

**CANADIAN
HUMAN RIGHTS
TRIBUNAL**



**TRIBUNAL CANADIEN
DES DROITS
DE LA PERSONNE**

BETWEEN/ENTRE:

RICHARD WARMAN

Complainant

le plaignant

and/et

CANADIAN HUMAN RIGHTS COMMISSION

Commission

la Commission

and/et

MARC LEMIRE

Respondent

l'intimé

and/et

ATTORNEY GENERAL OF CANADA;
CANADIAN ASSOCIATION FOR FREE EXPRESSION;
CANADIAN FREE SPEECH LEAGUE;
CANADIAN JEWISH CONGRESS;
FRIENDS OF SIMON WIESENTHAL CENTER
FOR HOLOCAUST STUDIES;
LEAGUE OF HUMAN RIGHTS OF B'NAI BRITH

Interested Parties

les parties intéressées

BEFORE/DEVANT:

ATHANASIOS D. HADJIS

CHAIRPERSON/

PRÉSIDENT

LINE JOYAL

REGISTRY OFFICER/

L'AGENTE DU GREFFE

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CANADIAN HUMAN RIGHTS TRIBUNAL/
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HEARING HELD AT THE DAYS INN, 1677 WILSON AVENUE, TORONTO,
ONTARIO, ON MONDAY, JANUARY 29, 2007

CASE FOR HEARING

IN THE MATTER of the complaint filed by Richard Warman dated November 23rd, 2003 pursuant to section 13(1) of Canadian Human Rights Act against Marc Lemire. The complainant alleges that the respondent has engaged in a discriminatory practice on the grounds of religion, sexual orientation, race, colour and national or ethnic origin in a matter related to the usage of telecommunication undertakings.

APPEARANCES/COMPARUTIONS

Richard Warman	On his own behalf
Giacomo Vigna	For the Canadian Human Rights Commission
Barbara Kulaszka	For the Respondent
Simon Fothergill	For the Attorney General of Canada
Paul Fromm	For the Canadian Association for Free Expression
Charlotte Kanya-Forstner	For the Canadian Jewish Congress
Marvin Kurz	For the League of Human Rights of B'Nai Brith

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Toronto, Ontario

1
2 --- Upon commencing on January 29, 2007
3 at 10:02 a.m.

4 THE REGISTRAR: The hearing today is
5 in the matter of the complaint filed by Richard Warman
6 dated November 23rd, 2003 pursuant to section 13(1) of
7 Canadian Human Rights Act against Marc Lemire.

8 The complainant alleges that the
9 respondent has engaged in a discriminatory practice on
10 the grounds of religion, sexual orientation, race,
11 colour and national or ethnic origin in a matter
12 related to the usage of telecommunication undertakings.

13 Presiding as chairperson in this
14 inquiry is Athanasios Hadjis.

15 Call for appearances, please.

16 MR. VIGNA: Giacomo Vigna for the
17 Canadian Human Rights Commission.

18 MR. WARMAN: Good morning, Richard
19 Warman.

20 THE CHAIRPERSON: Mr. Warman.

21 MR. FOTHERGILL: Simon Fothergill for
22 the Attorney General of Canada.

23 THE CHAIRPERSON: Sorry, the normal
24 sequence would be that I go there.

25 MR. FOTHERGILL: Entirely

1 appropriate.

2 MS KULASZKA: Barbara Kulaszka for
3 the respondent.

4 THE CHAIRPERSON: Thank you. That
5 would be Mr. Lemire next to you?

6 MS KULASZKA: Yes.

7 THE CHAIRPERSON: Now we'll go
8 Mr. Fothergill, which I already have.

9 MR. FOTHERGILL: Let me try and
10 control my enthusiasm. Simon Fothergill for the
11 Attorney General of Canada. I will be joined later in
12 the proceedings by Alicia Davies, another lawyer in my
13 office.

14 THE CHAIRPERSON: Davies with a
15 D-A-V-I-E-S?

16 MR. FOTHERGILL: Yes, correct.

17 THE CHAIRPERSON: I'll finish on his
18 side. Go ahead.

19 MR. KURZ: I'm Marvin Kurz, I'm with
20 the B'Nai Brith group. I'm counsel for B'Nai Brith.
21 I'm here with Charlotte Kanya-Forstner who is counsel,
22 along with Joel Richler, for Canadian Jewish Congress.
23 And with us is Katie Armitage, who is a student at
24 Blakes, also counsel for Canadian Jewish Congress who
25 will be present much of the time.

1 If I just may say quickly, Steve
2 Skurka, who is counsel for Simon Wiesenthal Center,
3 isn't here. It's our intention to have somebody here
4 every day, but there will be a rotation, as it were.

5 THE CHAIRPERSON: I think that was
6 understood when we had those earlier conversations.

7 Mr. Fromm?

8 MR. FROMM: Paul Fromm for the
9 Canadian Association for Free Expression. My
10 colleague, Mr. Wolfgang Mueller and Doug Christie, will
11 not be here today.

12 THE CHAIRPERSON: Okay. Okay. I
13 have everybody's names.

14 So I don't think we can proceed
15 directly into the case. There are some outstanding
16 issues left from our discussions on the telephone and
17 various documents that have been filed. So I don't
18 know how to proceed.

19 Have you had perhaps an opportunity
20 to speak amongst yourselves? Have there been documents
21 exchanged that have enabled you to change your
22 positions in any way?

23 Ms Kulaszka, perhaps you should
24 approach -- Mr. Vigna, you won't mind just approaching
25 that microphone, as it is, like that?

1 MR. VIGNA: No.

2 THE CHAIRPERSON: Go ahead, Ms
3 Kulaszka.

4 MS KULASZKA: Maybe I should start.
5 I think the last thing was a motion by myself regarding
6 the validity of the certificate under section 37 of the
7 Canada Evidence Act.

8 THE CHAIRPERSON: Let me pull that
9 up.

10 MS KULASZKA: I filed it on January
11 19th.

12 THE CHAIRPERSON: It might be in my
13 evidence here. Just a second, please.

14 That's leading to my having three
15 binders already and the case has not even begun. So
16 you are referring to something that you filed on
17 January --

18 MS KULASZKA: January 19th, by
19 letter.

20 THE CHAIRPERSON: Yes.

21 MS KULASZKA: In that letter it was a
22 motion in letter form asking for an order adjourning
23 the hearing and other relief at the end of the letter
24 concerning the certificates. So we're here today, and
25 I discussed it with my client, so this is the solution

1 I propose.

2 THE CHAIRPERSON: Okay.

3 MS KULASZKA: That we go ahead with
4 the hearing. We're obviously here. But I also want to
5 put on the record that these very large yellow
6 envelopes sitting on the desk in front of me were
7 served on me last week by the Commission, and it's
8 unacceptable. It's unacceptable. They had literally
9 years and months to make this disclosure and I haven't
10 had a chance to look at it.

11 THE CHAIRPERSON: I appreciate that.
12 That's a late disclosure. They said that the months
13 that were provided to them would be sufficient to go
14 through their file. I appreciate that.

15 But as I also indicated to you at the
16 last conference call, which was recorded on transcript,
17 which I believe was sent to you on Thursday by
18 electronic mail, or Friday maybe?

19 MS KULASZKA: Friday.

20 THE CHAIRPERSON: I received mine
21 late Thursday.

22 We're going to deal with the issues
23 of disclosure on a document-by-document basis. If they
24 intend to use one of those documents that was disclosed
25 to you late and it creates some prejudice, you will

1 demonstrate that to me and we'll deal with it
2 accordingly.

3 We have the benefit of multiple weeks
4 of hearings scheduled. There's lots of time ahead of
5 us. I'm always open to the use of additional
6 technology, like video conferencing or perhaps
7 conference calls in order to enable us to deal with
8 these types of issues, and I will deal with them in a
9 fair and open way.

10 But in the abstract, as I indicated
11 to you in that last call, I won't be adjourning
12 proceedings without knowing the specific prejudice
13 caused by any particular late disclosure.

14 Now, for the record, you indicated to
15 me all those manila envelopes that are on that table
16 are the late disclosure?

17 MS KULASZKA: Yes, I think two of
18 them are last week and one the week before.

19 THE CHAIRPERSON: In sum, it looks
20 like about three, four inches of thickness.

21 MS KULASZKA: I think this is
22 material Mr. Vigna referred to in the last call.

23 THE CHAIRPERSON: Some of it might
24 be -- is any of it material that I was asking the
25 Commission to review and perhaps disclose without the

1 striking out of extracts? Is that what it is?

2 MR. VIGNA: All the disclosure that
3 is said that she received last week in the yellow
4 envelopes, that's all the constitutional disclosure.
5 None of it, or almost none of --

6 THE CHAIRPERSON: I sensed that,
7 based on the descriptions I had seen in the
8 documentation that was exchanged.

9 MR. VIGNA: Some of it was what you
10 were saying in terms of review -- some documents were
11 revisited. Not that many. And some were given to me
12 and others were reviewed. But the whole week was
13 devoted to simply that issue of disclosure because
14 there was a ton of documents.

15 We had to get them from the region
16 also. We had to get them from the archives. And then
17 somebody had to sit down and -- we were two lawyers
18 basically reviewing every single document because there
19 was section 37 concerns. And there's a letter that was
20 sent -- cover letter with the disclosure explaining the
21 documents that were obliterated on what grounds and
22 what information was there. It was primarily telephone
23 numbers, names and personal information, numbers that
24 coordinates. None of that will be used for the merits,
25 so in that sense, Mr. Chair, there is no prejudice

1 whatsoever.

2 THE CHAIRPERSON: There might be
3 prejudice. Nonetheless, there isn't any prejudice
4 immediately. I think that's the issue.

5 I'm sort of rephrasing what you said
6 earlier, Ms. Kulaszka. I see your reaction. It
7 doesn't relate to the issue that is in front of us
8 today, which is the merits of the case.

9 But, Mr. Vigna, I have to repeat
10 again: We held that first conference call in September
11 and it was after my ruling of August. That's been a
12 long time and why is this still happening? I seem to
13 recall the Commission saying that the time would be
14 sufficient that we allocated for this disclosure.

15 MR. VIGNA: Mr. Chair, you have to
16 appreciate that it was a very important amount of
17 documents that had to be collected --

18 THE CHAIRPERSON: Significant amount.

19 MR. VIGNA: -- from more than just
20 one source. It had to be in-house archived documents.
21 We had to -- I had to contact all the regions, the four
22 regional offices. They had to return me the documents,
23 then we had to sit down. We had a whole table and -- I
24 could have just sent them.

25 THE CHAIRPERSON: I understand. So

1 what should have happened is as you saw the
2 difficulties arising, the Commission -- and maybe not
3 you personally because I understand you mentioned on
4 the phone last time you were very busy -- but someone
5 should notify the Tribunal and ask for some sort of
6 extension, give a heads-up of what's going on and we'll
7 deal with it accordingly, rather than the rather
8 sudden, late disclosure.

9 MR. VIGNA: I understand and I agree,
10 Mr. Chair. But sometimes it's not really easy to
11 foresee because the documents came on a bit at a time.
12 So once in a while I would get -- here's another batch
13 of documents, going to have to review it.

14 THE CHAIRPERSON: Ms. Kulaszka, rest
15 assured this case will not close before you've had
16 ample opportunity to review those documents and raise
17 with the Tribunal any issue that relates to those
18 documents or the late disclosure.

19 MS KULASZKA: Thank you. I also want
20 to raise the late disclosure by the complainant
21 himself.

22 THE CHAIRPERSON: Just a moment,
23 please.

24 MS KULASZKA: On January 19th, 2007 I
25 received a fax from the Canadian Human Rights

1 Commission with a note:

2 "The following was provided by
3 complainant and is being
4 disclosed to the parties."

5 That is a Yahoo mail of three pages.

6 I then got a letter January 19th,
7 2007 from the Canadian Human Rights Commission which
8 was further disclosure provided by the complainant
9 regarding jrbooksonline.com which, of course, is the
10 merits of the case. And it was a number of documents,
11 e-mails by the complainant to Network Solutions
12 attempting to find out who the webmaster or owner of
13 jrbooksonline.com was. His e-mails date from 2005.

14 Obviously there's no reason whatever
15 why Mr. Warman delayed until just before the hearing to
16 produce these documents. This goes to the merits of
17 the case.

18 Further, Mr. Warman has blacked out
19 significant parts of these documents in the e-mails.
20 Mr. Warman has no right to black out documents. He
21 claims no privilege. He simply blacked them out. It
22 appears to be e-mails and also titles under his name.
23 And I would ask the Tribunal that Mr. Warman produce
24 these documents immediately in an uncensored form.

25 THE CHAIRPERSON: Mr. Warman? Can

1 you explain, A, the late disclosure, because
2 JRBooksOnline is an issue that I believe Commission
3 complainant has to have brought up in this case, and so
4 why the late disclosure and why have items been
5 stricken?

6 MR. WARMAN: In terms of why the
7 items have been stricken, it's because they contain
8 personal contact information for myself and I,
9 therefore, consider it to be a security matter for my
10 personal --

11 THE CHAIRPERSON: Your own
12 personal --

13 MR. WARMAN: Exactly. And in terms
14 of why the material was disclosed late, the respondent
15 has made -- I guess has renewed the issue quite
16 recently of Mr. Lemire's involvement or non-involvement
17 on the JRBooksOnline website.

18 I went back, I reviewed the file
19 again, I came across those documents. So given the
20 renewed emphasis on the issue, I disclosed them, as is
21 my obligation, my continuing duty to disclose any
22 documents that I may have in my possession, and that's
23 why they were disclosed.

24 So I apologize. I got them as soon
25 as I came across them in the file. That's the best I

1 can do for now. Sorry. For what it's worth, they are
2 simply e-mails. They are not --

3 THE CHAIRPERSON: From whom to whom?

4 MR. WARMAN: From me to registration
5 companies for website names in relation to
6 JRBooksOnline, and they are very short. There's
7 nothing substantive to them. They are not a hundred
8 pages. There may be half a dozen documents that are
9 one to two, three pages at that time most each, so....

10 MS KULASZKA: Mr. Warman might not
11 think they are substantive, but they are very
12 substantive to me. He is trying to find out who runs
13 JRBooksOnline.

14 And it's not just an e-mail, it's his
15 own e-mail that he's blacked out. He has blacked out
16 the name of the person he is corresponding with at
17 Network Solutions. More importantly, he's blacked out
18 something under his name, which is a title, a title,
19 and he CC's the e-mail to the Canadian Human Rights
20 Commission. And in one e-mail he says:

21 "I'm following up on the content
22 of the website to the Canadian
23 Human Rights Commission and
24 there are no trademark issues
25 involved."

1 Therefore, is Richard Warman
2 presenting himself as an employee of the Commission?
3 If so, then it should be revealed, the blacked out
4 area, underneath his name. How is he presenting
5 himself to this website?

6 THE CHAIRPERSON: I think you are
7 making a connection possibly to the constitutional
8 argument as well; is that it?

9 MS KULASZKA: Absolutely.

10 MR. WARMAN: These materials will be
11 submitted as evidence. Perhaps it's easiest to address
12 them as they are entered. I can state right now that
13 there was no such representation. The material that is
14 blacked out either gives my status as a barrister and
15 solicitor or attorney or it contains personal contact
16 information which I consider to be a personal security
17 matter.

18 THE CHAIRPERSON: If it just says
19 you're a barrister and solicitor, then what's the
20 reason for not disclosing it? If that's the issue.

21 MR. WARMAN: Because directly
22 underneath it is all my contact information. So I just
23 drew a box around it all and blacked it out.

24 MS KULASZKA: I think anybody could
25 say that. Anybody could start saying this. And when

1 he says he's doing this through the Canadian Human
2 Rights Commission, I think --

3 MR. WARMAN: That's a
4 mischaracterization.

5 THE CHAIRPERSON: You saw that
6 reference to the Commission. That wasn't deleted from
7 what you just told me.

8 MS KULASZKA: Well, it would be
9 pretty hard to delete that.

10 THE CHAIRPERSON: It was there. That
11 had not been stricken.

12 MS KULASZKA: It hadn't been deleted.
13 Mr. Warman's personal address is on the Internet. It's
14 in court documents. I think Mr. Warman plays up his
15 security concerns constantly. He has to reveal some
16 things. You can't simply hide. He can't bring
17 complaints against people, ask for a cease and desist
18 order, fines against someone, and then say, well, I'm
19 sorry I can't reveal information in these documents
20 because of my security.

21 At some point he has to start
22 revealing things. There's no reason he can't show his
23 title underneath his name. How is he putting himself
24 forward to this -- to the Network Solutions? Why is he
25 hiding the name of the person he's corresponding with

1 at the Network Solutions? That would be very useful
2 for us because we could also contact them.

3 As far as Mr. Warman's e-mail goes,
4 the e-mail could also reveal whether he is using a
5 governmental e-mail to send these e-mails. If security
6 is a concern you can always change in your e-mail.
7 People change their e-mails all the time. So I think
8 the e-mail is very relevant. Where is he sending this
9 e-mail from?

10 MR. WARMAN: Mr. Chair, rather than
11 deal with the issue in a vacuum, these are contained in
12 tabs 7-F approximately to O.

13 THE CHAIRPERSON: These binders that
14 are on my desk -- the second one?

15 MR. WARMAN: Maybe the others -- CJC
16 book of documents.

17 MS KULASZKA: What tab was that?

18 MR. WARMAN: 7-F to O.

19 THE CHAIRPERSON: 7 what? What I'm
20 looking at is a letter from Ms Kulaszka.

21 MR. WARMAN: Sorry. G, H.

22 THE CHAIRPERSON: Let me look at G
23 first.

24 MR. WARMAN: Certainly.

25 THE CHAIRPERSON: This does not

1 appear to me to be an e-mail.

2 MR. WARMAN: No, it's not.

3 THE CHAIRPERSON: It's a printout
4 from a web page.

5 MR. WARMAN: So if we're just going
6 to discuss the e-mails, then that would be tab I.

7 THE CHAIRPERSON: Tab 5?

8 MR. WARMAN: No, excuse me. I, as in
9 ice.

10 THE CHAIRPERSON: So we've got the
11 "from" and your name at the bottom. So the
12 complication is what -- let me just go through them
13 all.

14 MR. WARMAN: I should note from --
15 it's self-evident it's sent from a Yahoo e-mail account
16 and the government does not use Yahoo e-mail accounts.

17 THE CHAIRPERSON: So the issue is --
18 it seems fairly obvious, occasionally we see in the
19 "from" section or the "to" section when Network
20 Solutions replies to the person that had sent it. So
21 that would be Mr. Warman's e-mail.

22 MS KULASZKA: Yes, we would like all
23 the matters revealed. In particular, he's writing to
24 an Internet service provider and -- what's he saying?
25 How is he signing his name? We should know that. It's

1 also important to get the e-mail.

2 THE CHAIRPERSON: Why? Why is it
3 important to get the e-mail? Let's be clear. If it's
4 a Yahoo account, why is it important the get the
5 e-mail? Do you intend to e-mail Mr. Warman personally?
6 Why is that important? Isn't what's being written here
7 the most important element in this evidence?

8 MS KULASZKA: I think the burden is
9 always being put on me, well, what do you need it for?

10 THE CHAIRPERSON: That's a good
11 point.

12 MS KULASZKA: The burden is on him to
13 disclose these materials and to justify. I certainly
14 don't know of any privilege he can claim.

15 THE CHAIRPERSON: The only one I'm
16 thinking about based on how I'm hearing it used here is
17 section 52 of our Act. Now it's getting into the
18 matter of evidence. Until now it's been disclosure.
19 Now we're getting into section 52 of the Act.

20 MS KULASZKA: I doubt Mr. Warman
21 still uses the e-mail that's on these sheets.

22 THE CHAIRPERSON: I'm sorry?

23 MS KULASZKA: I doubt very much he
24 still uses that same e-mail.

25 THE CHAIRPERSON: No, I'm saying

1 section 52 of our Act might have some bearing on this,
2 because otherwise -- yeah, you're right, there's no
3 reason for that not to be disclosed if it's not a
4 question of privilege. Do you still use this e-mail,
5 Mr. Warman?

6 MR. WARMAN: I do.

7 THE CHAIRPERSON: You do. So is your
8 concern 52? Because I don't see what other ground
9 you'd have not to disclose this.

10 MR. WARMAN: It is exactly that. It
11 is a personal security issue. Mr. Lemire and his
12 colleagues, some of whom are present in the room today,
13 have participated in protests outside of my place of
14 work. They have engaged in extensive defamation
15 disclosure of personal information regarding my
16 personal life or work life that cause no less than my
17 building to go into a security lock down when they
18 appeared with a gang of neo-Nazis out in front of it.

19 So, realistically, there is a
20 perfectly legitimate -- there have been death threats
21 in the past. You are well aware of the history of
22 these kinds of cases, and my involvement therein.

23 Therefore, it's an issue of where
24 it's personal contact information, e-mail, home
25 address, telephone number, that kind of thing. There's

1 absolutely no prejudice to the respondent in not having
2 that information repeated again. And there's certainly
3 no need for it to be disclosed in an open an tribunal
4 hearing.

5 THE CHAIRPERSON: So what are you
6 invoking, 52(1) --

7 MR. WARMAN: (A).

8 THE CHAIRPERSON: Public security?

9 MR. WARMAN: And (C).

10 THE CHAIRPERSON: Undue hardship to
11 the persons involved.

12 MR. WARMAN: And (D).

13 THE CHAIRPERSON: Risk to life,
14 liberty and security of a person.

15 MR. VIGNA: Mr. Chair, I would like
16 to add something. In this particular file we've
17 compiled this binder here, which is the contents of the
18 present website, and we have noted that pretty much
19 everything that took place till now in terms of this
20 proceeding has been put on the website, and it's
21 suspected that that is going to take place again.

22 There's transcripts on the website.
23 There's motions on the website, the statement of
24 particulars.

25 So I think there is a legitimate

1 basis, at least on the facts, to believe that this kind
2 of information could be released, and it could be
3 released to the whole wide world at that point. And
4 there is substantial concern for Mr. Warman to -- for
5 his security.

6 MR. LEMIRE: Is that material in
7 front of me?

8 MR. VIGNA: Yeah, it's in a binder,
9 the green one.

10 THE CHAIRPERSON: This one?

11 MR. VIGNA: Yes. If you look tab

12 A --

13 THE CHAIRPERSON: Hold on. The whole
14 thing fell apart here. Tab A, yes.

15 MR. VIGNA: That's the home page you
16 have there. And right on the right-hand side you have
17 what's been happening in this file up to now, including
18 motions, including witness experts, which at one point
19 raised in a conference call all the coordinates and the
20 expert reports of Dr. Karen Mock were on the website,
21 and some of it is still there.

22 You look at tab B, the same thing;
23 then tab C it's about the same thing.

24 It's not the case with D, nor F, nor
25 G, nor H.

1 THE CHAIRPERSON: I'm sorry, hold on.
2 Slow down. I'm looking at tab C. Which should I be
3 looking at? What are you drawing my attention to?

4 MR. VIGNA: If you look at the
5 headlines, the titles, newest files on the Freedomsite.

6 MS KULASZKA: What page is this?

7 THE CHAIRPERSON: I might be looking
8 at the wrong thing.

9 MR. VIGNA: Are you looking at the
10 smaller one?

11 THE CHAIRPERSON: Yes. You've got
12 tab C. It says, "Freedomsite Store". Tab C, I'm
13 sorry.

14 MR. VIGNA: I have a different -- I
15 organized it differently.

16 THE CHAIRPERSON: Tab A, I saw some
17 references to the proceedings here.

18 MR. VIGNA: I organized it
19 differently. Tab A --

20 THE CHAIRPERSON: I see tab 1 on the
21 right sides, "Headlines".

22 MR. VIGNA: It's all in tab A. Then
23 it's tab D --

24 THE CHAIRPERSON: B?

25 MR. VIGNA: D.

1 THE CHAIRPERSON: D as in David?

2 MR. VIGNA: Yes. Including the --

3 THE CHAIRPERSON: "Marc Lemire's
4 constitutional challenge of internet censorship to be
5 heard" -- location of today's hearing. Is that what
6 you mean?

7 MR. VIGNA: Second page, location,
8 time, map, where everything is taking place. And I'm
9 going go through the reading of the document which I
10 can leave for yourself later. Pretty much what has
11 been happening so far is being constantly posted on the
12 website.

13 Then if you go to tab E --

14 THE CHAIRPERSON: Tab E?

15 MR. VIGNA: Yeah. You'll see there's
16 even some excerpts of the latest conference call.
17 There's a copy of the statement of facts which have
18 been posted on the website.

19 THE CHAIRPERSON: Okay.

20 MR. VIGNA: Tab F.

21 THE CHAIRPERSON: This website is
22 all --

23 MR. VIGNA: This is the present
24 website.

25 THE CHAIRPERSON: Freedomsite.

1 MR. VIGNA: This is the content of
2 the website as it is yesterday. Also when I was
3 talking about Karen Mock at tab -- I just want to make
4 sure I find it here -- tab D.

5 THE CHAIRPERSON: D?

6 MR. VIGNA: D.

7 THE CHAIRPERSON: As in David. Yes.
8 Where is that reference you want?

9 MR. VIGNA: If you turn to the fourth
10 page.

11 THE CHAIRPERSON: Fourth page?

12 MR. VIGNA: You'll note all the
13 experts, both sides of the experts, but you'll notice
14 the next page, "Marc Lemire's witness list". I don't
15 know if you're there?

16 THE CHAIRPERSON: Yes. Professor
17 Downs.

18 MR. VIGNA: Yeah, Dr. Persinger, then
19 there's Mr. Fromm there. Mr. Jerry Neumann.

20 THE CHAIRPERSON: That's not what I
21 saw. Yes, Mr. Fromm. Yes, okay. Then?

22 MR. VIGNA: Then you go to Dr. Mock.
23 There's a caricature mocking the witness. You can see
24 all these --

25 THE CHAIRPERSON: I haven't seen that

1 yet. Yes, okay.

2 MR. VIGNA: You see the picture.
3 Right off the back, you see there is a mocking of the
4 witness. The faces -- but the rest of it is some kind
5 of visual representation of the puppet-type of --
6 behind the counter.

7 Then there's information on the
8 individual. And at one point I would say, Mr. Chair,
9 there was actual CV and expert report. Then there was
10 a new issue about it, and I sent a letter and that was
11 extracted. But it was on the website.

12 So what I'm saying basically,
13 Mr. Chair, is the concerns Mr. Warman has are not
14 without any foundation. There's factual evidence in
15 this very file about everything taking place being put
16 on the website even before the hearing commencing, and
17 things that will be on, what's needed to be said, like
18 coordinates and telephone numbers.

19 And in Dr. Mock's case, it's not
20 there today but at the time it was an issue and it was
21 put -- so now it was extracted but people were able to
22 go there.

23 So I think there's a serious concern
24 in terms at least of the factual denouement of this
25 case so far in terms of things being posted on the

1 website and there's concern about the personal
2 coordinates I think is totally legitimate in the
3 circumstances.

4 MS KULASZKA: So my understanding is
5 Mr. Warman is invoking section 52.

6 THE CHAIRPERSON: Yes. 52 -- I think
7 the reference was to 1(a), (c) and (d) I think he said.

8 MS KULASZKA: I would like to know,
9 first of all, that the first part, section 52(1) says:
10 "An inquiry shall be conducted
11 in public."

12 And it's a basic tenant of our law
13 that hearings should be open to the public.

14 THE CHAIRPERSON: They are.

15 MS KULASZKA: And the public should
16 see the hearings and should know what goes on and what
17 is happening.

18 THE CHAIRPERSON: We are not
19 suggesting shutting the doors here.

20 MS KULASZKA: I know, but Mr. Vigna
21 points out what is on the website. What is on the
22 website are the public documents in this case because
23 unless this Tribunal follows a very different procedure
24 from court --

25 THE CHAIRPERSON: It does. I think I

1 should advise you of that.

2 MS KULASZKA: Anyone could go to a
3 file and look at them.

4 THE CHAIRPERSON: You've experienced
5 that yourself I think at one point. We must be mindful
6 of one thing. This is not a court, it's an
7 Administrative Tribunal. And we are subject to Access
8 to Information Act and Privacy Act provisions that
9 apply to all administrative tribunals.

10 MS KULASZKA: Certainly I was never
11 advised of that.

12 THE CHAIRPERSON: Well, it's in the
13 law. It's not a question of being advised. We are not
14 a court. We are an administrative tribunal.

15 So for third parties to have access
16 to our material -- and this protects all sides. It
17 protects Mr. Lemire.

18 So -- to this day I don't think I
19 know the address of Mr. Lemire. That's part of the
20 process that we've put in place for section 13 files
21 because they are contested in such a heated way, I
22 guess.

23 MS KULASZKA: In those documents
24 never is there a personal address put in.

25 THE CHAIRPERSON: In which documents?

1 MS KULASZKA: In the notices of
2 motion. Mr. Warman is served via the Tribunal.

3 THE CHAIRPERSON: That's personally
4 fine.

5 MS KULASZKA: It works both ways.

6 THE CHAIRPERSON: All I was doing was
7 clarifying that point for you. It is a bit of a
8 learning curve. I even sensed that too when I came to
9 the Tribunal years ago. We work on the expectation
10 that things function like a court. In many ways they
11 do.

12 But in this aspect we remain subject
13 to these provisions of federal law, and it means for
14 non-participants at a hearing to gain access to
15 material that are put before the Tribunal, they have to
16 go through the normal access to information process.
17 It's a requirement. I'm not personally involved in
18 that, but I'm informed from the administration of the
19 Tribunal that this is how things work and must work in
20 accordance with all the relevant legislation and
21 regulations.

22 Now, that's just an answer to your
23 one question of how it functions. These are not
24 "public documents". They are documents that are being
25 exchanged between the parties in the process of

1 disclosure leading up to the hearing, and those who may
2 be seated in the hearing room may hear these documents
3 referred to but they are not public documents in that
4 sense.

