

**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/
TRIBUNAL CANADIEN DES DROITS DE LA PERSONNE

HEARING HELD AT THE DAYS INN, 1677 WILSON AVENUE, TORONTO,
ONTARIO, ON FRIDAY, FEBRUARY 9, 2007 AT 10:02 A.M. LOCAL TIME

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

TABLE OF CONTENTS / TABLES DES MATIÈRES

	PAGE
PREVIOUSLY AFFIRMED: BERNARD KLATT	1795
Re-direct examination by Ms Kulaszka	1795
SWORN: PAUL FROMM	1846
Examination-in-chief by Ms Kulaszka	1846

LIST OF EXHIBITS / PIÈCES JUSTICATIVES

NO.	DESCRIPTION	PAGE
R-3	Binder of Mr. Fromm's evidence	1898

1 Toronto, Ontario

2 --- Upon resuming on Friday, February 9, 2007

3 at 10:02 a.m.

4 THE CHAIRPERSON: Ms Kulaszka?

5 MS KULASZKA: I was just wondering if
6 there would be any objection to doing what we did last
7 Friday, which was break at 4:30, if we could arrange,
8 you know, shorter lunch.

9 THE CHAIRPERSON: If we proceed --
10 well, sure, if we proceed with a short shift.

11 MR. FOTHERGILL: On a similar theme,
12 if it's at all possible to break at 4:00, it would be
13 appreciated. I've been told that, given traffic, those
14 of us who are flying back to Ottawa tonight, would be
15 well advised to be on their way by 4:00, if possible.

16 --- Off-record discussion

17 PREVIOUSLY AFFIRMED: BERNARD KLATT

18 RE-DIRECT EXAMINATION BY MS KULASZKA

19 MS KULASZKA: Mr. Klatt, yesterday
20 you were shown documents filed as HR-6. This was the
21 response by Mr. Warman to a motion dated August 28,
22 2006. Have you got that? If you could turn to the
23 first -- looks like exhibit E in the documents. It's
24 about half way through. It's an -- a press release
25 from Microsoft. It's entitled "Strong Holiday Sales

1 Make Windows '98 Best Selling Software of 1998".

2 MR. KLATT: Yes.

3 MS KULASZKA: Do you see that?

4 MR. KLATT: Yes, I have that.

5 MS KULASZKA: Was that -- the press
6 release, if you look down, is dated February 9th, 1999.
7 Was that true in 1999?

8 MR. KLATT: Apparently, as of
9 February of '99, that sales data released by Microsoft
10 would be likely correct.

11 MS KULASZKA: Was that still true in
12 the latter part of 2003?

13 MR. KLATT: No, and from the
14 historical record of Microsoft, they had released the
15 next version of Windows ME in the year 2000, and they
16 had also released the Windows 2000 operating system.
17 And Windows XP, both home and professional editions,
18 were released in 2002.

19 So by the later part of 2003, I
20 experienced that the PC user environment that I deal
21 with, and from general Internet knowledge of discussion
22 groups, would indicate that the majority of users were
23 no longer running Windows '98, and there would be
24 relatively few users still running Windows '98 at the
25 end of 2003.

1 THE CHAIRPERSON: Relatively few
2 users? Is that your evidence?

3 MR. KLATT: I would expect so.

4 THE CHAIRPERSON: You expect so. But
5 that's kind of surprising, sir.

6 MR. KLATT: Because there's --
7 there's three newer options.

8 THE CHAIRPERSON: But people -- yes,
9 I know, but people don't change operating systems every
10 day.

11 MR. KLATT: No, but after 3 years --

12 THE CHAIRPERSON: I know for a fact,
13 doing many mediations, that the Human Rights Commission
14 is still running around with Windows '98 on their
15 laptops, when we do our mediation.

16 MS KULASZKA: Oh, I object to that.

17 THE CHAIRPERSON: No, I mean, there's
18 a suggestion in your evidence there that it's -- that
19 98 sort of disappeared or --

20 MR. KLATT: Microsoft had already
21 announced discontinuing of any support for it and --

22 THE CHAIRPERSON: By 2003?

23 MR. KLATT: Yeah.

24 THE CHAIRPERSON: They were not
25 supporting 98 or -- what does that mean, they --

1 MR. KLATT: Well, they had announced
2 that no further update, in terms of security updates
3 and operating system patch updates. They announced a
4 cut-off date for it, so all businesses and most -- and
5 quite a few individuals that were relying on Windows
6 operating systems had already chosen to upgrade to
7 newer versions of Windows.

8 THE CHAIRPERSON: Then I guess the
9 Commission is -- when they show up at our mediations
10 with their outdated machines, they are really outdated.

11 MS KULASZKA: I just want to know --
12 they don't even know what PDF is so --

13 THE CHAIRPERSON: Well, I don't mean
14 Mr. Vigna himself. But I know they're a bit confused
15 if they either -- using either 2000 or '98. So by
16 2003, relatively few --

17 MR. KLATT: All right, let's put it
18 this way. A significant -- well, I would say the
19 majority of users were no longer using Windows '98.

20 MS KULASZKA: Okay. In that same
21 document that was shown you to yesterday, can you turn
22 to page --

23 MR. VIGNA: Mr. Chair, what's the
24 source of this information? It's re-examination. I
25 would like to know at least what's the source of this

1 making these statements that the majority of users are
2 not using Windows '98.

3 MS KULASZKA: Mr. Klatt, if you could
4 give the basis of that opinion.

5 MR. KLATT: All right. Primarily
6 based on the type of work and customer base that I deal
7 with. We deal with a mix of residential users, as well
8 as business users, in a locale that is not really known
9 for pressing the limits of technology, in terms of
10 being early adopters.

11 So I'd expect that it's fairly
12 representative of a large portion of the general
13 computer user segment. And it's common knowledge, or
14 readily verifiable knowledge, when Microsoft released
15 newer versions of the Windows operating system.

16 THE CHAIRPERSON: Let me understand
17 something. My understanding is that you have to
18 upgrade to a newer operating system, if you have an
19 existing one, right, and the new one comes out? And
20 that -- there's a cost outlay there, isn't there?

21 MR. KLATT: That -- that's correct.

22 THE CHAIRPERSON: So that it's not
23 like the example I gave earlier of Internet Explorer,
24 where I understand that if you are on version 5 and 6
25 comes out, you just -- it's a free download to upgrade

1 to 6, right? That's not the case with operating
2 systems; am I correct on that?

3 MR. KLATT: No, an operating system
4 upgrade is -- is more involved than a browser update.
5 That's correct.

6 THE CHAIRPERSON: Yes, and the --
7 there's some things can go wrong, too. And I believe
8 there may have been some when -- in 2000 that didn't --
9 didn't have a very long life, did it, in terms of a
10 technological history, Windows 2000? So there's an --
11 there's quite an effort involved in upgrading. So if
12 the bank of computers that are sitting on people's
13 desks of -- or in their briefcases, leading up to 2002
14 when XP comes out, they all have 98 on them, or 2000
15 or --

16 MR. KLATT: Windows ME.

17 THE CHAIRPERSON: ME? Yeah, there
18 was ME for a while. So all that is -- is in place. Is
19 your assumption that, as soon as XP came out in '02,
20 all these people upgraded? I mean, I see where a new
21 purchase in this era would -- would acquire XP. But
22 anyone sitting with a computer that had 98 would have
23 automatically upgraded to XP when it came out in 2002?

24 MR. KLATT: No, there's no -- there's
25 no claim that there's a automatic upgrade involved.

1 For example, right now, we're seeing a lot of
2 discussion as to people that choose or may not choose
3 to upgrade to the new version of Windows Vista, and why
4 they might choose to wait.

5 The install -- install base of
6 Windows operating system continually evolves over time,
7 largely -- to a large part, driven by sales of new PCs,
8 and when people encounter significant difficulties with
9 the system, sometimes the service centre they take it
10 to recommends upgrading to the next version.

11 THE CHAIRPERSON: So is it fair to
12 say that the increase in usage of XP, beginning with
13 '02 -- when -- when was it released in --

14 MR. KLATT: 2002.

15 THE CHAIRPERSON: Early or late of
16 the --

17 MR. KLATT: I believe it was early
18 2002.

19 THE CHAIRPERSON: So the -- the
20 install rate is more conditional on increased sales of
21 new computers, rather than upgrades, per se?

22 MR. KLATT: Well, upgrades often
23 occur for other reasons than just new system sales.
24 And -- like, I imagine, there's also Windows ME,
25 that -- that had been in the sales channel for a number

1 years, as well as Windows 2000. So the install base of
2 Windows '98 is still present to some extent, but it had
3 substantially dwindled by then.

4 THE CHAIRPERSON: It had dwindled?
5 Or -- or sales had increased -- percentage wise, that
6 had Windows. I mean, people who had 98, most of them,
7 did they upgrade to ME in 2000, or was it more a
8 situation that every year, there are more and more
9 people acquiring computers, and as they acquire
10 computers, then each generation of operating system
11 they will - they'll, of course, have the new operating
12 system. So people buying new computers today are
13 likely to have Vista on them and not XP; is that
14 correct?

15 MR. KLATT: That -- that's certainly
16 a factor. But like -- like I eluded to, when people
17 encounter difficulties with their PC, they either take
18 it to a friend or to a computer shop that says, You are
19 running an old version. Why don't -- since we have to
20 reinstall the operating to scratch anyway, why don't we
21 upgrade you to the new -- next version.

22 THE CHAIRPERSON: Well, how often
23 does that happen, this -- a breakdown like that?

24 MR. KLATT: In my experience, perhaps
25 it's because it's the nature of the --

1 THE CHAIRPERSON: Your business.

2 MR. KLATT: -- calls that I get, I
3 see that not infrequently.

4 THE CHAIRPERSON: You're likely to
5 see things breaking -- that are breaking down, rather
6 than --

7 MR. KLATT: True.

8 THE CHAIRPERSON: -- the -- whatever
9 percentages that are running just fine on 98.

10 MR. KLATT: Yes, there's -- no doubt,
11 many that are still successfully using it.

12 THE CHAIRPERSON: Yes. Okay.

13 MS KULASZKA: The Tribunal mentioned
14 that the Commission still uses Windows '98. Is --

15 THE CHAIRPERSON: Not everyone. But
16 I see sometimes, they'd show up with their laptops, and
17 up comes 98.

18 MS KULASZKA: Well, I -- I can't
19 ask -- I suppose they -- it's the government who's
20 providing -- doing the service for them.

21 THE CHAIRPERSON: Or 2000. Also 2000
22 and some -- sometimes XP, I have to say. I don't know
23 who provides their computers. They're -- that's
24 another issue I'm not familiar with.

25 MS KULASZKA: If you could turn in

1 the same document --

2 THE CHAIRPERSON: Ms Kulaszka, let me
3 just say, that was an anecdote. I mean, I wasn't --
4 there -- there's no evidence, of course, from that.

5 MS KULASZKA: Oh, no. No, no. I
6 know it was a-- just a joke.

7 THE CHAIRPERSON: Yes.

8 MS KULASZKA: If you could turn to
9 that same document, you can turn to page 2, 3, and then
10 you'll see it starts again with page 1.

11 THE CHAIRPERSON: Same document?

12 MS KULASZKA: There's an affidavit of
13 Richard Warman. You have to start right from the
14 beginning. So it goes 1, 2, 3, then -- then you'll see
15 page 1 -- or 1 and 2 again. If you could turn to page
16 2, the bottom of that page, there's a paragraph 9. And
17 then this -- Mr. Warman, in his affidavit, states:

18 "During the fall of 2003, I
19 would completely turn off and
20 unplug my computer, including
21 the modem used to access the
22 Internet after each use."

23 Would that make any difference to an
24 IP address?

25 MR. KLATT: No, the indication there

1 is that turning it off and on doesn't change the
2 hardware MAC address and unless there's some indication
3 that he had left the computer off in excess of the CPU
4 lease time period, if it's -- no reason to imagine that
5 he would get a different IP address when he turned it
6 on the next day.

7 THE CHAIRPERSON: Just to be clear on
8 that point, though. The lease period = runs from last
9 usage to next usage, right?

10 MR. KLATT: No, the lease -- lease --
11 the lease period is one of the specified parameters
12 when the IP address is initially acquired.

13 THE CHAIRPERSON: Right, I know. But
14 the -- its lease period expired, it's between usages,
15 that's when it's likely to -- to fall?

16 MR. KLATT: If the period of
17 inactivity exceeds the lease period --

18 THE CHAIRPERSON: Sure.

19 MR. KLATT: -- then there's the
20 potential for not having that IP address renewed.

21 THE CHAIRPERSON: But there isn't
22 any -- because I hear, in the evidence that you've
23 introduced with regard to these various postings, we
24 see a -- a gap between September and November.

25 MR. KLATT: Correct.

1 THE CHAIRPERSON: Right? So this
2 lease period that you speak of, doesn't have -- works
3 on the basis of usage and not just a regular span of
4 time then? What I'm trying to ask you is, is there a
5 situation where notwithstanding the continuous daily
6 usage of that MAC address and -- and the Internet,
7 there's still a renewal that takes place nonetheless?

8 MR. KLATT: Yes, the renewal is --
9 like, if you're -- for example, in a situation where
10 the computer is left on all the time or continuously
11 left on, that approximate -- I think it's three
12 quarters of the time period of the lease, that the
13 systems send out a request to renew it, and if it
14 doesn't get an acknowledgement back, I think it's
15 around the seven eighths time period, it'll send out
16 another request for renewal of that IP address.

17 In the case of the situation, I
18 believe, is just alluded to here, where he's indicating
19 he turned it off and unplugged it. If he turns it on
20 again -- each time it's turned on, the IP address is
21 renewed for a full lease period. Each time the -- the
22 IP address is reacquired, it's -- you're basically
23 assigned the full lease period.

24 THE CHAIRPERSON: So -- so are you
25 saying that in fact, if you are to -- if you leave your

1 machine on, it's more likely that your IP address will
2 change?

3 MR. KLATT: No, no.

4 THE CHAIRPERSON: And not use it, I'm
5 saying. Just leave it -- leave the machine on and it
6 sits there. Or there will be renewals as well?

7 MR. KLATT: Yes, as long as the
8 operating system is still running.

9 THE CHAIRPERSON: Okay. So what's
10 the seven eighths? The seven eighths is simply --

11 MR. KLATT: Is -- is the time period.

12 THE CHAIRPERSON: Time period leading
13 up to the end of the lease?

14 MR. KLATT: Right.

15 THE CHAIRPERSON: That's when the
16 request is made. No -- no replies. IP address is
17 taken away until the next attempt is made from the end
18 user?

19 MR. KLATT: Yes, the -- the client
20 does --

21 THE CHAIRPERSON: The client.

22 MR. KLATT: If the -- if the client
23 PC goes the full seven days and it's made its request
24 for renewal before the lease expires, and it gets no
25 response, it will continue to use that IP address, and

1 it may encounter difficulties with people -- address
2 error-tight messages. But that situation rarely
3 occurs.

4 THE CHAIRPERSON: So in your -- in
5 this -- in one of my earlier questions yesterday, in
6 theory, if there's continuous usage, the -- the lease
7 should be constantly renewed --

8 MR. KLATT: That's correct.

9 THE CHAIRPERSON: -- and you'll be
10 able to keep the same number more than a year even? At
11 least, that way you'd be --

12 MR. KLATT: It's -- it's
13 theoretically possible.

14 MS KULASZKA: I would ask the
15 Tribunal if I could file the response which I had filed
16 in response to that -- to HR-6. The Commission and
17 the -- or the Commission and the complainant filed
18 HR-6, and I had replied and made a submission dated
19 October 17th, 2006. I would like to put that into
20 evidence.

21 MR. VIGNA: Mr. Chair, the objection
22 I have on that is it's not related to the witness.
23 It's a response by the -- the lawyer of the
24 complainant -- of the respondent to the motion itself.
25 So this can't substitute a rebuttal that was not done

1 by the --

2 THE CHAIRPERSON: Can I see the
3 document?

4 MR. VIGNA: Sure.

5 THE CHAIRPERSON: Except for the
6 documents that are attached to it, that you are
7 introducing this, Ms Kulaszka?

8 MS KULASZKA: Yes, it's a -- it's the
9 e-mails from Rogers, back and forth between Mr. Lemire
10 and Rogers.

11 THE CHAIRPERSON: Okay. Because the
12 letter -- this -- that you have here is really just
13 submissions on your part.

14 MS KULASZKA: It's submissions, yes.

15 THE CHAIRPERSON: It doesn't really
16 proof much, other than the --

17 MS KULASZKA: No.

18 THE CHAIRPERSON: -- the fact that
19 the letter was made.

20 MS KULASZKA: No.

21 THE CHAIRPERSON: And that's how
22 we've introduced a lot of that material in the past.
23 But it's for -- it's for the -- so we can do -- we can
24 do it in two ways. Either we just file the e-mails
25 that are in the back, or the whole letter, unless

1 Mr. Vigna has an objection.

2 Do you have an objection to the
3 exhibit that were at the back of this letter?

4 MS KULASZKA: I would admit -- admit
5 that my submissions are -- I don't rely on them,
6 they're -- they're obviously not evidence. But they do
7 give context to the e-mails.

8 THE CHAIRPERSON: It's hearsay from
9 Rogers, so the weight is somewhat limited, of course.

10 MR. VIGNA: Mr. Chair, I'll argue on
11 the probative value.

12 THE CHAIRPERSON: So do you mind if
13 the whole things goes in as one? Or would you rather
14 just -- we take the sheets out, Mr. Vigna?

15 MR. VIGNA: Just the -- the sheets
16 out.

17 THE CHAIRPERSON: That's your
18 position? Ms Kulaszka, do you mind if we just take the
19 sheets?

20 MS KULASZKA: No, that's fine.

21 THE CHAIRPERSON: The three sheets at
22 the back.

23 MS KULASZKA: We'll just --

24 THE CHAIRPERSON: Page 42 onwards.

25 MS KULASZKA: Okay, we'll just take

1 the three sheets at the back.

2 THE CHAIRPERSON: Right. Your letter
3 is in my file. I mean -- but I don't see. The -- if
4 we need the -- need the official letter.

5 MS KULASZKA: No, that's fine.

6 THE CHAIRPERSON: We move beyond
7 the --

8 MS KULASZKA: And could these be
9 inserted --

10 THE CHAIRPERSON: Oh, the three
11 ring -- there's three rings so. Could we put them at
12 the back of R-1?

13 MS KULASZKA: How about the back of
14 R-1?

15 THE CHAIRPERSON: Yeah, I mean, the
16 next tab of R-1.

17 MS KULASZKA: You'll just have to
18 make a tab for it.

19 THE CHAIRPERSON: I still have -- I
20 still have tabs available. Tab 27 is available. So
21 I'll put all three there.

22 MS KULASZKA: Mr. Klatt, I just want
23 to show you this. There are three e-mails, the first
24 one is -- it's from Rogers High-Speed Internet support,
25 and it's sent October 17th, 2006, to Marc Lemire, and

1 the subject was "Re: Question on Dynamic IP Addresses".
2 And it says:

3 "Dear Mr. Lemire.
4 Thank you for your e-mail. The
5 Rogers Yahoo Internet network is
6 dynamically based, and therefore
7 static IP addresses are not
8 issued, nor supported. Unless
9 you change your network device,
10 the chances of getting the same
11 IP address are good. However,
12 there are times when the IP
13 address is -- is renumerated as
14 a result of a change in our
15 network."

16 Is this consistent with what you
17 understand?

18 MR. KLATT: Yes. The statement by
19 Rogers is consistent with my experience and
20 understanding of how cable Internet service providers
21 work in general in that aspect.

22 MS KULASZKA: Can you turn to the
23 next e-mail. This is an e-mail from Rogers high- speed
24 Internet support, also dated October 17th, 2006,
25 addressed to Marc Lemire.

1 The second paragraph, if you could
2 look at it:

3 "Thank you for your inquiry.
4 Yes, you can potentially have
5 the same IP address for a few
6 months, if you don't change your
7 network card."

8 Is a network card the same as a -- a
9 network device? In the previous e-mail, it said
10 "device", this says "card". Is this the same thing.

11 MR. KLATT: A network card is a more
12 specific example of a network device. It would be
13 included in the category of network device, yes.

14 MS KULASZKA: Okay, thank you. I
15 want you to look at the Anne Cools posting. That is --

16 THE CHAIRPERSON: Tab 3, R-2. R-1,
17 sorry. R-1.

18 MS KULASZKA: I think it's --

19 THE CHAIRPERSON: R-1.

20 MS KULASZKA: It's tab 3 in -- can
21 you look at tab 3? Do you see the Anne Cools posting?

22 MR. KLATT: Yes.

23 MS KULASZKA: And this is a posting
24 from the FreedomSite. If you look at the top line, do
25 you see the word "delete"?

1 MR. KLATT: Yes, that's one of the
2 options available.

3 MS KULASZKA: Okay, and if you could
4 just turn to tab 4.

5 THE CHAIRPERSON: When you say "it's
6 one of the options available", it means that someone
7 can delete this posting? I'd just like to know what
8 you mean by that answer.

9 MS KULASZKA: I would ask you to turn
10 to the other big black binder, the other one.

11 THE CHAIRPERSON: Okay, I asked him a
12 question on --

13 MR. KLATT: Yes.

14 MS KULASZKA: Oh, I'm sorry.

15 MR. KLATT: Yes, I -- my recollection
16 of the FreedomSite board is that that set of options
17 shows, depending on who's logged in, and I don't recall
18 what user account I was using -- or was used when I --
19 when this was logged in.

20 So whoever was viewing this did have
21 the option to delete it, and it -- from the notation,
22 or the information at the bottom of the page indicated
23 it was accessed most likely through the remote desktop
24 connection or -- or the local administrator on -- on
25 the network. It was not accessed externally through

1 the Internet.

2 THE CHAIRPERSON: I see, okay.

3 MS KULASZKA: So Mr. Klatt, if you --
4 say, when the FreedomSite was operational, somebody
5 goes and they have a user account. They put on a
6 posting. Can they subsequently delete it?

7 MR. KLATT: In most cases, if it
8 hasn't been very long time period.

9 MS KULASZKA: But then after a
10 certain period, it -- it can't be deleted?

11 MR. KLATT: I believe that's the case
12 here, in a number of instances, yes.

13 MS KULASZKA: If you can turn to the
14 other big binder, it says HR 2, tab 16. This is the
15 Stormfront exhibit which has been entered by the
16 Commission. It's from stormfront.org, from the -- the
17 forum. Can you -- is there any delete function there?
18 If you could just examine the document.

19 MR. KLATT: No, I don't see any
20 shown.

21 MS KULASZKA: You were asked about
22 websites which you had hosted on the ISP, when it was
23 operational. And the Simon Wiesenthal Centre demanded
24 that -- that it be removed; is that correct?

25 MR. KLATT: Yes, that was their -- as

1 I understood, their primary wish was to have content
2 they disagreed with, removed.

3 MS KULASZKA: And I thought I heard
4 you say you got the letter after it hit the media?

5 MR. KLATT: Yes, I received one phone
6 call from Sol Littman, asking if I knew what web host
7 clients we had, and if I agreed with the content, and
8 if I would remove it. I told him I would take a look
9 at it. The next day the media, they -- as I recall,
10 they'd -- Simon Wiesenthal Centre held a press
11 conference for the media. A week later, I received
12 a -- a letter from the Wiesenthal Centre.

13 MS KULASZKA: And what did you
14 conclude from that?

15 MR. KLATT: It seemed to me to be
16 primarily an excuse to generate publicity for possibly,
17 an upcoming fundraising campaign.

18 MS KULASZKA: Were you a member of
19 Electronic Frontier Canada?

20 MR. KLATT: Yes, I was, and still
21 participate somewhat in their ongoing activities.

22 THE CHAIRPERSON: For which -- for
23 which Canada?

24 MR. KLATT: Electronic Frontier
25 Canada.

1 THE CHAIRPERSON: Electronic
2 Frontier.

3 MS KULASZKA: And Mr. Vigna asked you
4 how you met Marc Lemire?

5 MR. KLATT: Yes, to my recollection,
6 Marc Lemire was a participant also on the EFC talk
7 mailing list that Electronic Frontier Canada
8 distributed.

9 MS KULASZKA: I would like to hand up
10 a printout from Electronic Frontier Canada. Did you
11 fingerprint this out?

12 MR. KLATT: Yes, I did.

13 MS KULASZKA: And what does that
14 show? What is it?

15 MR. KLATT: The Electronic Frontier
16 Canada home page is -- I guess I didn't include that
17 one. Actually, the Wikipedia write-up seems to be a
18 little better at describing what they're about.

19 In the third paragraph, last
20 sentence, "aim is to protect freedom of expression and
21 right to privacy in cyberspace."

22 And that was one of the goals and
23 functions of EFC that attracted my interest in that
24 organization. And one of the issues that I was
25 particularly interested in was the lobbying attempt

1 against the proposed regulation of the Internet by the
2 CRTC, and I supported their efforts in that regard.

3 MS KULASZKA: And what time period is
4 the -- are you looking at that? What time period
5 were -- were you really involved in it?

6 MR. KLATT: Well, most actively in
7 time period from '95 through '99. And this release
8 regarding the CRTC, proposed regulation of Internet,
9 was active in 1998.

10 MS KULASZKA: If you can turn to page
11 2.

12 It says:

13 "EFC is working to shape
14 Canada's computing and
15 communications infrastructure
16 and the policies that govern it,
17 in order to maintain privacy and
18 other democratic values. Our
19 work focuses on the
20 establishment of; clear
21 institutional policies and new
22 laws that guarantee citizens'
23 basic rights and freedoms as new
24 computing, communications, and
25 information technologies emerge;

1 a policy of common carriage
2 requirements for all network
3 providers so that all forms of
4 speech and expression, no matter
5 how controversial, will be
6 carried without discrimination;
7 a diverse electronic community
8 that enables all citizens to
9 have a voice in the information
10 age."

11 Is that what you understood their
12 purposes to be?

13 MR. KLATT: Yes.

14 MS KULASZKA: And you agreed with
15 them?

16 MR. KLATT: Yes, I had personal
17 discussions with one of the EFC directors, Doug Jones,
18 and he assured me that they were in full support of my
19 position, as outlined in the second bulleted point,
20 regarding Internet service providers not being liable
21 for material and content posted by web hosting clients
22 or users.

