  
7 them a few days ago.

8 THE CHAIRPERSON: Yes. There is  
9 another site also for legal materials, it's Canlii,  
10 that's C-a-n-l-i-i and that's a website, it's a good  
11 resource base to access legal materials from across the  
12 country.

13 MR. KULBASHIAN: How do you spell it?

14 THE CHAIRPERSON: Canlii.org.

15 Right? I see everybody nodding.

16 You don't know how lucky you all are  
17 that you had a counsel that is a little computer  
18 literate, it helped.

19 Thank you all very much. It was a  
20 pleasure seeing you again.

21 And it may take -- I'm very  
22 overwhelmed with decisions to write right at this time,  
23 so I cannot assure you of when I will be issuing my  
24 decision.

25 We may not meet the Tribunal's target

1 on this, so I hope you understand.

2 Okay.

3 REGISTRY OFFICER: All rise.

4 --- Whereupon the hearing concluded at 2:15 p.m.

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

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Beverley R. Dillabough, C.S.R.