5 I'll give you an example. Last week
6 in a hearing that Mr. Warman was -- it was another
7 hearing earlier last week that I heard, and Mr. Warman
8 at one point wanted to hand up the documents that were
9 in front of him to a person in the room. I think it
10 was a journalist, and I denied him the right to do that
11 because they are not public documents in that sense.

12 MS KULASZKA: Are you referring to
13 the disclosure documents?

14 THE CHAIRPERSON: No, it was
15 evidence. It was material like this.

16 MS KULASZKA: I think what is on the
17 website are notices of motion and responses by --

18 THE CHAIRPERSON: You can put on the
19 website what you want, especially if it's yours. I'm
20 not saying you can't put what you did put on the
21 website.

22 MS KULASZKA: I never put anything on
23 the website.

24 THE CHAIRPERSON: You or anybody
25 else.

1 In answer to the question: This is a
2 public document and like a court everything can be
3 accessed. I'm clarifying that point for you at the
4 Tribunal. Documents submitted to the Tribunal that are
5 in the tribunal's files are not in a court docket in
6 the same sense as would be in a superior court, for
7 instance. They are documents held by the
8 administrative agency or body. I'm just clarifying
9 that point.

10 MS KULASZKA: Thank you.

11 THE CHAIRPERSON: That's all I'm
12 saying. If it was part of your next assertion, I'm
13 saying it's not quite the case with respect to the
14 Tribunal.

15 MS KULASZKA: My submission is, what
16 Mr. Lemire has put on the website doesn't threaten
17 Mr. Warman. These are legal documents concerning the
18 legal issues that have arisen. He's never put the
19 disclosure documents on the website.

20 THE CHAIRPERSON: The submission is,
21 though, that if this material does make it onto the
22 website, this e-mail here with the personal address of
23 Mr. Warman --

24 MS KULASZKA: That's a disclosure
25 document so it wouldn't be put on the website.

1 THE CHAIRPERSON: Well, I don't know.
2 This suggestion here is that other documents have been
3 disclosed in the course of this case did make it on the
4 website.

5 MR. VIGNA: Mr. Chair, the binder
6 itself speaks for itself. If you look at it, all the
7 expert reports, experts were.

8 THE CHAIRPERSON: Expert reports were
9 part of disclosure.

10 MR. VIGNA: Exactly. And the expert
11 reports with the CV at one point was on the website.

12 THE CHAIRPERSON: That was also part
13 of disclosure.

14 MR. VIGNA: Now it's not there
15 because we had to complain about it. We didn't give a
16 resume of Mr. Warman so we can't say what was on the
17 website. But what would happen in that case?

18 The expert reports and CVs were on
19 the website. I think it's a legitimate concern that,
20 based on the modus operandi of what's taken place on
21 the website --

22 THE CHAIRPERSON: Look, it follows
23 from earlier rulings I've made in the case. I've said
24 the principle of confidentiality with regard to the
25 individual parties involved will be maintained in this

1 case as has been maintained in other section 13 cases
2 in both directions. It applies for Mr. Lemire as much
3 as Mr. Warman.

4 Now, if indeed the information from
5 the blackout here is of that sort, I don't see why it
6 needs to be disclosed to the other side in any event.
7 Honestly, it's the content that counts. Do I really
8 care what part of town in Ottawa Mr. Lemire lives in?
9 If you would like me to verify that I could do that.
10 If that's your concern, Ms. Kulaszka, I could ask
11 Mr. Warman to produce the unstricken documents so I can
12 confirm that this consists of an e-mail address.

13 I can see how e-mail addresses today
14 are perceived as private. They are the modern day
15 version of your telephone number and people have
16 private telephone numbers. So unless there is some
17 other compelling reason, I just don't see it at this
18 point.

19 MS KULASZKA: I would ask, just to
20 get back to the submission Mr. Vigna made, because they
21 are very disturbing to me.

22 Mr. Lemire has to pay for this
23 hearing by people who support freedom of speech.
24 That's what the whole freedomsite is about.

25 THE CHAIRPERSON: Okay.

1 MS KULASZKA: And many people don't
2 live in Toronto. They don't know where Days Inn is.
3 So he was helping them by putting a little map, and
4 that was something he put out for his supporters and
5 put it on this website. How this threatens Mr. Warman
6 is beyond me.

7 THE CHAIRPERSON: I understand.
8 Trust me, that didn't register from Mr. Vigna's
9 comments.

10 MS KULASZKA: I would ask that the
11 uncensored documents be produced then.

12 THE CHAIRPERSON: I'll look at them.
13 In keeping with our policy with regard to both parties
14 or any other parties may be involved -- in this case
15 it's just two in the section 13 complaint -- I don't
16 see why it needs to be disclosed. I suppose it's in
17 the spirit of 52 that we have this rule. It's a rule
18 that's been around for quite a while.

19 I'll ask at some point during the
20 course of this day if those documents are available in
21 an unstricken to be --

22 MR. WARMAN: I'll be happy to do
23 that.

24 THE CHAIRPERSON: All right. I'll
25 verify that, Ms. Kulaszka. If need be, if there's

1 anything that varies from what we discussed I'll bring
2 it up in some sort of way that the issue can be debated
3 properly between the parties.

4 MS KULASZKA: And I would ask for
5 direction from the Tribunal about how we are going to
6 deal with various things, like the issues concerning
7 the certification of documents. And I also would ask
8 for subpoenas of Harvey Goldberg, Hannya Rizk, Dean
9 Staey and a representative from Rogers Cable.

10 Do you want me to make a formal
11 motion or should we --

12 THE CHAIRPERSON: We discussed in the
13 phone call that you would add them to your witness
14 list.

15 MS KULASZKA: I did amend the witness
16 list and I sent that in.

17 THE CHAIRPERSON: And you even
18 described what they would be testifying to, right?

19 MS KULASZKA: Yes.

20 MR. LEMIRE: All right. Do we need a
21 floor? Do all three or four have the same role at the
22 Commission? Do you wish all three or four? Was it for
23 the purpose of dealing with those documents or is it
24 broader than that?

25 MS KULASZKA: Harvey Goldberg and

1 Dean Staacy are obviously what we discussed in a
2 conference call. Hannya Rizk is regarding the
3 investigator's report which he filed, and my
4 understanding was -- well, maybe I'm wrong -- usually
5 the investigator would be called.

6 THE CHAIRPERSON: That's why you saw
7 a puzzled look. We never hear the investigator testify
8 at tribunal hearings typically, because the Tribunal
9 does not take into consideration the findings of the
10 Commission investigator in any way whatsoever.

11 Occasionally the Commission
12 investigator's report is filed, but not to prove any of
13 the findings therein. They are not binding in any way
14 on the Tribunal. But if, for instance, an issue is
15 raised on a collateral matter, like a specific date for
16 instance. We're getting into a debate about when a
17 conversation may have taken place and the Commission
18 reports date is a milestone and we can relate it to,
19 you might file it for that purpose.

20 But the Commission investigator's
21 reports are rarely, if ever, filed and Commission
22 investigators typically do not testify. So I wouldn't
23 count on that.

24 The case has to be made. The case
25 has to be made in front of this Tribunal. What the

1 investigator may have concluded is not at all relevant.

2 MS KULASZKA: So I would like
3 directions on that.

4 THE CHAIRPERSON: So you wish to
5 issue subpoenas -- if you put them on your witness
6 list, so I don't see why the subpoenas cannot flow. Is
7 there an objection?

8 MR. WARMAN: Yes, there is,
9 Mr. Chair.

10 THE CHAIRPERSON: From whom?

11 MR. VIGNA: From both. There's an
12 objection calling the investigators to testify.

13 THE CHAIRPERSON: Are you still
14 calling the investigator, Ms. Kulaszka, after what I've
15 just said?

16 MS KULASZKA: Mr. Lemire would like
17 to call the investigator because we've learned from
18 some of the late disclosure that was made that Ms. Rizk
19 had been investigating Mr. Lemire a year-and-a-half
20 before the complaint was laid and he would like to ask
21 why he was being investigated, was it pursuant to a
22 complaint, and those kinds of questions.

23 It goes to -- it also goes to the
24 constitutional issue. It also goes to the issue we've
25 raised concerning whether this section is being used in

1 an abusive way.

2 MR. VIGNA: Mr. Chair, it's very
3 vague in terms of the reasons that you want to call the
4 investigator that's mentioned. And if there was a
5 complaint laid obviously there would be investigation.
6 If this witness comes to testify, I think it's a
7 dangerous precedent because there's no need to call
8 witnesses for no reason.

9 THE CHAIRPERSON: There has been
10 precedent that Commission investigators haven't been
11 called. I said it wasn't a practice. If you give me a
12 moment or two I can pull them up. There have been
13 cases where it has occurred.

14 MR. VIGNA: There has to be some
15 serious reason to call the witnesses. Here it seems
16 like a fishing expedition on the possibility of finding
17 something --

18 THE CHAIRPERSON: Well, with regard
19 to the two other witnesses -- we discussed this
20 earlier. You opened that door, in effect, Mr. Vigna,
21 with the subpoenas -- with the affidavits that you had
22 filed with regard to the --

23 MR. VIGNA: They were for the
24 purposes of motion in relation to a comment.

25 THE CHAIRPERSON: I know, but issues

1 have been raised. Late disclosure involved. There's a
2 whole number of issues that emerged. And the
3 allegation that was made in a telephone call that we
4 had that were recorded, and there's a transcript of
5 that, was that these -- that documents that are
6 relevant to this case have not been disclosed; that the
7 respondent has in possession material that would
8 suggest there was other contacts made by the Commission
9 to Internet service providers and that these matters
10 have been disclosed. And she wants to be able to deal
11 with that.

12 It's arguably relevant to the case.
13 If, as the questions come in, there is an objection to
14 be made to any particular question, we can deal with it
15 at that time. But the question here that we're dealing
16 with is should these people be subpoenaed? She's put
17 them on her witness list. I don't see why I should not
18 order a subpoena.

19 Now, there may be a question of
20 convenience. Are these people in Ottawa.

21 MR. VIGNA: They're all in Ottawa.
22 Some of them are not even working at the present
23 moment, one in particular. I don't want to say the
24 reasons why and I'm not even sure the person can come
25 because of their personal situation.

1 I would submit to you, Mr. Chair,
2 that considering inconvenience, the cost and the
3 relevance of these witnesses, we haven't had any
4 serious reasons put to you in terms of what specific
5 questions need to be asked.

6 In the worst case scenario,
7 Mr. Chair, what I would submit to you is that there's
8 also the possibility that you could, like in Federal
9 Court, have written questions and answers to respond to
10 any concerns they have. But to actually call these
11 witnesses from Ottawa and all the costs that are
12 involved, in contrast with the real -- the relevance
13 these witnesses, I think you have to be cognizant of
14 that fact also.

15 It's not because of some minute
16 arguable relevance being raised that we can call three
17 witnesses from Ottawa to come and testify on just about
18 anything.

19 So I think at the very minimum we
20 need to have very detailed information in terms of
21 what's being sought.

22 And the other possibility, Mr. Chair,
23 we can have questions and answers in the form of an
24 affidavit, and we are allowed to do that because you
25 are an administrative tribunal and this will be

1 probably one of the best circumstances for that to take
2 place.

3 THE CHAIRPERSON: Section 50(3)(a),
4 it does permit the Tribunal to compel witnesses to give
5 written evidence on -- it is an option available to the
6 Tribunal.

7 There are cost issues involved here.
8 If you are calling those witnesses, ordinarily the cost
9 for their travel is borne by the person who is
10 compelling them to testify, as per witness fees, 50(6).

11 MS KULASZKA: Their evidence goes to
12 the constitutional issue. I'm not entirely sure we
13 would have enough time in these -- in the last two
14 weeks to call them. In that case Mr. Lemire proposes
15 their evidence be called in Ottawa. He's willing to go
16 to Ottawa.

17 THE CHAIRPERSON: That deals with the
18 issue of travel and interrupting the hearing, bringing
19 them here.

20 MR. FOTHERGILL: May I say from the
21 point of view of the Attorney General vis-a-vis the
22 constitutional issue? Because we are told by the
23 respondent that this is in some way relevant to the
24 constitutional challenge being brought.

25 You'll recall when the motion for

1 document disclosure was brought, the Attorney General
2 objected on the basis that this was a framing of the
3 constitutional issue that put it beyond the
4 jurisdiction of the Tribunal to deal with.

5 And the reason I say that is the line
6 of jurisprudence begins with Cooper and Bell. The
7 Tribunal, in fact, has quite a limited constitutional
8 jurisdiction, and it's limited to reviewing the
9 constitutionality of those provisions the Tribunal is
10 itself responsible for applying and implementing.

11 And if we look at why in particular
12 Mr. Goldberg and Mr. Staegy are sought, and I'm
13 referring to Ms Kulaszka's correspondence of January
14 23rd, we are told that these:

15 "...employees of the Commission
16 are to testify to the role of
17 the Commission in implementing
18 the Commission's policies and
19 duties under section 13 of the
20 Canadian Human Rights Act."

21 In the case of Mr. Staegy, the
22 complaints process, section 13(8) guidelines.

23 The Commission, when it exercises
24 those responsibilities, is, in fact, applying, I would
25 submit, section 27(h) of the Canadian Human Rights Act,

1 which I think is possibly worth reciting. This is
2 under the powers, duties and functions of the
3 Commission, now, not the Tribunal.

4 In addition to its duties under part
5 3 with respect to complaints regarding discriminatory
6 practices, the Commission is generally responsible for
7 the administration of this part and parts 1 and 2 and
8 3, and then there are some subsections. And (H) reads:

9 "Shall so far as is practical
10 and consistent with the
11 application of part 3 try by
12 persuasion, publicity or any
13 other means that it considers
14 appropriate to discourage and
15 reduce discriminatory practices
16 referred to in section 514.1."

17 (As read)

18 What I'm concerned about is that
19 there is an attempt in this proceeding to essentially
20 ask the Tribunal to review and supervise the exercise
21 of the Commission's powers under section 27(h).

22 And we know from Cooper and we know
23 from Bell, and I would say more recently from the
24 Grenier and Prentice cases from the Federal Court of
25 Appeal, which I referred to in my response to the

1 written disclosure motion, that if the respondent is
2 unhappy with the way the Commission exercises its
3 jurisdiction, the proper and indeed the only remedy is
4 in the Federal Court. It's not before this Tribunal.

5 So while the Tribunal does have the
6 power in a limited sense to review the
7 constitutionality of section 13, in my respectful
8 submission, it has no power whatever to review the
9 constitutionality of the way the Commission
10 investigates the complaint, approaches ISPs, through
11 publicity, through persuasion, all the things that we
12 read in section 27(h), because with the greatest
13 respect, the Tribunal has absolutely no responsibility
14 in relation to that provision and, hence, no
15 constitutional provision to review the Commission's
16 practices.

17 MS KULASZKA: Well, the Tribunal --
18 I'm not asking the Tribunal to do a judicial review of
19 what the Commission does. The Tribunal has the power
20 to determine constitutionality of section 13. That
21 power has been given to this Tribunal.

22 When and if a decision comes and this
23 matter goes to a Federal Court, they will ask for a
24 record. They will ask for a record of the evidence.

25 Your duty is to look at the

1 constitutional, and one of the things you look at is
2 the effect of the legislation. You are not telling the
3 Commission what to do. You are looking at the effect
4 of it and you would bring down a decision. It has no
5 effect on what the Commission does.

6 THE CHAIRPERSON: Mr. Fothergill, I
7 understand your argument and I think they may be
8 perhaps appropriately raised in argument, but I think
9 at this stage I'm not prepared to limit the evidence
10 that the respondent can lead on these issues for the
11 reasons cited by Ms Kulaszka.

12 So I'm not prepared to dispose of
13 this particular issue that's in front of us about the
14 subpoenas on that basis at this time.

15 MR. VIGNA: Mr. Chair, I just want to
16 add, if we look at the statement of particulars itself
17 of the respondent, even though Ms Kulaszka is saying
18 that it's not a judicial review, all the subject matter
19 that's been raised is subject matter of judicial
20 review.

21 THE CHAIRPERSON: Argue it at the
22 end. We've taken this path. We are going to follow
23 this path, Mr. Vigna. We are going this way. It's not
24 time to repeat ourselves. This is the way we're going.

25 I'll try to manage this file in an

1 efficient and expeditious manner. I have a duty to do
2 so under the Act, but we will get all the evidence that
3 needs to get in, in.

4 Now, with regard to the two or three
5 individuals at the Commission. The suggestion is
6 Mr. Lemire is prepared to come to Ottawa. Would you be
7 proposing for the hearing -- because what we could do
8 is select a specific day or two outside of the days
9 that we've selected that we have already set aside for
10 the hearing to hear those two or three witnesses in
11 Ottawa, where I gather you, Mr. Warman, Mr. Fothergill
12 and I myself, the Tribunal, are located.

13 The remainder of the people -- I
14 don't know if they would be opposed or not in hearing
15 those witnesses in Ottawa. Would there be any
16 opposition from you, Mr. Fromm?

17 MR. FROMM: No.

18 THE CHAIRPERSON: And from -- I'll
19 say group at the back?

20 MR. KURZ: No.

21 MS KULASZKA: If possible, we would
22 like the evidence of the representative of Rogers Cable
23 to be in Toronto because their head office is in
24 Toronto.

25 THE CHAIRPERSON: That's a separate

1 issue. What's the evidence of Rogers again? Did you
2 summarize it somewhere and I missed it? Was it in your
3 letter?

4 MS KULASZKA: It should be in the
5 letter.

6 MR. VIGNA: Mr. Chair, I want to
7 reiterate something else. One of the three
8 witnesses -- one of the three witnesses is not working
9 for medical reasons. So I would like to make
10 submissions on that specific issue at least.

11 THE CHAIRPERSON: The person is not
12 working but is the person able to testify?

13 Ms Kulaszka and Mr. Vigna and all
14 other counsel, I want you to incorporate on this. I want
15 the evidence to come in but we need a level of
16 cooperation. If the witness is indisposed for some
17 reason and needs certain accomodation -- I see Ms
18 Kulaszka is saying she has no objection to it.

19 MS KULASZKA: I didn't realize --
20 that's the first I heard of it, the medical reason.

21 THE CHAIRPERSON: Let's work together
22 on it. If this person needs special accomodation, can
23 only testify for an hour or something like that, we'll
24 accommodate her or him. I don't know who we are
25 talking about.

1 I'd ask the parties to discuss it
2 amongst themselves, not even burden the record with all
3 these details. I am stating right now that this
4 evidence will come in. We'll find a way to do it which
5 is the most efficient way to go about doing it, perhaps
6 with a hearing in Ottawa, and we'll accommodate the
7 individual witness who needs accomodation.

8 Now, let's go back to this Rogers
9 witness. Can you remind me which letter?

10 MS KULASZKA: I sent a letter on
11 January 23rd.

12 THE CHAIRPERSON: Witnesses. There
13 we go.

14 MS KULASZKA: And the witness list as
15 amended was attached.

16 THE CHAIRPERSON: Now, this relates
17 to that issue that you had brought up when you made
18 your motion to name Mr. Warman as a respondent, is it
19 not?

20 MS KULASZKA: Yes.

21 THE CHAIRPERSON: I've already
22 addressed that issue, have I not, in my earlier ruling?

23 MR. WARMAN: You have, Mr. Chair.

24 MS KULASZKA: You ruled that
25 Mr. Lemire should bring a complaint against Mr. Warman

1 concerning that.

2 THE CHAIRPERSON: I don't know if I
3 said that. Let me put it up on my screen.

4 MS KULASZKA: That that was his
5 option if he wanted to do that.

6 THE CHAIRPERSON: That's always an
7 option for anybody.

8 MR. WARMAN: Your ruling is dated the
9 26th of October, 2006.

10 THE CHAIRPERSON: I'll call it up.
11 It's easier for me to do it this way. Do I have it
12 readily at hand? Just give me a minute. Please
13 people, turn off your cell phones.

14 Go ahead, Ms Kulaszka, before I hear
15 your objection, Mr. Warman.

16 MS KULASZKA: In your ruling you held
17 that:

18 "It has not been demonstrated to
19 me how the Tribunal's ability to
20 issue effective remedial orders
21 against Mr. Lemire under the Act
22 will be hampered by not adding
23 Mr. Warman as a respondent to
24 the present case." (As read)

25 So you made no finding concerning

1 weather Mr. Warman wrote the post or whether he simply
2 found it was unnecessary to the hearing of this case.

3 You held:

4 "If Mr. Lemire is of the view
5 that Mr. Warman has contravened
6 the Act, he is free to file his
7 own human rights complaint with
8 the Commission." (As read).

9 And that is the way it was left.

10 THE CHAIRPERSON: I said something
11 else too. I think you are missing another point that I
12 said, and that is paragraphs 9 and 10. I asked myself:

13 "In what way can the inclusion
14 of Mr. Warman as an additional
15 respondent assist in the
16 disposition of this complaint?

17 Mr. Lemire's only argument
18 on this point would appear to be
19 that Mr. Warman posted his
20 alleged hate messages as a way
21 to 'entrap' persons like
22 Mr. Lemire, against whom made he
23 has subsequently made human
24 rights complaints. I gather
25 that Mr. Lemire's point is that

1 by making these alleged postings
2 on the website Mr. Warman
3 somehow enticed to others to
4 post hate messages of their own.
5 It appears to me that this
6 argument is being presented as a
7 defence to the allegations of
8 the discriminatory practices
9 that have been made in the
10 complaint. If there is any
11 merit under the Act such a
12 defence, it would seem to me it
13 could be raised by a respondent
14 whether or not the alleged
15 'inciter' to commit the
16 discriminatory practices named
17 as an additional respondent in
18 the case." (As read)

19 So I haven't precluded -- now I'm
20 looking to Mr. Warman. Mr. Warman, I haven't precluded
21 the possibility of this defence being used. All I said
22 is it did not warrant calling you as a respondent.

23 MR. VIGNA: Before that, I would like
24 to say that there's no ability in the Act to call
25 somebody as a respondent in his own case.

1 THE CHAIRPERSON: Which is not the
2 case. I gather the defence is, as I wrote here,
3 Mr. Lemire's point is that:

4 "...by making these alleged
5 postings on the website
6 Mr. Warman somehow enticed other
7 to post hate messages of their
8 own."

9 MR. VIGNA: I want to make it clear
10 that that ability does not exist in the Act. We
11 shouldn't even entertain the possibility of a
12 complainant becoming a respondent in his own case.

13 THE CHAIRPERSON: I'm not saying
14 that. I'm saying he's making some sort of a defence
15 that he was enticed into making these -- this material,
16 to placing it on the web.

17 Now, I know, well, of course -- I
18 won't interrupt you. Go ahead.

19 MS KULASZKA: Perhaps I can make my
20 submissions on this motion and that now that we've
21 reviewed what was said on that motion -- that was kind
22 of a different motion.

23 I'll start with e-mail which was sent
24 by Richard Warman to the Tribunal on Monday, October
25 2nd, 2006.

1 THE CHAIRPERSON: Do you want me to
2 look at that?

3 MS KULASZKA: Perhaps you could, it
4 would help.

5 It was Monday October 2nd, 2006,
6 e-mail sent to the Tribunal to Line Joyal.

7 THE CHAIRPERSON: Let me read it,
8 please. He lists items that he intends to --

9 MS KULASZKA: And he lists the
10 entirety of the Freedomsite message board. He was
11 ordered to give particulars. I believe we asked for
12 particulars of which messages they were talking about,
13 and this was his reply. And I think that has been
14 repeated several times, the entirety of the Freedomsite
15 message board, but that's the clearest instance there.

16 If it can be proven that Mr. Warman
17 actually wrote one of those messages, then it means
18 that my client would be held liable for a message
19 posted by the complainant, and that is a gross abuse of
20 these proceedings.

21 THE CHAIRPERSON: Interesting point.

22 MS KULASZKA: We would be calling the
23 evidence of Bernard Klatt concerning this, but we would
24 also require the evidence of Rogers Cable.

25 THE CHAIRPERSON: The Rogers is for

1 the identification purposes from what I read in your
2 other letter.

3 MS KULASZKA: That is correct. We
4 need the identification of the subscriber using
5 Internet protocol address 66.185.84.204 for the
6 specific dates listed. I've got September to November,
7 but actually I could give the specific dates in
8 September and November that we're asking for. We're
9 not asking for every day.

10 THE CHAIRPERSON: Mr. Vigna or
11 Mr. Warman, either of you. Before you address me, let
12 me address some questions to you.

13 This is the argument they intend to
14 invoke. If you have a valid, in your minds, defence to
15 this argument nothing prevents you from raising it in
16 final submissions or at any other time, I suppose,
17 appropriate. Is there any possibility that on this
18 technical point of whether these postings were, in
19 fact, made by yourself or Mr. Warman or someone else
20 that you are aware of, could that not be disclosed to
21 the other side so we could advance discussions on this
22 point?

23 MR. WARMAN: Well, Mr. Chair, I would
24 make a number submissions on the motion in general and
25 your specific question.

1 The first of it is, is that there is
2 already evidence before this Tribunal that was
3 submitted in reply to the motion. It is my complainant
4 response to the respondent motion dated 28 August, 2006
5 and the attached affidavit.

6 THE CHAIRPERSON: Let me find that.
7 This is your own personal reply, you say?

8 MR. WARMAN: Yes, it is.

9 THE CHAIRPERSON: 28?

10 MR. WARMAN: Yes, 28 August, 2006.

11 THE REGISTRAR: August 28th?

12 MR. WARMAN: Yes.

13 THE CHAIRPERSON: Addressed to the
14 Tribunal?

15 MR. WARMAN: Yes. In fact, it was
16 submitted.

17 THE CHAIRPERSON: It's an e-mail?

18 MR. WARMAN: No, it's not an e-mail.
19 It's my submissions in reply to the motion.

20 THE CHAIRPERSON: Are you sure? Maybe
21 you should just read it to me.

22 MR. WARMAN: It is an affidavit
23 submitted by me. At paragraph 2 it states:

24 "I did not post the message in
25 question dated 5 September, 2003

1 on the FreedomSite message
2 board, nor do I have any
3 knowledge about its author."

4 Paragraph 3:

5 "I have never used the e-mail
6 address identified as having
7 been used to register the
8 pseudonym responsible for the
9 posting in question."

10 Then it continues to list the other
11 reasons why, I submit, that I have had and have no
12 involvement with this particular posting.

13 So there is already evidence before
14 you. There was already evidence before you when you
15 made your ruling.

16 Part of my submission would be that
17 this issue is res judicata, that you have made a ruling
18 on this, having had all of this information before you.
19 No new evidence has been put forward before you, and
20 that really what is here is that the respondent is
21 attempting to introduce through the back door what you
22 have explicitly refused them to do through the front
23 door.

24 The essence of that is that -- well,
25 one of the other points that is raised is that perhaps

1 somehow this material caused responses to it or caused
2 other people suddenly to become hate mongers.

3 To the best of my knowledge, there is
4 no response it to. In fact, the evidence -- and I'm
5 quite happy to be corrected -- is that it was a single
6 posting. There were no responses to it. So that
7 argument falls right there.

8 The second thing is, is that the
9 Tribunal, of course, is charged with rendering a
10 decision based on the evidence that is presented before
11 you at this Tribunal hearing. It is not based upon
12 what was put forward in the statement of particulars.
13 It was not based on what was put forward in any other
14 circumstances, through disclosure or other anything, in
15 advance of this actual hearing.

16 The material that is before you that
17 we will be tendering does not include that posting.
18 The complaint did not include that posting. I was not
19 aware of it until the respondents brought it to my
20 attention. And, to my mind, they are attempting to
21 introduce what is essentially a fishing expedition to
22 go looking for some new evidence or something for
23 whatever reasons they may have of their own particular
24 nature.

25 THE CHAIRPERSON: Are you addressing

1 the point raised by the respondent at this point, that
2 given the particulars submitted by the Commission and
3 yourself that you are invoking the entire website as
4 being the hate material, subject to section 13; that
5 there is material that has been placed -- has been
6 placed there by yourself? And this can afford them
7 some argument they may wish to raise with regard to
8 section 13's application to them and to this material.

9 MR. WARMAN: If that was maintained
10 then I would submit that was an argument that is open
11 to them. However, statements of particulars, of
12 course, are drafted in the broadest sense to try and
13 leave open the possibility of bringing forward evidence
14 that may become relevant or that you may think, okay,
15 it is a continual process of refinement.

16 THE CHAIRPERSON: Let's be clear on
17 this point. The statements with regard to those -- the
18 material on that website came in response to an order
19 from the Tribunal that you be specific on what you are
20 alleging is discriminatory.

21 Implicit in that is that you intend
22 to invoke the entire -- what do you intend to invoke as
23 being discriminatory for the purposes of the hearing.
24 And the response was, everything on the website, and
25 examples would be shown to the Tribunal. But the

1 entire website is what you are invoking. It's not that
2 you're only claiming that one chapter or one page is
3 discriminatory. It's the entire website. And they are
4 saying some of that material may have been posted by
5 you.

6 MR. WARMAN: What I'm saying is
7 that -- there are two things: First one is, is that
8 material was never submitted to have been part of the
9 complaint and was never even within my knowledge until
10 the respondents raised that --

11 THE CHAIRPERSON: For that you are
12 referring back to your affidavit where you deny that
13 you posted that posting.

14 MR. WARMAN: Not just that, but the
15 whole history of the case does not involve that
16 posting. It was never submitted, it was never
17 disclosed, it was never involved in this proceeding
18 until the respondents raised it.

19 THE CHAIRPERSON: I'm assuming it's
20 one of the items on the freedomsite.org website.

21 MR. WARMAN: And that's my second
22 point. And the second point is, is that the materials
23 that we will be putting before you are a refinement of
24 the argument that what we reserve the right to submit
25 evidence on is the entirety of the message board. But

1 what will be put before you are the examples that were
2 submitted pursuant to the complaint that were found on
3 that message board.