23 And that -- that position is also
24 outlined in statements from BC Tel's -- either Legal
25 Department or public spokespersons.

1 MS KULASZKA: You were shown a -- a
2 document, it was a judgment in the Zundel case?

3 MR. KLATT: The Justice Blais ruling?

4 MS KULASZKA: Did you ever give --
5 were you aware of that judgment?

6 MR. KLATT: In had -- in general
7 terms, was aware of the judgment that ruled Mr. Zundel
8 an alleged security risk to the security of Canada.

9 MS KULASZKA: Did you give testimony
10 before Mr. Justice Blais?

11 MR. KLATT: No, I was -- it was --
12 not contacted by any investigative agency at all
13 regarding that matter.

14 MS KULASZKA: You were asked whether
15 log files could be modified. When you examined the log
16 files for the Freedom site that you were shown, did you
17 see any evidence that the files were modified?

18 MR. KLATT: No, I didn't. The file
19 date hadn't appeared to have been -- it was in the time
20 frame that I would expect to see, and if a person did
21 want to edit the log files, it would have been possible
22 to do so.

23 They could have cleaned up a number
24 of discrepancies that we have encountered and gone
25 over, such as the missing "E" on the end of some of the

1 URLs, the sort of, changing last digit on a few of the
2 I -- recorded IP numbers, the additional information
3 identifying the Rogers High-Speed Internet service for
4 some of the log entries.

5 Minor discrepancies or items of
6 interest like that could have easily been cleaned up,
7 in an -- in an attempt to modify or update the logs.

8 MS KULASZKA: If you could turn to
9 tab 1 of, I believe, the document -- the large binder
10 you are looking at right now. If you can turn to tab
11 1. It should say "JR Books Rare Books & Commentary".

12 MR. KLATT: Yes, I have that.

13 MS KULASZKA: Just looking at that,
14 what kind of document does that look like? Is it a PDF
15 or is it a text file, is it a web page?

16 MR. KLATT: It doesn't appear to be
17 printed from a web browser. It's primarily text. The
18 large text at the top may be a particular font, or it
19 may be a graphic. It's a little difficult to tell.
20 It -- it's difficult to make a definitive statement of
21 what type of document this was -- or how this was
22 produced.

23 MS. KULASZKA: Is this a -- the type
24 of document that could be easily modified?

25 MR. KLATT: It doesn't contain any

1 particularly difficult stylistic elements that would be
2 a challenge to work with.

3 MS KULASZKA: You were shown an
4 on-line petition. If you could go to that. I believe
5 it's in the same binder. It would be tab -- let's see,
6 it's tab 26 B. You had made a comment there, it's on
7 page 13 of that document. Have you got that?

8 MR. KLATT: Yes.

9 MS KULASZKA: And you were asked
10 about the -- who the religio-ethnic special interest
11 pressure groups were, and you -- answered, I believe,
12 it was B'Nai Brith, Canadian Jewish Congress and the
13 Simon Wiesenthal Centre; is that right?

14 MR. KLATT: Yes.

15 MS KULASZKA: Now did you mention
16 them -- refer to them here because they're Jewish
17 groups?

18 MR. KLATT: Not particularly. If any
19 other group of -- special interest groups would be
20 engaged in that type of Internet suppression activity,
21 I would be referring to them as well.

22 In our community, we have the largest
23 number of Sikh -- of ethnic group, and I don't hear of
24 any attempts by them to regulate content on the
25 Internet. I don't know of any other group that takes

1 such an interest in suppressing Internet content.

2 MS KULASZKA: You were asked if you
3 were a member of CAFE or the Canadian Free Speech
4 League. Did you pay -- do you -- is there a
5 membership? Do you pay a -- an amount and get a
6 membership card?

7 MR. KLATT: Canadian Free Speech
8 League has a -- has a membership. And I do -- I have
9 made donations to both the Free -- Canadian Free Speech
10 League, and the CAFE organization.

11 MS KULASZKA: And what do you
12 understand the goals of those organizations to be?

13 MR. KLATT: To promote the freedom of
14 expression and freedom of speech, rights for Canadians
15 in Canada in a -- in a variety of media, print as well
16 as Internet.

17 MS KULASZKA: And does that include
18 the free speech rights of groups like the Simon
19 Wiesenthal Centre.

20 MR. KLATT: I'm quite sure it would.

21 MS KULASZKA: Oh, yes, if I could --
22 if I could put in the Electronic Frontier Canada
23 document, and please file it.

24 THE CHAIRPERSON: I have another tab
25 after the last one available, 28, 28 of R-1.

1 MS KULASZKA: Those are my questions,
2 Mr. Klatt.

3 THE CHAIRPERSON: Thank you.
4 Ms Kulaszka, your next witness,
5 please.

6 MS KULASZKA: I would like to call as
7 my next witness, Mr. Paul Fromm.

8 THE CHAIRPERSON: Thank you.

9 MR. VIGNA: Mr. Chair, before
10 Mr. Fromm testifies, I would like to have some clarity
11 about the relevance of his testimony, and also whether
12 he's testifying on the factual or on the constitutional
13 element.

14 THE CHAIRPERSON: Okay.

15 MR. VIGNA: We have very little in
16 terms of -- particulars in terms of his testimony.

17 THE CHAIRPERSON: Where are the
18 particulars?

19 MR. VIGNA: I think it was sent in a
20 letter, the 23rd of January, if I'm not mistaken.

21 THE CHAIRPERSON: Okay, let me pull
22 it up.

23 MS KULASZKA: Here it is. This is
24 Mr. Fromm's:

25 "Mr. Fromm has represented

1 various persons brought before
2 Tribunals under Section 13, or
3 is personally knowledgeable
4 about others whom he did not
5 represent. He will provide
6 testimony concerning the
7 respondents in the case, and he
8 will identify documents that he
9 has received from persons who
10 have laid complaints under
11 Section 13, which were refused
12 by the Commission."

13 Essentially this goes to the
14 constitutional question. He -- he will talk about who
15 these people are, basically how old they are, what race
16 they are, what kind of views they hold, their economic
17 status. He will also provide testimony about what has
18 happened to him since he started acting as an agent.

19 He's been targeted, now repeatedly,
20 by anti-racist action at his home, in restaurants. He
21 has been stalked, and flyers have been handed out in
22 his subdivision. They specifically refer to the fact
23 that he is -- he opposes Section 13 of the Canadian
24 Human Rights Act, and is acting for people before this
25 Tribunal, who have been charged under Section 13.

1 THE CHAIRPERSON: Ms Kulaszka, and
2 counsel on each side -- look, I'm wondering -- I'm a
3 little concerned we might get bogged down in this
4 evidence because I don't think -- I think -- I see how
5 you want to use it.

6 We've discussed it numerous times
7 over the course of the last two weeks. And I don't
8 think if the other side -- perhaps a document can be
9 prepared setting out some of these things, that perhaps
10 the counsel on the other side could look through it.

11 Don't get too -- I'm saying -- I'm
12 advising you not to get too defensive about these
13 things. If Mr. Fromm says that the people that he's
14 familiar with, that he's been involved with, on some
15 occasions, which the Commission has to be familiar
16 with -- the Tribunal certainly is familiar with the
17 ones that have been referred. If he says that "The
18 people I have been involved with are -- were of this
19 age." If he's specific even in -- in his letter,
20 saying Ms. -- what was her name, in Vancouver,
21 Mr. Fromm.

22 MR. FROMM: Jessica Beaumont.

23 THE CHAIRPERSON: Ms. Beaumont, for
24 instance. I have evidence she was, I think, 20 years
25 old, or 19, and is not a visible minority. That's just

1 his contention and it's fine. If he just sets that out
2 in a detailed way, and then we look -- and you look at
3 it, Mr. Vigna and Mr. Fothergill, and anybody else who
4 may wish to give their input on that point -- and says,
5 "Yeah, well, we -- we can see this point."

6 And if he -- if he also says that, as
7 I just -- I heard indication earlier this week or last
8 week that Mr. Kulbashian has filed two complaints and
9 one had been rejected, and one is still under
10 consideration by the Commission -- he just puts -- lays
11 all that out there, and mindful that the decision to
12 refer or not refer a complaint, or deal with it under
13 Section 41, is within the discretion of the -- of the
14 Commission.

15 But yet, it's the thesis of the other
16 side that it still should be considered in -- in terms
17 of the general climate that Section 13 has created
18 in -- in Canadian society.

19 We could move on on this point, and
20 not get bogged down in the -- in some of this evidence.
21 I think -- much of this -- what Ms Kulaszka has
22 mentioned, sort of is -- has come across the Tribunal's
23 tables over the course of the last few years. And it
24 might enable us to just move to the next step. Would
25 you have any objection to that, Ms Kulaszka?

1 MS KULASZKA: I don't have any
2 objection to that. I would -- there's a lot of
3 documents here that Mr. Fromm could easily identify.
4 But if Mr. Vigna wants to look through the binder we've
5 provided him with --

6 MR. KLATT: You know, we have a week
7 in front of you before the week following. If you were
8 to sort of -- give those documents and maybe a little
9 summary of what Mr. Fromm would say in greater detail
10 than what you have hire. I'm just trying to -- to
11 ensure that we can move on. It's not that I don't want
12 to give you the right to present your case.

13 But as soon as you -- I can see it
14 now. You'll ask a question, we'll get objections
15 because perhaps, of the way it's been answered or said,
16 and it -- it doesn't really serve perhaps, your
17 argument in the large sense.

18 Where I -- which is the summary that
19 you are presenting. You just want to get the
20 information that -- you just -- in your summary on the
21 record, in some way. If it -- if it was --

22 MS KULASZKA: Do you want me to
23 prepare an affidavit of Paul Fromm?

24 THE CHAIRPERSON: You can do the --
25 an affidavit, perhaps.

1 MS KULASZKA: He can attach these
2 complaints as exhibits.

3 THE CHAIRPERSON: I'm sorry.

4 MS KULASZKA: I -- he could attach
5 all his documents as exhibits.

6 THE CHAIRPERSON: Right, and --

7 MS KULASZKA: And if Mr. --

8 THE CHAIRPERSON: -- Vigna.

9 MS KULASZKA: Vigna wants to --

10 THE CHAIRPERSON: -- I would ask you
11 to -- and Mr. Fothergill and whomever else remains, you
12 know, if you want to, you could get the input from the
13 other parties. Deal with it seriously, mindful that it
14 will all be debated at the end. But I don't see the
15 necessity in us getting bogged down in some of the --
16 the details.

17 Mr. Fromm -- perhaps the most
18 controversial point would be that Mr. Fromm -- as I've
19 seen material that has already been filed in this case
20 in preliminary proceedings, alleges that there were
21 protests outside his door.

22 I know Mr. Warman will say it wasn't
23 him. So we don't have to get bogged down into that. I
24 think it's the bigger picture that's being presented
25 here, that -- that there are advocates on each side,

1 and it's created some kind of a conflict and whatever
2 and -- and that's all we've need to have in front of
3 the Tribunal.

4 Are you willing to do that,
5 Mr. Vigna? I haven't seen a reaction from you yet.
6 Will you be willing to do that, Mr. Vigna.

7 MR. VIGNA: I'm willing to consider
8 it, but there's -- there's several points. One of them
9 is that we are going to argue that, based on the
10 Schnell decision, there's no nexus between his proposed
11 testimony and the Section 13.

12 Secondly, in terms of what's being
13 proposed, perhaps like an affidavit, I'm willing to
14 look at it. But the problem with that is that I'm not
15 able to cross-examine on related issues that can
16 raise -- be raised in the affidavit, which will not be
17 outlaid because of the absence of the
18 cross-examination.

19 THE CHAIRPERSON: I'm asking you in
20 good faith to help this process along. You can --
21 perhaps what we can -- you can have Mr. Fromm testify,
22 but at least we will have worked out some of the issues
23 on which there is no contention.

24 You -- you cannot -- if the fact is
25 that Mr. Warman and all the other complainants, Warman

1 and all the other ones, have laid a number of
2 complaints. And they want to the establish a fact that
3 the profile of the respondents in these cases, are not,
4 for instance, visible minorities, but are of -- of
5 other groups.

6 If it's something that you can -- you
7 can acknowledge from your own records, we can move on,
8 so we don't get caught up on that one, at least. And
9 if there are some issues you wish to cross-examine on
10 the affidavit, then we'll do that.

11 MR. VIGNA: Mr. Chair, the best I can
12 do to be practical is --

13 THE CHAIRPERSON: Yes.

14 MR. VIGNA: -- perhaps -- we have a
15 week as --

16 THE CHAIRPERSON: Yes.

17 MR. VIGNA: -- they could send me
18 proposed admissions, I'll look at it. And I'm not
19 going to commit at this point in time to anything, but
20 I'm willing to take a practical approach to see what we
21 can admit to alleviate the date.

22 THE CHAIRPERSON: I would -- I would
23 encourage you, Ms Kulaszka, to be very -- if possible,
24 to be detailed in the facts. That would -- see, so not
25 put too many things in one paragraph. So throw each

1 fact in one paragraph, so that it would be easier for
2 the -- the other parties to concede one point, then
3 we're not necessarily conceding another thing that was
4 included in that paragraph.

5 I really think it will move us along,
6 because I can just see us getting bogged down with some
7 issues. Mr. Fothergill.

8 MR. FOTHERGILL: Just to state the
9 Attorney General's position, I think, on a whole, this
10 is a practical proposal.

11 Certainly, I don't anticipate that
12 the demographics of the respondents in Tribunal matters
13 is -- is going to be a problem at all. I'm sure you'll
14 concede that.

15 I suspect we're probably also in a
16 position to concede the protest that took place at
17 Mr. Fromm's house. But the reason -- the reason is
18 I -- what I would argue in response, is that given
19 Mr. Fromm's history of activism, there was actually a
20 much more plausible explanation for the public
21 opposition he experiences than the existence of Section
22 13, sub (1) of the Canadian Human Rights Act.

23 So I might want to, on a reciprocal
24 basis, simply want to put into evidence, for example,
25 the Wikipedia entry from Mr. Fromm. And I don't know

1 how he would feel about that, because he may take issue
2 with some of the statements that are made there.

3 Although, in fact, even then, it
4 wouldn't necessarily be so much for the truth of the
5 entry, but the fact that he has this representation.
6 This might provide a more plausible explanation for his
7 experiences.

8 So I -- I do see some -- some genuine
9 scope for agreement, and I can certainly assure you
10 that, from the government's perspective, we will not be
11 unreasonable about that.

12 THE CHAIRPERSON: Mr. Warman isn't
13 here to present his view. But I would -- I would
14 encourage you, perhaps Mr. Vigna, to indicate --

15 MR. VIGNA: I'll speak with a mind
16 that we --

17 THE CHAIRPERSON: -- your position on
18 this. Ms Kulaszka, are you -- you haven't really
19 replied, but are you opposed to this method of
20 proceeding?

21 MS KULASZKA: Well, maybe --

22 THE CHAIRPERSON: The evidence will
23 be properly before me without -- I mean, when -- when
24 there will be an admission, there's an admission. It
25 will be a fact.

1 MS KULASZKA: I would be against it
2 if -- if Mr. Fromm can't reply, maybe it's better to
3 have him testify, and then he can reply to those
4 allegations. Anybody can put anything on Wikipedia.

5 THE CHAIRPERSON: Well, I know so --
6 well, we'll do it as it comes. But that may be just
7 one of the 50 points that you wish to raise with him.

8 So they'll -- they may concede on the
9 49, and that's the only one that -- - that you'll have
10 some contention with. And we'll just deal with that.
11 We'll -- we'll narrow the scope of -- of his testimony
12 to that.

13 MS KULASZKA: The other matter is,
14 Mr. Fromm can give testimony about a document called
15 "Immigration Can Kill You" We've come to this hearing.

16 This document had never been
17 mentioned before, and Mr. Warman pointed out this
18 document as one of the ones as -- apparently he had
19 never read it, but he wants you to find that this is
20 just one indication that the Freedom site is a racist
21 website. And Mr. Fromm can give testimony about that.
22 He's got the document.

23 THE CHAIRPERSON: Would you like to
24 do that now or can we do that also later? If he --

25 MS KULASZKA: He could give testimony

1 about that right now.

2 THE CHAIRPERSON: That'd be splitting
3 up his evidence that way. Why couldn't we do it all at
4 once?

5 MS KULASZKA: I don't have another
6 witness for today. I thought he would go all day.

7 THE WITNESS: Oh, you don't? I
8 thought you had two -- two more witnesses, did you not,
9 Mr. Livingston --

10 MS KULASZKA: Yes, but if we went
11 through all this material, it would take the rest of
12 the day.

13 THE CHAIRPERSON: Oh, that's -- too
14 bad I didn't think of this yesterday.

15 MR. VIGNA: We could still finish
16 earlier. Everybody has to make arrangements to leave.

17 THE CHAIRPERSON: I suppose there's
18 no harm done. What about your other two witnesses?
19 When did you -- you were going throw them in somewhere
20 in those other days?

21 MS KULASZKA: They're very short
22 witnesses, and yes, we've had time at the end. In
23 between these experts, might be a day and they would
24 just come and they would be done -- probably within a
25 morning or certainly, by the end of the day.

1 MR. VIGNA: Mr. Chair, we can adjust
2 when we -- we start on the 19th. Even if we have to go
3 a bit later or --

4 THE CHAIRPERSON: Yes, I know. We're
5 already starting earlier on that day. Everyone is
6 going to be -- it's going to be easier. It's been two
7 long weeks. If you'd like or -- we could end early. I
8 see agreement from Mr. Fothergill on that point.
9 And --

10 MS KULASZKA: I'm not opposed to an
11 affidavit, as long as they put -- if they put in an
12 affidavit and it's nothing but -- you know, "Paul
13 Fromm's a racist, and he's been a racist forever".
14 Paul Fromm has to be able to somehow -- he's got to
15 answer that.

16 THE CHAIRPERSON: Well, the -- Of
17 course. That's not -- I'm talking about concessions.
18 I'm talking about -- I'm asking in good faith, because
19 much of what I've just heard.

20 I -- we could spend our time -- I
21 didn't know that you had no other witness lined up, Ms
22 Kulaszka. I thought we were -- that -- this would
23 advance us somewhere today.

24 But as I say, much of what I heard Ms
25 Kulaszka say are facts. I mean, as I said, in the

1 example of Miss Beaumont, I know for a fact, it's in
2 evidence.

3 Mr. Vigna, you were there, too, "her
4 age was such and she lived out west". I mean, we --
5 these are facts. So instead of, you know, spending our
6 time getting caught up on that, and sometimes there are
7 misunderstandings, questions are posed in certain ways,
8 and it may lead to some sort of objections. And we
9 don't need to get bogged down in that.

10 MR. FOTHERGILL: I'm just wondering
11 if I can address the -- the point about the Wikipedia
12 entry, as I said. I wouldn't be seeking to prove the
13 truth of it.

14 THE CHAIRPERSON: Right.

15 MR. FOTHERGILL: Only that this
16 information is in the public domain, and so -- so just
17 to clarify that point. And I should also state, if it
18 isn't obvious, that I share Mr. Vigna's concern about
19 the relevance of this entire line of inquiry. And so
20 when the time comes --

21 THE CHAIRPERSON: Right.

22 MR. FOTHERGILL: -- I will be asking
23 you to disregard all of it, in any event.

24 THE CHAIRPERSON: Yes, I'm just --

25 MS KULASZKA: It might be just as

1 easy to call Mr. Fromm today and get the evidence on.
2 I don't see too much objection from my friends.

3 MR. VIGNA: Mr. Chair, I don't think
4 so, that -- that I would prefer that course of conduct.
5 There will be an objection. There will be several --
6 questions that have to be asked in cross-examination.
7 And I would make a preliminary remark, which is that we
8 object to his relevance regarding the constitutional
9 issue, so I --

10 THE CHAIRPERSON: Right. And I'm
11 telling you, I'm not going to accept that as a
12 preliminary objection.

13 I understand your objection, but they
14 take a different point of view, and I'm not going to
15 keep this evidence off the record. We are on track.
16 We've set aside the time. Look, because we're even
17 finishing early today, it's possible.

18 So better get in -- in there, and
19 then you can deal with it, and tell me not to consider
20 any of this evidence later on, rather than excluding it
21 at this point. I'm not going to do that because I do
22 see some arguable relevance here. But I also think
23 that -- let's be clear about this, all right? I want
24 to be clear.

25 Ms Kulaszka? Ms Kulaszka? Yes?

1 Listening to me.

2 MS KULASZKA: So --

3 THE CHAIRPERSON: You don't want to
4 listen to me?

5 MS KULASZKA: Oh, I'm -- I'm trying
6 to listen to my client.

7 THE CHAIRPERSON: Look. If you want
8 to put him up to testify, fine. And then Mr. Vigna, if
9 you are going to be getting up, fine. But I -- I also
10 know some background on this file. I'm familiar that,
11 it was mentioned in -- in the case I just read about
12 last week, the Tremaine case.

13 I know -- the Commission had filed a
14 motion against Mr. Fromm being able to represent in
15 that file now and -- there's obviously a history here,
16 and I don't want us to get bogged down in that. It
17 just messes things up for nothing.

18 And that's why I'm looking for a
19 solution that will enable me to get all the information
20 I need to know. And whether it's relevant or not,
21 you'll argue it later. But I don't appreciate getting
22 bogged down in, and I will use the word -- don't take
23 it wrong -- "petty" objections over issues that I do
24 not care about ultimately.

25 But that may score some kind of point

1 in some larger picture that may be going on between the
2 participants, be they Mr. Warman, the Commission, the
3 Attorney General, or the several intervenors and
4 respondents. So I don't need that, I don't want that.

5 And that's why I'm trying to find a
6 solution that will enable me to avoid that.

7 MR. VIGNA: And that's why,
8 Mr. Chair, to enable -- to assess that solution, I
9 think we should break today, look at what's being
10 proposed, and come back the 19th. And either we'll
11 make admissions, at least parts or --

12 THE CHAIRPERSON: Well, I -- so we
13 can focus. Let me be clear. Ms Kulaskza --

14 MR. VIGNA: Also, I want to say,
15 Mr. Chair. I don't want to interrupt you, but I did
16 disclose material on Mr. Fromm. It would enable him to
17 be able to appraise himself of what he could be
18 potentially cross-examined on. So in the spirit of
19 fairness, in the spirit of practicality, if we break to
20 the --

21 THE CHAIRPERSON: Oh, so for
22 instance, that Wikipedia article would be disclosed to
23 him that way?

24 MR. VIGNA: It's already disclosed --

25 MR. CHAIRPERSON: Oh.

1 MR. VIGNA: But he didn't have a
2 chance to probably read it. Also there's also some
3 other material I provided and -- which I found on the
4 Internet. So if you want, we could look --

5 THE CHAIRPERSON: I have a sense
6 Mr. Fromm has see his Wikipedia.

7 MS KULASZKA: There's also -- I just
8 want to make -- the Wikipedia, maybe, but the other
9 stuff, I just gave it to him this morning. There's
10 also the fact that he was on the radio show last
11 Saturday, and he made certain statements regarding the
12 Tremaine decision. I gave him the Tremaine decision,
13 so I think that it would delay him, if he has to be
14 cross-examined, to be aware of that.

15 THE CHAIRPERSON: I -- I'm not saying
16 he will not be able to testify. I'm just trying to
17 focus our discussion. I don't know if it's going to
18 help or not, but I'm just suggesting.

19 And in any event, I have to say that,
20 while this is a will say statement, it's not out of
21 the -- it's not quite detailed either, this will say.
22 I mean, it's quite broad. It would be -- I think it
23 might be helpful if we are able to know exactly what
24 items the -- are there because then they -- they'll
25 admit them, and we can just move to the next item.

1 MS KULASZKA: Well, Mr. Warman --
2 we -- Mr. Warman came to this hearing with a
3 one-line --

4 THE CHAIRPERSON: Yes.

5 MS KULASZKA: -- one-line will say,
6 and --

7 THE CHAIRPERSON: No, I know.

8 MS KULASZKA: -- we didn't know what
9 was going on until basically, the case was in.

10 THE CHAIRPERSON: I'm not being
11 critical about it. It's -- I'm saying it will help,
12 it help him advance. Look, if you really -- if you
13 really want to go through this exercise, I -- I don't
14 have much patience for that. I feel that -- that, you
15 know, getting up and down, constant objections over
16 some other issues that are broader than -- that have
17 nothing to do with what's in front of me, ultimately.
18 I just don't want to get bogged --

19 MS KULASZKA: If we put in an
20 affidavit, do I understand that -- that he will be
21 allowed to put in the hand outs, Immigration can kill
22 all the other documents from other people who have
23 tried to lay complaints and the decisions that they've
24 gotten from the Commission. That -- that's what he
25 would be putting in -- in his affidavit.

1 THE CHAIRPERSON: Okay, and -- and
2 those document sounds again, to me, to be non-
3 controversial. This is Commission documentation.

4 MS KULASZKA: Yes, it is.

5 THE CHAIRPERSON: Right. On what
6 basis, would the Commission disagree with filing
7 those -- other than relevance?

8 MR. VIGNA: Which I would argue at
9 the end.

10 THE CHAIRPERSON: Bingo.

11 MR. VIGNA: But like I say, in order
12 to do that, if we take the week, I look at it, I have
13 time to read it with a calm head. And we can progress
14 quicker the next time around if -- and if he has to
15 really testify, he can testify on the 19th, if there's
16 no agreement.

17 MS KULASZKA: My understanding is,
18 you've ruled that the evidence can go in, and then the
19 argument comes at the end, the legal argument, being,
20 "Was it relevant or not?"

21 THE CHAIRPERSON: On -- in general,
22 speaking -- look, I made that with -- because of you --
23 your summary of what those documents are, and I -- I
24 don't know what every -- you haven't given me --

25 MS KULASKZA: No, no, no.

1 THE CHAIRPERSON: -- an inventory of
2 what those documents are. But in fairness, what we are
3 talking about is -- the broader issues appear to be, as
4 I understand, from Mr. Fromm's evidence, will be that
5 there are other complainants who -- sort of, a
6 demographic profile, to use the word of Mr. Fothergill,
7 of -- of respondents, outcomes of complaints that have
8 been filed and rejected by the Commission, that have
9 not been filed by Mr. Warman. And what was the
10 other -- a copy of the text of -- of what's been
11 alluded to in his -- in Mr. Warman's evidence. Is that
12 what -- is that what that was?