4 Taking a defensive tactical --
5 whatever you want to call it -- legal position in order
6 to reserve your rights when you come to a hearing is a
7 different thing from saying, we are now at this
8 hearing. These are the materials we intend to put
9 forward.

10 There is more than ample, from our
11 perspective, evidence within the material that was
12 submitted pursuant to the complaint that will prove a
13 violation of section 13(1) of the Act. And in fact the
14 Tribunal has already found there is a violation of the
15 Act pursuant to the case in Harrison in regard to
16 specific postings that will be submitted to you.

17 THE CHAIRPERSON: But what prevents
18 the respondent from putting that document before the
19 Tribunal -- that excerpt, or whatever it is, for the
20 purpose of their defence. Why should they be prevented
21 from calling a witness who may testify on who prepared
22 that document? That's what we're talking about here.

23 The issue here is not whether the
24 evidence of this Rogers representative is admissible or
25 not. No question has been asked of that person. The

1 question here is, can they or not subpoena that
2 witness.

3 MR. WARMAN: And what I'm saying is
4 that they are attempting to bring in issues that are
5 not related to the proceedings. I won't -- my case
6 stands and falls on the evidence that will be submitted
7 to you.

8 It is that evidence that is being
9 brought before you, and in an attempt to muddy the
10 waters through the submission of this, which is what
11 they have already tried to do by bringing the motion in
12 the first place, is simply an extension of that same
13 argument to do the same thing.

14 THE CHAIRPERSON: All I can tell you
15 is, fear not. I will not be influenced by mud. If
16 indeed there is some clarity to be found in any of this
17 material, and if it's presented, fine, I'll hear it.
18 If not, I won't be influenced by it.

19 Is it that irrelevant that it's going
20 to be a waste of our time? I'm not entirely convinced
21 of that at this point.

22 I return back to my question to you:
23 If it's a very simple thing that person will be
24 testifying on and you are in a position to answer that
25 question, can you? If you can't or if your answer is,

1 no, we cannot confirm or deny this piece of information
2 referred to at the second page of -- or the first page
3 of the revised witness list of Ms Kulaszka, then she
4 can call her witness.

5 MR. WARMAN: But the evidentiary
6 foundation for that is the affidavit of Mr. Klatt,
7 which was already contained in the motion. The
8 submissions are the same. The notice of motion gives
9 the same issues, the arguments are the same, the legal
10 basis, the evidentiary support for it is the Klatt
11 affidavit. All of that has been countered already in
12 the context of my submissions in reply to that motion.

13 THE CHAIRPERSON: My ruling came
14 afterward. But the ruling related to calling you in as
15 a respondent in this file.

16 I addressed another aspect which I
17 just read into the record, paragraphs 9 and 10 of my
18 ruling, where I sort of left it open to the respondent
19 to follow this course wherever it may lead, without
20 necessarily invoking you, calling you as a respondent
21 to the file.

22 MR. WARMAN: The fundamental fact is
23 the reason for calling the witness is pursuant to this
24 same argument.

25 THE CHAIRPERSON: I didn't see myself

1 of having disposed of the argument. Perhaps the
2 affidavits addressed it. That doesn't mean that the
3 issue is not live in front of the Tribunal. The
4 Tribunal left it open to the respondents to raise this
5 argument.

6 You've addressed it by saying, it's
7 not me. You've said that. So maybe in the course of
8 cross-examining you today or tomorrow perhaps the other
9 side will be satisfied with any of your replies on that
10 question, and then opt to not call the Rogers
11 representative.

12 But I still don't see why at this
13 stage -- as we go through all these discussions I want
14 you all to remember the stages we're at: Disclosure,
15 subpoenas. We are not in the hearing yet. We're not
16 getting into questions of whether it's relevant or not
17 or whether the question is appropriate or not. There
18 hasn't even been a question.

19 I'm still not convinced of this
20 objection, to enabling Ms Kulaszka to call her Rogers
21 representative. What I tried to examine here if
22 whether there is any possibility of getting around this
23 extra witness by getting some sort of acknowledgement,
24 but we are not getting that.

25 Ms Kulaszka, do you have any points

1 you wish to raise on this Rogers witness? Do you know
2 whom you wish to call?

3 MS KULASZKA: I would have to contact
4 Rogers. They are downtown Toronto. And there's four
5 dates we would want, so it shouldn't be too much to get
6 the information.

7 THE CHAIRPERSON: Although we've
8 divided the case into two for the purposes of being
9 able to organize ourselves, we actually -- at all times
10 we should always be mindful we have in front of us
11 essentially four weeks, right?

12 MS KULASZKA: Yes, we just should use
13 the time up.

14 THE CHAIRPERSON: Yes. And if for
15 some reason you can't get that witness until the second
16 week -- I can walk and chew gum at the same time.

17 We can certainly hear one witness who
18 testifies on a factual issue and go back to the other
19 debate. We'll just limit the discussion to the parties
20 at the front tables when it relates to the merits of
21 the complaint.

22 MS KULASZKA: That would be
23 appreciated, because I think for all of us who are
24 bringing in these experts and most of --

25 THE CHAIRPERSON: We will be very

1 flexible, and I want flexibility from everybody because
2 I know everyone will benefit from that. I believe
3 Mr. Vigna told us in the last call his expert is
4 available a certain window of opportunity there, right?

5 MR. VIGNA: I think 19 or 21.

6 THE CHAIRPERSON: Because I
7 understand these experts -- and I see you standing up,
8 Mr. Warman. May I complete my thought on this and then
9 I'll let you speak?

10 MR. WARMAN: Of course.

11 THE CHAIRPERSON: The experts and the
12 type of evidence they will be leading, I understand the
13 Tribunal will be able to hear it sort of without
14 necessarily having some context before or after. From
15 what I understand, each expert addresses his or her
16 issues in their entirety through their evidence, what I
17 saw quickly in their material.

18 So just be prepared to do that mixing
19 and matching. I'm not opposed to that at all, that we
20 go back and forth between witnesses in order to ensure
21 the evidence gets in, given their availability, their
22 location.

23 I gather some of your witnesses are
24 out of town, Ms Kulaszka. We'll attempt to accommodate
25 everybody.

1 Now, Mr. Warman?

2 MR. WARMAN: I take note of what you
3 have just indicated.

4 There are two things. The first one
5 is, is that issue of the division of the hearing was to
6 be the factual matters of the actual complaint, if you
7 will, and then the subsequent constitutional issues
8 after that.

9 THE CHAIRPERSON: You would want an
10 opportunity to address if another witness came up. Is
11 that what you are anticipating?

12 MR. WARMAN: What I would like to see
13 is this issue would be dealt with as part of the first
14 part of the hearing and not delayed until some
15 indefinite point.

16 THE CHAIRPERSON: That's our goal.
17 But if we have no other choice we'll try to deal with
18 it, is all I'm saying. Of course, we'll not allow it
19 to prejudice your right to complete your case. If you
20 need to testify again or call another witness to reply
21 in reply, of course that opportunity will be given to
22 you as it will be given to all.

23 Ms Kulaszka, try to target this
24 Rogers representative this week or next?

25 MS KULASZKA: I will today.

1 MR. VIGNA: Mr. Chair, in order to
2 assess this issue about the witnesses that are being
3 sought with subpoenas, I respectfully submit that we
4 don't have any serious willsay that can really enable
5 us to --

6 THE CHAIRPERSON: Mr. Goldberg's and
7 Staacy's willsay is insufficient?

8 MR. VIGNA: It's very brief.

9 THE CHAIRPERSON: That's brief? It's
10 more than we usually get for a Tribunal. The Rogers
11 representative is very focused. So I can't see more
12 than two or three questions being asked of this Rogers
13 representative. Perhaps an affidavit can be filed,
14 unless you wanted to cross-examine the person.

15 MR. VIGNA: Depends what --

16 MR. WARMAN: Mr. Chair, if I may,
17 before we finish on this issue.

18 The fact I'm no longer -- the fact
19 that the posting in question is not being relied on,
20 creates a situation where that becomes a collateral
21 issue and really what is being sought to be introduced
22 is evidence that I am somehow a liar, for lack of a
23 better word, that I was somehow responsible for the
24 posting of this material, and that, therefore, the
25 objection that I wish to submit before you make any

1 final decision on this is that it becomes a collateral
2 evidence issue, and that really what we really have
3 here is not testimony that would go to the substance of
4 the complaint or the evidence that would be put before
5 you, or put rather to a collateral issue.

6 THE CHAIRPERSON: We are so early in
7 the process. We're not even getting to the evidence.
8 Just asking for subpoena to call the witness.

9 As the evidence is entered into, you
10 can raise those objections at the time. We are wasting
11 more time debating this issue. We can get into the
12 heart of the case immediately and move forward.

13 So Ms Kulaszka, I want you to try and
14 target -- Mr. Vigna, do you really want more clarity
15 on the witness list?

16 MR. VIGNA: I would appreciate a bit
17 more because I still have to get back to my witnesses
18 and if they have to bring documents and all that.

19 THE CHAIRPERSON: Maybe the subpoena,
20 when issued, if it's a subpoena duces tecum, could be
21 more specific on documents.

22 MS KULASZKA: Yes, I'll try and do
23 that.

24 MR. VIGNA: They also have to
25 prepare. They are in the course of their work -- they

1 work on different files every day. So in order to be
2 able to give some serious testimony, they should be at
3 least able to focus on --

4 THE CHAIRPERSON: It's back to that
5 cooperation I was talking about. Let's see some
6 cooperation.

7 Ms Kulaszka, did you hear that last
8 comment?

9 MS KULASZKA: Yes, I will.

10 THE CHAIRPERSON: Please, it would
11 help. You have to be mindful, of course. These are
12 witnesses who are working for the Commission so they
13 will need some -- they are not your witnesses that you
14 can prepare -- I assume you are not planning on meeting
15 with them in advance of your --

16 MS KULASZKA: No, I'll attempt to be
17 very specific.

18 THE CHAIRPERSON: Okay. So that
19 being said, are there any outstanding issues?
20 Mr. Vigna?

21 MR. VIGNA: Mr. Chair, in terms of
22 disclosure on our part, we got the CD-ROM this morning.
23 I don't know if it's related to the November 29 ruling.
24 I haven't had a chance to review it. I'm not
25 complaining about it.

1 But I want to reserve the right to
2 put evidence in-chief because I just got it this
3 morning. I'm not making a major issue, but I would
4 like at least to have a chance to look at it. Maybe
5 the respondent can give me an idea what's contained on
6 the CD-ROM.

7 THE CHAIRPERSON: Could you, Ms
8 Kulaszka?

9 MS KULASZKA: These are documents for
10 the most part which will go to Dr. Mock's evidence, and
11 I think I mentioned that in a cover letter.

12 THE CHAIRPERSON: So this is a late
13 disclosure too, right, on that one?

14 MS KULASZKA: It's documents I hope
15 to put to her in cross-examination, at least some of
16 them, not all of them. They are basically media
17 articles, articles on free speech, things like that.

18 MR. VIGNA: In that case, there is
19 one issue that's still outstanding, Mr. Chair. There
20 is the list of -- in virtue of the ruling you had
21 rendered, there was a request to get more details.
22 It's not the books -- if you look at --

23 THE CHAIRPERSON: Where Mr. Lemire
24 was supposed to afford you the opportunity to visit his
25 books. Is that what you're talking about?

1 MR. VIGNA: Yeah, the books or at
2 least the synopsis of the books. I don't have anything
3 whatsoever.

4 THE CHAIRPERSON: My decision
5 encouraged the parties to communicate with each other
6 and arrange for that kind of meeting to take place
7 where you would be able to view those books, because I
8 did not order Mr. Lemire to make copies of all those
9 books if he had them. He was supposed to give you the
10 opportunity to -- you or a representative of the
11 Commission -- to view those books. What's been the
12 problem?

13 MR. VIGNA: I haven't received
14 anything.

15 THE CHAIRPERSON: You weren't to
16 receive anything. You were supposed to meet with them.
17 Where is the order? Hold on a second. What ruling are
18 you referring to? Further particulars. Commission
19 motion for further particulars.

20 MR. VIGNA: If they bring them
21 tomorrow or in -- I won't have a problem. I did send a
22 letter asking for the stuff and I never got it. I have
23 a copy.

24 THE CHAIRPERSON: Look at what I said
25 in paragraph 11 of my ruling. When is this dated?

1 November 29th. I wrote:

2 "If, however, any of this
3 literature is not available on
4 the website itself and
5 Mr. Lemire is in possession of
6 this material, he must disclose
7 it to the Commission and
8 complainant. The Commission
9 recognizes in its submissions
10 that making copies of this
11 material could prove to be a
12 very onerous and costly task for
13 Mr. Lemire. The Commission,
14 therefore, suggests that
15 Mr. Lemire simply be required to
16 make these documents available
17 for viewing. This is a
18 reasonable option. Mr. Lemire
19 is therefore required to provide
20 the material to his counsel, Ms
21 Kulaszka, who will in turn make
22 the documents available for
23 viewing by the Commission and
24 Mr. Warman. The parties are
25 expected to cooperate with each

1 other in this regard in order to
2 ensure disclosure is completed
3 by the 31st of December 2006."

4 (As read)

5 Are you saying now you want Ms
6 Kulaszka to bring those books here and let you see them
7 outside in the hall, or wherever, and that will be
8 sufficient for you? Because the order I gave here -- I
9 was working on the assumption you were going to
10 communicate with each other and someone was going to
11 meet somebody else at somebody's office and just look
12 at the books.

13 MR. VIGNA: I would like to have them
14 as soon as possible. I'm not going to say I want a
15 meeting today or tomorrow.

16 THE CHAIRPERSON: Ms Kulaszka?

17 MS KULASZKA: I never received any
18 such request.

19 THE CHAIRPERSON: No. My order,
20 though, did address it. So how can we deal with it
21 now?

22 MS KULASZKA: I asked Mr. Lemire and
23 he tells me he doesn't have any of those books in his
24 possession.

25 THE CHAIRPERSON: None of the books

1 that are addressed in the motion are in his possession.

2 MS KULASZKA: Advertised books, no,
3 he does not have them in his possession.

4 THE CHAIRPERSON: I don't know which
5 details. I don't remember. It was in the motion what
6 was referred to specifically.

7 MR. VIGNA: Mr. Chair, they are being
8 sold on the website so I don't know how they cannot be
9 in his possession.

10 THE CHAIRPERSON: Well, perhaps if he
11 testifies you can ask him. What can I tell you? I'm
12 getting a statement now -- remember, it's part of
13 disclosure. I take everybody at their word. So I'm
14 hearing from Ms Kulaszka, his counsel, that none of
15 these books are in his physical possession at this time
16 that are being sold on the website. These are books
17 that are sold on the website?

18 MR. VIGNA: If you look at tab C of
19 the binder I was relating to earlier books and videos
20 and audio cassettes.

21 THE CHAIRPERSON: Give a minute. Tab
22 C, freedomsite store.

23 MR. VIGNA: You'll see there's a
24 bunch of books being advertised. It says, "Add to
25 cart" and the price in order to buy it off the website.

1 Then it's the same thing for videos and audio cassettes
2 and miscellaneous.

3 THE CHAIRPERSON: Mr. Fromm?

4 MR. FROMM: I was wondering if it
5 could be possible to have a tabbed copy of this binder
6 that Mr. Vigna is referring to?

7 THE CHAIRPERSON: That's fair. Ms
8 Kulaszka, yes. Regarding these document at tab C --

9 MS KULASZKA: Mr. Lemire has a
10 supplier but he doesn't have them in his personal
11 possession.

12 THE CHAIRPERSON: They are not in his
13 possession. That's the answer.

14 MR. VIGNA: What about a synopsis, or
15 a little outline?

16 THE CHAIRPERSON: Well, we don't
17 require people to create documents for the purposes of
18 disclosure.

19 MR. VIGNA: No, but if it exists.

20 THE CHAIRPERSON: Is your client in
21 possession of summaries of these books? Would that be
22 a fair use of the term, synopsis?

23 MR. VIGNA: Synopsis is usually in
24 the back of the book, at least some kind of
25 description.

1 THE CHAIRPERSON: Like exterior paper
2 of a book.

3 MS KULASZKA: No, he does not have
4 the exterior of the book in his possession.

5 THE CHAIRPERSON: Of any of these
6 books?

7 MS KULASZKA: Of any of these books.

8 THE CHAIRPERSON: Mr. Vigna, that's
9 the answer to the question on disclosure. You may --
10 if you wish to proceed in the same manner as Ms
11 Kulaszka has proceeded with regard to your statements
12 on the level of disclosure from the Commission side,
13 it's available to you.

14 I do note -- I see some sort of
15 summaries on the web page themselves.

16 MR. VIGNA: They are very brief.
17 Mr. Chair, I would like to simply reserve the right at
18 a certain point if there's something that I would
19 specifically like. Perhaps to be more specific, I
20 would like to have in terms of the book of David Duke.

21 THE CHAIRPERSON: I'm sorry?

22 MR. VIGNA: There's one book in
23 particular that is in tab C and it's page 6. "My
24 Awakening." David Duke.

25 THE CHAIRPERSON: For some reason I

1 must've got the wrong page. Bottom left -- which page
2 number?

3 MR. VIGNA: 4.

4 THE CHAIRPERSON: "My Awakening".

5 Yes, I see it.

6 MR. VIGNA: I would like minimally --
7 if I can't get the book, or an outline of that book --
8 the statement has been made that there is a supplier.
9 I, at least, would like to know who is the supplier.

10 THE CHAIRPERSON: Are you prepared to
11 disclose that information?

12 MR. VIGNA: Or where I can get the
13 book myself.

14 THE CHAIRPERSON: Could you get it by
15 going to the website and clicking "Add to cart"?

16 MR. VIGNA: No, these are books you
17 have to pay, 40 bucks.

18 THE CHAIRPERSON: You don't wish to
19 pay?

20 MR. FROMM: Perhaps I can be of
21 assistance.

22 THE CHAIRPERSON: Yes, Mr. Fromm?

23 MR. FROMM: Sir, I think you can
24 obtain Dr. Duke's book from Chapters Online.

25 THE CHAIRPERSON: Ms Kulaszka, did

1 you want to comment on Mr. Vigna's comments? Ms
2 Kulaszka, if he's in possession of the book, if the
3 complainant is in possession of the book -- I'm working
4 on good faith here -- he should disclose.

5 MS KULASZKA: He's not in possession
6 of the book. In fact, at one time he tried to bring
7 some up from the States and they were all seized.

8 THE CHAIRPERSON: So if he's not in
9 possession of the book he's not in possession of the
10 book. You are asking him to create a document from a
11 book he's not in possession of.

12 MR. VIGNA: I'm not asking for
13 anything unreasonable. It's advertised on the site.

14 THE CHAIRPERSON: You've heard the
15 explanation here. If you have reason to question the
16 explanation that's being provided, you have the same
17 tool that I've afforded to Ms Kulaszka in dealing with
18 disclosure.

19 MR. VIGNA: In that case,
20 Mr. Chair -- I don't want to belabour the point. I
21 would like that information regarding the seizure or
22 what steps were taken in terms of getting this book and
23 when it was seized.

24 It's irrelevant for me asking for
25 this, Mr. Chair, and I would like to know what

1 documentation or what exactly was provided, what took
2 place in terms of getting the book or not getting the
3 book or the book being seized.

4 It's advertised on the website. They
5 might not have it. There might be an explanation, but
6 it's advertised on the website. So the first
7 impression is that it exists. If it doesn't exist, why
8 is it advertised?

9 THE CHAIRPERSON: Without hearing any
10 evidence, I could imagine how -- this is an Internet
11 world. You could be running a website and be linked to
12 a supplier and everything comes in from overseas, from
13 China, from India or from the United States. Just
14 because you have a website doesn't mean you personally
15 are in possession of the book.

16 If you have reason to challenge
17 what's being said here, the options are available to
18 you. If you wish to put the parties on notice that you
19 may wish to call the respondent as a witness for that
20 purpose, then notify us. We can amend your witness
21 list in that sense and you may call the respondent and
22 get the answer.

23 Right now in the context of
24 disclosure what I'm hearing from Ms Kulaszka is he
25 doesn't have it.

1 MR. VIGNA: What I would like to do
2 in that case is I would like to have the possibility of
3 presenting some evidence from Customs regarding whether
4 this book is legally --

5 THE CHAIRPERSON: You are adding it
6 to your particulars?

7 MR. VIGNA: Yeah. I don't want to
8 call necessarily the witness, but I would like to be
9 able to present, either through testimony of the
10 complainant making a phone call or some kind of
11 documentation rather than calling somebody from Customs
12 Canada.

13 THE CHAIRPERSON: You are raising it
14 as an issue. Beyond that, how you intend to lead your
15 evidence on that point is up to you.

16 MR. VIGNA: The point is I don't want
17 to unnecessarily call a public servant from Customs
18 Canada just to say that a book is on the list of
19 illegal books in Canada.

20 THE CHAIRPERSON: I didn't take that
21 for evidence. We are dealing with disclosure here.
22 That was the explanation. That was thrown in in the
23 remark.

24 My question at this level is, does he
25 have it? His answer is no. And the answer was, none

1 of these are available. It's not that they were all
2 seized. I heard none of them are in his possession.
3 Then he said yes, he tried to get one once it and was
4 seized. So if you want to inquire further into that,
5 call him as a witness.

6 MR. VIGNA: I just want to put the
7 parties on notice I'll be bringing that.

8 THE CHAIRPERSON: Or perhaps take the
9 advice of Mr. Fromm and order it yourself.

10 MR. VIGNA: I'll verify that
11 possibility.

12 THE CHAIRPERSON: Anything else,
13 Mr. Vigna?

14 MR. VIGNA: No. The only other issue
15 regarding -- you mentioned it, about the experts.

16 THE CHAIRPERSON: Yes.

17 MR. VIGNA: I predict to call my
18 expert between 19 and 21, and there was some confusion
19 whether Dr. Persinger was going to be called around
20 that same period.

21 THE CHAIRPERSON: Let's work that
22 out, try and get all our witnesses organized on that.
23 This will be the last preliminary point, then hopefully
24 we'll begin the case.

25 Who are the experts that you'll be

1 calling, Mr. Vigna?

2 MR. VIGNA: Just Dr. Mock, and she is
3 going to produce an additional report based on the last
4 report that you allowed from Dr. Persinger.

5 THE CHAIRPERSON: And there was a
6 late date given to her to file.

7 MR. VIGNA: February 9 or something
8 like that.

9 THE CHAIRPERSON: Yes, fine. It's in
10 my ruling, yes.

11 MR. VIGNA: And she booked in town
12 because she's very busy between the 19th and 20th.
13 Then I saw a letter that came subsequently to that
14 saying Dr. Persinger was coming around the same period.

15 THE CHAIRPERSON: How long do you
16 think Dr. Mock's evidence will be?

17 MR. VIGNA: From my part about a day,
18 but there's cross-examination. I suspect it might be
19 longer in cross-examination.

20 THE CHAIRPERSON: There was material
21 disclosed to you today on the CD.

22 MR. VIGNA: And I would like to put
23 that to her also.

24 THE CHAIRPERSON: Yes. So let's work
25 on the hypothesis of two days.

1 What about Dr. Persinger? Am I
2 pronouncing that right?

3 MS KULASZKA: Yes, it's Dr.
4 Persinger. Dr. Persinger, he's in the same situation.
5 He's asked for February 21st or 22nd. Either day would
6 be good for him. I just have to let him know.

7 THE CHAIRPERSON: So that kind've
8 works then. 19/20th for Dr. Mock, and 21st/22nd for
9 Dr. Persinger.

10 MS KULASZKA: Yes, depending on how
11 the cross-examination of Karen Mock goes.

12 And Professor Downs has asked for
13 February 26th and February 27th, which is the Monday
14 and the Tuesday, 26th and 27th.

15 THE CHAIRPERSON: 26th/27th. Okay.
16 Again, do you estimate to be one day with your
17 witnesses?

18 MS KULASZKA: Dr. Persinger has asked
19 if we could start early and just keep going until he's
20 done because he's so busy.

21 THE CHAIRPERSON: A one day -- we can
22 try.

23 MS KULASZKA: I'll try to get his
24 examination in-chief very efficiently, I hope, and
25 leave the rest of the day for cross-examination.

1 THE CHAIRPERSON: Are you willing to
2 accommodate as much as you can, Mr. Vigna? I mean,
3 everyone else actually? That is going to be one of the
4 challenges we'll have on that.

5 As you recall, I addressed it in my
6 decision that allowed the participation of the
7 intervening parties. Cross will occur by one, two,
8 three, four -- I believe I said there would be one
9 person cross-examining for the group at the back.

10 So at least four possibilities of
11 cross-examination. I would ask everyone to try to
12 coordinate their efforts so that most of it would be
13 taken care of perhaps by one party, maybe the
14 Commission, and whatever extra needs to be said, and we
15 can try to finish.

16 Those hearings are going to be
17 conducted in Mississauga and the Novotel Hotel as
18 scheduled, right?

19 THE REGISTRAR: Mm-mmm.

20 THE CHAIRPERSON: Again, we are
21 authorized to stay late, if we need to. There was
22 issue about the respondent's ability to come in early.
23 You said you wanted to start early, Ms. Kulaszka.
24 Would you be prepared to start without your client?

25 MS KULASZKA: Yes, we were prepared

1 to do that because Dr. Persinger -- he really wants it
2 done in one day.

3 THE CHAIRPERSON: That facility is
4 located at a different location, so perhaps you could
5 consult with your client if the possibility exists of
6 an earlier start for that, but I'll let you speak to us
7 on that.

8 MR. VIGNA: I just want to say on
9 this issue of experts, I want to take a practical
10 approach to it, but theoretically as much as possible
11 it's the motion from the respondent so he should start
12 as much as possible. Though I realize if I want to
13 have my witness testify the 19th and 21st I'll have to
14 start.

15 THE CHAIRPERSON: It does put us a
16 bit out of sequence.

17 MR. VIGNA: But I have to take a
18 practical approach, at least for that witness.
19 Nevertheless, I would like to reserve the right in case
20 that she can assist me for the cross-examination of Dr.
21 Persinger in virtue of the exception for experts to be
22 present in the room, to be able to do that even though
23 she will have already testified, or perhaps at the
24 limit calling her back on specific points.

25 THE CHAIRPERSON: We'll be flexible

1 in order to ensure that everyone has a fair opportunity
2 to lead their evidence.

3 Mr. Fothergill, you have an expert
4 too?

5 MR. FOTHERGILL: Yes, that's right.
6 Dr. Tsesis flying in from the United States. Due to
7 his teaching schedule he was hoping he could testify on
8 Monday, February 26. I know this is a -- Ms Kulaszka
9 has identified Dr. Downs.

10 I will say while I share Mr. Vigna's
11 preference for the respondent to lead on constitutional
12 challenge, I don't object to Dr. Tsesis testifying in
13 advance of Dr. Downs, if he could be accommodated for
14 the Monday, February 26.

15 THE CHAIRPERSON: Let me ask Ms.
16 Kulaszka. Do you think Dr. Downs is also a one-day
17 witness?

18 MS KULASZKA: I would have to check
19 with him. I went over his dates.

20 THE CHAIRPERSON: No. Keeping one of
21 his dates, because you said for Dr. Downs 26th/27th.
22 If he was to testify on the 27th, would we be able to
23 complete his evidence in one day?

24 MS KULASZKA: I'd have to check with
25 him. I'll check with him.

1 THE CHAIRPERSON: We can run a little
2 longer if he has no objection to that, and if counsel
3 have no objection to that.

4 MS KULASZKA: So could I ask --
5 there's no way that your witness could come another
6 day?

7 MR. FOTHERGILL: The only other
8 possibility which I -- I haven't canvassed that with
9 him but perhaps I now should, is whether he should come
10 at the end of that week. Because initially I assumed
11 that towards the end of the second block of hearings we
12 would be presenting argument.

13 THE CHAIRPERSON: That's my hope.

14 MR. FOTHERGILL: I'm now hearing,
15 however, that we may be reconvening in Ottawa
16 afterwards to hear some additional evidence.

17 THE CHAIRPERSON: Or in between, I
18 don't know.

19 MR. FOTHERGILL: Then I have to
20 assume that we won't be making submissions towards the
21 end of the second --

22 MR. LEMIRE: I don't want this to run
23 on forever. We've had some postponement of the
24 Tribunal that resulted in cases being heard months,
25 months later after the first set of hearings. This

1 will not happen in this file. We will find a way to do
2 those final submissions within a reasonable time if we
3 can't complete them at the end of this period, these
4 two periods that we have here.

5 MR. FOTHERGILL: In any event, for
6 the reason I didn't canvass his availability for the
7 later part of the week of February 26th.

8 THE CHAIRPERSON: Can we try the
9 option I just discussed? Dr. Tsesis and Dr. Downs.
10 Are they all doctors? Sorry.

11 MS KULASZKA: Probably. I could
12 check with Dr. Downs. Maybe I could communicate --

13 THE CHAIRPERSON: Could you, at some
14 point today or tomorrow, communicate with Dr. Downs and
15 we can look at that? That means for a lot of back and
16 forth, but don't worry, I'll manage it.

17 Okay, then. Anything else?

18 MS KULASZKA: The last issue is the
19 certification which was made by the Commission under
20 section 37 of Canada Evidence Act, and I was wondering
21 if you want to deal with that now.

22 THE CHAIRPERSON: I must say, my take
23 on that is that even the authority that you cited on
24 your motion suggests to me that is something -- in that
25 case it was also a master of a Superior Court that was

1 ruling. They have said it once, twice now, in that
2 last letter three times. We're speaking about the
3 group of documents, right, or are we talking about the
4 individual --

5 MS KULASZKA: My problem is they have
6 never addressed a certification to you. The
7 certification is to be made to you. They are
8 certifying to the Tribunal that, in fact, this
9 privilege exists.

10 THE CHAIRPERSON: I think the
11 Tribunal has taken constructive notice of the
12 certification. We were CC'd on everything.

13 My concern is this: Any decision on
14 whether the notice was sufficient has to be made by the
15 Federal Court, seems to me. I don't see how I can make
16 the conclusion whether I received a section 37 notice.

17 Section 37 raised been raised. Am I
18 in a position to say it's not in compliance with the
19 Canada Evidence Act? That's up to the Federal Court to
20 decide whether the Canada Evidence Act has been
21 complied with.

22 Do you want to draw my attention to
23 something in particular?

24 MS KULASZKA: I have to submit to you
25 that this was done in a most sloppy way. Number one,

1 the certification is not made to the Tribunal.

2 THE CHAIRPERSON: I'm sorry?

3 MS KULASZKA: It's been made in a
4 very sloppy way.

5 THE CHAIRPERSON: I'll give you that,
6 but it's been invoked. Reading of section 37 doesn't
7 enable me to deal with the matter. It's been invoked.

8 You are right in your motion. Let me
9 just go through your motion. You said:

10 "It appears to be a standard
11 practice under section 37 for a
12 certificate to be made by a
13 proper official claiming public
14 interest privilege." (As read)

15 But that's not required by the Canada
16 Evidence Act. It says, "orally or in writing".
17 Mr. Vigna could have called us up and said, I am
18 invoking section 37, and it would have been sufficient,
19 arguably.

20 MS KULASZKA: Well, I have no case
21 law to say who should decide whether the certification
22 is valid.

23 THE CHAIRPERSON: But the examples
24 you gave are from courts.

25 MS KULASZKA: Right. The Superior

1 Court does have the ability do that.

2 THE CHAIRPERSON: It seems to me the
3 clear intent of the Canada Evidence Act is to take it
4 out of the hands of the inferior tribunals and give it
5 in the hands of the superior courts.

6 And last week -- I don't know if
7 you've gone to Federal Court or not. But last week
8 Mr. Vigna followed up with another letter, I think,
9 right?

10 MR. VIGNA: Yeah, I did.

11 MS KULASZKA: Yes, he did. I would
12 just refer to the submissions I made in the motion
13 which was filed January 19th.

14 THE CHAIRPERSON: Section 37:

15 "Requires an official Commission
16 by certifying orally or in
17 writing to the court, person or
18 body, that the information
19 should not be disclosed on the
20 grounds of a specified public
21 interest." (As read)

22 In that letter that I saw which
23 was -- I guess it was CC'd to us, but we took knowledge
24 of it. That's how all the correspondence in this file
25 has gone on. And it was in the context of disclosure

1 which does go on back and forth.

2 MS KULASZKA: I suppose my point is
3 that -- it may seem like a small thing but in fact the
4 Commission is required to certify to you, not to
5 parties. He's required to certify, certifying to you
6 and saying this privilege applies. So it's a very
7 serious thing. It's not something you just CC to the
8 Tribunal. It's a certificate where he is invoking a
9 very serious privilege, and it should be addressed to
10 the Tribunal itself.

11 MR. VIGNA: Mr. Chair, the only
12 arguments being put here is the document was CC'd to
13 you instead of merely addressed to the Tribunal. You
14 are an administrative tribunal and you are allowed to
15 have liberality of evidence and flexibility.

16 If the only distinction is the CC
17 or -- what prejudice does it cause? The purpose of the
18 section is what should be considered, not whether it
19 was CC'd or sent directly. I even orally said on the
20 conference call that I was invoking section 37. I
21 followed up with other letters this week. I mean, it's
22 splitting hairs.

23 THE CHAIRPERSON: I think the
24 disclosure of the Commission's position on this point
25 was sufficient. It was done in the context of our

1 disclosure process where we require parties to exchange
2 documents back and forth and notify us of everything
3 that goes on. That's how Rule 6 of our rules of
4 procedure are structured.

5 For instance, if you were invoking
6 privilege, again it's not addressed to us. And that's
7 the context in which it was addressed here.

8 So, in my view, this has been -- the
9 Commission has invoked section 37. It's done in the
10 third person -- first person, but sort of addressed to
11 all participating that we hereby certify that such
12 information should not be disclosed on the ground of
13 public interest, and so on and so forth, invoking
14 section 37.

15 I think it's been invoked pursuant to
16 the Act and I think I would be acting outside of the
17 powers of Tribunal to deal with this matter any
18 further. It falls to the Federal Court to address this
19 issue.

20 MS KULASZKA: Thank you for your
21 ruling, and those are the issue --

22 THE CHAIRPERSON: And if I'm in error
23 the Federal Court tell me so.

24 MS KULASZKA: Those are the initial
25 things I wanted to deal with.

1 THE CHAIRPERSON: Thank you all,
2 because we've been able to work out through all these
3 problems initially quite well.

4 I think it might be an appropriate
5 time just to take a break, whether it be an ordinary
6 break or a lunch break, I leave it to the parties.

7 How would you -- would you like to
8 begin completely after lunch with Mr. Warman,
9 Mr. Vigna?

10 MR. VIGNA: Might as well.

11 THE CHAIRPERSON: Ms. Kulaszka, would
12 that be convenient as well?

13 MS KULASZKA: That's fine.

14 THE CHAIRPERSON: Why don't we come
15 back at -- can we stay until 5:00, 5:30? Is that a
16 problem? We'll target 5:00. So that means we can
17 start -- I'll give you some time to prepare yourselves.
18 Start at 1:30.

19 MR. VIGNA: Sure. Just a very
20 logistics question. I have a projector and laptop. I
21 just forgot the projector. I don't think you'll be
22 finished today with the book of documents. I just want
23 to ask permission to bring it tomorrow, the projector,
24 otherwise I'll go get it at lunch time.

25 THE CHAIRPERSON: Whatever is

1 convenient for you. Please speak to Ms. Joyal and make
2 any arrangements that --

3 MR. VIGNA: I'll put it on the table
4 here.

5 THE CHAIRPERSON: As long as I can
6 see it.

7 MR. KURZ: Mr. Chair, I apologize.
8 I'm just wondering whether there will be any opening
9 arguments or do you wish to proceed directly to the
10 evidence?

11 THE CHAIRPERSON: I normally do, so
12 I'll leave it to your discretion. I'll tabulate
13 amongst everyone. You intend to make an opening
14 statement, of course, Mr. Vigna?

15 MR. VIGNA: Very brief, but it will
16 be mostly on the merits. I was hoping to make like an
17 opening statement subsequent on --

18 THE CHAIRPERSON: That's an
19 interesting approach, in my submission.

20 Mr. Warman?

21 MR. WARMAN: I would support that
22 approach in my submissions.

23 THE CHAIRPERSON: In which case could
24 we postpone the --

25 MR. KURZ: I just want your

1 direction, your Honour.

2 THE CHAIRPERSON: I leave it to the
3 discretion of the parties whether they wish to make
4 opening statements at the outset or when they are about
5 to lead evidence. In your case evidence would be lead
6 next -- it might be more logical to deal with the
7 constitutional matter at the end. I'll also have that
8 factual background here in terms of this case. So if
9 that's okay with you, Mr. Fothergill and Ms. Kulaszka.

10 And Mr. Fromm, we'll hear your
11 opening statements -- Mr. Fromm, at the constitutional
12 stage, and I'll leave it to you, Ms Kulaszka, to make
13 yours today or you may do it at the end of the evidence
14 lead by the Commission. Do you have an intention right
15 now on this point?

16 MS KULASZKA: I'll discuss it with my
17 client.

18 THE CHAIRPERSON: Fine. Okay.

19 --- Recessed at 11:59 a.m.

20 --- Resumed at 1:33 p.m.

21 THE CHAIRPERSON: Ms Kulaszka,
22 Mr. Vigna?

23 MR. FROMM: Before I guess Mr. Warman
24 testifies, or the opening statements, I want to raise a
25 matter that I did raise in correspondence with you, and

1 that was the matter of security. I know you indicated
2 that you would put the security of all parties as a
3 major priority.

4 And I have a concern in that there
5 are three gentlemen in the room here with hearing
6 devices in their ear, and at noon they accompanied
7 Mr. Warman and Mr. Vigna to the restaurant. They
8 clearly seem to be security provided for them.

9 And my first concern was it doesn't
10 appear to be equal security provided for --

11 THE CHAIRPERSON: First of all,
12 that's not provided by the Tribunal. The only security
13 being provided by the Tribunal are the gentlemen in the
14 yellow coats at the doors.

15 MR. FROMM: The other concern is
16 this, and you're sitting up there looking out at the
17 group here, the parties and the audience, and certainly
18 I think, being only human, the appearance -- the optics
19 are the special security seems to be necessary for one
20 side. And the optics, I think from your point of view,
21 may well BE that there is a threat from this side. But
22 I would assume -- and I find that really highly
23 prejudicial.

24 THE CHAIRPERSON: You made that point
25 before, Mr. Fromm, and I took that into account. I

1 want you to rest assured on the record now that it
2 doesn't -- it's not influencing me in any way. Your
3 point is noted on the record that one party comes with
4 security and the other party does not and that could, I
5 suppose, create some assumptions on the part of some
6 people.

7 But your point is taken. There's no
8 reason for me to assume one way or the other. The
9 security here, as I understand it, has been provided by
10 the Tribunal with -- those two gentlemen that are at
11 the door, that no one else has requested anything else
12 of the Tribunal other than to maintain general well
13 being.

14 You noted in your material, and I've
15 seen that material about some issues that have arisen
16 in the past. I understand there was a hearing at one
17 time where there were some issues. I don't want to get
18 into the details, but you've documented that in your
19 paperwork.

20 So I'm mindful of all that,
21 Mr. Fromm. And rest assured, it doesn't make a
22 difference to me who's brought whom with them.

23 MR. FROMM: With respect, I don't
24 think I raised that issue exactly with you before, but
25 I did raise it in the Warman versus Terry Tremaine

1 case.

2 THE CHAIRPERSON: Maybe I read it
3 there.

4 MR. FROMM: Before Member Doucette.
5 I know he's not made a decision yet. That's where I
6 did raise it. And I certainly have no problem with the
7 gentlemen in the yellow checking people at the door.

8 THE CHAIRPERSON: We've been doing
9 that for years now, Mr. Fromm.

10 MR. FROMM: It's the presence in the
11 room that might lead you to think that one side is
12 dangerous.

13 THE CHAIRPERSON: I understand.
14 Point well taken.

15 MR. VIGNA: Mr. Chair, there's two
16 minor issues. I notice there's a person at the counsel
17 table.

18 THE CHAIRPERSON: Yes. I recognize
19 him. For the record, Mr. Kulbashian, how are you?

20 I had done a hearing at one time
21 where Mr. Kulbashian was one of the respondents, yes.
22 And I'm gathering that somebody -- you don't want him
23 to sit at that table? Is that a problem? Is
24 Mr. Kulbashian isn't assisting any of the parties here.

25 MR. KULBASHIAN: I'm actually an

1 agent in another case where Mr. Warman is involved and
2 I'm here for note-taking.

3 THE CHAIRPERSON: Yes, Mr. Warman?

4 MR. WARMAN: Mr. Kulbashian is
5 neither an agent or a party in this case or counsel for
6 a party in this case. He has been found responsible
7 for violating the Act in the past. He is in violation
8 of an order for not having complied with the order of
9 the Tribunal.

10 THE CHAIRPERSON: I'm not familiar
11 with that.

12 MR. WARMAN: I'm simply stating it
13 for the record. It is completely and utterly
14 inappropriate that he sit at counsel table.

15 THE CHAIRPERSON: I'm not quite sure
16 that that table in the back is -- so the issue is
17 whether he has a table so he can write his notes as
18 opposed to sitting in one of the red chairs?

19 MR. WARMAN: He's not a counsel nor a
20 journalist, legitimate journalist.

21 MR. FROMM: Perhaps I can be of
22 assistance. Mr. Kulbashian is an agent in Warman
23 versus Melissa Guille, Canadian Heritage Alliance. I'm
24 not speaking on his behalf and I assume what he is
25 seeking to be able to have a hard surface so he can

1 take notes. It's somewhat difficult if you are
2 sitting in those chairs to take notes.

3 THE CHAIRPERSON: I know this became
4 some issue in some other file. I don't remember which
5 one. Listen, I'm not that particular about this.
6 Honestly, it's a table in the back. It's not counsel
7 table. There's three empty tables right here. I'm not
8 going to get overly concerned about this.

9 Mr. Kulbashian, if you want to write,
10 you can write. If other people show up and want to
11 write in the back, as long as we've empty tables they
12 can write.

13 MS KULASZKA: Mr. Lemire just raised
14 an issue with me. So the two men in yellow are the
15 Tribunal security?

16 THE CHAIRPERSON: Yes.

17 MS KULASZKA: And the other men
18 appear to be private security for Mr. Warman. They are
19 insisting on searching Mr. Lemire, the private
20 security, every time he comes in here. They just
21 searched through his bag coming in here. I didn't
22 realize they were private security.

23 THE CHAIRPERSON: I'm sorry? Who did
24 that?

25 UNIDENTIFIED SPEAKER: That was me,

1 your Honor.

2 THE CHAIRPERSON: Sir, who are you?

3 UNIDENTIFIED SPEAKER: I noticed they
4 didn't search him coming in.

5 THE CHAIRPERSON: I made it
6 abundantly clear to the Commission, Mr. Vigna, that any
7 people you bring along will not interfere with our
8 security process. The only people giving instructions
9 around here will be the Tribunal to its people, and if
10 you have your own personal representatives that's your
11 issue.

12 MR. VIGNA: Mr. Chair, I want to just
13 mention this, if you allow me.

14 THE CHAIRPERSON: Yes.

15 MR. VIGNA: As soon as I saw the
16 search I went and advised the security officer not to
17 search the pack, and he told me that because he passed
18 through the Tribunal security without being searched,
19 and I warned him immediately that he was not to be
20 searching anybody. That it was the --

21 THE CHAIRPERSON: If you have any
22 security concerns, Mr. Vigna, you are to raise them
23 with Ms Joyal and we'll deal with it with our people at
24 the door and not use your agents for any purpose.
25 Okay?

1 And -- I understand, I'm hearing you,
2 fine. But in the future, sir, I don't know what your
3 role is vis-a-vis Mr. Warman and Mr. Vigna, but
4 security is under our command and the it's those
5 individuals at the door.

6 UNIDENTIFIED SPEAKER: Yes, sir.

7 MR. VIGNA: Mr. Chair, I have another
8 point.

9 THE CHAIRPERSON: Yes, please.

10 MR. VIGNA: In the witness list that
11 I saw on Friday, I believe, from the respondent, I
12 noted that Mr. Fromm was being called as a witness.

13 THE CHAIRPERSON: I thought his name
14 was there from before, was it not?

15 MR. VIGNA: It was reiterated. He's
16 an agent in this case, so I don't know -- just like a
17 lawyer would be not testifying in --

18 THE CHAIRPERSON: Can we deal with it
19 if he gets called and when he gets called?

20 MR. VIGNA: I'm just alerting the
21 parties.

22 THE CHAIRPERSON: We can examine
23 that. Mr. Fromm, be forewarned. Ms. Kulaszka, I
24 guess, because you are calling Mr. Fromm. Being an
25 agent, which is similar to the role of legal counsel,

1 that may pose some difficulties. Be prepared to
2 address that issue, okay?

3 Go ahead, Mr. Warman.

4 MR. FROMM: One more point, if I may.
5 Speaking about microphones. Several members of the
6 audience are getting on in years and they have had some
7 problem hearing. I did talk to the gentleman who deals
8 with the sound and he said he has it as high as he can
9 without feedback, and he suggested that might be well
10 if people would be close to the microphone.

11 THE CHAIRPERSON: That's a good idea.
12 I understand microphones. Much better. That's good.

13 Mr. Warman?

14 MR. WARMAN: Mr. Chair, I understand
15 that you have received, and the other parties have
16 received a copy of the decision of the Honourable
17 Mr. Justice Blais.

18 THE CHAIRPERSON: Just a moment,
19 please.

20 MR. WARMAN: The heading is of the
21 matter in the certificate signed pursuant to subsection
22 77 sub (1).

23 THE CHAIRPERSON: Yes. In the matter
24 of Ernst Zundel.

25 MR. WARMAN: Yes.

1 THE CHAIRPERSON: Yes, I have that.

2 Sorry.

3 MR. WARMAN: So what this is, is this
4 is a decision of the reasonableness of the security
5 certificate that was signed against Mr. Zundel by the
6 Minister of Immigration and the Solicitor General of
7 Canada on May 1st, 2003.

8 Justice Blais had the responsibility
9 for hearing all the evidence before him and for
10 rendering the decision on the merits on the
11 "reasonableness" of that security certificate.

12 During my opening remarks I will
13 simply be referring to certain passages from that
14 decision.

15 At paragraph 33 Mr. Justice Blais
16 states:

17 "Nevertheless, for more than 20
18 years Mr. Zundel continuously
19 maintained close relationships
20 with individuals around the
21 world who are clearly identified
22 as members of the White
23 Supremacist Movement." (As read)

24 At paragraph 35, Justice Blais
25 continues stating:

1 "Furthermore, Wolfgang Droege
2 and Marc Lemire, two successive
3 presidents of the Heritage
4 Front, spent a lot of the time
5 in Mr. Zundel's house.
6 Mr. Lemire, the last known
7 president of the Heritage Front,
8 was working for Mr. Zundel
9 part-time and then full-time for
10 many years until Mr. Zundel left
11 for the United States." (As
12 read)

13 It continues at paragraph 37:

14 "It is troubling to hear
15 Mr. Zundel proclaim that he is
16 defending freedom of expression
17 and advocating use of
18 non-violence while at the same
19 time spending most of his time
20 working in close quarters with
21 the most extreme individuals and
22 organizations in the White
23 Supremacist Movement. If, as
24 Mr. Zundel claims, he is not on
25 side with extremists, not on

1 side with people claiming that
2 the Jews should be eliminated
3 and is not on side with Canadian
4 members of the Heritage Front
5 that wanted to create a list of
6 members of the Jewish Movement
7 for future retaliation, then how
8 can he agree to participate in a
9 meeting of the Heritage Front as
10 a guest speaker surrounded and
11 supported by members of
12 extremist white supremacist
13 groups in Canada?

14 If, as Mr. Zundel said, the
15 Heritage Front, a group
16 described as the most powerful,
17 racist gang to hit Canada since
18 the real Nazis back in the dirty
19 thirties, was not a good idea,
20 then why would he hire the
21 president of that organization,
22 Mr. Lemire, as a part-time and
23 then full-time employee in his
24 own personal residence?" (As
25 read)

1 At paragraph 49, Justice Blais
2 continues:
3 "I also have reservations
4 concerning the scope of
5 Mr. Zundel's knowledge of
6 Mr. Lemire and his involvement
7 in the Heritage Front. I
8 believe that Mr. Zundel was well
9 aware of Mr. Lemire's presidency
10 and particularly of the efforts
11 of Mr. Lemire, a computer
12 expert, to develop websites to
13 disseminate messages of racial
14 hatred and to incite violence.
15 Based on reliable evidence
16 privileged to me in camera, I
17 believe that Mr. Zundel was in
18 close association with
19 Mr. Lemire who is working
20 full-time in Mr. Zundel's house
21 until his departure for the
22 United States in 2000.
23 Furthermore, I also believe that
24 Mr. Lemire had access to
25 Mr. Zundel's website.

1 Mr. Christie testified
2 Mr. Lemire was constantly
3 admonished by Mr. Zundel about
4 his behaviour. Should I
5 therefore believe Mr. Zundel's
6 testimony that he never
7 discussed Heritage Front
8 business in his house with
9 Mr. Lemire? In my view,
10 Mr. Zundel and Mr. Lemire did,
11 in fact, discuss Heritage Front
12 matters in his house, but most
13 probably in Mr. Christie's
14 absence." (As read)

15 At paragraph 52 Justice Blais states:
16 "Based on reliable evidence
17 provided to me in camera, I also
18 believe that Mr. Zundel
19 maintained close contact with
20 Mr. Klatt, who ran Fairview
21 Technology Centre Limited, an
22 Internet service provider which
23 offered access to at least 12
24 white supremacy and hate groups.
25 Among the groups utilized

1 service, were the Heritage
2 Front, the EuroCanadian defence
3 League, both members of
4 Mr. Lemire's freedomsite, the
5 U.S. Nazi party, and the
6 Charlemagne Hammerskins." (As
7 read)

8 Mr. Chair, I put it to you those
9 passages from Justice Blais of the Federal Court amply
10 described to you the circumstances before which we are
11 before you today.

12 As you know, section 13 of the
13 Canadian Human Rights Act makes it illegal for an
14 individual or group of persons to post hate messages to
15 the Internet that are likely to expose a person or
16 persons to hatred or contempt on the basis of race,
17 religion, national or ethnic origin, et cetera.

18 At its core, section 13 of the
19 Canadian Human Rights Act is simply a modern day
20 version of the golden rule, Thou shalt not use the
21 Internet to spread hate propaganda against thy
22 neighbor.

23 "After witnessing the horrors of
24 the Holocaust and World War II,
25 Canada the international

1 community came together in an
2 attempt to establish a legal
3 framework through documents such
4 as the Universal Declaration of
5 Human Rights and later
6 agreements like the
7 International Convention On The
8 Elimination Of All Forms Of
9 Racial Discrimination, in
10 attempt to ensure that such
11 carnage would never take place.

12 Article 1 of the Universal
13 Declaration of Human Rights
14 states that all human beings are
15 born free and equal in dignity
16 and in rights. Article 7 holds
17 that all are equal before the
18 law and are entitled without any
19 discrimination to equal
20 protection of the law. All are
21 entitled to equal protection
22 against any discrimination of
23 violation of this declaration
24 and against any incitement to
25 such discrimination. Concerned

1 with the during plague of
2 racism, the United Nations later
3 enacted the International
4 Convention on the Elimination of
5 all Forms of Racial
6 Discrimination. Under article 4
7 of the convention, Canada as a
8 party, (a), shall declare an
9 offence punishable by law. All
10 dissemination of ideas based on
11 racial superiority or hatred,
12 incitement to racial
13 discrimination, as well as all
14 acts of violence or incitement
15 to such acts against any race or
16 group of persons of another
17 colour or ethnic origin. And
18 also the provision of any
19 assistance to racist activities,
20 including the financing thereof.

21 (B), shall declare illegal
22 and prohibit organizations and
23 also organized and all other
24 propaganda activities which
25 promote and incite racial

1 discrimination and shall
2 recognize participation in such
3 organizations or activities as
4 an offence punishable by law."

5 (As read)

6 That is from the International
7 Convention on the Elimination of All Forms of Racial
8 Discrimination, U.N. General Assembly, Resolution
9 2106A(XX), 21 December, 1965.

10 It is my belief that the
11 circumstances I first described to you, the facts and
12 the application of section 13 forms part of Canada's
13 effort to fulfill these obligations and the process
14 this Tribunal hearing constitutes an integral part
15 thereof. Thank you.

16 THE CHAIRPERSON: Ms Kulaszka, do you
17 have opening statements?

18 MR. VIGNA: I will be very brief. I
19 just want to give you a brief outline of the evidence
20 which will be introduced in support of the complaint by
21 Mr. Warman against the respondent, Marc Lemire.

22 The complainant alleges that Marc
23 Lemire, via his Freedom website, communicated or caused
24 to be communicated -- which is the keyword in the
25 messages, cause to be communicated -- hate messages on

1 the Internet contrary to section 13 which exposed
2 various groups protected by the Canadian Human Rights
3 Act mentioned in section 3 of the Act.

4 The evidence will consist mostly of
5 the complainant's testimony of the various excerpts he
6 collected on the Internet on freedomsite of a certain
7 period and which he has compiled and which he will
8 introduce individually tab per tab.

9 The three websites which are the
10 object of our focus will be the Freedomsite mainly, and
11 Mr. Warman's efforts to try to identify who is the
12 administrator and registrant of freedomsite.

13 There's also a jokesonline website,
14 and there is another website, which is Stormfront,
15 which the respondent is alleged to have participated in
16 promoting hate messages.

17 Mr. Warman will testify about the
18 postings found on Freedomsite and, for your
19 comprehension of the evidence, Mr. Chair, when you look
20 at the complaint which has been provided to you
21 individually before you, you'll note that initially
22 this complaint when Mr. Warman compiled the evidence
23 was done in conjunction with another respondent, Craig
24 Harrison, who posted on the Freedom website. And it is
25 alleged that Mr. Lemire, with his Freedomsite, caused

1 to communicate postings of the nature such as the ones
2 of Craig Harrison for which a Tribunal decision has
3 been rendered in the year 2006.

4 We will also produce the Craig
5 Harrison decision as part of the evidence in the file,
6 and as well as the Zundel decision at certain points in
7 the evidence which correlates with other tabs in the
8 book of documents.

9 We will finally, Mr. Chair, produce
10 the second book of documents, which is green binder,
11 which is the website as it is today, which is a version
12 which is less comprehensive as the version that was at
13 the time of the collection of the evidence but which we
14 submit is still offensive of section 13 of the Act.

15 And, finally, the three questions
16 that the Tribunal must address in terms of section 13
17 is did the respondent communicate or cause to
18 communicate the messages found on the website; two,
19 were the messages communicated repeatedly by way of the
20 Internet; and, three, is the subject matter of the
21 message likely to expose a person, group of persons to
22 hatred or contempt by reason of the fact that they are
23 identifiable or on the basis of a prohibited ground of
24 discrimination?

25 And finally, Mr. Chair, the

1 respondent will argue that they are allowed to say
2 whatever they want based on freedom of expression.

3 To that, Mr. Chair, I will submit to
4 you respectfully that freedom of expression is not an
5 absolute. It needs to be considered in virtue of other
6 rights, and freedom of expression unleashed will
7 trample on other important rights, whether it's the
8 Canadian Human Rights Act, the Charter, or other, and
9 we cannot, under the cloak of freedom of expression,
10 say just about anything in Canadian society and
11 independent of the political ideologies the Canadian
12 Human Rights Act does not address political ideas of
13 the left or the right or the centre. It can consist
14 core fundamental values which it aims to protect, and
15 that is what we will be submitting in closing argument.
16 So that's all I have to say.

17 THE CHAIRPERSON: Ms Kulaszka, have
18 you decided? Do you wish to make an opening statement
19 at the time?

20 MS KULASZKA: I'll just give a short
21 statement to merits of the case.

22 THE CHAIRPERSON: That's what I'm
23 alluding to, just the merits.

24 MS KULASZKA: The Commission in this
25 case seeks a cease and desist order and a fine against

1 my client. They have not stated the fine at this point
2 pursuant to the section 13 and 54 of the Canadian Human
3 Rights Act.

4 To prove its case it would be relying
5 on two websites: Freedomsite and JRBooksOnline.
6 Together with a posting it alleges what's written by
7 Marc Lemire on another website.

8 The respondent will show that the
9 Commission and Mr. Warman provided no proof whatsoever
10 that the respondent is the owner and operator of
11 JRBooksOnline. They are required to prove that he has
12 communicated or caused to communicate the alleged
13 discriminatory materials on JRBooksOnline, and they
14 have no such brook.

15 The respondent will rely on the
16 expert evidence of Bernard Klatt on the issue of
17 JRBooksOnline.

18 The respondent will also challenge
19 the evidence of Mr. Warman and show that he has failed
20 to prove his complaint on that issue.

21 With respect to the Freedomsite, the
22 respondent is the owner and operator. He admitted so.
23 He was openly known as the operator from its inception.

24 The respondent will show the messages
25 complained of do not fall within the terms of section

1 13.

2 The respondent will show that the
3 message board on the FreedomSite had been removed
4 months before he was notified of this complaint.

5 The evidence will show he voluntarily
6 removed the four other articles on the FreedomSite
7 itself that had been complained about initially. He
8 did so almost immediately in the interests of settling
9 this complaint.

10 The evidence will show that for a
11 full year Mr. Lemire heard nothing from the Commission
12 until he was served with the investigator's report
13 which included further complaints, additional
14 complaints about a new website and new messages.

15 Continuously throughout this
16 proceeding Mr. Lemire attempted, through counsel, to
17 enter into settlement negotiations, conciliation and
18 mediation before this Tribunal, and all offers were
19 rejected by Mr. Warman.

20 The evidence will show no other
21 complaints had been laid against the FreedomSite since
22 the site's inception in 1995.

23 The evidence will show that the
24 FreedomSite is dedicated to issues surrounding freedom
25 of speech issues and immigration, none of which violate

1 section 13.

2 The evidence will show that Richard
3 Warman posted the Anne Cools messages on the
4 FreedomSite message board on September 5th, 2003 and
5 that this action constitutes a gross abuse of this
6 process, and in proving this allegation the respondent
7 will rely on the expert testimony of Bernard Klatt and
8 Rogers Cable Inc.

9 Further evidence will show that
10 Richard Warman has abused this process by using this
11 complaint not to stop discrimination contrary to
12 section 13 of the Act, but as a means to silence a
13 political opponent and to attempt to take down a
14 website that was publishing critical comment and
15 questions about his actions as a commissioned lawyer
16 and laying complaints against persons under section 13.
17 We will ask the Tribunal to dismiss this complaint.

18 THE CHAIRPERSON: Thank you, Ms
19 Kulaszka. So Mr. Vigna?

20 MR. VIGNA: I'm calling Mr. Warman as
21 a witness. If he can be sworn in?

22 AFFIRMED; RICHARD WARMAN

23 EXAMINATION-IN-CHIEF BY MR. VIGNA

24 MR. VIGNA: Mr. Warman, can you tell
25 us what steps you took in terms of gathering evidence,

1 in which period of time, in relation to the complaint
2 that the before the Tribunal?

3 MR. WARMAN: If I could just have one
4 more second to get everything in order and ready to go
5 before we start?

6 THE CHAIRPERSON: The documents?

7 MR. WARMAN: Yes.

8 THE CHAIRPERSON: At this point we
9 are going to be using which binder?

10 MR. VIGNA: Mostly the black one, and
11 the complaint form is separate. Then in part 2 it will
12 be the green binder, which is the present website.