13 MS KULASZKA: Yes, "Immigration Can
14 Kill".

15 THE CHAIRPERSON: "Immigration Can
16 Kill", right.

17 MS KULASZKA: The other thing he was
18 going to give evidence about -- Mr. Fromm has known
19 most of the people who have been respondents in Section
20 13 complaints, going back to John Ross Taylor.

21 THE CHAIRPERSON: Yes.

22 MS KULASZKA: He has a lot of
23 knowledge about these people, and it's difficult to put
24 it all in an affidavit. Certainly, he could give a lot
25 of testimony in front of you that --

1 THE CHAIRPERSON: Well, do you want
2 to use up the time then? I mean, it's -- we're here
3 today, I suppose, he's here. I was trying to you know,
4 advance things, but obviously you don't have another
5 witness set up, so if we need to go through all this,
6 we might as well go do it then. Why can't that be
7 summarized?

8 MS KULASZKA: If we can, we would
9 like to call him.

10 THE CHAIRPERSON: For all of it?

11 MS KULASZKA: My client asked if we
12 can take a short break to discuss it.

13 THE CHAIRPERSON: That's fine.

14 --- Recessed at 11:04 a.m.

15 --- Resumed at 11:19 a.m.

16 MS KULASZKA: I discussed this with
17 my friends, and with Mr. Lemire, and thought about it.
18 I actually think it would be just as fast to go through
19 this material right now. It does take a big burden off
20 of me of writing an affidavit. And I think it should
21 be fairly efficient.

22 THE CHAIRPERSON: All right. Then I
23 would just ask Mr. -- I would say at the outset to
24 Mr. Vigna and Mr. Fothergill that I'm mindful of
25 everything you've already argued numerous times in the

1 past two weeks.

2 It's really not necessary for you to
3 make those types of objections as you've made before.
4 I mean, it's your right to make objections, but you're
5 mindful -- I've told you before -- if any of it relates
6 really to relevance, bring it up at the end. Okay.

7 MS KULASZKA: I would like to call
8 Paul Fromm.

9 THE CHAIRPERSON: And same type of
10 information for you, Ms Kulaszka, as well. Just move
11 through the material quickly.

12 SWORN: PAUL FROMM

13 EXAMINATION-IN-CHIEF BY MS KULASZKA

14 MS KULASZKA: Are you the head of the
15 organization, Canadian Association for Free Expression?

16 MR. FROMM: Yes, I'm the director.

17 MS KULASZKA: And Citizens for
18 Foreign Aid Reform?

19 MR. FROMM: Yes, I'm a director of
20 that as well.

21 MS KULASZKA: And Canada First
22 Immigration Reform Committee?

23 MR. FROMM: Yes, I'm a director of
24 have as well.

25 MS KULASZKA: And how long have you

1 been the director of those organizations?

2 MR. FROMM: The Citizens for Foreign
3 Aid Reform was found in -- incorporated in 1979,
4 Canadian Association for Free Expression was
5 incorporated in 1981, and the Canada First Immigration
6 Reform Committee, I'm a little hazy there. Goes back
7 about 10 years.

8 THE CHAIRPERSON: Canada First
9 Immigration Committee?

10 MR. FROMM: Reform Committee.

11 THE CHAIRPERSON: Oh, Reform.

12 MS KULASZKA: And could you just give
13 me the -- a short synopsis of the purposes of those
14 organizations?

15 MR. FROMM: Well, Citizens for
16 Foreign Aid Reform was founded in 1979. Foreign Aid
17 was a very hot topic in the -- in the 70's and early
18 80's.

19 Essentially, we opposed the massive
20 outlays of -- of Canadian taxpayers money in foreign
21 aid. We analyzed the causes of -- of third world
22 poverty, relied on a number of -- of scholars for that,
23 for instance, Professor Bauer. And our analysis was
24 that essentially causes of third world poverty were in
25 the third world and -- and that massive infusions of

1 foreign aid generally were not -- generally did not
2 accomplish anything but were detrimental, and where
3 transfer of monies from the working and middle class of
4 countries like Canada to -- the oligarchs in those --
5 in those countries so --

6 And our -- again, I don't want --
7 don't want to get into a big lecture on it, but the --
8 we were very impressed on -- by public opinion polls.
9 We wanted to see Canadian policy in that -- foreign aid
10 and in other areas tied to what people wanted, as
11 demonstrated by public opinion polls.

12 MS KULASZKA: And how about the
13 Canada First Immigration Reform Committee?

14 MR. FROMM: Well, as the 80's
15 moved -- moved along into the '90s, foreign aid became
16 less and less a -- in my -- in our opinion, a crucial
17 issue, and immigration reform moreso. So the Canada
18 First Immigration Reform Committee was created to -- to
19 lobby for just that, a Canada first immigration policy,
20 based again on what the public opinion showed Canadians
21 wanted. That's -- that's kind of a short version of
22 it.

23 MS KULASZKA: And the Canadian
24 Association for Free Expression?

25 MR. FROMM: Okay, ironically, the --

1 the Charter of Rights and Freedoms was proclaimed in
2 1982, but just on the eve of its proclamation, a number
3 of us felt that the -- that despite what would appear
4 to be really solid promises in that -- in Trudeau's
5 charter, that freedom of speech was under attack in
6 Canada, as it had never been before.

7 So we formed the Canadian Association
8 for Free Expression to lobby, later it would be --
9 would become this, to lobby for the -- for the widest
10 possible interpretation of the charter-guaranteed
11 rights of freedom of speech, freedom of expression, and
12 freedom of belief.

13 MS KULASZKA: Now, as a result of
14 your activities, did you have the opportunity to meet
15 people who were the subject of complaints under Section
16 13 of Canadian Human Rights Act?

17 MR. FROMM: Yes, actually, at both
18 ends of the spectrum. I've had ongoing discussions
19 with Little Sisters bookstore in Vancouver, which is a
20 gay and lesbian outlet for books and literature, and
21 they have had -- they've had more than a decade --
22 actually, almost, I think, 15 years of problems with
23 Canada Customs.

24 So, yes I -- in the course of this
25 work, I have met or come to know a good many of the

1 people who have found themselves prosecuted under
2 either Section 319 of the Criminal Code, or -- I guess
3 more -- of more relevance to this Tribunal, Section
4 13(1) of the Canadian Human Rights Act.

5 MS KULASZKA: And the subject of
6 Little Sisters, that was Customs was the --

7 MR. FROMM: Yes, Customs is another
8 major area of censorship in Canada.

9 MS KULASZKA: Now, did you know John
10 Ross Taylor?

11 MR. FROMM: Yes, I knew -- I'm
12 searching my memory. I knew him back at least as far
13 as 1970. In 1971, I became for one year, the leader of
14 the Social Credit Party of Ontario. And after a year
15 of that, I decided that that really wasn't the
16 direction I wanted to go in, and I ended up passing
17 over the -- this very small party to John Ross Taylor,
18 so I knew him at least as far back as 1970.

19 MS KULASZKA: And he was a respondent
20 under section 13 of the Canadian Human Rights Act?

21 MR. FROMM: Yes, he was, I believe,
22 the first respondent.

23 MS KULASZKA: Can you tell us whether
24 John Ross Taylor -- what his -- what his financial
25 status was at the time he was a respondent under

1 Section 13 of the act?

2 MR. FROMM: Well, in all of years I
3 knew him, he lived in a very poor rooming house on
4 Sherbourne Avenue in Toronto, until the last couple of
5 years of his life, when he moved to Edmonton and lived
6 with a supporter. John Ross Taylor was, as far as I
7 could tell, had only the income that he had as a
8 pensioner. He -- he lived a very, very modest
9 lifestyle. As far as I could tell, he owned one suit.

10 He was -- he was very poor. And
11 he -- for much -- well, for maybe the last 15 years of
12 his life that I knew him, every year he would go to an
13 event in Hayden Lake, Idaho. And you know, most
14 people, I guess, would fly to the nearest airport,
15 which, I suppose, is Spokane. But not John Ross
16 Taylor. He didn't have the money. So he'd hop on a
17 bus and he'd go right across to Alberta, and down to --
18 he was, you know, a man of very modest means.

19 MS KULASZKA: What was his
20 background, his racial background.

21 MR. FROMM: John Ross Taylor was
22 European/Canadian, white.

23 MS KULASZKA: Was he represented at
24 council, to your knowledge, before the Canadian Human
25 Rights Tribunal?

1 MR. FROMM: Well, he -- he was, as
2 far as I know, the first Section 13(1) complaint in the
3 old days, when it referred to telephone answering
4 machines. And I know he appeared before a three-person
5 tribunal. And no, he thought he'd represent himself,
6 and he did. And he -- he had no resources for -- to
7 hire an attorney.

8 MS KULASZKA: Would you describe
9 Mr. Taylor as eccentric?

10 MR. FROMM: Yes, he -- as you know,
11 I'm certain every -- people would know, he was interned
12 during the Second World War because he was the
13 Canadian -- I mean, the English Canadian leader of
14 the -- of the Canadian Union of Fascists, and he
15 opposed the -- Canada's entry into the war, as did a
16 fair number of people in the province of Quebec.

17 So he was interned in Petawawa, as I
18 understand it, for about 18 months. I'm not exactly
19 sure what he did after the war. He was -- I don't
20 know, he was a -- he did some sort of sales. But the
21 time I got to know him, he was -- yeah, he was, I
22 think, in his sixties.

23 MS KULASZKA: Did -- did he believe
24 that there was a civil war raging in the subways of
25 Toronto?

1 THE CHAIRPERSON: I asked you to go
2 quickly but -- that's -- that's a very leading
3 question.

4 MR. FROMM: Okay, well, what did John
5 Ross Taylor believe? Certainly, in terms of religion,
6 you never knew from -- from week to week. One time, he
7 was a Bahai, that's B-A-H-A-I. Another time he was
8 very conservative Catholic. Another point, he was what
9 is called British Israel, or again, it'd be Christian.

10 He was very much opposed to the sort
11 of immigration that was beginning to come into Canada
12 after the Immigration Act changed in 1965. He was very
13 much in favour of free speech. He had a lot of
14 economic theories, which I would -- I would be hard to
15 categorize, except perhaps they were a -- a version of
16 social credit.

17 MS KULASZKA: And after the Section
18 13 hearing, what kind of order was imposed upon him?

19 MR. FROMM: Oh. Well, did -- did you
20 want me to talk about the subways or -- he also --

21 THE CHAIRPERSON: I just asked her
22 not to put the answer in your mouth, that's all.

23 MR. FROMM: He also, on occasion,
24 would assure me that there was a force that was on our
25 side, in the very upper echelons of Canadian society.

1 And they were called the Beavers. And there were in
2 the very top positions of power, and they would
3 communicate with us occasionally by every fifth word on
4 certain signs around the city. One had to take this on
5 faith.

6 So yes, he was -- he was eccentric.
7 But much of the time, he - much of the time, he made
8 sense.

9 MS KULASZKA: He was coherent. Okay.
10 And a cease and desist order was issued him --

11 MR. FROMM: Yes, after the Human
12 Rights Tribunal, I believe it was in '79, a cease and
13 desist order was passed -- was imposed upon him. And
14 he was not to continue to make -- to make the same type
15 of telephone answering messages as he had made in the
16 past. And he was aware of that, but he went right back
17 to it.

18 He really was a -- you could kind of
19 summarized him by the term "a happy warrior". I mean,
20 he just marched to his own drum, and you know, an order
21 was passed against him, but he didn't see anything
22 wrong in what he had done, and he went right back to
23 recording messages -- I'm not in a position to say if
24 they were exactly the same as the previous ones. I
25 just know he did record more messages.

1 MS KULASZKA: And was he imprisoned
2 subsequently?

3 MR. FROMM: Yes. Subsequent to that,
4 he was charged with contempt of court, and he would be
5 well -- late in his 60's at this point. He was
6 sentenced to a year in prison, of which he served -- of
7 which he served nine months. And he went back to
8 recording messages. He was not represented at that
9 hearing.

10 He went -- at that trial. He went
11 back to recording messages. He was again charged, and
12 at this point, Doug Christie took up the case. And I'm
13 not sure if -- I guess he did go to the Court of
14 Appeal, and eventually went to the Supreme Court, and a
15 decision was handed down in 1990.

16 And John Ross Taylor was sentenced --
17 now he was well into his 70's -- to another year in
18 prison for his telephone messages.

19 And I addressed a meeting in 1990,
20 just before he went to the -- to jail a second time.
21 This got me into a lot of trouble, what I said.

22 But I said it then, and I'd say it
23 now. That at his age, in his mid-70's, a man with no
24 history of violence, if he'd gone down to the local
25 schoolyard and done -- done the dirty old man thing

1 with a trenchcoat, if he'd appeared before almost any
2 judge in the province of Ontario, the judge would have
3 said, "Mr. Taylor, I don't want to see you again in my
4 court. Don't do that. Keep the trench coat done up
5 and don't -- don't darken my courtroom again."

6 But because, in my judgment, it was a
7 political offence, he got -- he got a year in jail.

8 But a very odd thing happened. He
9 had been in jail, in the Mimico Detention Centre for a
10 little over a month, and one Saturday morning at
11 about -- about seven, I got a phone call and it was
12 John Ross Taylor, and he said, "I've been throw out."
13 I said, "What do you mean?" Well, he said, "They're
14 throwing me out. You know I have no transportation.
15 Can you come and get me or get somebody to come and get
16 me?"

17 So I went and got him and he -- I
18 think he'd served a little over 30 days of his one-year
19 sentence, and that, as far as I know, was his last
20 visit to prison.

21 MS KULASZKA: If you could go onto
22 Terry Long.

23 MR. FROMM: Okay. I met Terry Long
24 sometime in the early '80s. He was active in central
25 Alberta, in a place -- in his home area of Caroline.

1 And I know he was -- he was charged, I believe, for --
2 under Section 13(1).

3 He was obviously -- he was obviously
4 white. He was young, as opposed to John Ross Taylor,
5 who was, you know, already fairly on into old age. And
6 he was not represented, to the best of my knowledge, at
7 the Tribunal hearing.

8 THE CHAIRPERSON: And you mean young,
9 can you --

10 MR. FROMM: Well, he would have been
11 in his, I think late thirties.

12 MS KULASZKA: Randy Johnston.

13 MR. FROMM: I believe he was the
14 co-accused with Terry Long. He was young, he was
15 white, and I don't believe represented.

16 MS KULASZKA: Roughly his age?

17 MR. FROMM: I don't know. My -- my
18 sense was he would be in his 20's at that time.

19 MS KULASZKA: Church of Jesus Christ
20 Christian Aryan Nations?

21 MR. FROMM: Well, that was the --
22 that was the name of the organization that Terry Long
23 headed up.

24 MS KULASZKA: So these were like
25 co-accused in the same hearing?

1 MR. FROMM: That's my understanding,
2 yes.

3 THE CHAIRPERSON: Co-respondents,
4 right? I mean, to make the distinction from the
5 Criminal Code --

6 MS KULASZKA: Oh, sorry, co --
7 co-respondents.

8 THE CHAIRPERSON: No, I make the
9 distinction because the -- you mention the Criminal
10 Code provision as well. So these were respondents to
11 Section 13(1) complaints?

12 MR. FROMM: Yes.

13 MS KULASZKA: And what kind of orders
14 were issued against them?

15 MR. FROMM: Cease and desist order.
16 And after that, Terry Long essentially withdrew from
17 active politics.

18 MS KULASZKA: William James Harcus?

19 MR. FROMM: William James Harcus,
20 I've met him once.

21 THE CHAIRPERSON: Can you spell that?
22 I'm sorry.

23 MR. FROMM: H-A-R-K-U-S, I believe.

24 MS KULASZKA: I think it's C-U-S.

25 THE CHAIRPERSON: H-A-R-C-U-S.

1 MS KULASZKA: H-A-R-C-U-S.

2 MR. FROMM: He and some friends were
3 active in Winnipeg. They had an -- a telephone
4 answering machine -- or answering message, as I
5 understand it, and they were subject to Section 13(1)
6 charge, which -- complaint which was sustained. There
7 was a cease and desist order imposed upon him. And he
8 was white, and I think in his early thirties.

9 MS KULASZKA: Was he represented by
10 counsel at the hearing?

11 MR. FROMM: No, he -- no, he was not.

12 MS KULASZKA: Manitoba Knights of the
13 Klu Klux Klan?

14 MR. FROMM: I think that was the
15 organization -- that was the organization that
16 Mr. H-A-R-C-U-S was associated with.

17 MS KULASZKA: And so that would be a
18 co-respondent?

19 MR. FROMM: Yes.

20 MS KULASZKA: Wolfgang Droege?

21 MR. FROMM: Wolfgang Droege I knew
22 far better. He -- he founded in 1989 the Heritage
23 Front, and it was active, quite active in Toronto from
24 '89 to about '94, much less active after that. At
25 the -- he was subject to a Section 13(1) complainant.

1 MS KULASZKA: And -- together with
2 the Heritage Front?

3 MR. FROMM: Yes, with the Heritage
4 Front. Now, my understanding was that there was --
5 that there was not a finding, but that there was an
6 agreement to a cease and desist order.

7 MS KULASZKA: Was he represented by
8 counsel?

9 MR. FROMM: I don't believe so.

10 MS KULASZKA: Mr. Dredge was white,
11 was he?

12 MR. FROMM: Mr. Droege, of course,
13 was white, of German descent. And at the time there,
14 in the early '90s, he would have been in his early
15 '40s.

16 MS KULASZKA: What was his economic
17 status, to your knowledge?

18 MR. FROMM: At that time, he was
19 extremely poor. He lived in a very modest apartment in
20 the east end of Toronto, and at one point, had to go
21 on -- on welfare, because there had been so much
22 pressure put on businesses that had employed him.

23 He was -- he got work as a bailiff,
24 or assisting a bailiff. And pressure was brought to
25 bear on the companies that -- that had used his

1 services. And so he was, for a period of time in -- in
2 that -- in that era, without any income at all.

3 MS KULASZKA: Was he imprisoned
4 subsequently?

5 MR. FROMM: Yes, he was subsequently
6 imprisoned on an assault charge and I -- served a few
7 months. I'm not -- I don't remember quite how long but
8 it's several months sentence.

9 MS KULASZKA: Canadian Liberty Net?

10 MR. FROMM: Canadian Liberty Net was
11 the name used by Tony McAleer of Vancouver, and he
12 probably -- he had probably the most sophisticated of
13 the telephone answering machine operations. By that
14 time, the technology had gone beyond the simple tape
15 recorder like affair, where you'd record your message,
16 and a call would come in and they would hear your --
17 your message.

18 What Tony McAleer here did, and he
19 was quite proficient in terms of technology, was he had
20 a -- he had a phone in where -- a phone line where you
21 could -- you could access a menu of different messages.
22 And he had that operating in Vancouver in the -- I
23 believe in the early -- late 80s and very early 90's.

24 MS KULASZKA: And was an order made
25 against him under Section 13 of the Act?

1 MR. FROMM: Yes, there was a Section
2 13(1) complaint based largely on a message that's -- -
3 was critical -- or actually made a -- a snide comment
4 about homosexuals. And so there was a cease and desist
5 order imposed upon him.

6 MS KULASZKA: And his race?

7 MR. FROMM: He was white, and he was
8 in his late 20's at the time.

9 MS KULASZKA: And was he represented
10 by counsel?

11 MR. FROMM: I believe he was, I
12 believe -- the reason I hesitate is there was also a
13 criminal charge -- contempt charge, and I know Doug
14 Christie represented him at that. I -- I believe he
15 was represented at the -- at the -- in the 13(1)
16 charge, but I'm not -- I'm not totally sure.

17 MS KULASZKA: Derrick J. Peterson?

18 MR. FROMM: I don't know him.

19 MS KULASZKA: Tony McAleer?

20 MR. FROMM: You just -- yes, Tony
21 McAleer and the Canadian Liberty Net are -- are about
22 the same charge.

23 MS KULASZKA: Harry Vaccaro?

24 THE CHAIRPERSON: Sorry? Repeat
25 that.

1 MS KULASZKA: Harry Vaccaro,
2 V-A-C-C-A-R-O.

3 MR. FROMM: I don't know him. I
4 think he was a co-accused, actually, of -- with Tony
5 McAleer, but beyond that I don't know anything -- don't
6 know anymore about him.

7 MS KULASZKA: Church of Christ in
8 Israel.

9 MR. FROMM: I don't know.

10 MS KULASZKA: Charles Scott.

11 MR. FROMM: Know Charles Scott.

12 THE CHAIRPERSON: You do?

13 MR. FROMM: Pardon?

14 THE CHAIRPERSON: You do know Charles
15 Scott?

16 MR. FROMM: Well, I should say, I met
17 him once and I know of him. Charles Scott was -- or
18 said he was the representative of the -- of the Aryan
19 Nations, Pastor Buckler's group down in Idaho. And he
20 had a -- he had a California message machine.

21 MS KULASZKA: And was a cease and
22 desist order issued against him?

23 MR. FROMM: Yes, he was -- he was
24 white and my sense is he would be in his early to mid
25 30's at that time.

1 MS KULASZKA: Was he represented by
2 counsel?

3 MR. FROMM: No.

4 MS KULASZKA: Ernst Zundel?

5 MR. FROMM: I guess Ernst Zundel was
6 the -- was the first time that the Canadian Human
7 Rights Commission tried -- decided to expand the scope
8 of 13(1) from answering -- telephone answering machines
9 to the Internet. And that as a case that CAFE
10 intervened in, and it went from 1996 to -- through to
11 2002.

12 I think there were about 55 days of
13 hearings, there were numerous trips to federal court
14 for judicial review, and a -- and a trip to the Court
15 of Appeal.

16 And Ernst Zundel, of course, was
17 white. He would have -- would have been in his
18 mid-50's at the time. And because he did have some
19 resources, he was represented by counsel.

20 MS KULASZKA: And the cease and
21 desist order was issued?

22 MR. FROMM: Yes, in the 2002
23 decision.

24 MS KULASZKA: And what website did
25 this hearing deal with?

1 MR. FROMM: That -- it referred to
2 an - to a website in the United States, called the
3 "Zundel" site.

4 MS KULASZKA: To your knowledge, is
5 that website still operational?

6 MR. FROMM: Yes, it is.

7 MS KULASZKA: How do you know that?

8 MR. FROMM: Because I access it from
9 time to time.

10 MS KULASZKA: Next, Machiavelli &
11 Associates Emprize Inc?

12 MR. FROMM: That was the -- I
13 believe, corporate entity that was co-charged with John
14 Micka -- and that's M-I-C-K-A -- in Vancouver. That --
15 that too, was a transition case. The law had not yet
16 been changed, but the Canadian Human Rights Commission
17 was trying to apply 13(1) to the Internet.

18 And John Micka had a -- a website
19 that was very highly critical of pedophiles and
20 homosexuals, and a -- a complaint was made by -- laid
21 against him by a Vancouver homosexual named Mark
22 Schnell.

23 Micka was white, I think of
24 Czechoslovak background, and my guess, middle age,
25 maybe late 40's. And he did -- was not represented by

1 counsel. CAFE intervened in that case, and we called
2 Bernard Klatt as a witness of fact.

3 MS KULASZKA: And was a cease and
4 desist order issued?

5 MR. FROMM: Yes, and to the best of
6 my knowledge, the site continued, at least for a while,
7 hosting in the United States. I don't know if it's
8 still up.

9 MS KULASZKA: Do you remember the
10 name of the website?

11 MR. FROMM: I think it was actually
12 canadianemprize.inc., or -- and it's spelt in an odd
13 way, E-M-P-R-I-Z-E.

14 MS KULASZKA: Do you know his
15 financial status at all?

16 MR. FROMM: He didn't seem to have
17 recourses, and did not have an attorney.

18 MS KULASZKA: Fred Kyburz?

19 MR. FROMM: Fred Kyburz I know from
20 my occasional connections with a movement that is
21 called the D-tax movement.

22 THE CHAIRPERSON: D-tax?

23 MR. FROMM: D-Tax, as in D-hyphen
24 Tax. This is a movement on both sides of the border
25 that has, for complicated reasons, believes that the --

1 the Income Tax Act in both Canada and the United States
2 is unconstitutional and invalid. And it goes beyond
3 that but -- I knew him from his involvement in that.

4 And Fred Kyburz had a website, and
5 he -- he was complained against by Richard Warman, and
6 Richard Warman contacted his ISP in the United States,
7 and -- at least at one point, got his service removed.
8 And there was a complaint filed against him, and there
9 was a hearing, and he'd --

10 MS KULASZKA: This is under Section
11 13?

12 MR. FROMM: Under Section 13(1). And
13 he -- Mr. Kyburz did not appear. He said he didn't
14 recognize the jurisdiction of the Canadian Human Rights
15 Commission, or Tribunal. And a -- an order was -- a
16 cease and desist order was passed, was made against
17 him, and a very hefty fine, and an award of
18 compensation to -- to Mr. Warman. I don't have the
19 figures but it -- it was really quite substantial.

20 MS KULASZKA: And his race?

21 MR. FROMM: Kyburz was -- is white.
22 Kyburz -- I would say he's in his early 60's, and --
23 and he's virtually indigent.

24 MS KULASZKA: And what website was
25 involved, can you remember?

1 MR. FROMM: No, I can't. I never
2 accessed it.

3 MS KULASZKA: Eldon Warman?

4 MR. FROMM: Eldon Warman I also know
5 from the same circles. He's one of the leading
6 theoreticians of the D-tax movement. And Eldon, I
7 know, had a website, and it too was a complaint -- it
8 was subject of a complaint by Richard -- by Richard
9 Warman. And there was a Tribunal held, and a finding
10 was made against Mr. -- against Eldon Warman. A cease
11 and desist order was -- was in -- passed, and a fine
12 imposed.