13 THE CHAIRPERSON: We'll produce it.
14 You are familiar but perhaps others may not be.

15 The policy that I would like to
16 follow in this hearing is that with respect to binders,
17 we produce the entire binder initially. And that as we
18 go along, as you refer to each document under a
19 specific tab, that you indicate to me that you want it
20 to be produced.

21 At that point, Ms. Joyal will keep
22 track and tick it off, as we all will, and at the end
23 of the day after the hearing is done she'll give us an
24 inventory of which documents have been produced and
25 which weren't, and those that were not produced we will

1 remove from the binder. That way we won't have to
2 interrupt the hearing along the way to get each thing
3 produced. Once it's properly identified -- don't
4 forget to ask me to produce it and I will declare it
5 so.

6 MR. VIGNA: I will be going in
7 chronological order -- mostly in chronological order --
8 but I'm also going to cross-reference with the
9 testimony.

10 THE CHAIRPERSON: There was mention
11 earlier about tabs. Does everybody have tabbed
12 material, binders?

13 Mr. Fromm, you have a tabbed binder.
14 Anybody else?

15 MR. VIGNA: Mr. Fromm was an
16 exception because there has one of the binders without
17 tabs.

18 So, Mr. Warman, can you tell us what
19 period of time you collected evidence in regards to the
20 complaint that you initially submitted to the
21 Commission which has been referred to the Tribunal and
22 what led you to the website which is object of the
23 present hearing, as well as the other secondary
24 websites, if I can call them that?

25 MR. WARMAN: Yes. During -- I've

1 been aware of the FreedomSite for some period of time,
2 but essentially with regard to filing the complaint on
3 the 11th, 15th and 23rd of November, in addition to
4 other times, I visited the FreedomSite website.

5 THE CHAIRPERSON: Of what year?

6 MR. WARMAN: 2003. And that its
7 message board found at chat.freedomSite.org. And
8 subsequent to reviewing the material on there it was my
9 belief that the material in question violated section
10 13 of the Canadian Human Rights Act, and I drafted the
11 complaint against both Mr. Lemire and Craig Harrison,
12 and the complaint is signed on the 23rd of November,
13 2003.

14 MR. VIGNA: So you have the complaint
15 before you. It's a six-page document. Do you
16 recognize the complaint and signature that is at the
17 end?

18 MR. WARMAN: Yes. Essentially, this
19 is a version of the complaint that has been changed or
20 modified slightly by the Commission and that the front
21 page is blank -- two-thirds of the top first page are
22 blank.

23 Because the complaint was originally
24 filed against both Mr. Lemire and Craig Harrison, and
25 the Commission subsequently divided it into two

1 separate investigations and proceeded with the
2 complaint against Mr. Harrison, which has already been
3 the subject of a tribunal ruling and now this is the
4 portion relating to Mr. Lemire. So what was in the
5 first part of that was the address contact information
6 of Mr. Lemire and Mr. Harrison.

7 MR. VIGNA: You see the document and
8 you recognize the signature?

9 MR. WARMAN: Yes, I do, that's my
10 signature.

11 MR. VIGNA: Could that be the first
12 exhibit?

13 THE CHAIRPERSON: Okay.

14 THE REGISTRAR: Mr. Warman's
15 complaint against Mr. Lemire to the Canadian Human
16 Rights Commission dated November 23rd, 2003 will be
17 filed as Commission HR-1.

18 EXHIBIT NO. HR-1: Richard
19 Warman Complaint against
20 Marc Lemire dated November 23,
21 2003

22 MR. VIGNA: Now, Mr. Warman, before
23 going into the substance of the complaint itself and
24 the contents, can you explain to us -- you've done it
25 to a certain extent -- the various respondents, Marc

1 Lemire, Freedomsite, Craig Harrison, and then the
2 interactions so we can eventually understand the
3 evidence to follow? And at that same time, can you
4 tell us if there's been a decision by the Tribunal
5 regarding Craig Harrison?

6 MR. WARMAN: Well, on page 2 it
7 outlines a little bit -- it indicates Mr. Lemire is the
8 registered owner of the website, as they have
9 acknowledged, freedomsite.org.

10 The website contains its own content,
11 provides hosting services for a number of other groups
12 and offers a message board from which registered users
13 may leave postings that are open to viewing by any
14 member of the public without visiting the website.

15 It then describes a little bit the
16 various sections of the chat, Freedomsite portion. It
17 provides fairly extensive examples from that portion of
18 the website. It then provides a couple of examples
19 from the body of the main Freedomsite website. It
20 explains the steps that I undertook to attempt to
21 identify the individual that I suspected of being
22 responsible for many of the postings on the Freedomsite
23 chat portion, and outlines a number of those postings.

24 It also outlines evidence that I
25 believe tends to support Mr. Lemire's knowledge or

1 willful blindness with regard to the presence of this
2 kind of material on his website, and then at the end it
3 indicates I believe that Mr. Lemire and Mr. Harrison
4 are discriminating against persons on the basis of
5 religion, race, colour, national or ethnic origin,
6 subsequently amended to include sexual orientation, on
7 the basis that materials on the Internet websites would
8 expose Italians, Mexicans, Puerto Ricans, Haitians,
9 francophones, blacks, first nations persons, East
10 Asians, non-whites and Jews to hatred and/or contempt
11 contrary to section 13 sub(1) of the Canadian Human
12 Rights Act.

13 MR. VIGNA: Now, on page 2 you
14 mention in your testimony, you say that Marc Lemire is
15 a registered owner of the website and you took certain
16 steps to find that out. I refer you to tab 8. Sorry,
17 tab 10.

18 THE CHAIRPERSON: Let's produce the
19 entire binder. So this is your binder here, right,
20 identified as "CHRC Book of Documents - Merits of the
21 Case". Correct?

22 MR. VIGNA: Correct.

23 THE REGISTRAR: Binder entitled "CHRC
24 Book of Documents - Merits of the Case" will be filed
25 as Commission Exhibit HR-2.

1 EXHIBIT NO. HR-2: CHRC Book of
2 Documents - Merits of the Case
3 THE CHAIRPERSON: From this moment on
4 you will be referring to tabs, Mr. Vigna. Don't forget
5 to ask for production once you've identified them. So
6 which tab?

7 MR. VIGNA: Tab 9. I'll make
8 cross-reference of the complaint, but I'm going to tab
9 9 right away for the issue of identity.

10 So, Mr. Warman, you see tab 9?

11 MR. WARMAN: I do.

12 MR. VIGNA: Can you tell us what that
13 is, if you recognize it, and then we'll produce it?

14 MR. WARMAN: Yes. This is a WHOIS
15 record search for the website freedomsite.org, and it
16 provided me with the registration and administrative
17 contact information indicating that the person for that
18 was Mr. Lemire.

19 MR. VIGNA: Tell us a bit what a
20 WHOIS search was all about, what kind of tool it is and
21 what it allowed you to do. Maybe some of us are
22 familiar with it, but not everybody. So for the
23 record, explain what a WHOIS search is.

24 MR. WARMAN: Network Solutions offers
25 a WHOIS search, and by punching in a website it permits

1 you to access the information that is provided, the
2 public information as to the registrant and the
3 administrative contact details for the website in
4 question.

5 In this case, the registrant and
6 administrative contact are registered as Mr. Lemire.
7 His e-mail is listed as "Marc --" with a "c" "--
8 @LEMIRE.com". His address is listed as 152 Carlton
9 Street, and there's a telephone number provided there
10 as well.

11 MR. VIGNA: In terms of the address,
12 have you seen the address anywhere else on the
13 Internet?

14 MR. WARMAN: It's possible, but I
15 don't recall.

16 MR. VIGNA: I'll get back to you on
17 that later.

18 Now, once you do this step you get
19 this document which gives you this information
20 regarding FreedomSite, correct?

21 MR. WARMAN: Yes.

22 THE CHAIRPERSON: How do you access
23 this document again?

24 MR. WARMAN: If you go to the website
25 networksolutions.com.

1 THE CHAIRPERSON: And what is
2 networksolutions.com?

3 MR. WARMAN: It's a U.S. company and
4 one of the services that they offer is the registration
5 of domain names, so like freedomsite.org or anything
6 else that you wanted to register as a website name.

7 So they have what's called a WHOIS
8 search, and by typing in a particular website if they
9 have the information about the registrant and contact
10 information, that information will be returned and this
11 is the information that was returned to me when I did a
12 search at that website on freedomsite.org.

13 THE CHAIRPERSON: When did you do it?

14 MR. WARMAN: Conducted by me, the
15 date is on the bottom right-hand corner. It's the 18th
16 of November, 2003.

17 MR. VIGNA: Next to the date on the
18 bottom. That's the website in question if somebody
19 wants to use that website?

20 MR. WARMAN: Yes,
21 networksolutions.com.

22 THE CHAIRPERSON: Sorry, where did
23 you see that?

24 MR. VIGNA: At the bottom left.

25 THE CHAIRPERSON: That's the URL?

1 MR. WARMAN: Yes.

2 THE CHAIRPERSON: Universal resource
3 locator. I know that one well, that term.

4 Do you wish to have produced,
5 Mr. Vigna?

6 MR. VIGNA: Yeah, I want it produced.
7 HR-2.

8 THE CHAIRPERSON: The tab is
9 produced. We've already got -- the entire binder is
10 HR-2. This is tab 9. And as we go along, each tab
11 will be declared produced and at the end of the day we
12 will remove those that have never been --

13 MR. VIGNA: Fine. Now, just a bit
14 more information of the WHOIS search results. Is there
15 a fee to use this service? How does that work?

16 MR. WARMAN: No, it's free.

17 MR. VIGNA: The actual information
18 you obtained, is that information that's submitted or
19 is that information that is verified? What is your
20 knowledge on that?

21 THE CHAIRPERSON: Mr. Vigna, I have
22 an objection.

23 MS KULASZKA: I think Mr. Warman can
24 say what he did. He went to a website, he got a
25 certain result. But Mr. Warman is not a computer

1 expert and he can't interpret really what he sees
2 there, what the process is. He doesn't know.

3 THE CHAIRPERSON: Let's see the
4 extent to which he knows, and that would be -- perhaps
5 we could find the avoidance of leading questions as the
6 last one was, Mr. Vigna. Let's see to what extent he
7 has knowledge.

8 Well, re-pose your question,
9 Mr. Vigna.

10 MR. VIGNA: In terms of the
11 information that you obtained with this tool, which is
12 the WHOIS research, to your knowledge by reading what
13 the website tells you about, how is this information
14 gathered?

15 MR. WARMAN: To the best of my
16 knowledge, it's provided by whoever it is that's
17 responsible for, or whoever registers the website in
18 question.

19 MR. VIGNA: All right. We'll go back
20 to your complaint. Page 2 of your complaint there is
21 at paragraph 3 the mention of the http
22 chat.freedomsite.org. Can you tell us what that is in
23 relation to the entire web?

24 MR. WARMAN: Yes. It was a portion
25 of the Freedomsite website that you clicked on the

1 message board you would be taken to that section.

2 MR. VIGNA: What evidence did you
3 gather in terms of this complaint from that portion of
4 the website, what amount of evidence?

5 MR. WARMAN: Well, it's the extensive
6 collection of material that follows it in the
7 subsequent pages of my complaint.

8 MR. VIGNA: Now, can you tell us what
9 that chapter or that section of the website is all
10 about? Give us a bit of a description, what takes
11 place in that section of the website?

12 MR. WARMAN: It was divided up into
13 various sections of the website. They were called
14 conferences. And they were given a lot of different
15 headings, titles. And I think actually it will become
16 clearer as we go further into the evidence that there
17 is a specific exhibit that will make it easier to
18 explain in terms of how that portion of the website was
19 divided up.

20 MR. VIGNA: Now, in terms of other
21 websites that you visited in regards to the respondent,
22 tell us which other ones you also verified.

23 MR. WARMAN: I also submitted
24 material to the Commission pursuant to two other
25 websites. The first one is JRBooksOnline and the

1 second was stormfront.org.

2 MR. VIGNA: In terms of
3 JRBooksOnline, I would like you to go to tab 1 of the
4 black binder.

5 MR. WARMAN: Yes.

6 MR. VIGNA: Tell us what that is and
7 where that comes from.

8 THE CHAIRPERSON: Just a second. Go
9 ahead.

10 MR. VIGNA: So tab 1, Mr. Warman. Do
11 you recognize the document, first of all, document with
12 several pages until page 12?

13 MR. WARMAN: I do. What this is,
14 this is a cut-and-pasted version of what would appear
15 when you went onto "JR's Rare Books and Commentary".
16 And essentially what it does is it runs through the
17 material that was available on the home page of that
18 website. It provides an extensive number of items that
19 by clicking on you would be taken to the material that
20 is described therein.

21 MR. VIGNA: And this is found on
22 which website?

23 MR. WARMAN: I'm sorry?

24 MR. VIGNA: Which website?

25 MR. WARMAN: This is

1 jrbooksonline.com.

2 MR. VIGNA: And so I would like to
3 produce this as the next exhibit.

4 THE CHAIRPERSON: Yes.

5 MR. VIGNA: In terms of this exhibit
6 in particular, Mr. Warman, can you tell us the
7 importance of the exhibit?

8 THE CHAIRPERSON: Do you have an
9 objection to the production?

10 MS KULASZKA: I wonder if I could
11 object at this point. I'm looking at this material
12 here and I'm hearing it's cut and paste.

13 THE CHAIRPERSON: I think it's
14 preferable if you stand up, only because that way it
15 becomes clear to me you are objecting.

16 MS KULASZKA: I'm seeing something
17 that doesn't even appear to come off the website.
18 Given Mr. Warman's experience, I'm sure he knows how to
19 make a PDF off a website, print it off a website. You
20 just hit that print button. And then there is
21 absolutely no question where this material is coming
22 from.

23 All I see is something that he has
24 allegedly cut and paste, and I think the best evidence
25 should be a print-off from the actual website. This is

1 not following the best evidence rule at all.

2 THE CHAIRPERSON: Right. As you
3 know, we are not that rigid on all the rules of courts.
4 But your point is well taken in terms of the quality of
5 this evidence. And it's something you could raise in
6 argument. But I still would like to know more.

7 Before I do produce it I think -- one
8 basic element, perhaps I didn't catch it in your
9 evidence, Mr. Warman, is this particular document --
10 how did you come to make this document or get this
11 document?

12 MR. WARMAN: What this is is I would
13 simply go onto the website, click "save as" on a
14 particular web page. The computer would then save the
15 image of that page and then this is simply a print-off
16 of that. Because what I did was I submitted a CD to
17 the Commission containing all of the individual screen
18 shots of the material that will follow, and that's what
19 this is. So this is simply a hard copy print-off of
20 the saved screen shots of the material that was on the
21 website.

22 MR. VIGNA: Is this in tact in terms
23 of screen shot, you actually copied it as is?

24 MR. WARMAN: Yes, I did nothing to
25 change this.

1 THE CHAIRPERSON: This is the
2 document that you did a screen shot of?

3 MR. WARMAN: Yes.

4 THE CHAIRPERSON: So is that where
5 you -- did you highlight a section and put it somewhere
6 else --

7 MR. WARMAN: No.

8 THE CHAIRPERSON: -- into a document,
9 cut and paste as we know it?

10 MR. WARMAN: No. Sorry. Perhaps I
11 should be more specific. What I did was click the
12 "save as" and then it says "website" and then it gives
13 you different options. So I saved it as one of them on
14 the CD that I provided and it has been disclosed to the
15 respondents, as I understand it. And what this is is
16 just a hard copy print-off of the web page as I saved
17 it at the time on the CD.

18 THE CHAIRPERSON: So your evidence is
19 the document that you produced in that manner, what
20 we're looking at here at this tab?

21 MR. WARMAN: Yes. This is a hard
22 copy print-off of the electronic version.

23 THE CHAIRPERSON: I consider it
24 sufficiently identified for it to be produced.

25 Ms. Kulaszka, you'll have the

1 opportunity to cross-examine on any of these issues
2 that you have raised. Go ahead.

3 MR. VIGNA: Tell us in regard to the
4 tab 1, what is the content that is of interest for us
5 in terms of the section 13 violation that's alleged?

6 THE CHAIRPERSON: One thing I do want
7 is to back you up. There was a previous question. I'm
8 not quite sure I understood the answer.

9 Mr. Warman, the parts underlined,
10 those are the sections you said you would click on and
11 it would send you to another site? You mentioned
12 earlier in your evidence that --

13 MR. WARMAN: Some of it was just
14 underlined on the website. For example, if you go to
15 page 5 at the top right --

16 THE CHAIRPERSON: Yes.

17 THE WITNESS: It says "Categories".
18 So by clicking on those it would take you to the items
19 that are linked.

20 THE CHAIRPERSON: So viewing
21 something with underlining does not necessarily
22 indicate that it's something that would be a link?

23 MR. WARMAN: Not all of it. Some of
24 it may just have been underlined on the website.

25 THE CHAIRPERSON: Or the process

1 through which you saved it, perhaps.

2 THE WITNESS: Yes. But the items
3 then -- any subsequent items that I'll be tendering as
4 evidence are items that I clicked on and then was taken
5 to a link that was then saved and printed off.

6 THE CHAIRPERSON: Thank you for that
7 clarification. I'm sorry.

8 MR. VIGNA: Mr. Warman, can you tell
9 us, going page per page, the key areas of document
10 which is of interest for this complaint and read it to
11 us those specific passages that you have highlighted.

12 MR. WARMAN: Starting at page 1, it
13 gives the title of the website, "JR's Rare Books and
14 Commentary". It then, I believe, gives ample
15 indication of what the website is about. It gives a
16 quote:

17 "A principal reason for the
18 failure of National Socialism to
19 attract adherents is its lack of
20 hypocrisy." (As read)

21 I believe that that indicates fairly
22 clearly that the website is dedicated to National
23 Socialistic beliefs.

24 Just below that on 14 April, '04 it
25 indicates that a -- person running the website

1 indicates they have added a copy of "Regmeister's
2 Jewish Ritual-Murder: A Historial Investigation by
3 Hellmut Schramm."

4 Below that it indicates another
5 article called, "An Aid in the Study of United States
6 History." It indicates that page 3 of that can be
7 found the statement:

8 "Mound builders were a different
9 race than Indians. Ah, so maybe
10 the Indians weren't 'here first'
11 after all."

12 MR. VIGNA: "Mound builders", are you
13 familiar with that expression?

14 MR. WARMAN: No, not off the top of
15 my head. But it indicates after it:

16 "Note how early this was
17 recognized. We now know that
18 the farther you go back, the
19 more Caucasian the remains get."

20 So "mound builders" could be a
21 reference to burial.

22 If you turn to page 3 approximately
23 half way down the page --

24 THE CHAIRPERSON: Just a second.

25 Yes?

1 MR. WARMAN: Indicates that a special
2 feature is "Germans, Abused minority! An odd concept
3 you may never had heard of."

4 It then goes through a number of
5 things. The relevant -- or one of the relevant
6 passages that I believe is important is:

7 "They included 19-year old girls
8 with their faces smashed,
9 amputations, disembowelments,
10 shot thru' the eye, death-trauma
11 births, you name it. Poles had
12 been merrily slaughtering
13 anything or anybody German since
14 at least as early as April 1939,
15 with smaller incidents
16 stretching back to the close of
17 World War I. You haven't been
18 told that by the Mass Media, or
19 the fact that these atrocities
20 were one of the main cause for
21 the German invasion of Poland."

22 Underneath that it states:

23 "Notice: No hard copy books are
24 for sale here. This site exists
25 to support researchers, home

1 schoolers, or anyone else
2 interested in their White past.
3 Some of the titles featured here
4 are worth hundreds of dollars a
5 piece, but you may download them
6 for free."

7 At page 4 under the statement of
8 "Purpose", the website indicates its:

9 "...purpose is to bring to the
10 fore many old works of
11 literature you may not be aware
12 of."

13 The next paragraph starts off:

14 "These books and essays all deal
15 in some way with White
16 solidarity and White
17 Nationalism."

18 The next paragraph:

19 "Many deal with specially
20 coddled 'minorities' or uniquely
21 powerful 'religious groups' that
22 have legions of brainwashed
23 lackeys at-the-ready to protect
24 them from all criticism."

25 MR. VIGNA: There's a mention of the

1 "Establishment" at page 4.

2 MR. WARMAN: Yes.

3 MR. VIGNA: When you read the
4 document in its entirety, do you know what is being
5 referred to?

6 Mr. WARMAN: The "Establishment",
7 meaning the powers that be.

8 Turn to the top of page 5. It states
9 that:

10 "The works are presented here as
11 act of preservation and in
12 defiance of 'political
13 correctness.'"

14 Underneath that on page 5, it
15 provides links to a number of different documents, one
16 of which is,

17 "Arnold S. Leese, et al. -
18 Jewish Ritual-Murder Resources:
19 Book and references and link to
20 Schramm".

21 Page 7 half way down under the
22 heading,

23 "Slaves and Masters - Jewish
24 role in Communism and adgit-prop
25 via Negroes".

1 THE CHAIRPERSON: I'm not --

2 MR. WARMAN: Page 7.

3 THE CHAIRPERSON: Yes.

4 MR. WARMAN: Approximately half way
5 down under the heading "Slaves and Masters. Page 8.

6 Page 8, towards the bottom there are
7 two passages there. First one is:

8 "J.M. Spaight - Bombing
9 Vindicated. Straight from the
10 Freemasonic judiaized heart of
11 the Evil Empire."

12 Underneath that it states:

13 "The Belgian People's War.
14 Poles and Jews aren't the only
15 world's professional victims.
16 The Belgians made a good stab at
17 this theme during World War I."

18 THE CHAIRPERSON: Again. This is --
19 you are reading from the middle of page 9?

20 MR. WARMAN: No, sorry. This is the
21 bottom of page 8 under the heading "Belgian People's
22 War".

23 Then it continues on a little bit to
24 the top of page 9. Page 9 approximately half way down
25 the page, "The International Jew - The World's Foremost

1 Problem".

2 MR. VIGNA: On that, The
3 International Jew, that sentence, that phrase, is it
4 something that you've seen before, and in what context?

5 MR. WARMAN: Yes. It's a historical
6 document that has already been the subject of finding
7 of the Tribunal.

8 THE CHAIRPERSON: Yes. Is there an
9 objection?

10 MS KULASZKA: That's fine. I thought
11 he was starting to give us a history lesson. He
12 qualified it.

13 THE CHAIRPERSON: It's important we
14 hear the whole question sometimes.

15 So what was the answer then?

16 MR. WARMAN: Well --

17 MR. VIGNA: I'll re-do the question.
18 The phrase, "The International Jew" to your knowledge,
19 is based on previous decisions. What does it mean or
20 what does it refer to?

21 MR. WARMAN: Well, having personally
22 read the document or the book or the collection of
23 articles, for what it is, it's a series of articles
24 that appeared in the Dearborn Independent run by Henry
25 Ford. And it has been the subject of a finding by this

1 Tribunal in the case in the Bahr case.

2 MR. VIGNA: Warman versus Bahr,
3 B-A-H-R, which was rendered this year, I believe. I'm
4 being suggestive, Mr. Chair, but it's public knowledge.

5 THE CHAIRPERSON: I'm familiar with
6 the case.

7 MR. VIGNA: And the second one, the
8 "Jewish Version of 'Freedom of Speech'", are you
9 familiar with what that deals with?

10 MR. WARMAN: No, I'm not.

11 MR. VIGNA: Go on.

12 MR. WARMAN: The next page, page 10,
13 half-way down, Eric Thomson states that one of the
14 three favorites posted there is "The Hitler We Loved
15 and Why".

16 Page 12, just above the end it
17 states:

18 "It is my desire that any and
19 all of the files on this site
20 receive the widest dissemination
21 possible on a non-commercial,
22 non-profit basis. Linking and
23 copying via the Web is allowed
24 and encouraged so long as no
25 changes are made."

1 It then asks that that website be
2 referred to as the source of where the material
3 originated.

4 MR. VIGNA: Mr. Warman, before we go
5 tab 9, sorry, page 9, same tab. The last inscription
6 there, it says:

7 "Conspiracy, research and
8 information on Christianity,
9 Islam, Mormonism and
10 Freemasonry.
11 Thought-provoking."

12 Are you familiar with this
13 literature?

14 MR. WARMAN: No, it's not a document
15 that I looked at.

16 MR. VIGNA: And in terms of page 10?
17 There's a title there, "The Awakening." Does that
18 phrase or those words mean anything to you?

19 MR. WARMAN: No, I'm not familiar
20 with that document.

21 MR. VIGNA: Now, before going to the
22 following tabs in terms of trying to prove the identity
23 of this document, can I refer you to tab 7? Any
24 following times that relate to the issue of identity
25 for JRBooksOnline. 7-F. Are you there?

1 MR. WARMAN: Yes.

2 MR. VIGNA: Do you recognize this
3 letter?

4 MR. WARMAN: Yes, I do. This is a
5 letter that I received through the Canadian Human
6 Rights Tribunal sent by Ms Kulaszka, Mr. Lemire's
7 counsel.

8 The letter is dated 3 June, 2005.
9 Excuse me. Not that I received from, the Canadian
10 Human Rights Tribunal. That I received from the
11 Commission pursuant to their disclosure process. And
12 it's possible that they may have provided me with a
13 copy of it to respond.

14 MR. VIGNA: Second page it says:
15 "Enclosures: WHOIS Search
16 Results jokesonline (sic)".

17 MR. WARMAN: JRBooksOnline.

18 MR. VIGNA: Yes.

19 MR. WARMAN: Yes.

20 MR. VIGNA: So you recognize this
21 document?

22 MR. WARMAN: I do. It was provided
23 to me by the Commission.

24 THE CHAIRPERSON: Did you want to
25 produce it?

1 MR. VIGNA: That's what I was going
2 to do. Before I ask questions on the content, I would
3 like to produce it.

4 THE CHAIRPERSON: Yes. I don't want
5 us to forget things afterwards. It creates
6 complications. So it's produced. It emanates from Ms
7 Kulaszka.

8 MR. VIGNA: Tell us the importance of
9 this document in terms of the issue of identity?

10 MR. WARMAN: Ms Kulaszka states:

11 "Contrary to the information
12 provided by Mr. Warman to the
13 Commission, my client is not the
14 owner of jrbooksonline.com.
15 Mr. Lemire has no knowledge of
16 what position appears on the
17 website nor is he responsible
18 for creating or editing any of
19 that material."

20 However, it continues:

21 "In December of 2000 Mr. Lemire
22 assisted an individual that he
23 had met in the United States to
24 register this domain."

25 MR. VIGNA: Now, in terms of the

1 Document 7-G, can you tell us if you recognize the
2 document, first of all, and will produce it, then I'll
3 ask you questions in terms of its relevance and how we
4 are to understand it.

5 So do you recognize the Document?
6 7-G.

7 MR. WARMAN: If you can just give me
8 a second. I think tab 17 is the easiest, just in terms
9 of the --

10 MR. VIGNA: To tab 17.

11 THE CHAIRPERSON: Are we on tab 7-G?

12 MR. VIGNA: We'll go back to it.
13 We'll go to 17 first.

14 THE CHAIRPERSON: 17. Okay. Go
15 ahead.

16 MR. VIGNA: So you recognize tab 17,
17 Mr. Warman?

18 MR. WARMAN: Yes. It's a document
19 that I printed off on the 11th of October, 2004 and
20 submitted to the Commission pursuant to my complaint.

21 MR. VIGNA: From which website?

22 MR. WARMAN: It's from the website
23 checkdomain.com.

24 MR. VIGNA: And what's that website
25 all about?

1 MR. WARMAN: It's from another
2 website where you can conduct a WHOIS search to obtain
3 information about -- registration information about a
4 website.

5 MR. VIGNA: I would like to produce
6 this as the next exhibit.

7 THE CHAIRPERSON: Okay.

8 MR. VIGNA: Produced?

9 THE CHAIRPERSON: Yes. It says
10 "11/10".

11 MR. WARMAN: Yes, it's the 11th of
12 October, 2004.

13 MR. VIGNA: Now, that it's produced,
14 Mr. Warman, can you tell us the importance of the
15 document and the information found on it? What it is
16 able to tell you?

17 MR. WARMAN: Yes. Essentially what
18 it was, was I had become aware of the JRBooksOnline
19 website, an individual or a poster on the Internet that
20 indicated that it was Mr. Lemire's website.

21 The interest that I had was to go and
22 find out, after reviewing the website, whether that was
23 in fact accurate. So I did a WHOIS search on it and
24 this is the information that appeared when I typed in
25 the website URL "www.jrbooksonline.com".

1 The information that was returned was
2 "Lemire, Marc, 152 Carlton Street, suite 545, Toronto,
3 Ontario". Then it gives the domain name again, and it
4 also indicates that same information for the
5 administrative contact information and it provides the
6 same e-mail address as on that of the Freedomsite,
7 being marc@lemire.com.

8 MR. VIGNA: If we are to make a
9 cross-reference to the document that we're looking
10 at -- first of all, before going there.

11 This document here, you got it from
12 Commercial -- checkdomain.com. How does it compare to
13 the WHOIS, the document we were looking at earlier.

14 MR. WARMAN: It's just another
15 website where you can do WHOIS searches.

16 MR. VIGNA: Similar concept?

17 MR. WARMAN: Yes.

18 MR. VIGNA: So how do we
19 cross-reference that to 7-G and 7-F? I believe only
20 7-F has been produced.

21 THE CHAIRPERSON: Yes, only 7-F is
22 produced.

23 THE WITNESS: So what has transpired
24 was that there was discussion around whether it was
25 possible to engage in negotiations about the resolution

1 of the complaint, and one of the things that I was
2 concerned about in that regard was that in fact
3 Mr. Lemire appeared to be responsible for another
4 website where extensive hate propaganda material
5 appeared, and was either responsible for it directly or
6 was part of a group of persons who were responsible for
7 it, and, thus, Ms Kulaszka wrote the letter dated 3
8 June, 2005.