13 MS KULASZKA: And his race?

14 MR. FROMM: Eldon Warman is -- was --
15 is -- actually an -- was an American citizen. He's
16 a -- he's white, he would be in his early '60s.
17 He's -- he's a former airline pilot, and it's -- too
18 had no resources, and did not have an attorney, and did
19 not appear at the -- at the Tribunal. And he too did
20 not recognize the jurisdiction of the Tribunal.

21 MS KULASZKA: Alex Kulbashian?

22 MR. FROMM: Alex Kulbashian, I know
23 slightly. And Alex -- Alexyn had -- along with a
24 fellow named Richardson, had several websites that were
25 subjects of Section 31(1) complaint.

1 MS KULASZKA: And who was the
2 complaint laid by?

3 MR. FROMM: It was -- complaint was
4 made by Richard Warman. I attended a couple of the
5 sessions, which, if I recall correctly, went on for --
6 over a period of time, for about 7 weeks.

7 MS KULASZKA: And how old would
8 Mr. Kulbashian be?

9 MR. FROMM: Mr. Kulbashian would be
10 in his -- I'd say in his mid to late 20's. He's white,
11 and did not have the resources, apparently, to have an
12 attorney.

13 MS KULASZKA: Did he appear?

14 MR. FROMM: He represented himself
15 as -- along with Mr. Richardson. Yes, he -- he did
16 appear.

17 MS KULASZKA: And how old would
18 Mr. Richardson be?

19 MR. FROMM: Mr. Richardson would -- I
20 would put him as late '20s. He's white. And
21 apparently he had -- I believe evidence was lead at
22 the -- at the hearing that he did -- he had virtually
23 no resources. So this was -- I think, considered as a
24 mitigating circumstance, in terms of any penalty.

25 MS KULASZKA: Was a cease and desist

1 order issued?

2 MR. FROMM: Yes, and I think -- I
3 should say, I know fines against Mr. -- Mr. Kulbashian
4 and Mr. Richardson, and I believe some form of
5 compensation for -- payment of compensation to --
6 awarded to Mr. Warman against Mr. Kulbashian.

7 MS KULASZKA: And at that same
8 hearing, there were additional respondents;
9 tricityskins.com, Canadian Ethnic Cleansing Team, and
10 affordablespace.com, those are not individuals,
11 correct?

12 MR. FROMM: No, they were, I believe,
13 websites.

14 MS KULASZKA: Thomas Winicki?

15 MR. FROMM: Thomas Winnicki, I also
16 know. And he was the subject of another complaint by
17 Richard Warman. This goes back to -- excuse me,
18 September of 2003.

19 The complaint was -- oh, if I recall
20 correctly, largely because of postings that
21 Mr. Winnicki made on an -- on a Net -- on a U.S. that's
22 already been mentioned at this -- this Tribunal.

23 That's the VNN, or Vanguard Network
24 News. Mr. Winnicki is -- is of Polish -- he's a Polish
25 immigrant. He's white. I'd put him in his late 20's.

1 He was represented by a lawyer, but he has a fairly
2 low-paying job, and this is eating up a huge amount of
3 his resources.

4 MS KULASZKA: Craig Harrison? Oh,
5 the -- the complainant, was that Richard Warman?

6 MR. FROMM: Richard Warman, yes.

7 MS KULASZKA: And a cease and desist
8 order was made against Mr. Winnicki?

9 MR. FROMM: Yes, a cease and desist
10 order was imposed upon him, a -- a fine, and I believe
11 compensation to Richard Warman. And Mr. Winnicki
12 continued to post on VNN, although what he told me was
13 that he was trying to live within the order, and trying
14 to be more cautious of what he said.

15 And my understanding is that he has
16 been -- is the subject of a -- of a contempt of court
17 action, again initiated by Mr. Warman. And I don't
18 think that's gone to trial yet.

19 MS KULASZKA: Craig Harrison?

20 MR. FROMM: I met Craig Harrison
21 once. I vaguely knew of him from reports in the -- in
22 the local press. He was also charged by Richard Warman
23 in connection with some of the postings he made on the
24 FreedomSite, or is alleged to have made. There was a
25 Human Rights Tribunal before Member Doucette, that was

1 held last spring, I believe.

2 MS KULASZKA: And the order imposed?

3 MR. FROMM: Yes, a cease and desist
4 order imposed and -- and a fine. I was -- I was at the
5 first morning -- part of the first morning, I believe,
6 of the hearing and I was able to observe and I -- able
7 to observe on the previous occasion that Mr. Harrison
8 was -- was white.

9 MS KULASZKA: Do you know anything
10 about his financial --

11 MR. FROMM: I would put him in his
12 30's. Well, he didn't seem -- he wasn't -- he wasn't
13 able to hire an attorney. He had, I believe, his wife
14 representing him for -- for the short time they were
15 there.

16 MS KULASZKA: And did they lead the
17 hearing?

18 MR. FROMM: I understand that remarks
19 were made, and he reacted badly and used fairly salty
20 language, and stormed out and didn't return.

21 MS KULASZKA: And the complainant in
22 that case?

23 MR. FROMM: Complainant was Richard
24 Warman.

25 MS KULASZKA: Peter Cuba?

1 MR. FROMM: I've -- I've known Peter
2 Cuba on and off for about 20 years. Peter Cuba made
3 quite a name for himself in the late 80's, when he
4 designed and marketed a series of buttons. That was
5 the time of the controversy about turbans in the RCMP,
6 and he had a -- a button with a -- that had a -- a
7 Mountie with a turban. And he had several versions of
8 the button. And this made front page news, at least
9 throughout Western Canada, and he sold, according to
10 him, tens of thousands of these.

11 So I -- I'd met him once, back there
12 in the late 80's. I lost track of him until about
13 2003, and he showed up to a couple of my meetings in
14 Edmonton. And he and another person, Glenn Barr, were
15 in the process of forming a new group, which was going
16 to be called Western Canada For Us.

17 So I -- I met him at a couple of my
18 meetings, and then I was invited to speak to a meeting
19 in -- of WCFU, or Western Canada For Us. It was
20 originally scheduled for -- for Red -- for just outside
21 Red Deer, but there were threats made and it was moved
22 to Edmonton.

23 So I spoke at that meeting. And so I
24 met Mr. Kouba again, and was -- that's the last time
25 I've -- I saw him. But he was charged by Richard

1 Warman, under -- pursuant to Section 13(1) for some of
2 the postings on the Western Canada For Us website.

3 MS KULASZKA: And his race?

4 MR. FROMM: He was white -- he -- I
5 believe also -- Czech or Slovak descent. He was -- I
6 put him in his 50's. And despite his -- his various
7 entrepreneurial activities, I did -- I did not get the
8 impression he had any resources, and he appeared for a
9 part of his Tribunal hearing in Edmonton last summer,
10 without representation.

11 MS KULASZKA: And what kind of order
12 was made against him, do you know?

13 MR. FROMM: I know there was a cease
14 and desist order. I'm not certain if there was a fine.

15 MS KULASZKA: Glenn Bahr?

16 MR. FROMM: Well, now, Glenn Bahr, I
17 knew -- I was more involved in. I -- I was quite
18 impressed with him, having met him at this Western
19 Canada For Us meeting, where I was invited to speak.

20 He was subsequently, in my opinion,
21 victimized by Mr. Warman. He was -- complaint was made
22 against him under Section 13(1) of the Criminal Code.

23 MS KULASZKA: 13(1) of the --

24 MR. FROMM: I'm sorry, 13(1) of the
25 Canadian Human Rights Act. A complaint was laid

1 against him by Mr. Warman under Section 319 of the
2 Criminal Code. His place was raided. Not only were --
3 well, it was a computer and -- computer related things
4 taken by the police, but items of clothing, belts,
5 books, CDs.

6 And Mr. Bahr had steady, but not
7 terribly remunerative employment. He was -- he was
8 told that his girlfriend, with whom he was living,
9 would have her child, who was six or seven years old,
10 taken away from her because she -- the child had been
11 exposed to what Sergeant Steve Campbell of the Edmonton
12 Police Hate Squad said, was -- was hate propaganda. So
13 he was so concerned about it.

14 He said, "Well, what -- what can I
15 do?" He was told he could -- if he left town -- there
16 was no place for him in Edmonton. If he left town,
17 shut down the website, shut down the group and got out,
18 they might not -- they might not take the -- the -- the
19 girlfriend's child away. And Family Services was
20 called.

21 So he -- in order to save her, his
22 girlfriend's child, indeed left town in May of 2004,
23 shut down the website, disbanded the group, and he
24 moved to British Columbia.

25 This was a big interruption in -- in

1 his employment, and along the way, he -- he ended up
2 without a car. He was arrested in January of 2005,
3 charged under Section 319, and -- and then the -- the
4 Tribunal hearing into the 13(1) complaint by Richard
5 Warman was heard last May, and I guess the first day of
6 June in Edmonton.

7 He asked me if I would represent him
8 because he did not have the resources for an attorney.
9 He realized that he was out of his depth. I appealed
10 to the case manager, citing the decision in the
11 Okanagan Band case, which went all the way to the
12 Supreme Court, at -- for -- for money, for Mr. Bahr so
13 he could hire a proper lawyer.

14 I didn't think I was adequate, and I
15 said so, and said so again at that beginning of the
16 Tribunal. But he didn't have the resources for an
17 attorney, and -- and so the case went ahead. He was --
18 of course, was white, and I would say he's in his late
19 20's.

20 MS KULASZKA: And his economic
21 status?

22 MR. FROMM: Well, he was quite pure.
23 Although he's employed, he doesn't have a car. He
24 lives in a -- in a small rental place, doesn't -- just
25 doesn't have resources.

1 MS KULASZKA: And the order issued
2 against him?

3 MR. FROMM: There's a cease and
4 desist order, and a fine.

5 MS KULASZKA: And the complainant was
6 Richard Warman, correct?

7 MR. FROMM: Complainant was Richard
8 Warman, yes.

9 MS KULASZKA: Now, Western Canada For
10 Us, was that the group that was -- he was associated
11 with?

12 MR. FROMM: Yes, it was -- it was the
13 group he co-founded with Peter Kouba. It had no -- had
14 no -- it was not incorporated and -- it was -- it was
15 just a name of an association of people.

16 MS KULASZKA: Did he pay you for
17 acting as an agent?

18 MR. FROMM: No, he didn't.

19 MS KULASZKA: Melissa Guille?

20 MR. FROMM: Melissa Guille, I've
21 known for about five or six years. She founded a group
22 called the Canadian Heritage Alliance in Southwestern
23 Ontario.

24 MS KULASZKA: And how old would she
25 be?

1 MR. FROMM: I'm really bad on women's
2 ages, but maybe 30.

3 MS KULASZKA: And the complaint?

4 MR. FROMM: Complainant was Richard
5 Warman. He complained against both her and the
6 organization, the Canadian Heritage Alliance. That
7 complaint, the -- I think, the Tribunal looking into it
8 under Member DesChamps, started in November of last
9 year, and is, I believe, scheduled to continue in
10 January -- in September of this year.

11 MS KULASZKA: And her race?

12 MR. FROMM: Melissa Guille is of --
13 well, she's white, from Channel Islands in England.

14 MS KULASZKA: Her economic status?

15 MR. FROMM: She's a single mother,
16 she doesn't have a car, she's living in a small rental
17 facility with her teenage son. As she said at the
18 Tribunal, she lives from paycheque to paycheque, and
19 has under \$150.00 in her bank account. She could not
20 afford legal representation.

21 MS KULASZKA: So is she representing
22 herself?

23 MR. FROMM: Well, no. Mr. Kulbashian
24 has offered to help her, and I've -- and I offered to
25 help represent the Canadian Heritage Alliance.

1 MS KULASZKA: Terry Tremaine?

2 MR. FROMM: Terry Tremaine --

3 MS KULASZKA: Oh, just to go back to
4 Melissa Guille. Richard Warman's the complainant?

5 MR. FROMM: Richard Warman's the
6 complainant, yes.

7 MS KULASZKA: Terry Tremaine?

8 MR. FROMM: Terry Tremaine is -- or
9 was a -- a PhD in math and computer sciences. He was
10 a -- a part-time instructor at the University of
11 Saskatchewan in -- I believe, in math.

12 He was another one of Richard
13 Warman's targets. He was complained against for
14 postings that he made under the name "mathdokter99" --
15 and that's M-A-T-H-D-O-K-T-O-R 99, on Stormfront. And
16 Richard Warman made that complaint, and about a month
17 later, went to the administration of the -- the legal
18 department of the university with information of --
19 with the complaint, and this emerged at Mr. Tremaine's
20 Tribunal in -- in August in Ottawa. He sent the
21 university a letter, saying that if he didn't do
22 something about Mr. Tremaine, he would go public, and
23 go to the press.

24 MS KULASZKA: I would like you to go
25 to R-1, it should be a large black binder in front of

1 you.

2 MR. FROMM: Yes.

3 MS KULASZKA: Tab 8. Go right to the
4 back of that tab.

5 MR. FROMM: Yes.

6 MS KULASZKA: And three pages in, it
7 should be page 27 at the bottom. Is that the letter
8 you are referring to? This is a letter written by
9 Richard Warman to University of Saskatchewan. It's
10 addressed to a "Dear Mr. McKinnon"?

11 MR. FROMM: Yes, that -- that was the
12 letter that was part of disclosure at the Terry
13 Tremaine -- the Tribunal hearing in -- in front of
14 Member Doucette in Ottawa in the summer, and I guess
15 the relevant paragraph is the second last one of the
16 second page.

17 MS KULASZKA: So this was entered as
18 an exhibit at that hearing?

19 MR. FROMM: Yes, it was.

20 THE CHAIRPERSON: And what is the
21 relevant part?

22 MR. FROMM: The -- the relevant part
23 would be --

24 THE CHAIRPERSON: Last page, sir?

25 MR. FROMM: On the second page, the

1 last page, yes, the second last paragraph.

2 THE CHAIRPERSON: Given?

3 MR. FROMM: "Given the seriousness of
4 the alleged conduct, I wish to note that I will be
5 making my concerns public, and also forwarding the info
6 to Saskatoon Police Service. I will however, refrain
7 from forwarding this full documentation to anyone
8 outside the university and the police until April 22nd,
9 2005, to provide you with adequate time to prepare a
10 response."

11 Now that letter was written on the
12 11th. So the university was given eleven days to do
13 something.

14 MS KULASZKA: And the next page?

15 MR. VIGNA: Which document?

16 THE CHAIRPERSON: We're in tab 8,
17 sir, three pages back from the end.

18 MS KULASZKA: It starts at page 27,
19 Mr. Vigna, tab 8, page 27.

20 MR. FROMM: And you're directioning
21 me now to page 29?

22 MS KULASZKA: Yes, if you look at
23 page 29.

24 MR. FROMM: Yes, and this was a
25 letter from -- this, I believe, was also disclosed in

1 the -- in the Tremaine case.

2 MS KULASZKA: And it was also entered
3 as an exhibit before the Tribunal?

4 MR. FROMM: Yes, it was.

5 MS KULASZKA: And what is this
6 letter?

7 MR. FROMM: This letter informs
8 Mr. Warman that Mr. Tremaine has been fired.

9 MS KULASZKA: I would like to produce
10 those three documents, those three pages. That would
11 be tab 8, pages 27 to 29.

12 THE CHAIRPERSON: Yes.

13 MR. VIGNA: I'll be arguing that --

14 THE CHAIRPERSON: Go ahead. You can
15 complete your sentence. I'm just watching --

16 MR. VIGNA: I'm arguing on the
17 pleadings, on the relevance.

18 MR. FOTHERGILL: And I also note for
19 the record this correspondence doesn't refer in any way
20 to Section 13(1) of the Canadian Human Rights Act.

21 THE CHAIRPERSON: But it -- it comes
22 from the official record of the Tribunal, Mr.
23 Fothergill. The bottom right hand corner, Canadian
24 Human Rights Act. It was an exhibit filed in the
25 Tremaine case.

1 MR. FOTHERGILL: I don't know in what
2 context. For our purposes, the constitutional
3 challenge, my understanding is that the argument is
4 that Section 13 (1) works in such a way as to have
5 particular adverse effects, and I would submit -- and
6 this is a little bit different from other objection I
7 made previously.

8 THE CHAIRPERSON: Okay.

9 MR. FOTHERGILL: In this case, we
10 have a document about somebody's actions -- in this
11 case, Mr. Warman -- that have no relation whatsoever to
12 the exercise of any kind of authority under Section
13 13(1) of the Canadian Human Rights Act, so it cannot be
14 used to impugn the legislation.

15 MS KULASZKA: I think if you read the
16 letter, Mr. Fothergill, you'll see that what was sent
17 to the university were various documents, and the
18 second one at tab 2 was a copy of the federal Human
19 Rights complaint that has been filed against
20 Mr. Tremaine, including limited examples of the hate
21 messaging posted by mathdokter99.

22 So the -- the copy of Mr. Warman's
23 complaint under Section 13 of the act was in fact sent
24 to the University of Saskatchewan, where Mr. Tremaine
25 was employed.

1 THE CHAIRPERSON: I'll leave it for
2 argument. That's fine. It's produced and -- I believe
3 some of this information was disclosed -- discussed by
4 the member who issued the decision in this case. Last
5 week, I think, it was referred to.

6 MS KULASZKA: To your knowledge, what
7 happened to Mr. Tremaine after he was fired?

8 MR. FROMM: Well, he posted on
9 Stormfront in the spring of this year, his story.
10 After he was fired, he was very frightened because at
11 his age -- I mean, he's -- I think he's about 57 or
12 so, the chances of getting another university position
13 were pretty slim. He was not -- he was not tenured, so
14 he was quite vulnerable.

15 He really feared for his future,
16 thought perhaps of just going -- going underground.
17 According to his own account, started drinking heavily
18 and went and stayed with a -- because he had now had no
19 resources, went and stayed with a friend out on the
20 coast, and was afraid that somehow the friend would be
21 imperiled if Richard Warman found out where he was
22 staying. At one point, he sent a letter recanting all
23 his views, apologizing, and so on.

24 By the spring of the next year, he'd
25 decided not to continue to imperil his friend, as he

1 saw it, and moved back to Saskatchewan and felt so
2 under pressure that he checked himself into the mental
3 health wing of the hospital in -- in Regina.

4 And after some time there, decided
5 that he was not going to run any more, that what his --
6 he believed what he believed, and he was not going to
7 apologize.

8 So he retracted his apology, and
9 decided that he was going to fight the Canadian Human
10 Rights complaint by Richard Warman, as best he could.

11 He consulted a number of people, and
12 he consulted me and I told him to get a lawyer. But he
13 didn't have any -- his problem was he didn't have any
14 resources. He was -- as he testified at that hearing,
15 at the Tribunal hearing he was -- had a part-time
16 minimum wage job, which allows him to clear about \$600
17 a month. That is \$7,200.00 a year, and that's about 50
18 percent of the -- of what is -- is called -- you know,
19 the poverty line in Canada. He just didn't have the
20 resources for a lawyer.

21 He wanted me to help him but it
22 wasn't clear to me whether he wanted me to represent
23 him. He just wanted me to tell him the procedures.

24 And in the end, he wanted me at the
25 last minute to represent him, and I -- I did. And I --

1 again, I offer the caveat to -- to Member Doucette that
2 he -- Mr. Warman -- Mr. Tremaine really ought to have a
3 lawyer, that the -- that the system ought to provide
4 with a lawyer that -- my representation, you know, was
5 at best, amateurish, and -- and not adequate. But the
6 hearing went on regardless.

7 MS KULASZKA: And has an order come
8 down in that case?

9 MR. FROMM: Yes, last Friday the --
10 Member Doucette brought down his decision, which was a
11 cease and desist order, a \$4,000.00 fine imposed upon
12 Mr. Tremaine, and he -- Member Doucette decided that he
13 would reject Mr. Warman's claim for compensation.

14 MS KULASZKA: And Mr. Tremaine's race
15 is what?

16 MR. FROMM: Mr. Tremaine is --
17 white, of European decent, and as I think -- as I've
18 already mentioned, he's in his late '50s, 57 or 58, I
19 think.

20 MS KULASZKA: And then go onto
21 Jessica Beaumont?

22 MR. FROMM: Yes. I -- know Jessica
23 Beaumont. She was charged in -- in conjunction with
24 her -- her boyfriend, Kieran Donnelly. She posted on
25 Stormfront under the name "Jessie Destruction", and he

1 posted on Stormfront under the name "Der Totenkopf",
2 T-O-T-E-N-K-O-P-F, I think.

3 THE CHAIRPERSON: Mr. Fromm, I'm
4 going to ask you to be very careful as you approach
5 this topic. Since the case is still under advisement
6 in front of me, and I don't want you to make any
7 declarations which go beyond what information was at
8 the hearing.

9 MR. FROMM: I think that -- that much
10 was all about --

11 THE CHAIRPERSON: Okay, I'm advising
12 you at this point. Look, I heard that case so -- maybe
13 you should just -- with regard --

14 MR. FROMM: Yes, I think I recall.

15 THE CHAIRPERSON: With regard to that
16 file, just limit yourself to the basics of who the
17 person was.

18 MR. FROMM: Okay, just on Jessica
19 Beaumont. She, as of last fall, had just turned 21.
20 She's a -- a young -- just starting off in a work
21 career, I think a -- just a little -- a little bit more
22 than a minimum wage job. She could not afford an
23 attorney.

24 She asked if I would help and I -- I
25 did represent her as an agent at -- at the three-day

1 Tribunal that was held in Vancouver in December.

2 MS KULASZKA: And about how old is
3 she?

4 MR. FROMM: She's now 21. She was
5 18, 19 and 20 during the time she was posting these --
6 the -- mostly on Stormfront, the passages that were --
7 that Mr. Warman complained about.

8 MS KULASZKA: And her race?

9 MR. FROMM: She's white.

10 MS KULASZKA: Bobby Wilkinson?

11 THE CHAIRPERSON: That's another one
12 that I have heard. So I would ask you -- and he has
13 not -- he did not show up at the hearing, so I don't
14 know if that's --

15 MR. FROMM: I -- I have not met Bobby
16 Wilkinson. I was in touch with him very briefly.

17 THE CHAIRPERSON: I'm going to ask
18 him to --

19 MS KULASZKA: We'll just -- we'll
20 just --

21 THE CHAIRPERSON: For this one, I
22 appreciate what you've been doing so far, but I don't
23 want to again corrupt the evidence on that file.
24 Because he did not show up at the hearing, and I have
25 only the evidence that I have before the hearing. I

1 don't -- I don't want to hear anything additional.

2 MS KULASZKA: Just -- just going back
3 to Beaumont and --

4 THE CHAIRPERSON: I know he's a
5 gentleman -- he's a gentleman who lives in the Ottawa
6 area.

7 MR. FROMM: Can I say anything else
8 about him, his age?

9 THE CHAIRPERSON: No, I think you
10 better not.

11 MS KULASZKA: With Beaumont and
12 Donnelly --

13 THE CHAIRPERSON: Because it might
14 raise issues -- broader issues. I would rather you
15 don't.

16 MS KULASZKA: With Beaumont and
17 Donnelly, were they -- the complainant was Mr. Warman;
18 is that right?

19 MR. FROMM: Yes, they -- the
20 complaint -- it was -- they were accused together. And
21 it was on -- was on a complaint by Richard Warman.

22 MS KULASZKA: Okay.

23 MR. FROMM: The case, though, was
24 severed because of Mr. -- Mr. Donnelly is quite ill.
25 And I don't think there's been any discussion as to

1 when he will -- when the Tribunal will go ahead with
2 him. So she was -- her part -- she was severed, and
3 her -- her hearing was -- was in December.

4 MS KULASZKA: And Donnelly, have you
5 met him? Is he -- do you know his race?

6 MR. FROMM: Yeah, I've met Donnelly
7 on a couple of occasions. He's of Irish descent,
8 obviously white, and I would put him in his early 30's.
9 And he's -- he's living on Workmen's Compensation. He
10 doesn't have a car. You know, he's -- he's poor and he
11 can't afford an attorney.

12 MS KULASZKA: Alex Dickey. Did I
13 read that -- oh, John Beck?

14 MR. FROMM: John Beck is -- and this
15 is very much in dispute, but John Beck is --

16 MS KULASZKA: Just his race?

17 MR. FROMM: John Beck is white. He's
18 30ish, he too is living on some sort of disability.
19 He's very poor. He had an income -- this was put into
20 evidence at the Tribunal in Penticton -- of a -- an
21 income of a little over \$11,000 a year.

22 MS KULASZKA: And who is the
23 complainant?

24 MR. FROMM: The complainant -- the
25 complainant is a Fo -- that's F-O -- Niemi, N-I-E-M-I,

1 of the -- the acronym is CRARR, and I think that stands
2 for Centre for -- maybe Mr. Vigna can help me, but it's
3 in Montreal.

4 THE CHAIRPERSON: Race and Action --

5 MR. VIGNA: Race, Relations and
6 Action --

7 THE CHAIRPERSON: Yes. It's -- it's
8 in French so --

9 MR. VIGNA: Montreal-based nonprofit
10 organization.

11 THE CHAIRPERSON: I think I saw the
12 complaint at the Tribunal.

13 MS KULASZKA: Just with Bobby
14 Wilkinson, the complainant is Mr. Warman, correct?

15 MR. FROMM: Yes.

16 MS KULASZKA: And the Canadian Nazi
17 party, is that the same complainant?

18 MR. FROMM: That -- I believe so,
19 yes.

20 MS KULASZKA: Are you familiar with
21 Alex Dicitvita -- Dicitvita?

22 THE CHAIRPERSON: Can you spell it,
23 please?

24 MS KULASZKA: It's Alex, A-l-e-x, and
25 the next -- D-I-C-I-V-I-T-A. Are you familiar with him?

1 MR. FROMM: Not very, just -- I just
2 know that he was associated with a group called The
3 Church of the Creator. He was --

4 MS KULASZKA: Do you know how old he
5 is?

6 MR. FROMM: He's in his '20s. He's
7 white.

8 MS KULASZKA: Do you know his
9 financial status at all, from your knowledge.

10 MR. FROMM: Quite poor.

11 MS KULASZKA: And the complainant in
12 that case?

13 MR. FROMM: Richard Warman.

14 MS KULASZKA: And I think you
15 mentioned World Church of the Creator? That's
16 associated with --

17 MR. FROMM: Yes.

18 MS KULASZKA: It's the same type of
19 case.

20 MR. FROMM: That's -- that was the
21 religious organization that he represented on the
22 website.

23 MS KULASZKA: And the complainant
24 also is Richard Warman?

25 MR. FROMM: Yes.

1 MS KULASZKA: Mr. Pritilak. Are you
2 familiar with him?

3 MR. FROMM: Dicitvita was also
4 complained against, in conjunction with another person,
5 I think.

6 MR. VIGNA: Mr. Chair, I notice that
7 Mr. Fromm has a list of the cases, and we didn't seem
8 to get it. If we can perhaps get it, maybe after
9 lunch.

10 THE CHAIRPERSON: Okay. Ms Kulaszka,
11 can you undertake to provide a copy of that --

12 MS KULASZKA: Oh, yes, they can get a
13 list. That's fine. Are you familiar with
14 Mr. Pritilak?

15 MR. FROMM: Yeah, Lugo Mayer Pritilak
16 created a website called UCAR, Ukrainian Archives, I
17 believe. I -- I've never met him, but I have been in
18 touch with him, yes.

19 MS KULASZKA: Do you know who the
20 complainant in that case was?

21 MR. FROMM: The complainant in that
22 case was the Canadian Jewish Congress.

23 MS KULASZKA: Are you familiar with
24 the case of Liz Lampman?

25 MR. FROMM: Yes.

1 MS KULASZKA: Do you know Liz
2 Lampman?

3 MR. FROMM: I met Liz Lampman maybe
4 four years ago in -- in the Okanagan. She is very
5 young, young girl, I would say about 19.

6 MS KULASZKA: At the time you met
7 her?

8 MR. FROMM: At the time I met her.
9 If I -- she was living with -- she appeared -- appeared
10 to be quite poor. She was living with some friends in
11 the area, and she was very interested in -- she was
12 making some, what I would consider, fairly radical
13 postings on the Internet.

14 And sometime later, and I can't
15 really pinpoint the date, but perhaps a year later, I
16 got an e-mail from her, telling me she had been -- she
17 had received a complaint for her -- about her Internet
18 postings, and the complaint had been launched by -- had
19 been made by Richard Warman.

20 She asked my advice, and I gave her
21 some advice as to how I thought she ought to respond to
22 the complaint. And I didn't hear any more from her.

23 MS KULASZKA: If you look at the
24 large black binder, R-1.

25 MR. FROMM: Yes.

1 MS KULASZKA: Tab 4.

2 MR. FROMM: Yes.

3 MS KULASZKA: Page 12.

4 MR. FROMM: Yes.

5 MR. VIGNA: Hold on.

6 MS KULASZKA: This was a letter which
7 Mr. Warman provided a link to, in one of his postings,
8 I think it was on Stormfront. Is this the Liz Lampman
9 that you were referring to?

10 MR. FROMM: Yes, it appears to be.

11 MS KULASZKA: Do you have any
12 knowledge of what happened to Miss Lampman, from your
13 own personal knowledge, a result of that letter being
14 posted?

15 MR. FROMM: Well, that was one of the
16 few Section 13(1) cases that seems to have been settled
17 without going to a Tribunal. And when this became
18 known, there was quite a bit of negative commentary on
19 forums like Stormfront, very critical of her.

20 Some very nasty language was used,
21 and Stormfront does screen out the worst of language,
22 but it was quite clear a fair number of people felt she
23 was a coward, had betrayed the cause, was not being
24 honest, was an airhead, worse and other -- and you
25 know, she would be today, I would imagine, only about

1 21 or so. So she came in for a fair deal of seriously
2 negative commentary because -- because of the --
3 because of this letter.

4 MS KULASZKA: Her race?

5 MR. FROMM: Liz Lampman is white,
6 young and -- certainly very poor. She -- I also urged
7 her to get an attorney, but she didn't have the
8 resources.

9 MS KULASZKA: If you could turn to
10 the small binder you have prepared.

11 MR. FROMM: Yes.

12 MS KULASZKA: Turn to tab 1.

13 THE CHAIRPERSON: Are we going to
14 take our break at this point? The suggestion was that
15 we do it for an hour, so we can be quicker.

16 MS KULASZKA: Yes, I think we should
17 be through.

18 THE CHAIRPERSON: I had a quicker
19 solution but -- so okay, one hour. I'll make it --
20 round it off to 1:30, okay?

21 MS KULASZKA: Thank you.

22 --- Recessed at 12:10 p.m.

23 --- Resumed at 1:34 p.m.

24 MR. FROMM: I would like just to
25 correct something I said this morning. In its current

1 form, the Canadian Heritage Alliance is actually a
2 website. I think this morning I said something about
3 it being a group. It's --

4 THE CHAIRPERSON: About it being a
5 what? You said this morning what?

6 MR. FROMM: I said -- I believe I
7 said this morning, the Canadian Heritage Alliance
8 that's associated with Melissa Guille, is a group. I
9 want to say it's actually a -- a website.

10 MS KULASZKA: Anytime you have
11 personal knowledge of who have been the subject of
12 complaints under Section 13, is there anything in
13 common about their views?

14 MR. FROMM: Well, I'm not all that
15 comfortable about putting it this way, but in everyday
16 parlance, they all come from perhaps the somewhat
17 extreme end of the political spectrum on the right.
18 Although they don't all necessarily share the same
19 views.

20 People like Eldon Warman and Fred
21 Kyburz, are what I would call de-taxers, economic
22 reformists, kind of a spin off, maybe of Social Credit.
23 People like Ernst Zundel were -- were Holocaust
24 skeptics. And many of the others -- or people who
25 either with racial, religious beliefs, like the Church

1 of the Creator People and Charles Scott.

2 All people that are very critical of
3 what's happened to -- immigration in Canada since 1965.
4 So they -- they wouldn't all share the same views, but
5 if you had to place them somewhere on the political
6 spectrum, they would be on the -- on the far end of the
7 right side of a -- of the left/right axis.

8 MS KULASZKA: Can you go to the
9 binder that you've prepared?

10 MR. FROMM: Yes.

11 MS KULASZKA: We'll actually go to
12 tab 1.

13 MR. FROMM: Yes.

14 MS KULASZKA: Well, okay. Shall we
15 just mark this to begin with? Okay. I think this is
16 HR-3.

17 THE CHAIRPERSON: R-3.

18 THE REGISTRAR: The binder of
19 Mr. Fromm's evidence will be filed as respondent
20 exhibit R-3.

21 EXHIBIT NO. R-3: Binder of
22 Mr. Fromm's evidence

23 MS KULASZKA: Okay, going to tab one.

24 MR. FROMM: Yes.

25 MR. VIGNA: Mr. Chair, just for the

1 record, I'm going to object at the pleadings, but on
2 the entire binder, on the relevance, and -- but for
3 now, to make the process proceed, I'm not going to
4 object.

5 THE CHAIRPERSON: I appreciate that.
6 Thank you very much, Mr. Vigna.

7 MS KULASZKA: This is a document
8 headed "complaint". Goes over for three -- three
9 pages. It ends by saying, "Yours truly, Marc Lemire".
10 Can you tell me what this is?

11 MR. FROMM: Yes. This is a complaint
12 filed by Marc Lemire under Section 13(1) to the --
13 complaint to the Canadian Human Rights Commission, and
14 it's a complaint against the Royal Canadian Mounted
15 Police, the Peel Regional Police, Canadian
16 Broadcasting Corporation, Bell Globemedia, the Globe &
17 Mail, and the CBC.ca.

18 MS KULASZKA: And where did you get
19 this document?

20 MR. FROMM: Mr. Lemire provided it to
21 me.

22 MS KULASZKA: And what are the
23 particulars of the document? What was the complaint
24 about?

25 MR. FROMM: It refers to a news story

1 about e-mails that were exchanged among officers of the
2 RCMP and the Peel Regional Police, and most of these
3 e-mails were -- seemed to be songs or protracted jokes,
4 at the expense of Native people.

5 For instance:

6 "Yes, I'm an Indian, that's
7 right, a hundred percent Cree, I
8 hang out downtown in a bus
9 shack, always drinking OV. The
10 RCMP is always chasing me 'cause
11 I'm a smelly fucking native and
12 I can't even see" -- et cetera
13 so --

14 MS KULASZKA: How did Globe -- Bell
15 Media and CBC get involved?

16 MR. FROMM: Well, these -- this story
17 was reported in the Globe & Mail, and then appeared
18 on-line on both on -- at cbc.ca and then on the Globe &
19 Mail's website. And it was on seeing this material
20 there, that Mr. Lemire, as I understand it, made --
21 filed this complaint under Section 13(1) because these
22 jokes or ditties are -- at the expense of native
23 people, did appear on the Internet.

24 MS KULASZKA: And can you turn to the
25 next page?

1 MR. FROMM: Yes.

2 MS KULASZKA: It's headed "Canadian
3 Human Rights Commission". It's letterhead, and it's
4 dated May 17th, 2006.

5 MR. FROMM: Yes.

6 MS KULASZKA: Can you tell me what
7 this document is?

8 MR. FROMM: Yes, Mr. Lemire provided
9 me with a copy of this, and it's a -- it's a letter
10 from Dean Stacy, the anti-hate advisor of the
11 investigations division of the Canadian Human Rights
12 Commission.

13 And it's saying that they have looked
14 at Mr. Lemire's Section 13(1) complaint, and that
15 they've decided not to act on it. They say that -- in
16 the second last paragraph:

17 "In conclusion, in reviewing the
18 material you've provided, I'm of
19 the view that you have not met
20 the criteria for a Canadian
21 Human Rights Act -- Canadian
22 Human Rights Act, to file a
23 complaint. In terms of the
24 media, that's the cbc.ca, Bell
25 Global Media, and the Globe &

1 Mail website, Mr. Steacy says,
2 'In regards to your complaints
3 against the media, organizations
4 and their websites, it would
5 appear that the information on
6 the media websites is a fair and
7 accurate report of events.
8 Therefore, it does not appear
9 that the information on the
10 media websites constitutes the
11 communication of hate messages
12 under the Canadian Human Rights
13 Act, as it was merely posted to
14 report the news."

15 And he further refers to Section
16 13(2) of the Canadian Human Rights Act, that states:
17 "For greater certainty,
18 subsection 1 applies in respect
19 of a matter that is communicated
20 by means of a computer or group
21 of interconnected or related
22 computers, et cetera, but does
23 not apply in respect of a matter
24 that is communicated in whole or
25 in part by means of the

1 facilities or broadcasting
2 undertakings."

3 So it seems to be saying that the --
4 that the websites of the Globe & Mail and CBC are a
5 broadcasting undertaking, and therefore are exempt.

6 MS KULASZKA: And with the paragraph
7 just above that, "in this context", could you read that
8 paragraph? Is that what he --

9 MR. FROMM:

10 "In this context, the media
11 organizations which you have
12 cited within your letter would
13 be considered broadcasting
14 undertakings, and therefore
15 would be exempt, pursuant to
16 Section 13(2) of the Canadian
17 Human Rights Act."

18 MS KULASZKA: And how about the
19 e-mails sent out by the police organizations?

20 MR. FROMM: The top paragraph of the
21 second page of this letter says:

22 "It would appear that this was a
23 private e-mail that was sent by
24 employees of the Peel Regional
25 Police to employees of the Royal

1 Canadian Mounted Police. As
2 such, the sending of the said
3 e-mail would constitute a
4 private communication."

5 And they reference the Supreme Court
6 decision in Canadian Human Rights Commission versus
7 Taylor.

8 MS KULASZKA: Can you read that
9 sentence in Canada, Canadian Human Rights Commission
10 versus Taylor?

11 MR. FROMM:

12 "In Canada, Human Rights
13 Commission versus Taylor, the
14 Supreme Court of Canada explored
15 the purposes of Section 13,
16 stating that by focusing upon
17 repeated telephonic
18 communications, Section
19 13(1) --"

20 MS KULASZKA: Telephonic messages.
21 Trying to be accurate.

22 MR. FROMM: Sorry, did I say that?

23 "Telephonic messages, Section
24 13(1) directs its attention to
25 public, larger scale schemes for

1 the dissemination of hate
2 propaganda.

3 You did not provide any
4 documentation or evidence that
5 would indicate that this e-mail
6 was disseminated to the general
7 public, or was made accessible
8 to the general public by the
9 respondent.

10 Consequently, it would
11 appear that your complaint fails
12 under Section 13(1) of the
13 Canadian Human Rights Act."

14 MS KULASZKA: If you could just
15 reread that sentence, slowly.

16 MR. FROMM:

17 "Consequently, it does not
18 appear that your complaint falls
19 under Section 13 of the Canadian
20 Human Rights Act."

21 MS KULASZKA: If you could turn to
22 tab 2.

23 MR. FROMM: Yes.

24 THE REGISTRAR: Should we produce tab

25 1?

1 MS KULASZKA: Oh, yes. We should
2 produce tab 1.

3 THE CHAIRPERSON: Yes.

4 MS KULASZKA: Turning to tab 2,
5 there's a document headed -- on the Canadian Human
6 Rights Act logo, dated August 10th, 2006.

7 Could you tell us what this document
8 is, and where you got it from?

9 MR. FROMM: Yes. This was provided
10 to me by Glenn Bahr, who, as I've already indicated, I
11 acted as agent. I acted as agent for Mr. Bahr at the
12 Canadian Human Rights Act Tribunal, against -- the
13 Richard Warman complaint against him.

14 Mr. Bahr, acting on evidence that was
15 produced at his -- at the Canadian Human Rights
16 Tribunal -- at this hearing in the spring, filed a
17 complaint with the Canadian Human Rights Commission
18 against Sergeant Steven Camp of the Edmonton Police
19 Service.

20 And he had been the head of the hate
21 squad at the -- with the Edmonton Police Service up
22 until I think earlier, like 2006. And also against the
23 Edmonton hate crimes team, and against I guess, John
24 Joe, a Edmonton police undercover offer known as "Matt"
25 or "Estate". So the complaint was against the -- one

1 entity and two people.

2 And this complaint had to do with
3 postings on the Internet by a man who Steven Camp
4 admitted at the Bahr Tribunal was a police officer.
5 And these postings were under the name "Estate", and
6 they were mostly on Stormfront, but I think they might
7 also have been on the now-defunct Western Canada For Us
8 website.

9 These -- certainly Mr. Bahr's
10 contention was that -- many of these postings were
11 probably pretty clear violations of Section 13(1),
12 narrowly understood. And made highly disparaging
13 comments about Jews, homosexuals, bisexuals, and I
14 believe, native people as well.

15 MS KULASZKA: What does this letter
16 state, from the Canadian Human Rights Commission?

17 MR. FROMM: Well, this -- it's signed
18 by Catherine Lavery, who is the in-take officer, and
19 she identifies -- she identifies herself in the first
20 paragraph. She's the in-take officer for Alberta and
21 British Columbia. And she seems to work out of the
22 Edmonton offices of the Canadian Human Rights
23 Commission.

24 And she says that they have
25 considered his complaint, and they are not going to

1 accept it. And they are saying they are not going to
2 accept it on the basis of Section 25 of the Criminal
3 Code of Canada, which states that:

4 "Every one who is required or
5 authorized by law to do anything
6 in the administration or
7 enforcement of the law, as a
8 police officer -- as a peace
9 officer or public officer, if --
10 is, if he acts on reasonable
11 grounds, justified in doing what
12 he's required or authorized to
13 do, and in using as much force
14 as necessary for that purpose."

15 I don't think that particularly
16 applies but -- section 25(1)(8) and 25(1)(2):

17 "A public officer is justified
18 in committing an act or
19 omission, or in directing the
20 Commission of an act or omission
21 under subsection 10 that would
22 otherwise constitute an offence,
23 if the public officer A) is
24 engaged in the investigation of
25 an offence, or the enforcement

1 of an act of Parliament, or in
2 the investigation of criminal
3 activity."

4 And in her concluding paragraph but
5 one, she says:

6 "Since Sergeant Steven Camp, the
7 Edmonton hate crimes team, and
8 the Edmonton Police undercover
9 officer known as 'Matt' or
10 'Estate' were acting in the
11 capacities as peace officers,
12 investigating alleged criminal
13 activity, that is, the operation
14 of an Internet website promoting
15 hatred toward identifiable
16 groups that are protected by the
17 Criminal Code."

18 I guess that's a sentence. But going
19 on then:

20 "Since it would appear to the --
21 that their alleged actions were
22 carried as part of their duties
23 as peace officers, these actions
24 would not constitute a
25 discriminatory practice under

1 the Canadian Human Rights Act
2 and it would not be in the
3 public interest to process a
4 complaint of this nature."

5 And so, she's saying the file's
6 closed.

7 MS KULASZKA: Did the organization
8 that you were a director of, Canadian Association for
9 Free Expression, put out a press release regarding the
10 activities of the police officer known as "Estate"?

11 MR. FROMM: Yes, we did. We --

12 MS KULASZKA: If you could just first
13 turn to R-1, it's a big black binder.

14 MR. FROMM: Yes.

15 MS KULASZKA: Go to tab 12.

16 MR. FROMM: Okay.

17 MS KULASZKA: And go to page --
18 doesn't seem to be numbered -- go to one, two, three,
19 four -- go to the fifth page. And is that a press
20 release by the Canadian Association for Free
21 Expression?

22 MR. FROMM: Yes. This is one issued
23 on June the 2nd, so it's entitled, "Edmonton Police
24 Officer Posts Racist and Offensive Material on U.S.
25 Websites".

1 I guess it -- I didn't sign -- did I
2 sign this? Well, I wrote it. At least I wrote the
3 "press release" part of it, and we had compiled
4 through -- off Stormfront website, all the postings we
5 could find by "Estate", and we put out this press
6 release, highlighting some of them and -- expressing
7 our severe -- serious unhappiness at police states
8 spying upon the activities of Canadians, but also about
9 the postings by this person, who was identified as an
10 Edmonton Police Service Officer.

11 Many of these postings were highly
12 inflammatory, very negative in their comments about
13 race, particularly about native people, homosexuals, et
14 cetera.

15 MS KULASZKA: Did you include some of
16 these postings on here, too?

17 MR. FROMM: Yes, that -- in fact that
18 was -- because this was hammered out to, I think, about
19 3,000 journalists in press outlets across the Dominion
20 of Canada, in the hopes that we could get some
21 attention to what we thought was a real scandal.

22 But here you have police officers
23 posting the sort of material that people are being
24 charged with under Section 13(1), and in some cases,
25 charged -- as was Glenn Bahr, charged under Section 319

1 of the Criminal Code.

2 MS KULASZKA: Now, the examples given
3 on the second page, the third page, the fourth page,
4 the fifth page, and the six page, can you confirm that
5 these in fact were postings removed from Stormfront
6 that were posted by "Estate".

7 MR. FROMM: Yes, these are highlights
8 of postings by "Estate" that occurred over I think, a
9 two-year period, on Stormfront, and that we wanted to
10 include them to show the press that -- just a flavor of
11 what was being said.

12 For instance, on that second page,
13 "Estate" said: "Anybody read the Edmonton Journal
14 lately, dated January 22nd. I know it's a kite
15 publication but --".

16 Another post about candidates running
17 for Edmonton mayor, he wrote, "I think Noce -- I think
18 he was one of the candidates -- is an Italian Jew, and
19 Mandel is a Jew as well."

20 And in both cases -- or in one case,
21 "jew" with lower case, which is a usual way of showing
22 contempt.

23 Another post, "With any luck, they
24 will all -- they will end up like the Nogs in the
25 States who predominantly "kool" each other."

1 There's -- I think he meant "kill",
2 "kill" each other. In reference to native people, and
3 there are a fair number of Natives in Edmonton, "how
4 can you hold the little red skin responsible? He's
5 only an animal", underlined "animal" and "red skin."

6 MS KULASZKA: Did you get any
7 response to this press release from the media?

8 MR. FROMM: Yes, they were -- I got
9 two calls. I believe one was from the Edmonton Sun and
10 I'm not -- one was in the -- was from the electronic
11 media, and I don't recall who it was from at this
12 point.

13 MS KULASZKA: I would like to produce
14 that document.

15 THE CHAIRPERSON: Yes. All of it?

16 MS KULASZKA: It's the document
17 headed "Edmonton Police Officer Posts Racist and
18 Offensive Material on U.S. Websites". It's found at
19 tab 12.

20 THE REGISTRAR: It's been already
21 produced?

22 THE CHAIRPERSON: No, not at this
23 point. That has not been produced.

24 MS KULASZKA: As far as my record
25 shows, the transcript just ahead of it has been

1 produced, but I don't think the press release has been
2 produced.

3 THE CHAIRPERSON: Well, now it's all
4 produced.

5 MS KULASZKA: From your knowledge
6 obtained from Mr. Bahr, do you know whether or not any
7 investigation was done by the Canadian Human Rights
8 Commission into the postings made by "Estate"?

9 MR. FROMM: As far as I know, all he
10 was -- was informed of was the letter that said, --
11 "You directed my attention to a tab 2 of -- of my
12 documents."

13 MS KULASZKA: I would like to produce
14 that letter, tab 2 of R-3. I would like you to turn to
15 tab 2.

16 THE CHAIRPERSON: Okay, tab 2, yes.

17 MS KULASZKA: Oh, tab 2, sorry. I
18 would like you to turn to tab 3 now.

19 MR. FROMM: Of my evidence?

20 MS KULASZKA: Of your binder, yes.

21 MR. FROMM: Binder. Yes, okay. I've
22 done that.

23 MS KULASZKA: This is a document
24 headed "Canadian Human Rights Commission", and it's
25 dated January 30th, 2006, "complaint form". Can you

1 please identify this document and where you got it?

2 MR. FROMM: Yes. This is a complaint
3 to the Canadian Human Rights Commission, pursuant to
4 Section 13(1), and I obtained it from Andrew Guille,
5 and I think on the first page of that, there is a
6 misspelling. It's not Andre Guille, but Andrew Guille
7 and that -- that's confirmed at the end of the document
8 but --

9 Andrew Guille filed this complaint in
10 January of last year to the Canadian Human Rights
11 Commission, and he named as respondents Alan Dutton,
12 who you've heard is the head of the Canadian
13 Anti-Racism Education Society in British Columbia,
14 Helmut Harry LOEWEN, and that's L-O-E-W-E-N. He's in
15 Winnipeg. Dale Cornish, he's in Winnipeg, and an
16 organization called "Analogue Echo", A-N-A-L-O-G-U-E,
17 new word, Echo.

18 And the complaint dealt with content
19 of a website called recomnet.org.

20 MS KULASZKA: Is this the same
21 website where materials have been filed in this case at
22 tab 5 of R-1? R-1 is the large black binder, if you
23 look at tab 5.

24 MR. FROMM: Yes, I just want to check
25 them before I answer. Oh, tab 5?

1 MS KULASZKA: Tab 5.

2 MR. FROMM: Yes. Yes, that's the
3 same website that's -- I think it's been previously
4 testified to that it's a -- was a project of the
5 Canadian Anti-Racism Education Research Society.

6 MS KULASZKA: Okay, if you could go
7 onto the next page of the Guille complaint.

8 MR. FROMM: Yes.

9 MS KULASZKA: What did the complaint
10 deal with on the website? What were the particulars?

11 MR. FROMM: Well, the particulars
12 were comments on a -- on a discussion board on the
13 website and the allegation by Mr. Guille is that some
14 of these comments were likely to expose homosexuals,
15 Jews, blacks, natives, the mentally retarded --
16 challenged to pay for their contempt, and he gave some
17 examples, referring to the former U.S. Secretary of
18 State Madeline Albright.

19 One of the posters called her a
20 criminal and called her a "Jewish war criminal".

21 Another poster referred to the
22 Canadian Human Rights Commission as a "Jewish Beth
23 Din".

24 Another poster talked about the Jews
25 media hush -- hushes up murders of whites committed by

1 niggers all the time and everywhere, not only in the
2 U.S. of A."

3 Another poster writes:

4 "It annoys the hell out of me
5 when those filthy Jews take on
6 non-Jew surnames".

7 Another poster said:

8 "Thanks for the link, MacDonald.
9 I'll use the images to make a
10 nice big poster for the next
11 annual queer parade in my city.
12 That jar sticking out of a fag's
13 ass is -- is way better than any
14 slogan I could come up with.
15 Our local white hate group
16 protests the fags every year,
17 and I'm already looking forward
18 to the next one."

19 MS KULASZKA: Okay. And turning to
20 the next page. Is that the end of the complaint, he
21 based it on Section 13?

22 MR. FROMM: Yes, and there were --
23 there are more examples but --

24 MS KULASZKA: Okay, turning to the
25 next page is a document. Looks like a letterhead,

1 "Andrew Guille". It's dated July 11th, 2006. Can you
2 tell me what this document is and where you got it?

3 MR. FROMM: Yes, this was supplied to
4 me by Mr. Guille. After the complaint there was some
5 response, and I don't -- I assume it was in writing,
6 but I don't think we have a copy of it -- from the
7 Canadian Human Rights Commission, making a number of
8 allegations that -- and to which Mr. Guille felt he had
9 to respond. And the investigator was a Mr. Dean
10 Steacy. Apparently Mr. Guille had become subject of an
11 investigation by the Canadian Human Rights Commission.

12 And so upon receiving this complaint,
13 it appeared that they turned their attention to
14 investigate, not the substance of the complaint, but
15 Mr. Guille.

16 And so in this letter of June -- July
17 11th, he is answering some of their -- some of issues
18 that they raise -- Mr. Steacy raised in an issue --
19 letter to him of July 5th, 2006.

20 THE CHAIRPERSON: Am I on a different
21 page? Your referring to the letter -- okay. Are we
22 skipping over the investigators report?

23 MS KULASZKA: Oh, yours must not be
24 in the same -- look towards the end of -- after the
25 complaint. Perhaps at the end of tab 3. There's a

1 letter.

2 THE CHAIRPERSON: Yes, I see a letter
3 that's -- July 11th, 2006, addressed --

4 MS. KULASZKA: That's the one we're
5 talking about right now. I apologize, yours must be
6 out of sequence.

7 THE CHAIRPERSON: Out of sequence?
8 Okay, it's -- that's fine.

9 MR. FROMM: But the investigators
10 report is after this letter from Mr. Guille. This is
11 in the -- during the investigation process.