9 When I outlined my concerns in that
10 regard to the Commission the -- that's in relation to
11 tab 7-F. 7-G --

12 MR. VIGNA: Do you recognize 7-G? It
13 hasn't been produced yet.

14 THE WITNESS: Yes, I do. 7-G is a
15 WHOIS search that I conducted on the website
16 networksolutions.com for the website jrbooksonline.com.
17 It was printed off by me on the 23rd of July, 2005 and
18 submitted to the Commission pursuant to my complaint.

19 MR. VIGNA: I would like to produce
20 it.

21 And can you tell us what you were
22 trying to do by going to this document and getting this
23 information and how you interpret and understand this
24 information.

25 MR. WARMAN: So it's been produced?

1 THE CHAIRPERSON: Yes.

2 MR. VIGNA: Go on.

3 MR. WARMAN: Thank you. So what this
4 is, is after Ms Kulaszka had indicated what she had, I
5 went back and performed a subsequent WHOIS search on
6 the website. And the information had then been
7 changed.

8 The information was now listed as the
9 registrant being a Jonathan Richardson. It gave an
10 address of 16584 Devries Street, Orlando, Florida,
11 United States. It then gave a telephone number of
12 (407)555-1212 and it provided a fax number
13 (123)123-1234. It then provided that same information
14 as the administrative contact or technical contact with
15 the addition of an e-mail address,
16 jrbooks@operamail.com.

17 It indicated that -- yeah. I think
18 that's it.

19 MR. VIGNA: So tell us the date of
20 that document.

21 MR. WARMAN: This was printed off by
22 me -- the search was conducted and printed off by me on
23 the 23rd of July, 2005. It indicates -- that's at the
24 bottom right-hand corner.

25 MR. VIGNA: I'll go back quickly to

1 tab 17 that we were looking at earlier. It's been
2 already produced.

3 MR. WARMAN: Actually, if I could
4 just point something out before I forget, on page 2 of
5 this.

6 THE CHAIRPERSON: Page 2 of what,
7 7-G?

8 MR. WARMAN: No, that's fine.

9 MR. VIGNA: First of all, before this
10 document -- when you get the information, what do you
11 do in terms of the information you get?

12 MR. WARMAN: What did I do with it?

13 MR. VIGNA: How do you verify the
14 authenticity of the information when you compare it to
15 what you found on the page 17?

16 MR. WARMAN: That's what the
17 subsequent tabs revealed, were my attempts to verify
18 whether that information was in fact real or not.

19 MR. VIGNA: Go step by step. Tab 17,
20 you looked at that earlier?

21 MR. WARMAN: Yes.

22 MR. VIGNA: In terms of the identity
23 associated to jronline (sic), at that pint in time,
24 which I believe is the 11th October, 2004, indicates
25 that it is the individual mentioned in the complaint.

1 MR. WARMAN: Yes.

2 MR. VIGNA: Then you do a subsequent
3 verification?

4 MR. WARMAN: Yes.

5 MR. VIGNA: And tab 7-G.

6 MR. WARMAN: Yes.

7 MR. VIGNA: From what I understand
8 from your testimony, as a result of what had been
9 indicated to you in the letter 7-F.

10 MR. WARMAN: It was.

11 MR. VIGNA: So what do you do now in
12 terms of verifying this contradiction?

13 MR. WARMAN: So the first thing I
14 attempted to do was attempt to verify address that was
15 given. And that's found at tab 7-H.

16 MR. VIGNA: So I guess you recognized
17 tab 7-H?

18 MR. WARMAN: I do. This is the
19 print-off of an attempt to verify that address through
20 the United States Postal Service website. It was
21 printed off by me on the 23rd of July, 2005 and
22 provided to the Commission pursuant to my complaint.

23 MR. VIGNA: I would like to produce
24 that document.

25 THE CHAIRPERSON: Okay.

1 MR. VIGNA: Now, tell us what results
2 you get as a result of the first search regarding the
3 address.

4 MR. WARMAN: What I found out was the
5 address didn't exist. If you type in "zip code lookup"
6 and then at "address 1" it states "16584 Devries
7 Street", which is the address that was provided.

8 Underneath it it states -- the city
9 is listed as Orlando and the State of Florida. It
10 states:

11 "The address you entered was not
12 found in Orlando, Florida in our
13 database. Please confirm the
14 spelling and the number of the
15 address and try again."

16 And that's found directly under
17 "address 1", the box there.

18 MR. VIGNA: And this document dates
19 of --

20 MR. WARMAN: The 23rd of July, 2005.

21 MR. VIGNA: Now, this zip code
22 lookup, I guess it's self-explanatory, but just tell us
23 briefly what it's all about.

24 MR. WARMAN: It was simply where you
25 could go onto the United States Postal Service website

1 and the same way as in Canada with the Canada Post you
2 can attempt to confirm an address or get the zip code
3 for it, and that's what came up when I did that.

4 MR. VIGNA: So once you realized what
5 information you were provided with in terms of the
6 authenticity of this address 16584, what's the next
7 step?

8 MR. WARMAN: Well, if you turn back
9 to 7-G for a moment, the first page, the phone number
10 that is listed as the contact number is (407)555-1212.
11 555-1212 is, of course, the directory assistance number
12 and the fax number is listed at (123)123-1234.

13 Based on that, I came to the
14 conclusion that those were also likely false. So what
15 I did was I attempted to contact the company
16 networksolutions.com in order to express my concern
17 that the information that had been listed to register
18 this website was false, and it was my understanding
19 that it was a requirement for registrants of websites
20 to provide accurate information.

21 MR. VIGNA: Which document relates to
22 what you just said?

23 MR. WARMAN: That would be tab 7-I.

24 MR. VIGNA: So I guess you recognize
25 the document?

1 MR. WARMAN: This is an e-mail that I
2 sent to abuse@networksolutions.com. It was sent by me
3 on Saturday, 23rd of July, 2005, and it was printed off
4 by me on the 23rd of October, 2005 and submitted to the
5 Commission pursuant to my complaint.

6 MR. VIGNA: I would like to produce
7 this document.

8 THE CHAIRPERSON: Yes.

9 MR. VIGNA: Can you tell us what
10 takes place once you do this step of contacting
11 abuse@networksolutions.com?

12 MR. WARMAN: As I stated, this was a
13 letter sent July 23, 2005. It was a complaint to
14 Network Solutions regarding, as it states:

15 "...the use of false
16 information to register a
17 website domain name with your
18 service."

19 States that:

20 "The website in question is
21 currently involved in a federal
22 human rights complaint in
23 Canada. As a result, the hate
24 material contained on this
25 website and its registration to

1 a Canadian citizen states that
2 since being notified of the
3 federal human rights complaint,
4 the registration information has
5 changed from this Canadian
6 citizen and now lists a
7 non-existent address in Orlando,
8 Florida, as well as false
9 telephone and fax contact
10 numbers."

11 Then it indicates the steps that I
12 had taken, and also that the address was not -- in
13 addition to not being accessible on the U.S. Postal
14 Service address lookup, it didn't exist on Yahoo maps
15 either, which was another step I had taken to confirm
16 whether it was a real address.

17 It states:

18 "I would ask that you require
19 this client to provide your
20 company with true and accurate
21 registration information
22 pursuant to section 4 your terms
23 of service."

24 MS KULASZKA: I wonder if I could
25 just ask at this point whether Mr. Warman is going to

1 produce the uncensored document? He's going through
2 them and either been entered as exhibits, I understand.

3 THE CHAIRPERSON: Right. That was
4 the document that was going to be shown to me and I was
5 going to verify whether it was indeed just personal
6 information that we discussed this morning. Do we have
7 that?

8 MR. WARMAN: We do. I can either
9 take the time now to get those documents or you can
10 accept them under reserve and I can provide them to you
11 tomorrow morning before we start.

12 THE CHAIRPERSON: We'll be taking a
13 break shortly. You can provide them at that point to
14 me.

15 MR. VIGNA: I understand that that is
16 probably the correct understanding I have, but I want
17 to be sure. The document will be for your eyes only at
18 this point.

19 THE CHAIRPERSON: At this point, yes.
20 And provided the information is of the type we
21 discussed as private information, you know, names and
22 address -- well, address particularly -- that's the
23 purpose for which I'll look at it. But with that
24 proviso it can be entered for the content.

25 MR. VIGNA: So once you contact

1 abusenetwork.solutions.com (sic), what's the next step
2 that takes place in the chronology regarding the
3 identity of jokesonline (sic).

4 MR. WARMAN: The next step that takes
5 place in relation to jrbooksonline.com is that they
6 responded. Network Solutions sent me a response.

7 MR. FROMM: Mr. Chairman, for sake of
8 accuracy of the record, Mr. Vigna asked Mr. Warman what
9 was the next step in terms of investigating
10 jokesonline, but I don't think that was what --

11 MR. VIGNA: I'll rephrase the
12 question, but I think he understood what I meant.

13 THE CHAIRPERSON: Be accurate in your
14 statement, please.

15 MR. VIGNA: Sure. Did you receive a
16 response regarding your e-mail?

17 MR. WARMAN: I did. That response is
18 contained at tab 7-J. This is a print-off on the 23rd
19 of October, 2005, e-mail response that I received from
20 Network Solutions on the 24th of July, 2005.

21 MR. VIGNA: Do you recognize the
22 document?

23 MR. WARMAN: Yes, I printed this off
24 and provided it to the Commission pursuant to my
25 complaint.

1 MR. VIGNA: I'd like to produce it as
2 an exhibit.

3 THE CHAIRPERSON: Okay, subject to
4 the same provisos that you'll provide me the unmodified
5 version.

6 MR. VIGNA: Yes.

7 THE CHAIRPERSON: That was tab J.

8 MR. WARMAN: Thank you.

9 The e-mail is from "Network Solutions
10 customerservice@networksolutions.com." It states that
11 they had reviewed -- received and reviewed my e-mail.

12 They indicated that they appreciated
13 the sensitive nature of some of the content that is
14 included on certain websites; that it wasn't really
15 their responsibility to control what appeared on those
16 domain names; that they also weren't responsible to
17 police the rights of trademark owners concerning domain
18 names; if the domain name owner in question is
19 conducting criminal activity that you should contact
20 the police or the proper authorities, and if I had any
21 further concerns I could complete their on-line form or
22 phone them.

23 It's indicated as having been sent by
24 "Network Solutions Customer Support".

25 MR. VIGNA: Now, Network Solutions,

1 what do we call that, an Internet provider, an Internet
2 service? What is that?

3 MR. WARMAN: That was the company
4 that registered the domain name JRBooksOnline.com.

5 MR. VIGNA: You are referring to tab
6 7-G in terms of current registrant?

7 MR. WARMAN: Yes.

8 THE CHAIRPERSON: I want to just be
9 clear on this. You used the Network Solutions WHOIS
10 search for some of your research, this and the other
11 website. I think it was with regard to FreedomSite,
12 right?

13 MR. WARMAN: Yes.

14 THE CHAIRPERSON: But at the same
15 time this company, Network Solutions, based on this
16 e-mail, do I understand correctly that they also
17 engaged in the registration of names?

18 MR. WARMAN: Yes. In fact, if I can
19 direct you to 7-G.

20 THE CHAIRPERSON: 7-G, yes.

21 MR. WARMAN: Underneath the box
22 that's on the left-hand side, the larger box. It
23 states that the current registrar is "Network Solutions
24 LLC".

25 THE CHAIRPERSON: So I guess it's

1 your understanding, but as I see it here these firms
2 that register domain names also offer WHOIS searches of
3 their own registrations and others?

4 MR. WARMAN: As far I know, yes.

5 THE CHAIRPERSON: Have you ever been
6 able to find on a Network Solutions WHOIS search, names
7 that are registered at other -- with other registrars?

8 MR. WARMAN: Yes, to the best of my
9 recollection.

10 THE CHAIRPERSON: So, for instance,
11 follow that logic, if one were to go to another WHOIS
12 search that was conducted at tab 17 on the
13 checkdomain.com website one would, in theory --
14 actually in this case you did find JRBooksOnline
15 registered. Do we see the name of Network Solutions
16 there?

17 MR. WARMAN: No, I don't.

18 THE CHAIRPERSON: However, we do see
19 JRBooksOnline there.

20 MR. WARMAN: Yes.

21 THE CHAIRPERSON: Okay. I think I'm
22 understanding. Go on.

23 MR. VIGNA: So we're 7-J, Mr. Warman.
24 Can you tell us the response you get?

25 MR. WARMAN: Yes, so I then sent a

1 response back to them that same day, and that's found
2 at tab 7-K.

3 MR. VIGNA: Did you speak of 7-J in
4 terms of the response, before we go to K?

5 THE CHAIRPERSON: I'm sorry? Speak
6 up.

7 MR. WARMAN: Yes, I read through the
8 entire contents of it.

9 MR. VIGNA: Then what happens after
10 you get the response on 7-K?

11 MR. WARMAN: So what I did was I went
12 to their Network Solutions website and they had a
13 "Contact us" and you could fill in a box and submit it
14 to them. So this is simply a cut-and-pasted version of
15 what I submitted to them. And it states -- it
16 acknowledges the response that I have received from
17 them:

18 "...but it doesn't address the
19 fact the individual who
20 registered the domain name with
21 your service has done so using
22 what are an obviously false
23 address as well as telephone and
24 fax numbers."

25 It states:

1 "I'm following up on the content
2 of the website through the
3 Canadian Human Rights Commission
4 and there are no trademark
5 issues involved. My only
6 concern is is that they have
7 used fake contact information in
8 violation of section 4 of your
9 terms and conditions of service.
10 I would ask that your company
11 require this individual to
12 provide true contact information
13 in accordance with your policy."

14 MR. VIGNA: I would like to produce
15 this document, and he's already testified to the
16 contents.

17 THE CHAIRPERSON: Yes.

18 MR. VIGNA: So what happens after in
19 terms of the chronology?

20 MR. WARMAN: So I then receive a
21 response on Monday the 25th of July, 2005. And that is
22 found at tab 7-L.

23 MR. VIGNA: So you recognize 7-L?

24 MR. WARMAN: It's an e-mail that I
25 received and printed off on the 23rd of October, 2005

1 and supplied to the Commission pursuant to my
2 complaint.

3 MR. VIGNA: I would like to produce
4 it.

5 THE CHAIRPERSON: Okay.

6 MR. VIGNA: So what's the response
7 you get in regards to the second question, Network
8 Solutions, regarding --

9 MR. WARMAN: Network Solutions
10 replied that:

11 "Your issue has been escalated
12 to another department for
13 resolution. We apologize for
14 any inconvenience you may have
15 experienced. We'll notify you
16 once this request has been
17 resolved or updated."

18 It then says:

19 "Please do not respond to this."

20 And it's signed off by "Network
21 Solutions Customer Support".

22 MS KULASZKA: Can I just ask what tab
23 that is?

24 THE CHAIRPERSON: That was 7-L, L as
25 in London.

1 MS KULASZKA: Thanks.

2 MR. VIGNA: So what's next in
3 chronology in terms of this whole of issue of identity?

4 MR. WARMAN: So at tab 7-M.

5 MR. VIGNA: Which follows?

6 MR. WARMAN: It does.

7 MR. VIGNA: Do you recognize the
8 document?

9 MR. WARMAN: Yes. It contains a
10 further WHOIS search on the same URL from Network
11 Solutions and it was printed off by me on the 23rd of
12 October, 2005 and submitted to the Commission pursuant
13 to my complaint.

14 MR. VIGNA: I would like to produce
15 it.

16 THE CHAIRPERSON: Okay.

17 MR. VIGNA: I understood L is
18 produced also.

19 THE CHAIRPERSON: L was produced.
20 Yes.

21 MR. VIGNA: So now we'll produce M.
22 Can you tell us what you do in terms
23 of M, in terms of the information regarding this whole
24 issue of identity?

25 MR. WARMAN: Yes. It provided me

1 with the same information that had been in existence
2 before that I previously complained about.

3 MR. VIGNA: What date is that?

4 MR. WARMAN: The 23rd of October,
5 2005.

6 MR. VIGNA: What did Network
7 Solutions do in regards to your concerns?

8 MR. WARMAN: I'm not sure, which is
9 why I wanted to follow up with them, which is why I
10 wish to enter tab 7-N.

11 MR. VIGNA: You recognize tab 7-N?

12 MR. WARMAN: Yes. This is a copy of
13 the last e-mail that they had sent me in July 2005, and
14 above it is the cut-and-paste version of the material
15 that I submitted to them on the 23rd of October, 2005
16 through their submission box.

17 MR. VIGNA: In terms of visual, this
18 is similar to the document we've seen earlier, right?

19 MR. WARMAN: It is.

20 MR. VIGNA: I would like to produce
21 this.

22 THE CHAIRPERSON: Yes.

23 MR. VIGNA: Tell us about the
24 contents and the response you get in regards to the
25 inquiry of October 23, 2005.

1 MR. WARMAN: I included the previous
2 e-mail in the last correspondence I received from them
3 and then said:

4 "It has now been three months
5 since I received the e-mail
6 below, indicating that I would
7 be contacted upon resolution of
8 my complaint. I have checked
9 the registration information on
10 the domain name and the only
11 thing that has changed is that
12 that false telephone number has
13 been changed to 'private'."

14 And you can see that if you turn to
15 7-M, page 2. So underneath the administrative contact
16 information, the telephone number is listed as
17 "private" and the same with the technical contact
18 information.

19 MR. VIGNA: So going back to 7-M?

20 MR. WARMAN: Yes.

21 MR. VIGNA: What response do you get
22 the second time around?

23 MR. WARMAN: So I noted that all of
24 the other false information about the address and fax
25 numbers were still remaining and noted that:

1 "This matter is approaching a
2 hearing before a Canadian
3 Federal human Rights Tribunal,
4 and I would appreciate if I
5 could have response at your
6 earliest convenience."

7 So on the 24th of October --

8 MR. VIGNA: You are going to tab 7-0?

9 MR. WARMAN: Yes.

10 MR. VIGNA: Do you recognize it?

11 MR. WARMAN: Yes. This is the
12 response that I received from Network Solutions. I
13 printed it off on the 23rd of October, 2005 and
14 provided it to the Commission.

15 MR. VIGNA: I would like to file it
16 as an exhibit.

17 THE CHAIRPERSON: Okay, yes.

18 MR. VIGNA: We filed N also, right?

19 THE CHAIRPERSON: Yes.

20 MR. VIGNA: Sorry for repeating
21 myself.

22 What response did you get?

23 MR. WARMAN: Network Solutions
24 Customer Support contacted me and stated that the
25 website domain name, jrbooksonline.com, had been

1 transferred to another registrar, Go Daddy Software, on
2 August 14th, 2005, and because of that they couldn't
3 follow up any more on the domain name's account; that
4 my inquiries had been closed and that if I had any
5 concerns regarding domain name I should kindly contact
6 its current registrar and they hope their update had
7 been helpful.

8 MR. VIGNA: So what -- I guess the
9 conclusion is obvious. But what comes up from this
10 denouement?

11 MR. WARMAN: Well, the conclusion
12 that I draw from it is that the -- subsequent to the
13 material being submitted to the Commission in regard to
14 this website, that the contact information and
15 administrative contact information -- excuse me -- the
16 registrant and administrative contact information is
17 subsequently changed and that to the best of my ability
18 to pursue the matter, the information that was
19 subsequently provided was false.

20 MR. VIGNA: So we go back to tab 2.

21 THE CHAIRPERSON: 2?

22 MR. VIGNA: Tab 2.

23 THE CHAIRPERSON: At some point if
24 this is a convenient moment, I think it might be a good
25 time for a break.

1 MR. VIGNA: Now, all as part of the
2 evidence related to, all this deals with finding the
3 identity of which website?

4 MR. WARMAN: Jrbooksonline.com.

5 MR. VIGNA: And the tabs that I'm
6 going to follow up with now, can you tell from tab 2
7 which website this relates to?

8 MR. WARMAN: Yes. This is from --
9 this is the hard copy print-off of what I viewed on the
10 JRBooksOnline website when you went to "The
11 International Jew" section, "The World's Foremost
12 Problem."

13 MR. VIGNA: And that's from what we
14 saw earlier in tab 1.

15 MR. WARMAN: Yes. By clicking on the
16 link you were taken to another portion of the website,
17 and this is what would initially appear.

18 MR. VIGNA: The link would be at tab
19 1.

20 MS KULASZKA: If I could object at
21 this point again.

22 I would like to raise the objection.
23 This again appears to be a cut and paste. There is no
24 idea of -- there's no URL, there's nothing to indicate
25 it comes from a website. It hasn't been printed off a

1 website. It's been printed off -- I don't know where
2 it's been printed off, certainly not off a website.

3 THE CHAIRPERSON: Ms Kulaszka, I
4 think it's more appropriate to raise that point in
5 terms of reliability of what is being produced later on
6 in cross-examination. Your point is on the record but
7 I also have the evidence of this witness saying he
8 prepared it that way.

9 MS KULASZKA: I just feel compelled
10 to make the objection.

11 THE CHAIRPERSON: I think you are
12 moving to another section. I think it is a good time
13 to take a break before we proceed any further. We are
14 moving away from those other documents where I wanted
15 to look at them, so if I could look at them during the
16 break somehow.

17 How long would it take you find them,
18 Mr. Warman?

19 MR. WARMAN: Five minutes.

20 THE CHAIRPERSON: Then maybe provide
21 them to Ms. Joyal and she will bring it to me.

22 We'll take a 20-minute break, unless
23 I need longer time to read the documents. So I have
24 3:07, so 3:25.

25 --- Recessed at 3:07 p.m.

1 --- Resumed at 3:40 p.m.

2 THE CHAIRPERSON: I had an
3 opportunity to review the documents at issue. I'd just
4 like to ask you a question, Mr. Warman. Is there a
5 particular reason why you've deleted the city from
6 which you sent this?

7 MR. WARMAN: Part of my address. It
8 narrows --

9 THE CHAIRPERSON: It's just a city.
10 I don't think there's any question. We've done
11 conference calls where you've indicated where you are
12 located.

13 MR. WARMAN: I drew a box around the
14 information and coloured it all out.

15 THE CHAIRPERSON: I feel that doesn't
16 deserve to be withheld, that information. So there's
17 no other argument other than the fact that it fell into
18 the box, right?

19 MR. WARMAN: Well, my personal --

20 THE CHAIRPERSON: Well, there's a
21 specific argument. But I don't think there's any real
22 issue.

23 Here's my initial reaction: When we
24 had the discussion on venue you made it quite clear
25 where you were located and the others indicated where

1 they were located and we were looking for location.
2 You suggested one, I recall, that was half way between
3 where you are located and where counsel and the
4 respondent were located, so --

5 MR. WARMAN: Given the historical
6 nature of it --

7 THE CHAIRPERSON: I think on that
8 front -- so I've had a chance to review the material
9 and the only part -- indeed it's as described by
10 Mr. Warman and Mr. Vigna, Ms Kulaszka, and the others,
11 but I don't see any reason why -- let's go one by one
12 on each option and I'll tell you what's there. Are
13 these the only copies you have?

14 MR. WARMAN: Yes, they are.

15 THE CHAIRPERSON: If the parties need
16 to see the document in the form as I present it now --
17 some parts will remain redacted.

18 MR. WARMAN: Could I just ask a
19 question?

20 THE CHAIRPERSON: Yes.

21 MR. WARMAN: Is there any -- of what
22 utility is it other than to say this is the city and
23 this is the country that were indicated underneath the
24 name? There's no significance to them.

25 THE CHAIRPERSON: There isn't really,

1 but your name is there.

2 MR. WARMAN: But the name is there.
3 I mean, if you simply say -- it doesn't add anything to
4 the document.

5 THE CHAIRPERSON: I'll put it that
6 way to the parties and we'll see if there's an
7 objection still on your part.

8 Let's go one by one to the items.
9 They begin with the letter I, I believe.

10 So I agree that the "from" part,
11 which is simply the e-mail address and it's not an
12 employer address, it's as Mr. Warman indicated, it's a
13 Yahoo address, you said that earlier this morning, and
14 indeed it is a Yahoo address. I think e-mail addresses
15 are personal the same way as phone numbers are personal
16 these days, so I don't think that needs to be
17 disclosed. It doesn't contribute anything to what's
18 being discussed at the hearing.

19 The bottom part after the name
20 "Richard Warman", I will say verbally again without
21 getting into the details -- and we'll see if there is
22 an objection if you want to see the original.

23 All it indicates after Mr. Warman's
24 name is his profession, which we know to be as an
25 attorney, and the location where he resides. After

1 that is the same e-mail. So the e-mail will remain
2 redacted.

3 I'm not overly concerned with the
4 city in which he resides. I'm not repeating it here
5 since we're in public. But everyone knows. Everyone
6 was on those conference calls on venue and you know
7 where he lives, at least his residence for the purposes
8 of deciding venue at the time. You are all familiar
9 with that. That's all it says, just the city. Nothing
10 else. Doesn't even say the province.

11 On the second item, J, the only part
12 that is redacted in documents that we all have was the
13 e-mail address to which Network Solutions sent their
14 e-mail. It's, again, his personal e-mail. It's a
15 Yahoo e-mail. That's all there is.

16 And at the bottom you can see it's
17 yahoo.com. I gather it's the coding that could get you
18 to the e-mail address. It's just a bunch gibberish,
19 just numbers. Everyone uses hotmail or e-mail. We all
20 get that stuff at the bottom there.

21 So the subsequent page K, item K or
22 tab K, all it says is "Richard Warman attorney" and the
23 location. That's all that's said. There's nothing
24 else there.

25 I'm at L. The only part redacted at

1 the document -- just as I mentioned a couple pages
2 before, just his e-mail and the gibberish that might
3 contain a code with the e-mail at the bottom,
4 yahoo.com.

5 Finally -- no, two more documents. N
6 as in Norman. Again, after Mr. Warman's name is the
7 city that he resides in and his profession, attorney,
8 and subsequent to that, again, the same e-mail.

9 And finally tab O. Tab O. The only
10 thing that's been redacted is the e-mail again, just
11 like on the previous occasions. So there's nothing
12 other than that there.

13 Now, if you insist on having copies
14 of it with those things, my word is there. This is
15 what I've seen, Ms Kulaszka. Do you wish to take a
16 position at this time or can we move on?

17 MS KULASZKA: No, I accept your
18 ruling on that.

19 THE CHAIRPERSON: There's nothing
20 there.

21 MS KULASZKA: However, I need a
22 chance tonight to look over some of these documents
23 because some of these documents I believe have never
24 been disclosed to Mr. Lemire.

25 THE CHAIRPERSON: Sometimes they are

1 being entered into evidence and never been disclosed?

2 MS KULASZKA: Well, we are trying to
3 check them out. Certainly there is one that has never
4 been disclosed as far as I can see.

5 THE CHAIRPERSON: Maybe you can alert
6 Mr. Vigna to what has come to your attention by the end
7 of the day. He, perhaps, can give you the answer
8 instead of you having to search through all your
9 documentation and direct you. Would that be of help?

10 MS KULASZKA: Yes, we can do that.

11 THE CHAIRPERSON: Mr. Vigna, just
12 point out the ones you are concerned about just before
13 we close at the end of the day. Mr. Vigna, you'll do
14 that?

15 MR. VIGNA: Ms Kulaszka will let me
16 know.

17 THE CHAIRPERSON: Ms Kulaszka will
18 tell you, these two, three documents I've never seen
19 them before, where are they from? And you likely will
20 be able to tell her where they are from, if they were
21 disclosed. If not, then if there is an issue arising
22 from that --

23 MS KULASZKA: Maybe I can be given
24 tonight to do that, because there is a whole binder of
25 documents. We've just become alive to this looking

1 through what we were disclosed and what's in the
2 binder. So we can just have a look --

3 THE CHAIRPERSON: So you would rather
4 wait until morning?

5 MS KULASZKA: Maybe tomorrow.

6 THE CHAIRPERSON: Okay, Ms Kulaszka.
7 That's fine.

8 So these are originals that I'll give
9 to Mr. Warman. I don't think I put any marks on them.

10 MS KULASZKA: If I could just raise a
11 matter, and that's the documents we've just went
12 through. They were disclosed to the respondent on
13 January 19 of this year.

14 THE CHAIRPERSON: Really? All the
15 ones with the letter tabs were disclosed recently?

16 MS KULASZKA: So in the summer of
17 2005 obviously Mr. Warman is trying to find out who
18 owns JRBooksOnline. That's a year-and-a-half ago, and
19 days before the hearing we got these.

20 So, Mr. Lemire spoke to me about it
21 and said there were a lot of things we could have done
22 if we'd had this matter, searches we could have done
23 had we known this. And at this point here we are, and
24 he's severely prejudiced.

25 THE CHAIRPERSON: Well, how can we

1 correct the prejudice? How much time, for instance,
2 would you need to prepare yourselves to deal with this
3 information that was disclosed recently?

4 MS KULASZKA: I don't know. We're
5 here at the hearing and it takes time to do things. It
6 took time for him to do this. It would take time for
7 us to go back and forth with -- to do our own
8 investigation.

9 They're, surprisingly, relying very
10 heavily on JRBooksOnline, whereas the material that was
11 disclosed to us was very heavily FreedomSite. So I'm
12 very surprised by what's happening in this hearing
13 actually.

14 Then suddenly they are relying on
15 these letters which were disclosed to us just a few
16 days ago, whereas it appears the materials they did
17 disclose to us that they were going to be relying on
18 they are not relying on any more.

19 MR. VIGNA: Mr. Chair, the 19th --
20 I'm not sure if that was the exact date. The
21 JRBooksOnline material, what happened is that there
22 was -- it was misplaced and I asked to look for it
23 everywhere. When we finally found it we sent it.
24 There was several files -- you can see the file was
25 pretty elaborate.

1 THE CHAIRPERSON: I understand some
2 of the obscure stuff that came out of the material that
3 was sought after my ruling of August, you didn't expect
4 to have to deal with. Here you are leading a whole
5 case on JRBooksOnline.

6 MR. VIGNA: It's not whole case,
7 Mr. Chair.

8 THE CHAIRPERSON: Not the whole case,
9 a whole case. It's a whole part of the case.
10 Mr. Warman, I'll get to you. I think I should give
11 Mr. Vigna the opportunity to complete --

12 MR. VIGNA: Mr. Chair, when I was
13 alerted to the issue I went to look for it. Found the
14 CD-ROM and I sent it.

15 THE CHAIRPERSON: What issue were you
16 alerted to? I seem to be aware of JRBooksOnline being
17 a matter at issue here since -- well, since the time I
18 issued my ruling about them having to disclose to you
19 all those books.

20 MR. VIGNA: Because the folder was
21 not located. It was misplaced and it was finally
22 located when I asked several repeated times and finally
23 we located the CD-ROM.

24 THE CHAIRPERSON: Mr. Warman can help
25 us here. There's disclosure that occurs from both

1 Mr. Warman and the Commission.

2 MR. VIGNA: I mean, there's bits and
3 parts of disclosure. The one I'm talking about is one
4 CD-ROM which was regarding JRBooksOnline. When the
5 respondent asked me about it I went to make further
6 inquiries. We couldn't find it at first. Finally we
7 found it and --

8 THE CHAIRPERSON: I want to
9 understand what we are talking about, and then I'll get
10 to you, Mr. Warman. I want to understand. Which are
11 the documents that were just disclosed to you in the
12 tabs?

13 MS KULASZKA: I'm sorry, I didn't
14 catch that?

15 THE CHAIRPERSON: Which tabs are the
16 ones that were just disclosed to you so I'm familiar
17 with what we're talking about, that were disclosed in
18 January? I heard your client say G to O?

19 MS KULASZKA: Yes, it looks like G
20 to O. It starts with the WHOIS results, JRBooksOnline
21 of 23rd of 7, 2005, and then it goes up to --

22 THE CHAIRPERSON: It starts with the
23 back and forth with Network Solutions. It includes the
24 document by which we can identify, allegedly, the --

25 MS KULASZKA: The zip code lookup,

1 all the e-mails.

2 THE CHAIRPERSON: While you're doing
3 that, I see Mr. Warman standing.

4 MR. WARMAN: Well, I mean, there's
5 been a submission to you that JRBooksOnline wasn't
6 going to be relevant to this case. It's simply not the
7 case.

8 THE CHAIRPERSON: That's actually my
9 point. It is relevant to the case that you put forth,
10 so how come it wasn't disclosed? That's what I'm
11 trying to understand.

12 MR. WARMAN: If I can just finish.
13 The point is, is that there were tons of material.
14 There was an entire diskette related to JRBooksOnline.
15 It was submitted to the Commission on October 2004.

16 THE CHAIRPERSON: From the
17 respondent?

18 MR. WARMAN: No, from me to the
19 Commission, and to the best of my knowledge has been
20 disclosed ages ago to the respondent. It's simply
21 these documents between G and O that I understand are
22 being made an issue of.

23 MS KULASZKA: I can clarify that. I
24 have a CD, Warman versus Lemire, JRBooksOnline, October
25 11th, 2004 and it was disclosed to me on January 8,

1 2007, just a couple weeks ago. I think Mr. Vigna can
2 confirm that.

3 MR. VIGNA: The CD-ROM that Ms
4 Kulaszka is talking about was given to the Commission
5 by Mr. Warman. Mr. Warman probably figured it was
6 sent.

7 When Mr. Kulaszka alerted to me by
8 letter it was JRBooksOnline missing, I asked to look
9 for it. There was several steps to try to locate it.
10 I said, "Where the CD-ROM? Where is the CD-ROM."

11 Finally in a little file folder which
12 was somewhere, my assistants brought it, we finally
13 found it. So when we found it I printed it. I
14 actually sent the CD-ROM.

15 Now, the G to O, that's a different
16 issue all together. So when I'm speaking I want to be
17 clear what's being referred to, because we did send one
18 CD-ROM in January, and there was -- because simply
19 misplaced. I don't know which ones they were looking
20 for.

21 THE CHAIRPERSON: I'm not looking for
22 blame. We are looking at the effect here. Just like
23 discrimination law as a whole, right. So let's start
24 from the beginning.

25 The complaint alleges --

1 MR. VIGNA: Another issue is,
2 Mr. Chair --

3 THE CHAIRPERSON: Let me set out my
4 situation. Look. When did JRBooksOnline first emerge?

5 MR. VIGNA: Was in the complaint.

6 THE CHAIRPERSON: Was it in your
7 complaint or was it in your statement of particulars?
8 It was in your particulars so it became an issue at the
9 hearing. And as late at or early as, whatever you want
10 to say, August I'm dealing with JRBooksOnline as a live
11 issue that you are going to bring forth evidence as has
12 been mentioned in the opening statement, that the
13 respondent is responsible for material that's been
14 placed on JRBooksOnline and that the material is in
15 violation of section 13.

16 That means that -- logic dictates,
17 you will be leading evidence, you will have to lead
18 evidence that links JRBooksOnline to this respondent.
19 That evidence appears to be, at least from what I've
20 seen so far, or it includes, tabs 7-G onwards. That's
21 what it seems to be relating to.

22 So that's material from that moment
23 on you should know you are going to have to lead. Yet
24 it doesn't get disclosed, even though it's highly
25 relevant to the issue, until a week ago, by

1 inadvertence maybe.

2 Now, rule 9.3(c) says, let's be
3 clear:

4 "Except with leave of the panel"

5 -- which you have not asked for until now --

6 "which leave shall be granted on
7 such"

8 That was my addition here, that
9 wasn't in here so I'll repeat it again.

10 "Except with leave of the panel,
11 which leave shall be granted on
12 such terms and conditions as
13 accord with the purposes set out
14 in 1 sub (1), and subject to a
15 party's right to lead evidence
16 in reply, (C), a party that does
17 not disclose and produce a
18 document under rule 6 shall not
19 introduce that document into
20 evidence at the hearing."

21 Now, rule 6 is the one that says,

22 "...within the time affixed by
23 the panel each party shall
24 disclose."

25 And this was a late disclosure. This

1 came after the dates we had set down for disclosure.
2 Mind you, there's been late disclosure going on on both
3 sides so...

4 MR. VIGNA: Mr. Chair, the only thing
5 I can tell you in that, though you might say it wasn't
6 disclosed until late, it's something that is on the
7 website, something on-line. It's something that should
8 be to the knowledge of the respondent.

9 THE CHAIRPERSON: It's on the
10 Internet.

11 MR. VIGNA: It's not --

12 THE CHAIRPERSON: Billions of
13 websites.

14 MR. VIGNA: I understand, Mr. Chair.
15 It's not that we didn't want -- that we wanted to hide
16 this information. It was mentioned, there was
17 inadvertence.

18 THE CHAIRPERSON: I know it's
19 inadvertence. But the thing is how do we deal with it?
20 I'm going to turn the other way.

21 Ms Kulaszka, there's been late
22 disclosure going on on both sides. You've even filed
23 an expert's report a few weeks before the hearing
24 begins and I allowed that. So we're all playing sort
25 of a bit loose with the rules here all for the good.

1 The good is that we want all the information in front
2 of the Tribunal, but with fair opportunity for everyone
3 to deal with them.

4 Our rule 9 anticipates the situation,
5 Ms Kulaszka. It says:

6 "Except with leave of the panel,
7 which leave shall be granted on
8 such terms and conditions
9 purposes set out in 1(1)."

10 And 1(1) states that:

11 "These rules are enacted to
12 ensure all parties to an inquiry
13 have the full and ample
14 opportunity to be heard,
15 arguments and evidence be
16 disclosed and presented in a
17 timely and efficient manner and
18 all proceedings before the
19 Tribunal be conducted as
20 informally and expeditiously as
21 possible."

22 I invoked these provisions, if I
23 recall correctly, in my decision to allow the evidence
24 of Dr. Persinger to come into this hearing. And what I
25 was -- working with that -- we can work with that type

1 of an approach here with this difficulty we have here.

2 I'm asking you how would you be able
3 to deal with this evidence in a manner that would --
4 either research it or in some other way in order to be
5 able to answer or rely to this late disclosure.

6 MS KULASZKA: I just want to make a
7 point. Any late evidence that we have asked for or
8 disclosed has to do with the constitutional issues
9 where people who are going to be dealing with it
10 probably have knowledge already, certainly what I gave
11 to Dr. Mock. She probably knows most of these things.

12 THE CHAIRPERSON: That's the same
13 kinds of assumptions Mr. Vigna was making about you
14 knowing what's on the Internet, JRBooksOnline.

15 MS KULASZKA: What they disclosed to
16 me on January 19th is not on the Internet. These are
17 private e-mails. I don't know why he believes they are
18 on the Internet. They're private e-mails. The first
19 time we've seen them is on January 19th. In fact,
20 later -- because I didn't get this by fax, I got it by
21 courier.

22 THE CHAIRPERSON: So your submission
23 is that --

24 MS KULASZKA: They have to do with
25 the merits of the case, the identity of the person who

1 runs JRBooksOnline. My client doesn't run
2 JRBooksOnline so it becomes a problem, obviously, to
3 prove who runs it, and it's very difficult to prove.
4 Mr. Warman made all these searches. He must've known
5 it wasn't disclosed. He gets copies of the disclosure
6 material.

7 THE CHAIRPERSON: Well, I'm not
8 looking for blame here, as I told you. My concern here
9 is to ensure evidence gets in in a fair manner and
10 enables all persons to have an opportunity to deal with
11 the evidence that's put forth by each side in a fair
12 way. That's all we're trying to do here with the
13 disclosure.

14 MS KULASZKA: Well, is it fair they
15 can produce such vital evidence?

16 THE CHAIRPERSON: What would be
17 unfair is if you didn't have a chance to deal with it.
18 I'm looking for a way you can deal with that evidence.
19 It's not the first time that we have late disclosure.

20 Section 9 is meant to direct us, rule
21 9, to how we can deal with the problem in a manner
22 that's fair to all sides. And I'm saying that, is
23 there a manner in which you could deal with this
24 evidence if it's entered in?

25 MS KULASZKA: Let me consult with

1 Mr. Lemire, because he is the person who would know.

2 THE CHAIRPERSON: It's more technical
3 in nature.

4 MS KULASZKA: More technical.

5 THE CHAIRPERSON: We're not supposed
6 to be slaves to the procedure. That's what -- rule 9
7 and what rule 1 speak to. That's precisely the reason
8 why -- I saw no reason why the evidence of the experts
9 should be excluded. Let's just get it all out there in
10 a way fair to all.

11 We're talking about five or six
12 documents here, so I'll give you the opportunity to
13 discuss it with your client and see in what manner you
14 could prepare yourselves, and where that preparation
15 requires that something be put before the Tribunal
16 three weeks from now or four weeks from now --

17 MS KULASZKA: I'll do that tonight.

18 THE CHAIRPERSON: Do you understand
19 what I'm saying?

20 MS KULASZKA: I do.

21 THE CHAIRPERSON: We already have an
22 objection from the other side about not wanting to have
23 that kind of evidence come in at that stage, but that
24 won't have any bearing if the -- the late evidence that
25 may come in a month from now or six weeks after

1 disclosure. If the cause is due to the late
2 disclosure, then so be it. We'll have late evidence,
3 too. Okay?

4 So I've noted I'll call it an
5 objection right now, Ms Kulaszka, but we'll continue.

6 MR. VIGNA: Mr. Chair, for the
7 purposes of clarity, the objection is for which
8 documents?

9 THE CHAIRPERSON: Mr. Lemire
10 indicated, as I heard on the side, G to O. Is that
11 correct, Ms Kulaszka?

12 MR. VIGNA: Yes, but we're
13 complaining about tabs 1, 2 and 3.

14 MS KULASZKA: The purpose of this
15 objection is G to O.

16 THE CHAIRPERSON: You already started
17 talking about tab 2 when I interrupted you for the
18 break.

19 MR. VIGNA: Mr. Warman, can you look
20 at tab 2. Look at it and tell us if you recognize it.

21 MR. WARMAN: Yes, there is a
22 seven-page document entitled, "The International Jew -
23 The World's Foremost Problem," by Henry Ford. And what
24 it is is -- I printed this off from a saved web page
25 from the jrbooksonline.com website and provided it to

1 the Commission pursuant to my complaint.

2 MS KULASZKA: If I could just put an
3 objection. I don't believe we've ever been -- never
4 had this disclosed to us in this form.

5 THE CHAIRPERSON: I thought your
6 objection was going to be about cut and pasting.
7 You've already made that objection, have you not, on
8 the cut and pasting?

9 MR. VIGNA: Mr. Chair, tomorrow we
10 can have the computer and I was planning on showing the
11 actual version on the CD-ROM of these documents which
12 might be more than what's on paper, because when you
13 print it some of it doesn't come out as it is.

14 THE CHAIRPERSON: Are you saying this
15 was included in a broader document?

16 MR. WARMAN: Mr. Chair, if I can
17 assist perhaps.

18 THE CHAIRPERSON: Yes, Mr. Warman.

19 MR. WARMAN: All that is is that's
20 electronic versions of these documents that I submitted
21 to the Commission back in October of 2004.

22 So tomorrow all that Mr. Lemire is
23 proposing, that I'm proposing, we'll show you the
24 projection of the screen shot as it was saved on the
25 web page and that will be a clear indication that this

1 material was present.

2 THE CHAIRPERSON: Just to be clear
3 with respect to what we just discussed, that CD in the
4 hands of Mr. Vigna right now is what was disclosed on
5 January something?

6 MS KULASZKA: January 8th.

7 THE CHAIRPERSON: January 8th, 2007.

8 MR. VIGNA: I don't remember by
9 heart, but it was disclosed late, in January, in
10 beginning. That's not the E to G. This is just --

11 THE CHAIRPERSON: I know. So the
12 same objection, Ms Kulaszka, it's the same objection
13 you made with record to 7-G onwards, you are making now
14 with regard to tab 2?

15 MS KULASZKA: What has happened is
16 the Commission made disclosure in November 2005 and it
17 gave us a lot of documents and it gave us "The
18 International Jew, The World's Foremost Problem". But
19 it's not in this form. It's actually printed off a
20 website. The URL is there, the date.

21 THE CHAIRPERSON: Oh, so it's the
22 form that's different.

23 MS KULASZKA: So I'm wondering why
24 they are giving us a different version? Why aren't
25 they giving us the very document they disclosed to us

1 which has all the information and it is an actual
2 reproduction of the website as it appears?

3 THE CHAIRPERSON: Ms. Kulaszka, I
4 think that's fair game for you to bring up in your
5 cross-examination of the witness.

6 My concern at this moment was whether
7 the content itself was disclosed to you.

8 Now, from what you are saying it was
9 disclosed to you but in a different form and there may
10 some discrepancies you may want to bring to our
11 attention tomorrow, or whenever the cross-examination
12 takes place.

13 Am I correct in my interpretation of
14 what you just said, Ms. Kulaszka?

15 MS KULASZKA: No, it makes things
16 very confusing, doesn't it? If they disclose
17 documents, they should produce those documents.

18 THE CHAIRPERSON: In identical form.

19 MS KULASZKA: Sure. It means I have
20 to go through the whole document and see if it is the
21 same document.

22 THE CHAIRPERSON: Mr. Vigna, is there
23 any possibility you could be referring to documents
24 that are in the same form? How does this come to be
25 that this form is different? Because it was on the

1 recent CD, is that why?

2 MR. VIGNA: I don't know, Mr. Chair.
3 This is what I asked to be printed and this is how it
4 came out. I'm not very technical in order to know why
5 there is a visual difference, but the content is the
6 same.

7 THE CHAIRPERSON: Ms. Kulaszka, all I
8 can say is judging from what Mr. Vigna keeps telling
9 us, he didn't do this intentionally by inadvertence,
10 but there's a lot of inadvertence going on here. If
11 you need more time during the day tomorrow to look at
12 the material again, I'll accommodate you.

13 Let's move on.

14 MR. VIGNA: Mr. Warman, tab 2, we
15 produced it. Can you tell us the contents of it?

16 MR. WARMAN: Yes. What this is is
17 it's a seven-page document that is a print-off of the
18 first seven pages of The International Jew that I
19 submitted to the Commission pursuant to my complaint.
20 And perhaps that's sufficient just to identify it.

21 THE CHAIRPERSON: Sorry, could you
22 repeat what you just said.

23 MR. WARMAN: I just said perhaps
24 that's sufficient for the purposes of identifying.

25 MR. VIGNA: It's been produced, I

1 believe.

2 THE CHAIRPERSON: No. We have an
3 objection. So you wish to produce it. It's the
4 document that you printed off -- saved and printed off.

5 MR. VIGNA: We would like to produce
6 it then.

7 THE CHAIRPERSON: It's produced.

8 MR. VIGNA: Now, tell us the contents
9 of the document and make the link with the previous
10 document, where you found, the add line on page --

11 MR. WARMAN: What it is -- if you
12 look back to page 9 of tab 1.

13 MR. VIGNA: Yes.

14 MR. WARMAN: It states, "The
15 International Jew - The World's Foremost Problem".
16 When you clicked on that you would be taken to this.
17 And this is simply -- the first six pages are simply
18 the index of this document.

19 THE CHAIRPERSON: Yes.

20 MR. WARMAN: And the seventh page is
21 simply the first page. If you look at page 1, the very
22 first thing in the index is, "International Jew
23 (preface)". It's about two-thirds of the way down.

24 At the left-hand side it says, "V.1 -
25 The International Jew", and then there's bracket,

1 "(preface)".

2 THE CHAIRPERSON: I'm sorry, are you
3 on page 7?

4 MR. WARMAN: Page 1.

5 THE CHAIRPERSON: You said -- so,
6 preface? Sorry. Okay. Yes?

7 MR. WARMAN: So by clicking on
8 "(preface)" it would take you to this. It's an
9 extremely long document, so rather than print out the
10 entirety of The International Jew, all I did was print
11 out this portion of it to show -- not just what's the
12 index, but by clicking on the index you could go to any
13 portion of it. And I personally went to a large number
14 of the portions of the index, clicked on them and was
15 taken to the appropriate chapter that was indicated,
16 that was present annexed the website.

17 MR. VIGNA: Can you tell us about the
18 contents?

19 MR. WARMAN: Yes, I don't propose to
20 go into it extensively just because it's already been
21 the subject of a finding by the Tribunal. But
22 essentially what it is, is it's a collection of
23 articles that appeared in the Dearborn Independent that
24 was owned by Henry Ford and it is, in essence, a
25 collection of articles that purport to establish the

1 presence a Jewish conspiracy to take over the world and
2 America.

3 MS KULASZKA: I object. Mr. Warman
4 is not an expert in history or literature.

5 THE CHAIRPERSON: But if it relates
6 to what the text itself says, that's I think --

7 MS KULASZKA: He's not referring to
8 the text.

9 MR. WARMAN: In fact, what I'm doing
10 is referring to having read the document myself, and
11 that's what I took from it and that's why I'm saying
12 this is what it relates to based on having read the
13 document.

14 THE CHAIRPERSON: That's his
15 evidence, Ms Kulaszka. He can even be referring to
16 testifying as to hearsay, and under our rules that
17 would be admissible. Any issues can -- you can
18 challenge his knowledge of the text, you can put it to
19 him and see if it differs from his analysis, but this
20 is how his evidence is coming in.

21 So this is a document you say --
22 you've read more than just the preface, is that what
23 you're saying?

24 MR. WARMAN: Yes, I've read through
25 the entire document.

1 MR. VIGNA: And the judicial decision
2 that deals with this subject, you mentioned earlier,
3 what would it be?

4 MR. WARMAN: Warman v. Bahr, B-A-H-R.
5 So you can tell even just by looking at the index
6 itself. The first heading --

7 THE CHAIRPERSON: It's the table of
8 contents, right?

9 MR. WARMAN: Yes. I mean the title
10 about it itself, "The International Jew - The World's
11 Foremost Problem", then goes through:

12 "The Jew In Character and in
13 Business.

14 The Jewish Question.

15 Does a Definite Jewish World
16 Program Exist?"

17 I'm reading from page 2:

18 "The Historical Basis for
19 Jewish Imperialism."

20 It then goes into:

21 "Discussion of the Protocols of
22 the Eldest of Zion. Does Jewish
23 Power Control the World Press?

24 Does This Explain Jewish
25 Political Power?

1 The all-Jewish Mark On 'Red
2 Russia'?

3 Jewish Testimony in Favour
4 of Bolshevism.

5 How Jews in the U.S. Control
6 Their Strength, Conceal Their
7 Strength. This Scope of Jewish
8 Dictatorship in the U.S. Jewish
9 Control of the American Theater.

10 Jewish Supremacy in Motion
11 Picture World."

12 MR. VIGNA: Can you just tell us
13 about page 23 also.

14 THE CHAIRPERSON: What was that,
15 Mr. Vigna?

16 MR. VIGNA: 23, item 23.

17 MR. WARMAN: I believe it's line 23
18 on page 3.

19 MR. VIGNA: Line 23.

20 MR. WARMAN: States:

21 "Jew Versus Non-Jew in New York
22 Finance."

23 Page 4 it continues:

24 "Are The Jews Victims Or
25 Persecutors?"

1 Jewish Degradation of
2 American Baseball.

3 Jewish Hotbeds of Bolshevism
4 in the U.S.

5 Will Jewish Zionism Bring
6 Armageddon?"

7 I don't propose to continue reading
8 it out. It's self-evident from the table of contents
9 as to the nature of the material.

10 At page 7, just to give the opening
11 example, the second paragraph states:

12 "Not only does the Jewish
13 Question touch those matters but
14 are of common knowledge, such as
15 financial control, usurpation of
16 political power, monopoly of
17 necessities and autocratic
18 direction of the very news that
19 the American people read, but it
20 reaches into cultural regions
21 and so touches the very heart of
22 American life."

23 The second last paragraph half-way
24 through states:

25 "The International Jew and his

1 satellites as the cautious
2 enemies of all that Anglo-Saxons
3 mean by civilization are not
4 spared, nor is that unthinking
5 mass which defends anything that
6 a Jew does simply because it has
7 been taught to believe that what
8 Jewish leaders do is Jewish.
9 Neither did these articles
10 proceed upon a false emotion of
11 brotherhood and apology as if
12 this stream of doubtful tendency
13 in a world were only accidentally
14 Jewish."

15 I think it's self-evident as to the
16 nature of the documents, what is included is therein,
17 and I believe that that was -- that the Tribunal was
18 cognizant of that matter in rendering its decision in
19 the Bahr case.

20 MR. VIGNA: Since you are talking
21 about the Bahr case, that's a decision in 2006?

22 MR. WARMAN: I believe so, yes.

23 MR. VIGNA: Now, tab 3. Look at the
24 13 pages, and I ask you if you recognize it so we can
25 produce it.

1 MR. WARMAN: Yes, this is again a
2 link from the main page of JRBooksOnline and it's
3 entitled, "To My English and Afrikaan Speaking
4 Brothers." It was printed off and provided to the
5 Commission from the electronic version that I provided.

6 MR. VIGNA: I would like to produce
7 this document.

8 THE CHAIRPERSON: Yes. It's been
9 saved and printed in the same manner, you said, as the
10 other ones?

11 MR. WARMAN: Yes.

12 THE CHAIRPERSON: Just so I'm clear
13 on that. When you looked at this on the web you saw it
14 as a typical web page? Is that what you are
15 testifying?

16 MR. WARMAN: Yes, or a PDF document.
17 It will become more clear when we show the CD.

18 THE CHAIRPERSON: Produced.

19 MR. VIGNA: Now, in terms of the
20 contents on tab 3. Can you go through the document,
21 not in totality but at least in terms of the key
22 portions of the document that you want to alert to the
23 attention of the Tribunal in relation to the complaint?

24 MR. WARMAN: Yes. Essentially what
25 it purports to be is a warning to the English and Dutch

1 residents, or Dutch-speaking residents of South Africa
2 that really they should stop fighting each other and
3 the their real enemy is "the Jew".

4 The second sentence in the opening
5 page, page 1, states:

6 "The only Racialism that exists
7 and should exist among us is The
8 Alien Meance, who as this little
9 book conveys to us, are the
10 White Asiatics-the Jews."

11 About half-way down there's another
12 paragraph that starts:

13 "As our English settlers and
14 Voortrekkers fought out each
15 other in these Jew-made wars, as
16 we fought together in the last
17 great war (also for the Jew),
18 let us now decide to fight
19 together to save what our
20 forefathers fought for and meant
21 us to possess."

22 Page 2 --

23 MR. VIGNA: It says:

24 "Hail South Africa! Yours for
25 the Cause. Raymond Rudman".

1 Is that anybody that you are familiar
2 with?

3 MR. WARMAN: No. It indicates he was
4 a former leader, provincial leader of the South African
5 National Party. Beyond that, I'm not familiar with the
6 name.

7 On page 2 towards the last full
8 paragraph, it states:

9 "It is now many years since
10 Judaeo-Germany marked out the
11 Transvaal for its prey. The
12 attraction of gold for the Jew
13 is irresistible."

14 Towards the bottom it states:

15 "In other words, one has to pay
16 twice (or three times) as much
17 gold for the use of gold, whilst
18 it is less by half than its
19 previous value in purchasing
20 goods. A great time for
21 Shylock, the money lender, the
22 man who controls the gold
23 power."

24 And this is in the context of a
25 paragraph discussing interest rates, power of gold and

1 what are described as Jew banks.

2 MR. VIGNA: Page 3.

3 MR. WARMAN: At page 3, approximately
4 two-thirds of the way down it states:

5 "But whenever the Jew-power
6 lends its aid, it strengthens
7 its bonds on the producer and
8 reduces him to a state of the
9 abject slavery in which the
10 native German finds himself
11 today."

12 THE CHAIRPERSON: I didn't see -- oh,
13 okay.

14 MR. WARMAN: Then in the next
15 paragraph below that it states:

16 "If a man borrows money of the
17 Jew, that man is the Jew's
18 slave."

19 MR. VIGNA: Page 4?

20 MR. WARMAN: Turn to page 5.

21 THE CHAIRPERSON: Yes.

22 MR. WARMAN: The second sentence in
23 the first full paragraph states:

24 "Once in complete control of the
25 output of South Africa, Germany

1 cum Jewry will be invulnerable.
2 Jewry having obtained supreme
3 power over Germany's finances
4 can wield all the power of
5 Germany in the interest of
6 Jewry. As one Jew has the whole
7 Jew tribe within his skin and
8 can command the help of the
9 other tribe in his interest -
10 the Dreyfuss case for example -
11 so Jewry can use the entire
12 national power of Germany to
13 further Jewry's projects."

14 MR. VIGNA: Page 6.

15 MR. WARMAN: If I turn to page 7.
16 Just below "Lady Phillips Pleads for 'a Friendly
17 Germany' on the Eve of War."

18 This is on page 7 about two inches
19 down. It states:

20 "To our knowledge, real Germans
21 who settle in South Africa make
22 excellent colonists. The Jew is
23 another proposition. The secret
24 of the affection of the Jew
25 mining magnates for Germany and

1 German banks, is that the banks
2 are all Jew banks and the
3 Germany they love is Jewmany.
4 The wife of the Jew, Phillips,
5 in 1913 by way of preparing us
6 for the German onslaught,
7 published a small volume
8 entitled: 'A Friendly Germany,
9 Why Not?' The proper answer to
10 this query would, of course, be
11 'Because Germany, like
12 ourselves, is run by Jews and
13 wars, not friendships, are the
14 Jews' harvests.' But that was
15 not the answer of Lady Phillips.
16 She is all for accepting the
17 friendship of the Jew-German
18 Spider and for urging the
19 English Fly, on the eve of the
20 war, to walk into his parlor
21 without delay."

22 If I turn to page 9. Approximately
23 three-quarters of the way down there's a heading, "The
24 Jew Curse in South Africa." It states:

25 "Wherever Jews are, there can be

1 no rest and no peace. Wars,
2 disputes, quarrels, strikes,
3 rebellions, revolutions are
4 harvests for the Jew, therefore,
5 he cultivates them on
6 principle."

7 Page 12, approximately half-way down
8 the page it states:

9 "In this manner, Jews have been
10 able to secure the monopoly of
11 trades throughout South Africa
12 in alcohol, tobacco, dynamite,
13 newspapers, theaters and
14 cinemas, to name but a few
15 items, in addition to their grip
16 on gold and diamonds. There is
17 practically not a theater or
18 cinema in all South Africa which
19 is not controlled by an American
20 Jew. I.S. Schleisinger."

21 Just below the heading "Conclusion",
22 second paragraph states:

23 "The Second Book of the story
24 shows the filthy and murderous
25 means by which the Jew-power has

1 acquired the Lordship of South
2 Africa. By the same means the
3 Jew has planted his Heel on the
4 prostrate form of England and on
5 all England's colonies and
6 sister nations.

7 Will England ever rise again
8 and come to grips with her
9 subtle, crafty, cruel,
10 hypocritical, remorseless foe?"

11 Those are all the portions that I
12 wish to point out in that document.

13 MR. VIGNA: Tab 4. Do you recognize
14 the tab, nine pages?

15 MR. WARMAN: Yes. Again this is a
16 print-off of an electronic version of a document that I
17 provided to the Commission entitled, "Bolshevism is
18 Jewish."

19 MR. VIGNA: So I would like to
20 produce that document.

21 THE CHAIRPERSON: Yes.

22 MR. VIGNA: Just for my information,
23 Mr. Warman, The International Jew, this also available
24 in book format or it's mainly on the Internet?

25 MR. WARMAN: Sorry, The International

1 Jew?

2 MR. VIGNA: Book format.

3 MR. WARMAN: I should be specific
4 that this isn't actually portions. These are separate
5 articles. The International Jew materials are just
6 contained in tab 2, and that 3 and 4 are separate
7 articles not connected with The International Jew.

8 THE CHAIRPERSON: I understand you
9 would click one of these other article titles that were
10 in tab 1 to get to tabs 3 and 4. Is that correct?

11 MR. WARMAN: Yes, I just wanted to
12 make sure that was clear.

13 To the best of my knowledge, The
14 International Jew is available in both electronic
15 format on the Internet and in a collected form in a
16 book-like form.