12 THE CHAIRPERSON: Go on.

13 MS KULASZKA: Going on to the next
14 document is headed the Canadian Human Rights
15 Commission, a Section 40/41 analysis report. Could you
16 tell us about this document?

17 MR. FROMM: Yes. This, I also
18 obtained from Mr. Guille, and this is the Commission's
19 Section 40, 41 analysis as to whether the complaint is
20 in good faith and -- or frivolous or without any
21 substance.

22 MS KULASZKA: And what was the
23 recommendation?

24 MR. FROMM: The recommendation is
25 that -- that the complaint not be accepted. It si --

1 this is on the page 5 of 5.

2 "It is recommended, pursuant to
3 paragraph 41 -- (41)(1)(d) of
4 the Canadian Human Rights Act
5 that the Commission not deal
6 with this complaint, because the
7 complaint is trivial, frivolous,
8 vexatious, and/or made in bad
9 faith in the matters being
10 addressed."

11 MS KULASZKA: And how had the matter
12 been redressed?

13 MR. FROMM: Well, apparently the
14 discussion board had been taken down, and it was on the
15 discussion board that many of the inflammatory posts
16 Mr. Guille was complaining about occurred.

17 So the discussion board had been
18 removed and these are paragraphs on page 5 of 5.

19 Paragraph 22:

20 "The evidence shows that while
21 there may have been a technical
22 violation of Section 13(1) by
23 allowing postings and active
24 links to exist on its website,
25 CAERS has taken steps to prevent

1 individuals from -- from posting
2 material that could be
3 considered offensive and/or
4 hateful as" --

5 THE CHAIRPERSON: What are you
6 reading from, sir?

7 MR. FROMM: Section -- I mean,
8 paragraph 22 on page 5 of the --

9 THE CHAIRPERSON: In the summary
10 section?

11 MR. FROMM: Yes.

12 MS KULASZKA: And then it states "As
13 well" --

14 MR. FROMM: "As well, CAERS has
15 reorganized its website so that postings cannot occur
16 without being monitored." At section -- at paragraph
17 24, the report says, "CAERS states that it has
18 installed filters, to prevent harassing postings on its
19 website's message forum.

20 As well, CAERS has made hyperlinks to
21 potential hate websites inactive, so that individuals
22 cannot directly access hate websites through
23 recomnet.org.

24 MS KULASZKA: If you could turn to
25 page 2 of the -- of the document, there's a heading

1 called "Trivial, Frivolous, Vexacious or in Bad Faith."
2 What does it state there?

3 MR. FROMM:

4 "CAERS believes that this
5 complaint has been made in a
6 trivial, frivolous, vexacious
7 and/or bad faith manner. It
8 states that its main website's
9 purpose is to educate the public
10 about racism and how to combat
11 it. At times, individuals who
12 are opposed to the work of CAERS
13 post material that could be
14 considered offensive and hateful
15 on the website's message board."

16 The postings mentioned in this
17 complaint followed in this category. CAERS states that
18 it is vigilant in trying to ensure that these kinds of
19 postings are not -- are removed. However, in this
20 case, it appears that the postings were missed.

21 MS KULASZKA: And did the -- did the
22 investigator look into Mr. Guille's background?

23 MR. FROMM: Yes. Now, this is on
24 page 3 of 5. It notes at paragraph 8 that.

25 Mr. Guille says that he made the

1 complaint in good faith and -- but paragraph nine goes
2 on to say:

3 "Moreover, while he states that
4 he is the sibling of both
5 Melissa and Chris Guille, he
6 denies that he's a member of
7 and/or affiliated with any
8 neo-Nazi, white-supremacist
9 Fascist, racist or hateful
10 organization."

11 "He exerts"

12 -- and I don't know what that means, but it says --

13 "He exerts that any statement to
14 the contrary is hurtful and
15 defamatory."

16 He also stated that:

17 "At the time of filing the
18 complaint, he was not aware of
19 the posting by 'Henderson', as
20 indicated above, nor is he aware
21 of any individual by that name.
22 Note: Melissa Guille is known
23 to law enforcement as a leader
24 of the Canadian Heritage
25 Alliance (CHA), a

1 white-supremacist organization."

2 So it would appear that in the course
3 of investigating Mr. Guille's complaint, Mr. Steacy
4 actually conducted an investigation of Mr. Guille.

5 Paragraph 10:

6 "On July 13th, 2006, the
7 investigator interviewed
8 Sergeant Don McKinnon of the
9 London Police Force, indicated
10 that Mr. Guille's contention
11 that he is not a member of any
12 white-supremacist or neo-Nazi
13 organization is technically
14 correct because none of the
15 organizations compile membership
16 lists. However, he advised that
17 Mr. Guille is known by the
18 police to be closely associated
19 with white-supremacist
20 organizations in Southwestern
21 Ontario. He indicated that he
22 also has pictures of Mr. Guille
23 partying with white supremacists
24 at different -- at several
25 different rallies that they have

1 held in Southwestern Ontario."

2 And then paragraph 11 indicates that
3 Mr. Steacy also contacted Matt Lauder.

4 "On September 13th, 2006, the
5 investigator interviewed Matthew
6 Lauder, an anti-racist activist
7 who infiltrated the
8 white-supremacist movement in
9 Southwestern Ontario from 1999
10 to 2001. He wrote several
11 book -- several articles, books
12 and reports, detailing the
13 white-supremacist organizations.
14 Of particular note is a report
15 called 'The Far Right Movement
16 in Southwestern Ontario: An
17 Exploration of Issues, Themes
18 and Variations.' Contained
19 within the report are several
20 references to Andrew Guille.
21 The following" --

22 MS KULASZKA: Okay, and if you could
23 go to the next paragraph.

24 MR. FROMM: As well, that's paragraph

25 12:

1 "Mr. Lauder stated that on
2 several occasions, when he
3 attended neo-Nazi gatherings,
4 individuals such Paul Fromm,
5 Marc Lemire, and the Guille
6 family, including Andrew, were
7 present."

8 And I know that to be a lie. He has
9 never been at an -- what he calls a "neo-Nazi"
10 gathering, where I was there and Marc Lemire and the
11 Gills. I know of no such neo-Nazi rally. If he's
12 talking about a meeting where there might have been a
13 talk on immigration, that's true. But to characterize
14 that as "neo-Nazi" is just plain defamatory.

15 MS KULASZKA: And can you turn to the
16 next document.

17 MR. FROMM: Okay.

18 MS KULASZKA: It's the Canadian Human
19 Rights Commission logo, it's dated January 30th, 2007.
20 Can you tell me what this document is and where you got
21 it?

22 MR. FROMM: Yes, I -- I obtained this
23 from Mr. Guille. This is from -- well, just last week.
24 And it's signed by Sebastian Seguin, who is the
25 director of the Canadian Human Rights Commission, I

1 guess.

2 And it provides the conclusion to
3 the -- to the consideration of Mr. Guille's complaint,
4 and it -- it says that "the Canadian Human Rights
5 Commission will -- will not deal with the complaint
6 because it is trivial, frivolous, vexacious and/or made
7 in bad faith, and the matter is being redressed."

8 MS KULASZKA: I'd like to produce
9 that -- tab, which would be tab 3.

10 THE CHAIRPERSON: Sure.

11 MR. VIGNA: Mr. Chair, I don't recall
12 these documents being disclosed to us. I won't get
13 into a major issue out of it but --

14 THE CHAIRPERSON: Well, okay.
15 January 30, 2007, that's fairly recent. I don't know
16 about that. But what about the other ones?

17 MS KULASZKA: I think we disclosed
18 them to the Commission on a CD in January of this year.

19 MR. VIGNA: A lot of them I've seen,
20 but not all of them. This one in particular I haven't
21 seen.

22 MS KULASZKA: Most of the documents
23 actually are just documents of the Commission.

24 MR. VIGNA: In any event, I don't --
25 I'm not expected to cross-examine today so I --

1 THE CHAIRPERSON: Yes, well --

2 MR. VIGNA: I will have at least the
3 transcripts in time to review all this for the
4 cross-examination, I hope.

5 THE CHAIRPERSON: We'll see how they
6 progress and --

7 MS KULASZKA: Could we go to tab 4?

8 MR. FROMM: Yes.

9 MS KULASZKA: This is a document on
10 Canadian Human Rights letterhead. It's dated August
11 14th, 2006. It's addressed to Mr. Alexian Kulbashian.
12 Could you describe what this document is and where you
13 got it?

14 MR. FROMM: Yes, this is obtained
15 from Mr. Kulbashian, in reference to a Section 13(1)
16 complaint filed by Mr. Kulbashian against Richard
17 Warman.

18 In this, John J. Chamberlain, the
19 manager of investigations for the race and anti-hate
20 teams of the Canadian Human Rights Commission, says --
21 is telling Mr. Kulbashian that he can submit -- on
22 the -- on an analysis that the Commission has made of
23 Mr. Kulbashian's complaint, and that Mr. Kulbashian has
24 an opportunity to make further submissions on this.

25 MS KULASZKA: And could you turn the

1 page. This is the section 40/41 analysis report.

2 MR. FROMM: Yes.

3 MS KULASZKA: Could you describe this
4 document and where you got it?

5 MR. FROMM: This was obtained from
6 Mr. Kulbashian and it's a -- it's a section 40/41
7 analysis done by Sandy Kozak of the Commission, and
8 dated August 15th of 2006.

9 MS KULASZKA: And this is regarding
10 the complaint by Kulbashian against Richard Warman?

11 MR. FROMM: Yes, it's a complaint
12 against Richard Warman for postings that he made on
13 VNN, or Vanguard Network News, and stormfront.org. On
14 Vanguard Network News, using the handle or pseudonym
15 "axetogrind", all one word, or on Stormfront, the
16 pseudonym "Pogue, P-o-g--u-e, Mahone, M-A-H-O-N-E."
17 And it's Mr. Kulbashian's contention that these
18 postings constituted a discriminatory practice under
19 Section 13(1).

20 MS KULASZKA: And what was the
21 recommendation of this analysis?

22 MR. FROMM: Well, the recommendation
23 is that -- that the -- that's contained at page 6, the
24 recommendation is that the complaint not be dealt with
25 any further because it's trivial, frivolous, vexacious

1 and made in bad faith.

2 MS KULASZKA: Okay, if you could turn
3 to the last page in that tab, the letter on the
4 Canadian Human Rights Commission logo, date November
5 30th, 2006.

6 MR. FROMM: Yes.

7 MS KULASZKA: Could you identify this
8 document?

9 MR. FROMM: This is a letter from
10 Lucy Veillette, the secretary to the Commission. It's
11 a letter dated November 30th, 2006 to Alexsyn
12 Kulbashian, which he provided to me, and it's
13 announcing their decision that they are closing the
14 file on his complaint, and they say that they will not
15 deal with it pursuant to Section 41(1)(d), because it
16 is trivial, frivolous, vexacious and made in bad faith.

17 MS KULASZKA: If you could just go
18 back to the analysis, the Section 40/41 analysis.

19 MR. FROMM: Yes.

20 MS KULASZKA: If you could just go to
21 page five of that analysis.

22 MR. FROMM: Yes.

23 MS KULASZKA: And paragraph 19,
24 could you read that?

25 MR. FROMM: Bearing the above in

1 mind, this complaint is not clearly lacking in merit,
2 as the respondent's actions do amount to communicating
3 hate messages, albeit in a very limited context.

4 Again, consideration must be given to
5 the motive and purpose behind the filing -- sorry,
6 behind filing this complaint. The complaint was filed
7 before the Tribunal issued its decision, in which
8 Mr. Kulbashian was found to have breached Section 13 of
9 the Canadian Human Rights Act.

10 In that decision, the Tribunal found
11 that Mr. Kulbashian authored, encouraged and
12 facilitated the communication of hate messages, and was
13 a leader in the racist movement.

14 Given the findings by the Tribunal,
15 it can be deduced that the complainant is not
16 interested in furthering the purposes of the Act, or of
17 Section 13(1).

18 Further, the fact that Mr. Kulbashian
19 was found by the Tribunal to have personally targeted
20 Mr. Warman on a white supremacist white, support that
21 his purpose could very well be to be embarrass and/or
22 harass the respondent.

23 MS KULASZKA: Okay, could I produce
24 those documents at tab 4?

25 THE CHAIRPERSON: Yes.

1 MS KULASZKA: Mr. Fromm, can you turn
2 to tab 5?

3 MR. FROMM: Yes.

4 MS KULASZKA: This is a document
5 headed "Marc Lemire." What is this document?

6 MR. FROMM: Now, this is a memo from
7 Marc Lemire, put out to a number of people who had been
8 involved in the building of defence team for
9 Mr. Lemire.

10 MS KULASZKA: And what does it
11 concern?

12 MR. FROMM: Well, it details a -- an
13 incident that occurred during the Internet hearing --
14 the Tribunal hearing into the Richard Warman complaint
15 against Tom Winnicki, and it referred to events of --
16 on, I believe, Thursday, October 20th of 2005, during
17 the hearings.

18 And on that particular day,
19 Mr. Lemire was present and I was present. I was --
20 well, of course an interested -- not an interested
21 party, but I was interested in the hearing, and I was
22 there to take notes.

23 But I was also later to be a witness.
24 So I attended on, I believe, all of the hearings, and
25 on this particular day at the lunch break, Mr. Lemire

1 and I and Mr. Kulbashian, headed down from the
2 hearings, which were at Bay -- on Bay and Richmond, I
3 believe -- headed down into the food court, and there
4 had been a number of members of the ARA, or Anti-Racist
5 Action Group there, several of whom we recognized by
6 name.

7 They followed us, they followed us in
8 an intimidating manner down into the food court. We
9 decided we didn't want a public confrontation with
10 them, so we went back up the escalator.

11 They followed us. We went down, I
12 believe it was Richmond Street, and eventually went
13 into a restaurant, and they were trailing us all the
14 way.

15 We brought this to the attention of
16 Chi Khun She, and she's the lawyer for -- was the
17 lawyer for Tom Winnicki. She brought it to the
18 attention of -- this intimidation to the attention of
19 member Karen Jensen, who said she took this type of
20 thing to be -- very seriously.

21 And Mr. Kulbashian did get a couple
22 of pictures on his cellphone of these people from the
23 ARA. And later that -- that -- after the hearing,
24 Mr. Lemire and I went to -- to 52 Division of the
25 Metropolitan Toronto Police Service and filed a

1 complaint. And we heard nothing.

2 MS KULASZKA: I noticed in the -- in
3 the memo it says -- you stated October 20th, it states
4 in the memo that this was on October 18th; is that
5 correct?

6 MR. FROMM: I'm sorry, yes, you're
7 right. So I guess Mr. Lemire wrote this a couple of
8 days later.

9 MS KULASZKA: Is this an accurate
10 account of what happened to you that day?

11 MR. FROMM: Yes.

12 MS KULASZKA: I would like to produce
13 that document.

14 THE CHAIRPERSON: Okay. I mostly
15 have the evidence of the witness on this point.

16 MS KULASZKA: If you could turn to
17 tab 6.

18 MR. FROMM: Yes.

19 MS KULASZKA: You've included the
20 1994 audits of anti-semitic incidents put out by The
21 League for Human Rights of B'Nai Brith. Can you tell
22 me why this is included?

23 MR. FROMM: Yes, B'Nai Brith, for the
24 last number of years, has put an audit of anti-semitic
25 incidents, where they discuss their view of

1 anti-semitic incidents over the previous year. And in
2 that -- in the audit for 1994, there was a statement
3 about myself that I took considerable exception to, and
4 it's reproduced on the next page, and it's underlined:

5 "Furthermore individuals;
6 including Ernst Zundel, Paul
7 Fromm, Malcolm Ross and James
8 Keegstra, have attained
9 prominence and have been
10 prosecuted for their active
11 promotion of hate against Jews
12 in the form of Holocaust denial
13 and the promotion of conspiracy
14 theories."

15 MS KULASZKA: Did you take any action
16 as a result of this?

17 MR. FROMM: Yes, I filed a defamation
18 suit against Karen Mock, who was then, I believe, the
19 Executive Director of B'Nai Brith, and against B'Nai
20 Brith. I can't answer for these other individuals, but
21 I have certainly never gained prominence, or been
22 prosecuted for promoting hatred against Jews or anybody
23 else in the form of Holocaust denial or conspiracy
24 theories.

25 And the end result was that B'Nai

1 Brith agreed to change this posting and to issue a
2 correction, which was done, I believe, three or four
3 years later.

4 MS KULASZKA: In the audit?

5 MR. FROMM: In the audit, yeah.

6 MS KULASZKA: In a subsequent audit?

7 MR. FROMM: So they took back that
8 comment that I'd been a -- again:

9 "Attained prominence and been
10 prosecuted for promoting hatred
11 against Jews or anybody else, in
12 the form of Holocaust denial or
13 conspiracy theories."

14 MS KULASZKA: I would like to produce
15 that document.

16 MR. FOTHERGILL: Again, I have to
17 point out that even on the expanded definition or
18 approach to Section 13, there is no conceivable nexus
19 between the Human Rights Act here.

20 THE CHAIRPERSON: Ms. Mock is going
21 to be an expert witness for the Commission, is she not?
22 So this perhaps goes to her credibility, as the
23 witness, in the same manner that we've dealt with the
24 material regarding Mr. Klatt.

25 MS KULASZKA: That is the purpose.

1 It deals with --

2 THE CHAIRPERSON: It seems that way.
3 Obviously then I -- with respect to your other comment,
4 you may or may not be -- I'm seeing it as relevant for
5 the other purpose.

6 MS KULASZKA: Could I produce that
7 document, tab 6?

8 THE CHAIRPERSON: Yes.

9 MS KULASZKA: Mr. Fromm, could you
10 turn to tab 7?

11 MR. FROMM: Yes.

12 MS KULASZKA: I'm looking at a
13 document headed, "Do you know what is happening tonight
14 here at the Quality Hotel and Suites?" What is this?

15 MR. FROMM: This is a leaflet that
16 was handed out at the Quality Hotel and Suites on
17 Thursday, January 18th of this year. It was apparently
18 handed out to the hotel guests, left outside their
19 bedrooms.

20 I obtained this, this was -- is
21 actually in colour, it looks far brighter in -- far
22 more inflammatory in living colour. But this is a
23 black and white photocopy of the coloured leaflet. It
24 was provided to me by the hotel manager.

25 She had collected a stack of them,

1 and she said I could have them. What happened that
2 night, we were -- we had rented the meeting room at
3 that hotel.

4 MS KULASZKA: Who is we?

5 MR. FROMM: We -- it was the
6 Alternative Forum. And that's a -- that's a gathering
7 that I've organized going back to January, 1979. We
8 meet about once a month, normally to hear a speaker,
9 but occasionally to see a film. And we transverse the
10 range of what might be loosely called "conservative" or
11 "populist" issues.

12 Our forum has had speakers, for
13 instance, such as John Diefenbaker's minister of
14 agriculture, the late Alvin Hamilton, members of
15 Parliament like Don Blenkarn, Ben O. Friesen, John
16 Gamble, former Liberal -- well, she was then a liberal
17 member of parliament, Roseanne Skoke of Nova Scotia.

18 We've had had journalists like Peter
19 Brimalow, Peter Worthington, academics like the late
20 Dr. James Bearhouse of the University of Toronto, Dr.
21 Phil -- Philippe Rushton of the University of Western
22 Ontario, Professor Kenneth Hilborn of the University of
23 Western Ontario.

24 MS KULASZKA: And who was to speak
25 this night?

1 MR. FROMM: Well, sorry, I'm just
2 suggesting we've dealt with a wide range of issues over
3 the years. This particular night was to feature Marc
4 Lemire, and to create greater awareness in our circle
5 of -- of this upcoming Canadian Human Rights Tribunal,
6 and also to pass the hat and perhaps try to raise a
7 little bit of money to help Mark with the travel
8 expenses of some of the expert witnesses who were
9 coming from out of town.

10 MS KULASZKA: And what does -- what
11 did the handbill say?

12 MR. FROMM: Well, somehow or other,
13 the ARA, or Anti-Racist Action group here in Toronto,
14 which has been making a serious nuisance of themselves
15 to us, learned of this meeting. So they leafletted the
16 rooms in the hotel, and they were urging people to --
17 urging the guests to call the hotel desk.

18 So it says:

19 "Do you know what's happening
20 here at the Quality Inn Hotel &
21 Suites? A neo-Nazi meeting
22 hosted by Paul Fromm, Marc
23 Lemire and an assortment of
24 other white-supremacists. This
25 evening, the 'Canadian

1 Association for Free
2 Expression', a front group for
3 Holocaust deniers, neo-Nazis and
4 white-supremacists, is having a
5 meeting in the Bower room in the
6 Quality Hotel and Suites. Their
7 meeting is to -- is to lobby
8 against the Canadian Human
9 Rights Commission, and to plan
10 an agenda of racist activities
11 in Ontario. The group is
12 closely linked to organizations
13 such as The Klu Klux Klan, the
14 National Alliance (a U.S. based
15 neo-Nazi group) and dangerous
16 racist hate groups throughout
17 the country, especially in
18 Western Canada."

19 And it urges people to call the hotel
20 management desk and let them know what they are not
21 very happy about the hotel hosting this meeting of
22 "racist hate mongers and neo-Nazis".

23 And there's a big swastika in the
24 lower right-hand corner with a slash across it. And
25 there's some pictures of myself, Mr. Lemire, and I

1 guess myself again. So that's what the leaflet says.

2 MS KULASZKA: What does it state
3 about Anti-Racist Action? What does that portion say?

4 MR. FROMM: It says, "Anti-Racist
5 Action (ARA) Toronto came together in 1992 when
6 white-supremacist groups were making a bid for
7 mainstream credibility and recruiting white youth for
8 their right-wing agenda. With militant direct action,
9 we fought back to reclaim and defend our streets."

10 MS KULASZKA: Do you have personal
11 knowledge of what that refers to?

12 MR. FROMM: Yes, "direct action" is
13 a -- is a Marxist term that means "violent
14 confrontation". Like, direct action can go all the
15 way -- in fact, there was a group here in Toronto in
16 the 1980's that called itself "direct action", and
17 among other things, they -- they set off a bomb at
18 Litton Systems, because they -- this group opposed
19 Litton providing the guidance system for the cruise
20 missile. So "direct action" means -- means violent
21 confrontation, violence and violent confrontation.

22 MS KULASZKA: What happened as a
23 result of this handbill?

24 MR. FROMM: Well, the hotel
25 manager --

1 MR. VIGNA: He's not an expert in
2 what direct action means. I would like you to take
3 that definition with caution.

4 THE CHAIRPERSON: As I said with
5 Mr. Warman, it's his understanding. That's fine. It's
6 this gentleman's understanding, as Mr. Warman had
7 numerous understandings of what Nazi groups are, and so
8 on.

9 MS KULASZKA: What happened as a
10 result of this handbill being handed out?

11 MR. FROMM: Well, the hotel
12 management was terrified. They told the people who
13 were arrived -- had arrived at the hotel that I had
14 phoned in and cancelled the meeting, which was not
15 true.

16 When I arrived in the vicinity, I was
17 told by the gentleman who was already in there and on
18 the cell phone, that there were about a dozen people
19 from the ARA milling around, throwing their weight
20 around, arguing with people, upsetting people, and that
21 the hotel had made it quite clear the meeting was
22 cancelled, the room was locked, and there was no way
23 there was going to be a meeting.

24 So the ARA did succeed in preventing
25 our folks from having a meeting at the -- that hotel

1 that night. I might say that the purpose of the
2 meeting was not as they state here, "to lobby against
3 the Canadian Human Rights Commission and to plan an
4 agenda of racist activities." It was simply for
5 Mr. Lemire to have a chance to explain what this case
6 was about, and to pass the hat and perhaps raise a bit
7 of money.

8 MS KULASZKA: Did you leave the
9 hotel? Did you just go home? What happened?

10 MR. FROMM: The people who had
11 arrived at the hotel were instructed by me to get in
12 their car -- to leave the hotel, yes, because obviously
13 they were not welcome, and I didn't want anybody ending
14 up getting charged with trespass or something like
15 that, or further confrontation with the ARA, which has
16 a long history of violence.

17 We had a number of older people
18 there. I didn't want anybody jostled or knocked down
19 or injured. And so I urged the people to get in their
20 cars and to drive about a mile and a half west to a Tim
21 Hortons. It's in Rexdale, and I thought those who
22 wished to could get together, and we could have a
23 coffee and donut and chat about what had happened.

24 And we did that but -- I guess the
25 caravan of cars was followed, and about 15 minutes

1 after our folks arrived at the -- this Tim Hortons,
2 about a dozen members of the ARA showed up and they
3 were taking pictures and making comments, and at that
4 point, I just urged people to leave and go home, and
5 they did.

6 MS KULASZKA: Is the Canadian
7 Association for Free Expression a front group for
8 Holocaust deniers, neo-Nazis, and white-supremacists,
9 as stated here?

10 MR. FROMM: No, it's not.

11 MS KULASZKA: What is it?

12 MR. FROMM: It is, as I explained
13 this morning, dedicated to trying to expand to the
14 maximum the promise made in Pierre Trudeau's Charter of
15 Rights and Freedoms, in terms of freedom of speech and
16 freedom of expression, to see that those basic human
17 rights in a democracy are realized, and are there.

18 And wherever possible, we have
19 lobbied, made submissions when there is changes planned
20 in legislation, and also have tried to stand up for
21 people, and in the case of Little Sisters bookstore,
22 enterprises, that -- whose free speech is attacked.

23 MS KULASZKA: Now, could you turn the
24 page to a document that's headed, "Unwelcome: Paul
25 Fromm, your neighborhood neo-Nazi."

1 MR. FROMM: Yes, in the -- a posting
2 that I don't think I provided to you -- it's on the
3 Internet but -- one of the people who participated in
4 the disruption on January 18th, was boasting about it
5 on the Internet, and saying that "this is just the
6 beginning. Paul Fromm is really going to face huge
7 pressure this year, and we are even visiting his hood".

8 I guess that means, like,
9 neighborhood. So on -- this would be a few nights
10 later, on Monday, January 22nd, I was aware that the
11 townhouses in my complex -- I'm in a little cul de sac
12 complex of townhouses in Port Credit, about --

13 MS KULASZKA: Is that your correct
14 address across the --

15 MR. FROMM: Yes, that's my correct
16 address. It's -- there are about 50 townhouses in this
17 complex, and to the best of my knowledge, they were all
18 leafletted with this leaflet, and theres two pictures
19 of me that's just taken off my (personal website. And
20 it -- it says, "Unwelcome Paul Fromm."

21 It goes over my political history,
22 and I say -- you know, "according to them", and I don't
23 know if it's really relevant, saying you know, "This
24 statement's true, this statement's false."

25 MS KULASZKA: In the second

1 paragraph, for our purposes, could you go to the last
2 sentence, starting "CAFE"?

3 MR. FROMM: Yeah, "CAFE has been
4 active defending the rights of accused anti-Semites,
5 racists and Holocaust deniers such as Ernst Zundel,
6 against prosecution under hate crimes and human rights
7 legislation."

8 MS KULASZKA: And if you could turn
9 to the back, to the second page of this pamphlet.

10 MR. FROMM: Yes.

11 MS KULASZKA: And starting at the
12 second paragraph from the bottom.

13 MR. FROMM: Yes.

14 "Fromm has acted as an advocate
15 of individuals on the far right
16 who have been called before
17 Canadian Human Rights Tribunal,
18 as a result of the work of
19 Richard Warman. Among those
20 Fromm represented is Glenn Bahr,
21 the co-founder and former leader
22 of Western Canada for Us, and
23 Terry Tremaine, former
24 University of Saskatchewan
25 lecturer in the department of

1 mathematics. 2006, he
2 represented the neo-Nazi
3 Canadian Heritage Alliance at a
4 Canadian Human Rights Tribunal
5 hearing in Toronto, and John
6 Beck of B.C. White Pride at a
7 CHRT hearing in Penticton,
8 British Columbia.

9 Paul Fromm is a guru to Nazi
10 skinheads and other fascists
11 across Canada. He is" --

12 MS KULASZKA: I think it's --

13 MR. FROMM:

14 "He is a menace to society and a
15 threat to anyone whose skin
16 colour, religion or country of
17 origin does not meet with the
18 liking of him or his goons. If
19 you see Fromm, give him a frown
20 to show him he's unwanted, or
21 better yet, tell him he and his
22 fascist friends are not welcome
23 here."

24 MS KULASZKA: What was the reaction
25 of your neighbors to this leaflet?

1 MR. FROMM: A considerable
2 consternation. Many of the people in this complex are
3 older people, I guess, the politically correct term is
4 senior citizens.

5 It's not entirely a retirement
6 community, but many -- there are more older people than
7 there are young couples. It's an extremely quiet
8 neighborhood, and I doubt anything like this, in its 25
9 years of existence, has ever occurred before. So
10 people are upset, and they're afraid.

11 MS KULASZKA: Now, if you could turn
12 to the next document. It appears to be a letter
13 date -- from last fall, dated September 21st, 2006.
14 It's the Peel Police?

15 MR. FROMM: Yes, this is a police
16 report dealing with -- I guess they call it an
17 occurrence, and it refers to an event that happened in
18 and around my residence on August 19th of last year.
19 So this is police -- this is from Randy Packer, an
20 Inspector of the Records Services.

21 And it's a police report that deals
22 with a protest that was held on the afternoon of
23 Saturday, August 19th, in the townhouse complex on
24 private property, and then around the back on a -- on
25 the property of a strip mall, which is right up against

1 my -- my backyard.

2 MS KULASZKA: So this was an
3 occurrence at your home?

4 MR. FROMM: Yes, it was.

5 MS KULASZKA: And what was it? What
6 happened?

7 MR. FROMM: About 25 members of this
8 ARA group showed up around 2:00 o'clock on the
9 afternoon of August the 29th. They came in a yellow
10 bus. They had a rally downtown Toronto in area called
11 Christie Pitts. There had been chatter on the Internet
12 for a couple months on their site that they were going
13 to oust -- that was their term -- a local neo-Nazi
14 leader.

15 They didn't name names. There were
16 several possibilities. And I was approached by the
17 Intelligence Squad of the Peel Regional Police and I
18 was asked if I knew if I was the target.

19 I said, no, I didn't know. I said
20 there are, in my estimation, two or three possible
21 targets. And I don't know if I should go into that or
22 not. I suggested there were several possible targets.
23 I said, of course, I might as well be one of them.

24 And I went over with them plans for
25 eventualities if these people did show up. And I had

1 an understanding from the Peel Regional Police that
2 they would not be allowed on condominium property,
3 which would have meant they would be kept on the public
4 sidewalk.

5 But when they did arrive on their bus
6 on the Saturday the 19th, they were allowed part way
7 down into the townhouse complex on private property.
8 There were about 25 of them, at least half of them were
9 wearing face masks or bandanas. Some carried clubs.

10 They carried one flag, which is the
11 flag of Communist Kouba. And there were signs like
12 "Die, Nazi, die." They were shouting slogans like,
13 "Nazi, Nazi, out, out, out," something about the klan,
14 which I didn't catch.

15 And then one of the people in that
16 group is a person named Shane "Ruttle" Martinez, and he
17 has made threats against me on previous occasions, and
18 I heard him say, "We will be back, we will burn you
19 out, you fucker" or something along those lines. And
20 the protest lasted for about two hours and the police
21 were there to keep the peace.

22 MS KULASZKA: Did you provide an
23 affidavit regarding this event?

24 MR. FROMM: Yes, I did.

25 MS KULASZKA: Is that the document,

1 next document?

2 MR. FROMM: Yes, and this was
3 provided to the Tribunal pursuant to another motion
4 earlier in these proceedings.

5 THE CHAIRPERSON: For the record,
6 this material I've seen because it was provided to me
7 in the context of a motion. I don't remember again
8 which of the motions it was, but I've seen this
9 material.

10 MS KULASZKA: If you look at the last
11 page there's a photograph. Was that a sign held up
12 during the demonstration?

13 MR. FROMM: Yes, this is a photograph
14 taken inside the townhouse complex. There is the ARA
15 on the other side of the police lines. You can see the
16 police officers there. One with glasses is holding a
17 sign, "Die, Nazi scum."

18 Somebody else is holding a sign with
19 a slash swastika, and although it's not really very
20 obvious because of this photocopy, but the flag on the
21 right side of the frame is the flag of Kouba, and the
22 fellow holding the flag is Shane "Ruttle" Martinez who
23 is a Commission witness in another proceeding.

24 MS KULASZKA: And on the next page is
25 that another sign?

1 MR. FROMM: Yes. This is on the
2 porch of the health club right behind my backyard. So
3 after they were protesting on the townhouse complex
4 they went around to the strip mall and up against the
5 back fence and they were shouting and carrying on. And
6 this sign was prominently displayed, and it says,
7 "Thanks, Richard Warman, for the bus rental."

8 And to the left of that sign as you
9 look at it, is the Cuban flag. Grinning there just
10 below the Cuban flag is Shane "Ruttle" Martinez, and
11 another individual to the extreme left, you can see a
12 bandana there, and he's carrying a wooden club.

13 MS KULASZKA: What was the reaction
14 of your neighbors?

15 MR. FROMM: Flabbergasted, absolutely
16 gob-smacked. They've never seen anything like that.
17 You have to understand, Port Credit is a very
18 conservative old community. They have never seen
19 anything like this. This was appalling. And my
20 neighbors on both sides heard the threat, "We're going
21 to come back and burn you out," and they are terrified.

22 These are townhouses, they're all
23 connected together, and they fear that if there's a
24 fire that they may well -- coming for damage or worse.
25 So the neighbors are extremely upset and this puts they

1 pressure on me. I'm sure that's the purpose of it.

2 MS KULASZKA: Could I produce these
3 documents at tab 7?

4 THE CHAIRPERSON: As noted I've
5 already seen most of them in the past.

6 MS KULASZKA: I don't think either
7 the first pamphlet or the police report --

8 THE CHAIRPERSON: No, I didn't say
9 all of them. I had seen most of them. I'm producing
10 all of it.

11 MR. FROMM: If I might, in my
12 affidavit -- this maybe tidy's up the incident at the
13 Winnicki case -- the Winnicki hearing.

14 The complaint I filed with the Metro
15 Toronto Police Service was incident number 1277573, and
16 officer Mr. Lemire and I talked to was a John, I
17 believe, Lobell, but his badge number was 3723.

18 THE CHAIRPERSON: I'm not going to do
19 anything about that myself. It's not the trial of that
20 incident here.

21 MR. FROMM: Could always hope.

22 MS KULASZKA: Could you go to the big
23 black binder, R-1?

24 MR. FROMM: Yes, okay.

25 MS KULASZKA: Go to tab 1, page 9.

1 Page 9 would be at the bottom of the page.

2 MR. FROMM: Yes.

3 MS KULASZKA: It's headed:

4 "Call to action against
5 Holocaust denier Ernst Zundel
6 and the white supremacist
7 Canadian far right."

8 It's dated '04, July 25th.

9 This document goes on for several
10 pages. It goes to page 12. Do you recognize this
11 document?

12 MR. FROMM: Yes, I do.

13 MS KULASZKA: What is it?

14 MR. FROMM: It's taken from the
15 website of the ARA and refers to a planned counter
16 protest.

17 THE CHAIRPERSON: What's the name of
18 that website?

19 MR. FROMM: Anti-Racist Action.

20 THE CHAIRPERSON: Dot something?

21 MR. FROMM: I think it's in --

22 THE CHAIRPERSON: Okay.

23 MR. FROMM: It's probably
24 aratoronto.org -- www.aratoronto.org.

25 THE CHAIRPERSON: Because it doesn't

1 appear at the bottom. Is this a cut and paste of it?

2 MS KULASZKA: At the end it says it's
3 from "rebelyouth.ca, antiracistaction.ca".

4 THE CHAIRPERSON: It doesn't say from
5 there. They are there. Anyway, I think it's just
6 helpful to know which website it's from. You saw it on
7 the web?

8 MR. FROMM: Yes, I did.

9 MS KULASZKA: Posted on rabble.ca.
10 My goodness. So did you see this posted on the
11 website, on the web?

12 MR. FROMM: Yes, I did.

13 MS KULASZKA: What does it concern?

14 MR. FROMM: Well, the essence of it
15 is that it's calling -- as you see in the first
16 paragraph, "Young left and Anti-Racist Action Toronto
17 call upon all anti-fascists to mobilize Sunday, July 25,
18 2004, for direct opposition to the upcoming appeal
19 being launched by German-borne Holocaust denier Ernst
20 Zundel."

21 Further on in that paragraph it says
22 it's calling upon people to shut down their projects on
23 July 25th. That would be the two planned protests had
24 been organized by the Canadian Association for Free
25 Expression. One was to be in Toronto and one was in

1 Edmonton to protest the incarceration of Ernst Zundel
2 in solitary confinement while he was being -- the
3 hearing into the reasonableness of the national
4 security certificate was going on. They were
5 protesting his being held in solitary confinement, in
6 prison.

7 This document goes on at considerable
8 length about why they don't like Ernst Zundel.

9 And then there's some information
10 about me, which is -- good deal of it is incorrect.

11 Then finally, there is some
12 information about Marc. Lemire and about the middle of
13 page 19, and it says:

14 "More information about him is
15 probably incorrect."

16 But then it goes on to say:

17 "He was unsuccessful in his
18 attempt to smuggle a carload of
19 copies of Duke's racist
20 autobiography into Canada.

21 At the present moment he a
22 co-accused in a human rights
23 complaint that charges him with
24 subjecting identifiable groups
25 to hatred and/or contempt

1 contrary to section 13(1) of the
2 Canadian Human Rights Act.

3 Amongst other things,
4 Lemire's website was found to
5 contain"

6 -- and it and lists some of the alleged contents of the
7 Freedomsite.

8 And goes on to exhort people to
9 organize and to protest against the protests that were
10 planned against the jailing of Ernst Zundel. The one
11 in Toronto was to be outside the Metro West Detention
12 Centre where he was held.

13 And on the bottom of page 11:

14 "We call upon all people to
15 rally in opposition and defiance
16 against not only Ernst Zundel
17 but especially against
18 neo-Nazis, Paul Fromm and Marc
19 Lemire, and their public
20 propagation of hate against
21 non-white immigrants, refugees,
22 Jewish persons and leftists.
23 Join us in direct opposition
24 against the centre of the
25 Canadian neo-Nazi movement and

1 pro-Zundel campaign.
2 United militantly we stand in
3 saying 'no passeron', they shall
4 not pass. "On Sunday, July 25th
5 we fight back for a safe,
6 diverse, free-Toronto".

7 MS KULASZKA: And was there a
8 protest?

9 MR. FROMM: Yes, we held a protest
10 outside the Metro West Detention Centre. I think we
11 had about 65 people there. It was peaceful. Then a
12 busload of I would think about 20 people who -- some of
13 whom identified them as ARA, about half of them wore
14 facemasks -- appeared.

15 The police really weren't very good.
16 They were allowed right up along the curb. We were on
17 the sidewalk. They were shoving and pushing and some
18 whacking back and forth, and finally the police did
19 move them away a bit. And as far as I know there was
20 no arrests, but there was a good deal of pushing and
21 shoving and so on, and screaming.

22 MS KULASZKA: Were there any threats
23 made to you?

24 MR. FROMM: Yes. In fact, I think I
25 detailed that in my affidavit. At that protest -- this

1 is on paragraph 10 of my affidavit.

2 "At a protest the Canadian
3 Association for Free Expression
4 organized in July of 2004
5 protesting imprisonment of
6 Publisher and Zundel, the ARA
7 staged a violent counter
8 demonstration. One of those
9 members, Shane Martinez,
10 screamed at me, 'Show us your
11 licence plate. We're going to
12 burn you out like your Master
13 Zundel'."

14 MS KULASZKA: What happened to Ernst
15 Zundel? What does that refer to, to your knowledge?

16 MR. FROMM: Well, on May 8th, 1995,
17 Ernst Zundel's residence on I think it was 206 Carlton
18 Street, was the subject of an arson attack that caused
19 I think a \$400,000 damage. It seriously damaged the
20 building.

21 MS KULASZKA: Did you ever see the
22 building after the arson?

23 MR. FROMM: Actually, I was down
24 there the afternoon -- I think it happened on a
25 Saturday night. You were speaking for us Sunday

1 afternoon, and after the speech a number of us went
2 down and took pictures of the mess there from the
3 outside of the building.

4 THE CHAIRPERSON: I realize this is
5 part of the big experience, Ms Kulaszka, but let's try
6 to focus on Mr. Lemire's human rights complaint a bit
7 more.

8 MS KULASZKA: Okay. I would like to
9 produce the documents -- yeah, reproduced that. If you
10 could turn to tab 8.

11 THE CHAIRPERSON: Was that produced?
12 Page 9 through --

13 MS KULASZKA: Yes, that's been
14 produced.

15 If you could turn back to the binder
16 you prepared to tab 8.

17 MR. FROMM: Yes.

18 MS KULASZKA: This is a document
19 entitled, "Immigration Can Kill You".

20 MR. FROMM: Yes.

21 MS KULASZKA: Is this document that
22 has been referred to in these proceedings?

23 MR. FROMM: Yes, it has, by Richard
24 Warman.

25 MS KULASZKA: Could you tell us about

1 this document?

2 MR. FROMM: This is the pamphlets
3 that's referred to in the Heritage Front press release
4 commentary that Mr. Warman referred to. There was
5 commenting on an article from Hamilton Spectator.

6 This pamphlet was handed out by
7 members of the Heritage Front in Hamilton and it's what
8 attracted the article in the Hamilton Spectator. This
9 was the pamphlet, "Immigration Can Kill You".

10 I'm quite aware of this because it's
11 largely stitched together from the Canadian Immigration
12 Hot Line, which we publish now monthly. And we have a
13 feature in most issues called Health Watch. And in
14 that feature we look at health concerns vis-a-vis
15 immigration.

16 And it's our contention that the
17 Canadian public is not being adequately protected.
18 Diseases, such as leprosy and malaria that were
19 completely eradicated many decades ago, are back, and
20 largely, in our contention, because of poorly screened
21 immigration.

22 And so we regularly feature items
23 that have to do with -- it's part of our ongoing
24 indictment of the Canadian government to failing to
25 adequately protect Canadians.

1 So what has been done here is items
2 from a number of the newsletters are being stitched
3 together. Examples of failures of the immigration
4 department to protect Canadians from diseases, from
5 people bringing these diseases to Canada.

6 MS KULASZKA: You have a quote at the
7 top of the page?

8 MR. FROMM: Yeah:

9 "Immigration and refugee
10 policies in Canada are no longer
11 just a joke. They are
12 life-threatening to Canadians
13 and to the rest of the world."

14 That is from Diane Francis. She is a
15 columnist in the The National Post, and she was an
16 editor of the Financial Post. She has actually praised
17 our activities on a couple of occasions back in 1999,
18 for instance. I happen to know she's a resident of the
19 same community as me and that she happens to be Jewish.

20 MS KULASZKA: I would like to produce
21 that document.

22 THE CHAIRPERSON: The actual article
23 that's called "Immigration Can Kill You" that's been
24 referenced several times in the hearing?

25 MR. FROMM: It was a pamphlet

1 actually.

2 THE CHAIRPERSON: A pamphlet.
3 Whenever we saw that term "Immigration Can Kill You"
4 with a link that you can click on, this is what would
5 come out? Is that what it is?

6 MS KULASZKA: Oh, I don't know
7 that --

8 MR. FROMM: I can't say that. It
9 would be the link that says "Immigration Can Kill You",
10 underscore flyer.

11 MS KULASZKA: Right.

12 THE CHAIRPERSON: Right, flyer.

13 MS KULASZKA: To be of assistance, in
14 the HR-2. It would be tab 21, there's a posting by
15 Marc Lemire and it's concerning the flyer "Immigration
16 Can Kill You". And this is the flyer.

17 THE CHAIRPERSON: Let me just find
18 it.

19 MS KULASZKA: HR-2, tab 21.

20 THE CHAIRPERSON: Where is the
21 reference to the flyer?

22 MS KULASZKA: It's a posting Toronto
23 Star.

24 THE CHAIRPERSON: I see The Toronto
25 Star.

1 MS KULASZKA: Health Alert. And it's
2 a post by Marc Lemire. It talks about how there was a
3 flyer that was handed out in Hamilton. All the good
4 parts of the flyer would detail exactly how
5 "Immigration Can Kill You" is gone. That's the flyer.

6 THE CHAIRPERSON: So there is -- see
7 it says, "See our 'white supremacist' flyer at" and
8 there's a link there.

9 MR. VIGNA: Doesn't seem to match
10 based on Diane Francis, January 4.

11 THE CHAIRPERSON: That's an excerpt,
12 obviously.

13 MS KULASZKA: Now, as far as --

14 THE CHAIRPERSON: I just want to
15 clear it up, because if there's a linkage to be made I
16 want to make sure it's the same document. We had
17 numerous references to the "Immigration Can Kill You"
18 in evidence.

19 MS KULASZKA: I think I can be of
20 assistance here. We can look at HR-3, the small binder
21 of the Commission. It would be tab C. And if you
22 could look at the bottom of the page, flip through
23 until you start to see 1 of 22 or 3 of the 22.

24 THE CHAIRPERSON: There are 22 pages.
25 I'm in the 22s. Yes? Which one is it?

1 MS KULASZKA: Number 5. 5 of 22.
2 This was one of the titles that Mr. Warman referred to.
3 "Immigration Can Kill You" - The Health Effects". And
4 I asked him if he had read it and he said no. He
5 didn't even know whether it was an active link, but he
6 said it was racist.

7 MR. FROMM: Do you want me to look at
8 this?

9 THE CHAIRPERSON: Hold on a second.

10 MS KULASZKA: No. We're just
11 attaching this document to previously entered
12 documents.

13 MR. VIGNA: The title is not quite
14 the same, though, if I look at it. It has "The Health
15 Effects of Canada's Mass Immigration Policy" missing.

16 THE CHAIRPERSON: Interesting point.

17 MR. VIGNA: And there's no
18 exclamation mark.

19 THE CHAIRPERSON: Well, you did
20 not -- Mr. Fromm, you did not obtain this document by
21 clicking on this link at HR-3 -- on the Freedom site,
22 the list of articles on the Freedom site?

23 MR. FROMM: No.

24 THE CHAIRPERSON: You acquired it by
25 clicking --

1 MR. FROMM: I have a hard copy.

2 THE CHAIRPERSON: You have a hard
3 copy. It was distributed, you know, in Hamilton?

4 MR. FROMM: Yes.

5 MS KULASZKA: Mr. Fromm, could you
6 confirm this is the document which is referred to at
7 tab 21 of HR-2? HR-2 is a big black binder. If you
8 can look at tab 21.

9 MR. FROMM: Yes.

10 MS KULASZKA: It's a posting by Marc
11 Lemire date February 22nd, 2001.

12 MR. FROMM: Yes.

13 MS KULASZKA: He re-posts The Toronto
14 Star article dated February 21st, 2001 and it talking
15 about a flyer handed out in Hamilton and --
16 "Immigration Can Kill You". Is this the same document?

17 MR. FROMM: This is the flyer, yes,
18 that's right.

19 MR. VIGNA: This is The Toronto Star.
20 This is The National Post. I don't see the link.

21 THE CHAIRPERSON: Mr. Vigna, the
22 quote --

23 MR. VIGNA: I understand it's the
24 quote.

25 THE CHAIRPERSON: The link, it's the

1 link. See, right above The Toronto Star article it
2 says "See our white supremacist flyer at
3 <http://www.freedomsite.org>." That's what they are
4 referencing.

5 The National Post at the top is a
6 quote inside the article from a Diane Francis. Inside
7 the flyer. Am I correct in my understanding of that?

8 MR. FROMM: It's a quote from about a
9 year before written by Diane Francis.

10 THE CHAIRPERSON: Which was
11 incorporated in the flyer?

12 MR. FROMM: Yes, it was part of the
13 flyer.

14 MS KULASZKA: Now, if you look at the
15 last page of that flyer, it says:

16 "Now is the time to stand up and
17 make your voice heard."

18 Then there's a box that says:

19 "This flyer was distributed to
20 over 6,000 people in Hamilton
21 warning them of the potential
22 dangers of immigration."

23 That box wouldn't appear in the
24 original flyer, would it?

25 MR. FROMM: No.

1 MS KULASZKA: Was that added sometime
2 later?

3 MR. FROMM: Yes.

4 MS KULASZKA: Where would it stop,
5 the actual flyer?

6 MR. FROMM: Above that text that's in
7 bold. It would stop with the word "upgraded", because
8 these are -- this is what people are being encouraged
9 to do.

10 I think it's quite important for
11 understanding or assessing this material. People are
12 not being asked to hate or abuse immigrants. They are
13 being asked to take political action, "Call your member
14 of Parliament". "Call," as she was then Minister of
15 Immigration, "Eleanor Caplan."

16 This is what you're supposed to do,
17 demand they put Canada and Canadians first, the public
18 health and safety of Canadians first. Also demand that
19 all immigrant and refugee claimants be given medical
20 tests before they come to Canada.

21 It goes on to say there actually are
22 regulations in place to restrict those who would
23 represent a health threat or public charge. Let's
24 enforce them.

25 So this is all urging people to take

1 political action, as is their right in a democracy.
2 "Contact your elected representatives." It is no way
3 suggested anybody should do anything abusive to any
4 newcomer.

5 MS KULASZKA: I believe that document
6 has been produced. Correct?

7 THE CHAIRPERSON: Not yet, but I will
8 now, because of the identification just now of it.
9 Talking about tab 8.

10 MS KULASZKA: It would be tab 8,
11 document entitled, "Immigration Can Kill You".

12 MR. FROMM: If I can make one
13 comment. I know that because I wrote the excerptation
14 urging people to do those things.

15 MS KULASZKA: If you could turn to
16 tab 9 of the binder.

17 MR. FROMM: Yes.

18 MS KULASZKA: There is a document
19 that appears to come from indymedia.org.

20 MR. FROMM: Yes.

21 MS KULASZKA: It's entitled:
22 "Anti-racist activists in
23 Halifax, Nova Scotia,
24 successfully shut down white
25 sepremacist."

1 Could you describe what the documents
2 are in this tab?

3 MR. FROMM: Yes. These are documents
4 that refer to an incident that occurred on January 16th
5 of this year in Halifax, Nova Scotia. It involves an
6 effort by Jared Taylor, whom I know quite well. He's
7 the editor of American Renaissance in the United
8 States.

9 Jared had been invited to participate
10 in a debate with the head of black studies at Dalhousie
11 University. That was to occur January 15th, which was
12 Martin Luther King day.

13 Late in December the debate was
14 cancelled. The head of the black studies department
15 said that it was -- that he didn't realize that Jared
16 Taylor was so radical. The debate was to be
17 multi-racial society, good or bad for Canada.

18 Jared Taylor was going to take -- say
19 it was not good for Canada.

20 So the debate was cancelled and on
21 the basis -- the things that Jared Taylor would say
22 might hurt the feelings for people whose feelings had
23 already hurt enough.

24 So Jared Taylor announced he was
25 going to give the speech anyway, so he booked a room at

1 the Lord Nelson Hotel in downtown Halifax, called out
2 the press, and it was to be an open meeting. He had --
3 apparently had some leaflets put out at Dalhousie
4 University.

5 When the meeting was about to start
6 that night, about 35 members -- groups like the ARA and
7 others who call themselves international socialists --
8 came into room. Some of them were masked. They
9 pounded on pots and pans for about 20 minutes
10 apparently, shouted, denounced him and then finally one
11 of them got him in a bear hug and others linked their
12 arms together and they just physically forced him out
13 of the room that he'd rented. They then left the
14 building, police arrived but nothing was done.

15 This certainly caused a great deal of
16 consternation, and efforts are being made to try to
17 identify some of the 35 people who were involved in the
18 disruption of Mr. Taylor's meeting.

19 And this is not research that I did
20 myself, but this is available on Stormfront. And one
21 of the people identified is a fellow by name of Aaron
22 Doncaster.