17 MR. VIGNA: Tab 4. What is the
18 importance of this document?

19 MR. WARMAN: The essence of the
20 article is that the Jewish community is responsible for
21 Bolshevism. It states -- in fact, the opening
22 statement is:

23 "The object of this pamphlet is
24 to prove Bolshevism is Jewish.
25 Bolshevism represents one of the

1 final stages in the deliberate
2 Jewish program for World
3 Domination."

4 About half-way down the page it
5 states:

6 "Then what is Bolshevism? It is
7 State Capitalism run by Jews in
8 the Jewish interests. The Jews
9 being a non-creative and
10 unproductive nation."

11 Towards the bottom of the page
12 approximately two inches from the bottom there's a line
13 that states:

14 "The natural equality of men and
15 the abrogation of property are
16 proclaimed by the Secret
17 Societies which form Provisional
18 Government, and men of Jewish
19 race are found at the head of
20 every one of them."

21 On the second page it begins:

22 "Why Russia Was Chosen. The
23 first victim was Russia. The
24 reason she was chosen was that
25 she was the only country which

1 defended herself by laws framed
2 to prevent the Jew from
3 contaminating and controlling
4 her."

5 The next paragraph states:

6 "The Slav..." and then a later
7 states:

8 "...accepted the idea of equal
9 wages for all and property held
10 in common and he got a toll of
11 20 million lives, double the
12 blood-bill of the Great War as
13 the price of his own starvation
14 and slavery under Jews."

15 At page 4 under the heading in bold,
16 "The Mark of the Beast":

17 "Every Russian soldier under the
18 Soviet bears upon his cap the
19 Jewish symbol of control, the
20 five-pointed star."

21 MR. VIGNA: Mr. Warman, the title
22 "The Mark of the Beast", is that the first time you've
23 seen such a title?

24 MR. WARMAN: No, it's not. Whenever
25 I've seen it in the past it's been used to refer to the

1 mark of Satan.

2 The next page, page 5, under the
3 heading "The Conspiracy of Silence", towards the bottom
4 it states -- it's talking about how the Jews are
5 responsible for controlling the Bolshevik government.
6 Then states:

7 "How is it, then, that this
8 plain fact has not been
9 generally known to the British
10 public? Because the Jews have
11 the money to suppress the truth
12 as they are doing today (1939)
13 about Hitler in Germany."

14 Then without going through all the
15 other places that it says the Jewish community was
16 responsible for Bolshevism, at page 9 at the "Summary"
17 it states:

18 "Bolshevism is Jewish. Its
19 object is to gain world control
20 for Jews through the combined
21 and allied forces of Jewish
22 Finance and Jewish Marxism. In
23 Russia, revenge has been the
24 moving factor."

25 MR. VIGNA: Tab 5. Can you tell us

1 if you recognize the document, and if you do we'll
2 produce it.

3 MR. WARMAN: Again, this is a
4 print-off of an electronic version of the document that
5 I saved and provided to the Commission pursuant to my
6 complaint.

7 MR. VIGNA: I would like to produce
8 the document.

9 THE CHAIRPERSON: Yes.

10 MR. VIGNA: Can you tell us by going
11 through the document the relevant portions that are of
12 interest?

13 MR. WARMAN: Yes. I'll be fairly
14 brief on this one. The heading is, "The Era of World
15 Ruin! (The Era of Democracy)". It states:

16 "The claim of the Jews that they
17 install democracy for the
18 express purpose of ruining the
19 Gentile world."

20 Then goes through a variety material
21 denigrating democracy, specifically multi-party
22 democracy where there are periodic elections.

23 At page 3. Throughout this document
24 it's talking very -- speaking very approvingly of the
25 Italian fascist movement. One of the things it's also

1 denigrating is the French national slogan, "Liberte,
2 Egalite, Fraternite."

3 So here what we have towards the
4 bottom of page 3, it states:

5 "All the originators of the
6 revolution of 1789, the French
7 Revolution, were Freemasons. We
8 read that on the 10th of August,
9 1792. The revolutionary leaders
10 made their watchword, 'liberty,
11 equality, fraternity'. So that
12 identifies the cry with
13 Freemasonry, but all Continental
14 Freemasonry is Jewish."

15 MR. VIGNA: Go on.

16 MR. WARMAN: At page 4, the fourth
17 paragraph down. This, again, is referring to the
18 protocols of Elders of Zion. It states:

19 "We found from the Protocols
20 that there had been laid down,
21 many centuries ago, an elaborate
22 plot for undermining the power
23 and position of all Gentile
24 nations so that they might fall
25 into such chaotic confusion,

1 financially and economically,
2 that they would, in sheer
3 despair, allow the Jews to take
4 in hand the Super-government of
5 the world."

6 Turn to page 6 towards the second
7 half of the second last paragraph. It states:

8 "We have shown where its
9 component parts, 'Liberty,
10 Equality, Fraternity' came from.
11 This from the Jews. Finally,
12 let the Italians pour the vials
13 of their contempt mixed the pity
14 upon those peoples who are still
15 so blind that they cannot see
16 the wreckers of their country
17 working their Satanic purpose
18 through the agency of
19 democracy."

20 MR. VIGNA: Tab 6. Identify it and
21 then we'll produce it. Do you recognize it the
22 document?

23 MR. WARMAN: Yes. It's a three-page
24 document that's a hard copy print-off of an electronic
25 document that I provided to the Commission pursuant to

1 my complaint.

2 MR. VIGNA: I would like to produce
3 the document.

4 THE CHAIRPERSON: Yes.

5 MR. VIGNA: So tell us what the
6 document deals with in terms of the relevant excerpts?

7 MR. WARMAN: Title of the document is
8 "Fascism and Jewry By William Joyce". States it was
9 first published in 1933. It states:

10 "Fascism in Britain had advanced
11 but a little way when it was
12 assailed by forces of whose
13 existence the leader, despite
14 his great political experiences,
15 had not dreamed when he set out
16 on the Crusade. The greatest of
17 these forces, never arraigned
18 against the old parties, was
19 found to be the power of
20 organized Jewry today mobilized
21 against Fascism which has long
22 refused subservience to it."

23 The second half of the next paragraph
24 continues this theme stating:

25 "This Movement does not attack

1 Jews by reason of what they are,
2 it resists them by reason of
3 what they do. They have dared
4 in their great folly to
5 challenge a conquering force of
6 the modern age, and their
7 challenge must be answered. The
8 Jews have attacked us physically
9 where there have been six Jews
10 to one Blackshirt. Wherever
11 organized opposition manifests
12 itself at our outdoor meetings
13 there can be seen behind a row
14 of policemen, in security, a
15 mass of bestial Jewish faces
16 contorted into hideous and
17 obscene grimaces."

18 The second paragraph after that
19 begins:

20 "Nor has the attack of the
21 Jewish sub-men been merely
22 physical."

23 MR. VIGNA: Page 2.

24 MR. WARMAN: Page 2. The first
25 paragraph approximately half-way through states:

1 "The very center of the Jewish
2 attack, however, is the
3 blackmailing and coercion of
4 British businessmen whose names
5 cannot be revealed because their
6 revelation would ruin them."

7 The next paragraph approximately an
8 inch into it states:

9 "The little Jew in the gutter
10 who insults the Crown and the
11 Flag is an impertinent anomaly o
12 to be removed as soon as
13 possible. But the great Jewish
14 financier who dictates to
15 government in an industry alike
16 constitutes by far the greatest
17 danger to our land."

18 The last paragraph states:

19 "The Jew grants his allegiance
20 to his own people and is
21 generally quite incapable of
22 bestowing it otherwise."

23 THE CHAIRPERSON: I didn't find that
24 one. I see it. Right at the top.

25 MR. WARMAN: Last paragraph on the

1 page.

2 THE CHAIRPERSON: I see it. Could
3 you repeat?

4 MR. WARMAN: It states:

5 "The Jew grants his allegiance
6 to his own people and is
7 generally quite incapable of
8 bestowing it otherwise, hence he
9 must be regarded and treated as
10 a foreigner who gives first and
11 last consideration to the
12 interests of his own invisible,
13 intangible but, nevertheless,
14 real and very powerful state.
15 Nor can the secret but mighty
16 state be permitted to exist
17 within the boundaries of any
18 other state which claims to call
19 itself National but free. Never
20 has the danger of this state
21 within a state been clearer than
22 in recent times. The organized
23 power of Jewry in a racial
24 interest has consistently
25 striven for more than two years

1 to foster the policy of War.
2 Because the Jews have lost their
3 power in Germany, they seek to
4 recover it by the slaughter of
5 British men and women in war."

6 At page 3. The third paragraph
7 states:

8 "Such is the grim truth of the
9 European situation today. The
10 Jews control and actuate alike
11 the decadent democratic
12 capitalism and the hideous
13 fratricidal Communism. Using
14 both instruments they hope to
15 prevent every white people from
16 achieving the freedom to work
17 out the fullness of their own
18 economic destiny. Only through
19 the defeat of Jewry can Britain
20 be free."

21 In the last paragraph it states:

22 "These little sub-men are a
23 nuisance to be eliminated, but
24 they're wealthy instigators and
25 controllers, well known to us,

1 are, in sum, a criminal
2 monstrosity for which not all
3 the gold of Jewry can pay the
4 just compensation which we will
5 demand and obtain."

6 MR. VIGNA: Tab 7. Can you tell us
7 if you recognize the document from, where it is, and
8 we'll produce it after?

9 MR. WARMAN: Yes. Tab 7 is the table
10 of contents for the document entitled "Jewish
11 Ritual-Murder - A Historical Investigation by Hellmut
12 Schramm". First name, H-E-L-L-M-U-T; last name is
13 S-C-H-R-A-M-M. And it's a print-off of an electronic
14 document that I provided to the Commission pursuant to
15 my complaint.

16 MR. VIGNA: This is all on the same
17 website?

18 MR. WARMAN: Yes.

19 MR. VIGNA: I would like to produce
20 it.

21 Can you tell us what is of importance
22 in the headlines or text of this document?

23 MR. WARMAN: Yes. This indicates
24 that it's a translation of a work by Hellmut Schramm on
25 the question of what is described as Jewish

1 ritual-murder. The document itself makes it clear by
2 Jewish ritual-murder what is meant is the torture and
3 murder of Gentile children by Jews particularly
4 relating to the period around Easter.

5 The document states that the
6 translation -- this is on page 1 -- states:

7 "The translation is dedicated to
8 Hellmut Schramm, whose face
9 remains unknown, and to Julius
10 Streicher and all the other
11 investigators who have paid with
12 their lives for publicizing the
13 information about this subject."

14 Then it's simply the table of
15 contents of the rest of the material that appears
16 pursuant to the material on Jewish ritual-murder.

17 MR. VIGNA: So I'll go to tab 7-A, I
18 guess.

19 MR. WARMAN: This is a six-page
20 document that is a print-off of the electronic version
21 of the forward that I provided to the Commission
22 pursuant to my complaint.

23 THE CHAIRPERSON: Forward of the
24 previous --

25 MR. WARMAN: The previous document.

1 So what follows is, in essence, the first portions of
2 the larger work on the issue of what it purports is
3 Jewish ritual-murder.

4 MR. VIGNA: The following A, B, C, D
5 is also in relation to the same 7?

6 MR. WARMAN: Yes, up to E.

7 MR. VIGNA: So let's go to -- we
8 produced I believe 7, 7-A.

9 Do you recognize that?

10 MR. WARMAN: Yes. This is the first
11 portion, the forward of the part 7.

12 MR. VIGNA: I would like to produce
13 it.

14 THE CHAIRPERSON: Yes.

15 MR. VIGNA: Now go to the contents in
16 terms of the forward, the key excerpts which you want
17 to bring to our attention.

18 MR. WARMAN: We begin by talking
19 about human sacrifice, and on page 2 -- it's also
20 talking about human sacrifice and animal sacrifice.

21 So the first -- the second paragraph
22 on the page states that:

23 "Insofar as a sacrificial animal
24 can take the place of an actual
25 intended human sacrifice as its

1 representation, Jewry is not
2 distinguishable from other
3 peoples who have known human
4 sacrifice. But it most
5 conspicuously has retained this
6 custom for a very long time."

7 On page 4 it's talking about an
8 individual who is refuting the question of
9 ritual-murder. It states at the bottom:

10 "Goldberg is playing hide-and-
11 seek. He knows just as well as
12 we do that it is exactly the
13 Gentile who is an animal
14 according to Jewish law. The
15 Talmud says explicitly, 'You are
16 called men, but the worldly
17 peoples are not called men (but
18 rather cattle)...' (Baba, mecia
19 114b and similar passages).
20 That the Gentile is a beast has
21 never seriously been contested
22 by any Talmudist. Now, if
23 animal sacrifice is pleasing to
24 Yahweh, then accordingly
25 ritual-murder is legally

1 justified. Only the sacrifice
2 of a Jew would be a sin against
3 the ritual laws."

4 MR. VIGNA: Goldberg is being
5 referred to as the famous Goldberg? Who's Goldberg?

6 MR. WARMAN: The individual that's
7 being referred to, Oskar Goldberg, who is referred to
8 at the bottom of page 3 and the article, "The Reality
9 of the Hebrews".

10 At page 6, the last paragraph states:

11 "Jewry is biologically
12 hereditary criminality,
13 religious syncretism with a
14 strong share of demonic belief.
15 Who struggles against Jewry that
16 man 'does the work of the Lord'
17 and fights a godly battle."

18 It indicates that that was written at
19 Berlin at the beginning of the war year in 1941 by
20 Johann von Leers.

21 MR. VIGNA: Tab 7-B. Do you recognize
22 the document introduction.

23 MR. WARMAN: Yes. This is a
24 continuation of the same document. This one in
25 particular is 16 pages.

1 MR. VIGNA: I'd like to produce it.
2 Can we go to the contents?

3 THE CHAIRPERSON: Okay.

4 MR. WARMAN: So this is the
5 introduction of the work. It states:

6 "In the years of Germany's
7 deepest powerlessness, Alfred
8 Rosenberg published a
9 translation of the French work,
10 'The Jew, Jewry and the
11 Judification of the Christian
12 Peoples' which had already
13 appeared in the year in 1869 and
14 had as its Chevalier Gougenot
15 des Mousseaux. Yet it soon
16 disappeared having been bought
17 out by Jewry while the author
18 himself fell victim to a Jewish
19 assault. He was eliminated, not
20 only because he had realized the
21 mentality of the Jew with razor
22 sharpness, but primarily in
23 consequence of the publicizing
24 the Jewish ritual-murders."
25 Jewish ritual-murders being in

1 bold.
2 "With that, des Mousseaux had
3 touched upon the deepest secret
4 of Jewry and uncovered the
5 crimes which had repeatedly been
6 inflicted upon Gentile humanity
7 as blood-tax by Jews and which,
8 due to all the economic,
9 political and intellectual means
10 of power at its command under
11 masterful direction, in the
12 overwhelming majority of cases
13 had eluded earthly justice."

14 MR. VIGNA: Jewish ritual-murders.
15 What is being referred to here, do you know?

16 MR. WARMAN: Yes. The work makes
17 clear that what they are referring to is the allegation
18 that for centuries Jews have seized innocent Gentile
19 children for the purposes of torturing them and
20 murdering them and consuming their blood.

21 MR. VIGNA: Go on.

22 MR. WARMAN: At page 4 towards the
23 bottom of the last paragraph states:

24 "But the Gentile peoples, who
25 knew on the basis of

1 centuries-long gruesome
2 experience exactly where the
3 satanic murderers of their
4 children were to be sought and
5 who, after each newly-occurring
6 crime, were able to recall
7 earlier crimes carried out
8 similarly in every way,
9 comprised those very 'classes of
10 the people in whom that kind of
11 suspicion still lives; among the
12 well-dressed rabble it has
13 followers, and these mentally
14 low-level classes, who are open
15 to fanaticism and superstition,
16 were goaded so long by political
17 unscrupulousness (XXIII) until,
18 for them, the trial against one
19 Jew seemed like a trial against
20 Jewry.'"

21 Page 7, the first full paragraph

22 states:

23 "This hatred becomes simply
24 infernal when Jewry senses
25 anywhere a beginning opposition

1 to Jews, a beginning realization
2 of this natural enemy of human
3 society and human culture."

4 The next paragraph states:

5 "And Theodor Fritsch, the old
6 master of the movement in
7 opposition to the Jews, wrote in
8 his foreword: 'Jewry may slither
9 its way from under the weight of
10 the accusations; just as little
11 as it once was able to weaken or
12 refute them, even as little will
13 it succeed against the proof of
14 the evidence of this writing:
15 The blood-witnesses of a
16 religion tangled in murderous
17 and blood-thirsty fanaticism
18 arise as accusers and demand
19 atonement and safety."

20 In the next paragraph it continues:

21 "For this treatise has fulfilled
22 its goal of supplying a further
23 useful weapon for the final
24 struggle with the Jewish
25 world-octopus, which is for us,

1 if it can be put in the hands of
2 every comrade of the people."

3 The next sentence states:

4 "Only a superficial or malicious
5 judgment can impute to my work
6 'prejudiced' attacks upon a
7 certain circle of our people;
8 this would be contradictory to
9 the National Socialist
10 attitude."

11 The last paragraph states:

12 "The time has come for the
13 thousand-year Jewish secret to
14 be exposed to the light."

15 And it indicates at the end it was
16 written in the war year 1941 by Dr. Hellmut Schramm.

17 MR. VIGNA: Page 9.

18 MR. WARMAN: Page 9 indicates that
19 it's a continuation of the translator's preface to this
20 material.

21 At page 10 towards the bottom the
22 last paragraph begins:

23 "The position I have come to
24 after translating this work is
25 that the accusation of JRM"

1 -- meaning Jewish ritual-murder --

2 " has always been based upon a
3 real and not an imaginary
4 phenomenon, a historical
5 reality."

6 THE CHAIRPERSON: Where are you now?

7 Page 10?

8 MR. WARMAN: Yes.

9 THE CHAIRPERSON: Would you repeat
10 the extract?

11 MR. WARMAN: Yes. It states:

12 "The position I have come to
13 after translating this work is
14 that the accusation of JRM "

15 -- meaning Jewish ritual-murder --

16 "has always been based upon a
17 real and not an imaginary
18 phenomenon, a historical
19 reality."

20 At page 11. At the bottom of point
21 number 8, it purports to give a quote by a Rabbi that
22 states:

23 "The murder of goys and the
24 drinking of their blood
25 increases the holiness of Israel

1 for the Jews."

2 Page 12. At the top part way into
3 the second -- first full sentence it states:

4 "...the central meaning of human
5 (i.e., Jewish only) life and
6 even of the universe itself is
7 inseparable related to the
8 existence of the Jews and of
9 their enemies, the goyim."

10 THE CHAIRPERSON: I'm sorry?

11 MR. WARMAN: The top of page 12.
12 First part of the first full sentence.

13 THE CHAIRPERSON: The central
14 meaning?

15 MR. WARMAN: Yes, down to "the goyim"
16 on the next line. I think that's adequate for that
17 tab.

18 MR. VIGNA: Tab C. Do you recognize
19 the tab, the document in the tab? That's 16 pages.

20 MR. WARMAN: Yes, it's a 16-page
21 printout of an electronic document that I provided to
22 the Commission pursuant to my complaint. It's an
23 extension of the work, Jewish Ritual-Murder, from the
24 website jrbooksonline.com.

25 MR. VIGNA: I would like to produce

1 this document.

2 THE CHAIRPERSON: Yes.

3 MR. VIGNA: Can you tell us what the
4 document relates to and the key excerpts, page per
5 page?

6 MR. WARMAN: What this is is it
7 purports to be a history of Jewish ritual-murder before
8 1840.

9 The first sentence begins:

10 "The Jewish ritual-murder is as
11 old as Jewry itself."

12 Page 3. Half-way down it then
13 purports to say:

14 "Under the pressure of
15 historical material, even the
16 Vatican saw itself forced on 18
17 November 1913 to render its
18 expert opinion unmistakably on
19 the matter of Jewish
20 ritual-murder as follows: 'It
21 is to be regarded as proven that
22 it is an old Jewish custom to
23 murder Christian children at
24 Easter time.'"

25 MR. VIGNA: Is this what you were

1 talking about when you mentioned Jewish ritual-murder?

2 MR. WARMAN: Yes, this is part and
3 parcel of what is purported to be described as Jewish
4 ritual-murder.

5 At the bottom of this page the last
6 paragraph states:

7 "It is natural that
8 international Jewry, even after
9 the murder instructions of its
10 secret law books had become
11 known to a larger circle in
12 excellent and unimpeachable
13 translations, beginning within
14 Eisenmenger and up through Erich
15 Bischoff, denied, making all
16 possible explanations, that
17 these crimes were committed.
18 The investigations which lie
19 before us should demonstrate the
20 dishonesty of this technique."

21 Then for the next -- pages 3, 4 and
22 5, it purports to go through attempts to support the
23 revelation of Jewish ritual-murder.

24 MR. VIGNA: The document speaks for
25 itself?

1 MR. WARMAN: Yes. Turn to page 6.

2 Page 6, paragraph 2 states:

3 "Jewry knew why it persecuted
4 these men with downright satanic
5 hatred. Maimonides knew why he
6 taught: 'If an unbeliever reads
7 the Talmud, so has he deserved
8 death.' Ritual-murder exists
9 not just in the 'hysterical
10 fantasy of out-worn
11 superstition', the confessions
12 of ritual-murderers cannot be
13 subsequently devalued as
14 'extracted by torture', on the
15 contrary, they are documentary
16 and authentically evidentiary
17 records of Jewish murder, which
18 prove as factual the occurrence
19 of ritual-murders up to our own
20 time, for Jewish ritual crimes
21 will be committed as long as the
22 Chosen people are at all able to
23 encyst themselves"

24 -- encyst being E-N-C-Y-S-T --

25 "themselves in Gentile humanity,

1 and as long as the true reason
2 for these satanic crimes is not
3 shown in all sharpness."

4 The next portion is all bolded:

5 "-- as a lawfully dictated,
6 repeated with strange
7 regularity, tied neither to
8 place nor time and conscious
9 profanation of the non-Jew, who
10 is considered the equivalent of
11 cattle."

12 End bold.

13 "Crimes, which because of this
14 have never been totally fought
15 against because their secret
16 motives remained unknown and the
17 non-Jew, confronting these facts
18 in stunned bewilderment, still
19 seem inclined to submit himself
20 to the blood monster of the
21 Jewish desert-god."

22 Towards the bottom of this page,
23 second last paragraph states:

24 "What is to follow is not a
25 matter of issuing a list of

1 documentarily proven Jewish
2 ritual-murders which have any
3 claim to completeness. Such a
4 list would be endless. We wish
5 to make clear that the cases
6 before us represent only a tiny
7 fraction of that horrifying
8 murder which has replayed itself
9 before our terrified eyes in
10 centuries and millenia."

11 The second paragraph after that
12 states:

13 "One question naturally occurs:
14 Are ritual-crimes still possible
15 today?"

16 It answers its own question:

17 "As mentioned at the beginning,
18 they are still possible
19 anywhere, even today, and are
20 actually committed where Judah
21 believes itself to be unobserved
22 and can bleed a people, as we
23 can prove by unerring evidence
24 for the Jewish blood-
25 intoxication is as old as the

1 Jewish tribe itself and is
2 commanded by the blood-god
3 Yahweh."

4 It then purports to essentially go
5 through what is, in essence, a shopping bag list of
6 purported examples of Jewish ritual-murder of Gentile
7 children. The only one of which I will address is at
8 page 12.

9 It states at the third paragraph:

10 "The most awful crime of English
11 Jews which was judicially
12 established, is reported by Geza
13 von Onody, according to
14 authentic court sources, in his
15 book about Tisza-Eszlar. Before
16 the feast day of Sts. Peter and
17 Paul in the year 1255, the Jews
18 in Lincoln kidnapped the
19 eight-year-old (later canonized)
20 boy Hugh and brought him into
21 the house of the Head Rabbi
22 there, Copinus;" C-O-P-I-N-U-S,
23 "after the child had been held
24 prisoner and flogged daily for
25 26 days, his executioners formed

1 a law court and brought the
2 innocent creature before it. A
3 Jew played the role of Pilate
4 and condemned the child to death
5 on the cross. The rest of the
6 Jews present functioned as
7 executioner's henchmen. The
8 child was nailed to the cross
9 and made to bleed to death.
10 When the guiltless victim had
11 finally expired under the more
12 terrible torments, the Jews
13 ripped the bowels from out of
14 his body and prepared various
15 talismans from them."

16 MR. VIGNA: Where it says "(10)" in
17 terms -- is that a footnote?

18 MR. WARMAN: Yes. And I said, I
19 won't go into the rest of it. It's a shopping list of
20 other purported examples of Jewish ritual-murder.

21 MR. VIGNA: So that's it for tab C?

22 MR. WARMAN: Yes.

23 MR. VIGNA: Tab D. You recognize the
24 tab with 11 pages?

25 MR. WARMAN: Actually, 17 pages. I

1 think it's the top of the 7 got cut off. Again, this
2 is the print-off of the electronic version of the
3 document that I provided to the Commission pursuant to
4 my complaint.

5 MR. VIGNA: I would like to produce
6 that document.

7 THE CHAIRPERSON: Okay.

8 MR. VIGNA: We're going to stop at E,
9 Mr. Chair, because after it's FreedomSite.

10 THE CHAIRPERSON: Okay.

11 MR. VIGNA: So to D, and tell us what
12 the relevant excerpts of the tab E are.

13 MR. WARMAN: Actually just to bring,
14 sort of, a short close to this.

15 Really the reason I provided this tab
16 is just to provide an end to this section on before
17 1840, just to ensure there was a complete, sort of,
18 section of the work that was provided by the Tribunal.
19 And without going into any of the specific text, what
20 it purports to be is a continuation of the summary
21 before 1840 of what they claim are examples of Jewish
22 ritual-murder.

23 THE CHAIRPERSON: A continuation of
24 tab C was -- I see page 1. Was there a page 2?

25 MR. WARMAN: This is page 2.

1 THE CHAIRPERSON: It says page 3.

2 Tab D beginning underneath 1840 -- page 3?

3 MR. WARMAN: Sorry, I believe you may
4 be at tab E.

5 MR. VIGNA: Supposed to be page 2.

6 THE CHAIRPERSON: I'm in tab B.

7 MR. WARMAN: Because in the book that
8 I have --

9 THE CHAIRPERSON: I don't have a tab
10 E. I guess I'm missing another tab, because I see page
11 1 and page 3.

12 Tab C has page one, tab D don't have
13 a page 3. I don't have a tab E either. So we'll have
14 to fix up my binder.

15 MR. VIGNA: I have another binder.

16 THE CHAIRPERSON: I don't want the
17 whole binder, I've been marking this one. Do you want
18 to give me just tab D portion and the actual tab E
19 sheet? You mean the content of D and the tab sheet E,
20 because I have the content of tab E?

21 So I have page 2 material,
22 so-to-speak, under tab D. I've inserted the tab sheet
23 ahead of page 3, the title page 3.

24 MR. VIGNA: Tab D you have 1840, page
25 2.

1 MR. WARMAN: Yes. What this is,
2 without going into it in any detail, is simply a
3 continuation of what purports to be examples of Jewish
4 ritual-murder prior to 1840.

5 MR. VIGNA: I would like to produce
6 this. Do you recognize the document, Mr. Warman?

7 MR. WARMAN: Yes, it's the print-off
8 of electronic version that I provided to the Commission
9 pursuant to my complaint.

10 THE CHAIRPERSON: So it's produced.

11 MR. VIGNA: Now, E hasn't been
12 produced?

13 MR. WARMAN: No. And what this is,
14 this is the third page of the section entitled "Before
15 1840", which is the hard copy of the electronic version
16 that I provided to the Commission pursuant to my
17 complaint.

18 MR. VIGNA: Do you recognize the
19 document?

20 MR. WARMAN: I do.

21 MR. VIGNA: I would like to produce
22 it.

23 THE CHAIRPERSON: Yes.

24 MR. VIGNA: Do you want to go through
25 it now, Mr. Warman, now tomorrow morning?

1 MR. WARMAN: Now is fine. There's
2 only a very small portion of it I intend to call your
3 attention to.

4 If we turn to page 12, the first word
5 at the top left is "Jews". If you go down to the
6 paragraph 2 below that which starts, "Now, however".

7 THE CHAIRPERSON: Yes.

8 MR. WARMAN: It reads:

9 "Now, however, one cannot with
10 eyes piously uplifted, artfully
11 shift (for example) the
12 Nineteenth Century into the
13 settling of the supposedly dark
14 Middle Ages. Indeed it is
15 exactly this Nineteenth Century
16 which is so rich in extremely
17 revealing ritual-murder cases
18 and their court procedures, that
19 in the true sense of the word it
20 makes a blood mockery of any
21 philosophical or theological
22 attempts to improve upon it and
23 categorically demands for our
24 time, the total elimination of
25 the Jewish bloodsucker from the

1 body of non-Jewish people!"

2 MR. VIGNA: What else? Anything
3 else?

4 MR. WARMAN: No, that's it.

5 MR. VIGNA: So the following tabs,
6 Mr. Chair, I believe have been -- F, H, I, J, K,
7 discussed earlier, and they deal with the identity of
8 what we've seen so for.

9 THE CHAIRPERSON: Yes, I recall
10 those.

11 MR. VIGNA: So I propose tomorrow to
12 continue with tab 9 which goes into the Freedom site.

13 THE CHAIRPERSON: You've already
14 produced tab 9, by the way. I understand.

15 All right. It's an appropriate time
16 to break for the day. So we'll break for the day.
17 We'll start again at 10 a.m. tomorrow.

18 --- Adjourned at 5:08 p.m.

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I hereby certify the foregoing to be
the Canadian Human Rights Tribunal
hearing taken before me to the best
of my skill and ability on the 29th
day of January, 2007.

_____ per
Sandra Brereton
Certified Shorthand Reporter
Registered Professional Reporter