23 THE CHAIRPERSON: Ms Kulaszka,
24 Mr. Fromm, I know it follows somewhat the theme of the
25 previous ones, but here I don't see the theme of

1 section 13 coming into play as much, unless --

2 MS KULASZKA: This is being put in
3 because --

4 THE CHAIRPERSON: I know the
5 participants are at odds with each other. I mentioned
6 it myself. So far a lot of the other material related
7 to Mr. Lemire's complaints, complaints against the
8 Human Rights Commission, against Zundel and so on.

9 Here, I don't know. This is an
10 American who came to give a speech and he was shouted
11 down. Unfortunate, but I don't know if it fits into
12 the rest of the pattern.

13 MR. FROMM: Mr. Chair?

14 THE CHAIRPERSON: Yes.

15 MR. FROMM: Perhaps I can assist you.
16 On the third page of the handout -- third page of the
17 document here.

18 This is a statement taken off the
19 Internet by Aaron Doncaster, who is one of the people
20 who disrupted the meeting. And the things he says in
21 here have a direct connection with this type of
22 legislation.

23 MS KULASZKA: Where?

24 MR. FROMM: This is Aaron Doncaster's
25 statement, and it's entitled, "Why Jared Taylor needed

1 to be shut down."

2 MS KULASZKA: Do you want to point
3 parts to the Tribunal?

4 MR. FROMM: Yes, I do. Well, this is
5 Mr. Doncaster's statement:

6 "When the media took the
7 shutting down of racist Jared
8 Taylor's function by some
9 anti-racist activists and
10 focused it in the area of free
11 speech, the media negated to
12 look at the fact that Jared
13 Taylor is a racist through and
14 through."

15 And it goes on to say he doesn't like
16 Taylor, he's a racist and so on.

17 Farther down that page:

18 "We all should have the right to
19 do whatever we want to do as
20 long as we do not infringe upon
21 the rights of others.

22 We, as residents Halifax,
23 and ultimately of the world,
24 have a right to feel free of
25 racist hate mongering and the

1 violence that is associated with
2 racist hate mongering. Here in
3 Canada we even have a law
4 outlawing hate crimes for the
5 specific reason that spreading
6 hate will encourage hate
7 mongers. We're already inclined
8 to commit acts of physical
9 violence as a result of their
10 hatred to commit more violence.
11 Spreading violent racist hate
12 makes the whole community feel
13 unsafe, and not only leads to
14 more overt forms of racist
15 violence, but it also leads to
16 more systemic racist violence.
17 In this case, the law is clear.
18 Taylor was here to propagate
19 hate. Canadian laws do not
20 allow that. If it is the job of
21 the police to serve and protect
22 the public and enforce Canadian
23 laws then they should have
24 stepped in and shut down Taylor
25 and charged him with hate

1 crimes. When the cops refuse to
2 protect us from such violent
3 racist hatred, be it verbal or
4 physical, we have a duty to
5 protect ourselves and our
6 communities. Ironically, this
7 racist scumbag may be using our
8 justice system, which is
9 supposed to protect us, from his
10 kind of violence racist hatred
11 against us because we chose to
12 confront the violence of racism
13 and protect ourselves and our
14 community when the police fail
15 to step in and enforce the laws
16 of Canadians today."

17 THE CHAIRPERSON: I read that. This
18 is about activity, speeches. I don't see the link to
19 section 13.

20 Ms Kulaszka, you know, I've allowed
21 it to go wide. But this, I think, is going a little
22 too wide. I don't think it should be produced into the
23 record.

24 MS KULASZKA: I guess what does, it's
25 a statement by people --

1 THE CHAIRPERSON: Some of these
2 groups. But I don't know if this attitude is linked in
3 some way to section 13. The other ones, you know,
4 there was some nexus there, not in the sense that will
5 be argued later on but I saw -- this one, this one, I'm
6 sorry. It goes too far. I don't think it --

7 MS KULASZKA: Perhaps I could just
8 ask Mr. Fromm. From this is representative of the attitude of
9 groups like ARA?

10 THE CHAIRPERSON: I have the evidence
11 of what ARA does already as it relates to 13, Ms
12 Kulaszka. Not necessary. And I don't want -- this is
13 clearly -- I don't see any reference really to our
14 activity. This is people shouting each other down who
15 are speaking publically. That's not the realm of what
16 the Canadian Human Rights Act deals with. I don't
17 think it should be produced.

18 MS KULASZKA: Mr. Fromm, turn to tab
19 10 of the binder you produced. Do you have the --

20 MR. FROMM: No.

21 THE CHAIRPERSON: Will you be long?
22 Because we need a break for the court reporter.

23 MS KULASZKA: This might be a good
24 time. I think Mr. Fromm needs a rest too.

25 MR. FROMM: I don't have tab 10. I

1 have a tab 10, but I don't think I have anything in it.

2 THE CHAIRPERSON: Let's take a short
3 break because we wanted to leave early, as you
4 indicated, Ms Kulaszka. Ten minutes.

5 --- Recessed at 3:10 p.m.

6 --- Resumed at 3:22 p.m.

7 MS KULASZKA: I just discovered pages
8 from the document at the last tab, and I've been
9 discussing housekeeping matters with friend.

10 I wonder if this would be a good time
11 to just stop and keep Mr. Fromm in
12 examination-in-chief, and it would give me the
13 opportunity just to get that page when we reconvene.

14 There's a number of housekeeping
15 matters that my friend and I would like to talk to you
16 about.

17 THE CHAIRPERSON: Okay. When you are
18 referring to the last tab --

19 MS KULASZKA: Referring to the last
20 tab --

21 THE CHAIRPERSON: Which tab?

22 MS KULASZKA: Tab 10 of --

23 THE CHAIRPERSON: Oh, the very last
24 tab of the book.

25 MS KULASZKA: R-3. I just noticed

1 there's a page missing and rather than keep going --

2 THE CHAIRPERSON: My intention was
3 not to commence the cross-examination. That would be
4 unfair to Mr. Fromm, leave him in the middle of his
5 cross-examination, make him unable to speak to anybody
6 on the other side of the room.

7 So we can leave it at that. Now,
8 when we get back to Mr. Fromm's cross-examination is a
9 bit up in the air, right? Because we begin with first
10 day with one expert and then another expert, four days
11 of experts.

12 Does that pose a problem for the
13 complainant's Commission side?

14 MR. VIGNA: I scheduled Ms. Mock for
15 the 19th. She reserved the 19th, 20 and 21. I guess
16 maybe we can make her start late on the 19th or the
17 20th. I'll talk with her during the week and see.

18 THE CHAIRPERSON: I guess it will
19 depend how long you think the cross-examination could
20 go, Mr. Vigna. Mr. Fromm intends to be here, he's from
21 the area. We can have him available at any moment when
22 we see a break between experts. Whereas, your expert
23 is coming from out of town, is she not?

24 MR. VIGNA: Toronto.

25 THE CHAIRPERSON: Still, it's an

1 expert. Mr. Fromm is here anyways.

2 MR. VIGNA: We can break him later.

3 THE CHAIRPERSON: If it doesn't
4 create a problem for you. Mr. Warman is not here but,
5 you know. In absentia, that's what happens.

6 So I think it might be best to leave
7 Mr. Fromm, his examination-in-chief pending, and you
8 can come back. It gives you the opportunity to review
9 the transcripts as well. That's fine.

10 MS KULASZKA: I think it would be
11 better just to do Dr. Mock. Dr. Persinger wants to be
12 just a day. That leaves Friday open for --

13 THE CHAIRPERSON: That's what I think
14 it was. The fifth day seemed open, according to my
15 schedule. I don't know what the actual date was.

16 We've got Dr. Mock 19th/20th, Dr.
17 Persinger 21st/22nd, and that leaves the 23rd
18 available.

19 MS KULASZKA: Correct.

20 THE CHAIRPERSON: Maybe that would be
21 the day we complete Mr. Fromm's evidence.

22 MS KULASZKA: Then the two
23 professors, both of them want to be basically in and
24 out within a day.

25 THE CHAIRPERSON: I'm prepared to

1 accommodate that. I think everybody is. Great. We're
2 on schedule.

3 So the housekeeping things are on the
4 record or off the record that you wish to do now? Is
5 it with me or amongst yourselves?

6 MR. VIGNA: This is what we were
7 talking about.

8 MS KULASZKA: I'm informed Mr. Vigna
9 that I am going to be serving him with the three
10 subpoenas on the 19th.

11 MR. VIGNA: I'll receive service.

12 MS KULASZKA: He's agreed to accept
13 service.

14 THE CHAIRPERSON: Subpoenas for?

15 MS KULASZKA: Dean Steacy, Harvey
16 Goldberg and Hannya Rizk. And at that time Mr. Vigna
17 would know better when a good date for resumption of
18 the hearing might be in Ottawa.

19 MR. VIGNA: There may be a motion
20 that may be introduced to quash the subpoenas.

21 THE CHAIRPERSON: So that will be
22 served on the 19th. That's before we get back.

23 MR. VIGNA: I think it's when we get
24 back on the Monday. But I would send them to Ottawa.

25 THE CHAIRPERSON: That's for

1 Mr. Steacy.

2 MR. VIGNA: Harvey Goldberg and
3 Hannya Rizk.

4 THE CHAIRPERSON: Would it be
5 helpful, Ms Kulaszka -- you've already provided, I
6 think, a willsay for those two individuals. Did you
7 not?

8 MS KULASZKA: Yes.

9 THE CHAIRPERSON: -- suggest provide
10 some indication of where you'll be going in your
11 questions and maybe Mr. Vigna will act accordingly then
12 in terms of whether he'll --

13 MR. VIGNA: I think when we had last
14 spoken, we're supposed to get a bit more. It was
15 pretty brief.

16 THE CHAIRPERSON: Ms Kulaszka, that's
17 one piece of homework that might be very helpful. You
18 are going to be traveling up to Ottawa too, right, so
19 if we can get it all done in one day all the better, if
20 it happens at all.

21 But I think it would be helpful if
22 you were to be quite clear on the evidence you are
23 seeking from those individuals.

24 MS KULASZKA: Maybe I could consult
25 with Mr. Vigna about that.

1 Then the three of us were just
2 speaking and we were hoping after all the evidence is
3 in and we received the transcripts we could have an
4 amount of time to make written submissions.

5 THE CHAIRPERSON: I always like
6 written submissions, it's helpful for the Tribunal.
7 But you would still want argument, would you not, or
8 not?

9 MR. VIGNA: Yes, written and then
10 followed by -- oral and the written submissions, but at
11 a later time.

12 THE CHAIRPERSON: Let's see how we
13 are feeling at the time and how our schedules are. One
14 option may be, if we follow the written submissions --
15 it's difficult for everyone to regroup, that we could
16 do something perhaps on video conference. Would that
17 be of interest? Many of you are in Toronto, good
18 number in Toronto. I can come to Toronto perhaps. I
19 don't know. We'll just see. But it is a possibility.

20 MS KULASZKA: We could play it by
21 ear.

22 THE CHAIRPERSON: We have a facility
23 in Ottawa in our offices. So if, for instance, there's
24 representatives from the Attorney General's office that
25 want to just stay in Ottawa, they could be

1 participating from Ottawa. It works quite well. I
2 don't know if you've ever had experience with it, Ms
3 Kulaszka. It's quite good. I'm very comfortable with
4 it, especially for legal submissions.

5 Everyone's got all the same documents
6 in front of them and you end up seeing the participants
7 sometimes better than you would in a hearing room,
8 because they are all right up close to you on the
9 telephone screen.

10 MR. VIGNA: Mr. Chair, for the
11 submissions we would like to have the transcripts so we
12 can actually --

13 THE CHAIRPERSON: As you know, we're
14 working on -- you'll have them for the next round, and
15 then after that.

16 MR. VIGNA: The full transcripts.

17 THE CHAIRPERSON: Ten days perhaps.
18 I just don't know what everyone's flexibility is and
19 how many days we'll need. Let's look into that when we
20 get back. Is there anything else?

21 MR. VIGNA: No. I just wanted to
22 mention in relation to the various cases that Mr. Fromm
23 was mentioning. I intend to simply, in
24 cross-examination, produce the actual case and I will
25 bring -- I'll look at the transcripts, or least the

1 list that was mentioned in my notes, to see cases that
2 were mentioned. And he said certain things about
3 various individuals involved in the cases. My
4 intention was to simply produce those cases, to
5 complete.

6 THE CHAIRPERSON: To complete the
7 record?

8 MR. VIGNA: Yeah.

9 THE CHAIRPERSON: That might speed
10 things up. We'll leave it for that Friday.

11 Is there anything else?

12 Mr. Fothergill?

13 MR. FOTHERGILL: I think this follows
14 from the discussion that just occurred.

15 I take it that under no circumstances
16 will we be trying to make closing submissions prior to
17 March 2nd, even if the subpoenas are challenged.

18 THE CHAIRPERSON: It would seem given
19 that -- yes, even if they're challenged. Well, we will
20 have a sense, but it's kind of hard to imagine you
21 would be ready.

22 MR. FOTHERGILL: What I would like to
23 propose is that we decide now that we won't tend to do
24 that. I think we can serve you better as the presiding
25 member if we have an opportunity to consider the

1 arguments, prepare written submissions, reference the
2 transcripts.

3 I'm concerned we are creating quite a
4 complicated argument here and --

5 THE CHAIRPERSON: It may be simple on
6 your end, and complicated --

7 MR. FOTHERGILL: Nonetheless, I have
8 my work cut out with me because I'm now dealing with
9 the whole world of adverse effects and burden of proof
10 and all this sort of thing, which, when we started
11 here, I wasn't expecting to deal with.

12 THE CHAIRPERSON: Adverse effects is
13 a common term found in human rights legislation.

14 MR. FOTHERGILL: It is, and it has
15 certain evidentiary requirements that I'm sure you are
16 aware.

17 I would like to propose that we
18 decide here and now that we will not be attempting to
19 make closing submissions prior to March 2nd. It's
20 important from my perspective to know that because --
21 given that I have one week off now, I need to use that
22 time effectively.

23 THE CHAIRPERSON: If we go that way
24 it will be under the condition, Ms Kulaszka, and all
25 the participants that we set down some dates thereafter

1 for these final submissions that are prompt, that
2 are -- I don't want one of these situations -- I heard
3 that one case has been adjourned until September, you
4 mentioned just before, Mr. Fromm.

5 One of the human rights cases that
6 began in November is going to continue again September.
7 That is not going to happen here. We're talking about
8 enough time for you to get the transcripts, organize
9 your material, and come back. So I need availability
10 within three, four weeks after we are done with the
11 evidence.

12 MR. FOTHERGILL: That's essentially
13 what we are discussing. Perhaps we thought four,
14 maximum six, weeks after the transcripts are available.

15 THE CHAIRPERSON: After transcripts
16 are available?

17 MR. FOTHERGILL: If that's too long,
18 so be it, but we --

19 THE CHAIRPERSON: You have to
20 understand, the Tribunal has a heavy load as well. We
21 can't keep prolonging these cases. We have to get rid
22 of one and move to the next.

23 I'll be reasonable about that, I just
24 don't want, oh, I'm on vacation -- you won't believe
25 the excuses that we hear sometimes.

1 MS KULASZKA: That's what we thought.
2 If we set the dates now, that once we got the
3 transcripts we would be given --

4 MR. VIGNA: I would rather set them
5 later because my colleague, Mr. Dufresne, might also be
6 arguing the submissions on the constitutional issue.

7 THE CHAIRPERSON: That's fine. He
8 can make himself available for us, rather than us
9 making --

10 MR. VIGNA: I would like to consult
11 with him now on the dates. There's no rush.

12 THE CHAIRPERSON: I'll tell you this
13 much, and you can talk amongst yourselves. It looks
14 like, from my perspective -- I can bring it up here.

15 By the way, my earlier point applies
16 also to the evidence of those three witnesses. I want
17 that to take place quickly as well. We'll be done
18 here. It would be great if we could perhaps the
19 following week, if we are to hear those witnesses we'd
20 try to get their evidence, if that would be possible on
21 your end, Ms Kulaszka, the week after the second week
22 of --

23 MS KULASZKA: Yes, I thought
24 Mr. Vigna could -- you know, once he gets he could see
25 what dates are good, and basically that would be all

1 right for me.

2 THE CHAIRPERSON: All right.

3 MR. VIGNA: Why don't I send a letter
4 next week with possible dates.

5 THE CHAIRPERSON: Here's when I want
6 those possible dates to be. Hold on a second.

7 Just to give you an idea. In that
8 first week of March, March 5th onwards, I'm available.
9 There was a mediation set down, it's just been
10 cancelled on my part. So I have the whole week of
11 March 5th, aside from one conference call 10 a.m.

12 At this point, from what the office
13 has told me, I'm available in that week. So if we
14 could finish off our little marathon. Just as we're
15 done with the evidence here, we just pick up our things
16 and move to Ottawa, if they are to testify.

17 So Mr. Vigna, if you are going to
18 make your motion, make your motion before then so we
19 could hear those witnesses in Ottawa the week of the
20 5th.

21 I would like to have some
22 confirmation on that after you check your material
23 shortly. Maybe next week you could advise Ms Joyal.

24 The following week of the 12th is
25 March break, so that sometimes that poses a problem for

1 individuals. But I'm scheduled to be in Ottawa. I
2 don't think I'm going to be away. So that's also an
3 option, but I'd rather not.

4 My point then is that for the
5 remaining three weeks of March I'm available. It looks
6 here in my schedule right now that I'm available.

7 So check your schedules. I suppose
8 an ideal time would be the week of the 26th or perhaps
9 the first week of April just before Good Friday to do
10 our final submissions. I'm not available thereafter.
11 No, I'm not available the following week, nor the two
12 weeks after. So April I'm not available. So really we
13 have to be done -- we have to meet again for final
14 submissions by the first week of April, just leading
15 into Good Friday, and earlier would be great too. Is
16 that okay?

17 So I'll leave it to you a bit to
18 think it through, discuss it with Mr. Warman. I know
19 he's not here. Perhaps Mr. Christie's availability --
20 although we could still do a video feed on that too.

21 MS KULASZKA: Do you know when we're
22 going to get the transcripts?

23 MR. FROMM: For this group of
24 hearings we will get them before we get back. I think
25 we said the Friday.

1 THE REGISTRAR: Five working days
2 after today.

3 THE CHAIRPERSON: Five working days
4 after today. So by Friday you'll have them.

5 And the same could apply for the next
6 session? We'll see. We'll see how it's going. If our
7 dates are further spaced out then perhaps we won't need
8 to do them on an urgent basis. Okay. Is there
9 anything else?

10 MR. FOTHERGILL: Just one final
11 thing. I will very likely provide Ms Kulaszka with a
12 book of documents on February 19th that relates to
13 testimony of Dr. Tsesis and Dr. Downs. And I wonder,
14 it's really just repetitious what I said before, if
15 there might be a reciprocal commitment from Ms
16 Kulaszka, to the extent she can, provide me with any
17 additional documents she might want to raise with Dr.
18 Tsesis by the 19th.

19 THE CHAIRPERSON: Documents she will
20 be raising with your expert, Dr. Tsesis?

21 MR. FOTHERGILL: Correct. Of course,
22 I will be disclosing documents I wish to raise with Dr.
23 Downs by February 19th.

24 MR. VIGNA: I have the same request
25 for Dr. Mock.

1 THE CHAIRPERSON: Ms Kulaszka?

2 MS KULASZKA: Yes, I can try and do
3 that. Certainly they will be getting Professor Downs'
4 documents. They will be getting Professor Downs'
5 documents on the 19th, and I'll attempt to get the
6 other binders prepared by that date.

7 THE CHAIRPERSON: So this is
8 cross-examination binders?

9 MS KULASZKA: The cross-examination
10 binders.

11 MR. VIGNA: Mr. Chair, Dr. Mock is
12 testifying on the 19th, so I need them next week
13 basically.

14 MS KULASZKA: I did provide a disk,
15 Mr. Vigna, last month, and there's a folder on there,
16 it says "Mock". That would be primarily what would be
17 in the binder. Do you remember that?

18 MR. VIGNA: Not off the top of my
19 head. Is there anything else in that?

20 MS KULASZKA: There were other
21 documents, but maybe you could check that just let me
22 know.

23 MR. VIGNA: It was only on a disk.

24 THE CHAIRPERSON: On the CD, there's
25 a folder on the CD that's named "Mock".

1 MR. VIGNA: You only send this to me
2 or to everybody else?

3 MS KULASZKA: That was sent to
4 everybody.

5 MR. FOTHERGILL: I have that disk.
6 It has a very large volume of documents on it. I'm
7 just curious whether that is likely to be pared down?

8 MS KULASZKA: The folder entitled
9 "Mock".

10 THE CHAIRPERSON: Is that also large,
11 the folder entitled "Mock".

12 MR. FOTHERGILL: It's quite large.
13 Just based on my recollection, I think there are a good
14 50, 60 documents.

15 MS KULASZKA: I can look through it,
16 but I would think most of it would be in the binder.

17 THE CHAIRPERSON: That's the kind of
18 answer they got when they asked for particulars from
19 the Commission and complainant. Okay. Is there
20 anything else?

21 MR. FROMM: Can I drop my hat as a
22 witness now?

23 THE CHAIRPERSON: Yes. You are
24 standing up, so that's fine.

25 MR. FROMM: I raised the matter of

1 Mr. Warman's attendance a couple days ago with you.
2 And I've asked the Tribunal for the transcript of the
3 Ms. Schnell v Mishka hearing, and it's apparently in
4 the old days when these were not provided to the
5 parties in quite the same way that they are now.

6 Mr. Gregoire is supposed to look into
7 it for me. If I can get you the citation, can I make
8 written submissions in the coming week to you?
9 Certainly from our perspective, he initiated a process
10 that is costing the taxpayers, costing Mr. Lemire a
11 month off work, costing a lot of people a lot of time.
12 It's seems disrespectful to the Tribunal he's not here.

13 In the discussions that led up to
14 venue, the submissions -- certainly for the convenience
15 of Mr. Lemire and perhaps even his safety, he very much
16 wanted a place out of the GTA, as you recall, probably
17 Oakville or Burlington. In the end there was this
18 uneasy compromise. And one of the reasons was
19 Mr. Warman said he wanted was inexpensive
20 accommodations in the City of Toronto. But he's not
21 here.

22 I would like to make further
23 submissions on that. I would like to have the exact
24 words of Member Sinclair. I only have my recollection,
25 and I'm trying to get the transcript.

1 THE CHAIRPERSON: Okay.

2 MS KULASZKA: I'm glad Mr. Fromm
3 brought it up. Just for the record, this is Friday.
4 Mr. Warman left at noon on Wednesday and hasn't been
5 back since.

6 THE CHAIRPERSON: Mr. Vigna, do you
7 know if Mr. Warman will be back at the next around?

8 MR. VIGNA: I'll ask him. I don't
9 think so because it will -- was intend it was mostly
10 the constitutional issue. But to be sure I'll ask him
11 whether he intends to come and perhaps he can clarify
12 his position by letter.

13 THE CHAIRPERSON: I must say, it does
14 make me a little uneasy to think -- the occasional
15 absence. I referred to Mr. Kulbashian's case. I
16 remember Mr. Kulbashian was absent a couple of times.
17 I allowed that.

18 MR. VIGNA: The Commission as a
19 party, is present. Mr. Warman is a witness for the
20 Commission and --

21 THE CHAIRPERSON: He's also a party.

22 MR. VIGNA: He's also a party, but
23 he's not obliged, and in my view, respectfully submit,
24 to be here throughout the whole process.

25 THE CHAIRPERSON: It's not unknown to

1 occur, I have to say. If counsel is there -- I've
2 certainly been in civil cases where a party has not
3 necessarily been there while counsel was there.

4 MR. VIGNA: There was even a case I
5 remember I was involved in, Dumont and Riviere du Loup,
6 where the complainant after he testified, and it was an
7 ordinary discrimination case, he didn't stay until the
8 end of the proceedings because he had work obligations.
9 And he left and the Tribunal was able to proceed with
10 the hearing.

11 So I don't think there's legal
12 impediment that prevents the Tribunal from proceeding
13 with the hearing.

14 THE CHAIRPERSON: But the Tribunal as
15 a master of its own proceedings could perhaps take it
16 into account.

17 MR. VIGNA: I guess you would have
18 to -- the respondent would have to argue what prejudice
19 it would be for the complainant not to be here.

20 THE CHAIRPERSON: If you can find
21 that material and get it to me, I'll consider it.

22 Is there anything else?

23 MS KULASZKA: My understanding is
24 that even though the Commission is participating, it
25 hasn't taken this case over. This is Mr. Warman's

1 case. He is the complainant.

2 THE CHAIRPERSON: In all cases, the
3 Commission makes it quite clear that they aren't acting
4 as counsel for the complainant. That's always been
5 made clear in all files, correct, Mr. Vigna?

6 MR. VIGNA: What I meant is that
7 they're still a party here.

8 THE CHAIRPERSON: Yes, there's still
9 someone there. The right side of the room has not been
10 abandoned.

11 MS KULASZKA: And I think it should
12 just be considered in making his submissions regarding
13 venue, Mr. Warman stated how much it was going to cost
14 if it wasn't in downtown Toronto. Made quite a big --

15 THE CHAIRPERSON: Yes, he did.
16 That's true. And it's in my ruling. But I'll be
17 willing to re-visit it, discuss it. Perhaps you could
18 bring up these concerns with Mr. Warman.

19 MR. VIGNA: To be fair to Mr. Warman,
20 when he did leave he did mention he was going to leave
21 and nobody raised any issue at that point in time,
22 including Mr. Fromm. It was once he was gone in the
23 afternoon that the issue was raised.

24 THE CHAIRPERSON: I would have some
25 difficulty making any decision on this point without

1 hearing from Mr. Warman, that's for sure. We'll leave
2 it at that.

3 Anything else? All right. Off the
4 record.

5 --- Adjourned at 4:12 p.m.

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16 I hereby certify the foregoing to be
17 the Canadian Human Rights Tribunal
18 hearing taken before me to the best
19 of my skill and ability on the 9th
20 day of February, 2007.

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Sandra Brereton

Certified Shorthand Reporter

Registered Professional Reporter