

**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

CAROL ANN HARTUNG

REGISTRY OFFICER/

L'AGENTE DU GREFFE

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CANADIAN HUMAN RIGHTS TRIBUNAL/
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HEARING HELD AT
THE CANADIAN HUMAN RIGHTS TRIBUNAL HEARING ROOM,
160 ELGIN STREET, OTTAWA, ONTARIO
ON MARCH 25, 2008, AT 9:36 A.M.

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

Margot Blight	For the Canadian Human Rights Commission
Barbara Kulaszka	For the Respondent
Alicia Davies	For the Attorney General of Canada
Douglas Christie	Canadian Free Speech League
Paul Fromm	For the Canadian Association for Free Expression

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1 Ottawa, Ontario

2 --- Upon commencing on Tuesday, March 25, 2008

3 at 9:36 a.m.

4 THE CHAIRPERSON: Nice to see you
5 all. It's been a while. More of an interest now than
6 at other times, it seems.

7 So, Ms Kulaszka, do you have your
8 witness?

9 MS KULASZKA: I do. The first
10 witness the Respondent will be calling is a
11 representative from Bell Canada.

12 THE CHAIRPERSON: Ah.

13 MS. KULASZKA: Mr. Alain Monfette.

14 SWORN: ALAIN MONFETTE

15 EXAMINATION BY: MS KULASZKA

16 MS KULASZKA: Mr. Monfette, were you
17 served with a subpoena from this Tribunal dated March
18 12th, 2008 --

19 MR. MONFETTE: Yes.

20 MS KULASZKA: -- requiring you to
21 attend at this hearing and give certain information?

22 MR. MONFETTE: That's right.

23 MS KULASZKA: Now, I'm going to read
24 out the information that was required by the subpoena,
25 if you could just follow along and make sure that it's

1 accurate.

2 MR. MONFETTE: Thank you.

3 MS KULASZKA: Do you have the
4 subpoena there?

5 MR. MONFETTE: Yes.

6 MS KULASZKA:

7 "User account and subscriber
8 information for the user of IP
9 protocol address 70.48.181.203
10 with host name
11 bas2-ottawa23-1177597387.dsl.bel
12 l.ca that was connected to the
13 Bell Sympatico and/or Bell
14 Canada network on December 8th,
15 2006 at 3:29 p.m. EST, also
16 known as 3:29 p.m. Ontario time
17 to Bell Canada corporate
18 security." (As read)

19 Did I read that accurately?

20 MR. MONFETTE: Yes.

21 MS KULASZKA: And have you brought
22 that information?

23 MR. MONFETTE: Yes, I have the
24 information, it's just that I'm not able to disclose
25 the information because this information is

1 confidential or else the Court orders me to do so.

2 THE CHAIRPERSON: Okay.

3 MS KULASZKA: He requires you to --

4 THE CHAIRPERSON: Right. Are you
5 referring to --

6 MR. MONFETTE: Well, the information
7 of our customers are confidential, so if you are
8 requiring me to identify --

9 THE CHAIRPERSON: Yes.

10 MR. MONFETTE: -- name, address of
11 the person that was connected or the account that was
12 connected to that IP address, I certainly need an order
13 by the Court to do so.

14 THE CHAIRPERSON: And I believe we've
15 heard section 8 of (00:03:21) Pipada, the Act which you
16 are referring to.

17 Yes, Ms Blight?

18 MS BLIGHT: I'm just rising on a
19 point of clarification because I have before me the
20 request for the subpoena itself and that, at least as
21 it was described in your ruling, referred only to an IP
22 address and not to all the additional information,
23 host, bas2-ottawa23-1177...

24 All that means very little to me, and
25 I just wanted to reassure myself that we are really

1 dealing with just one piece of information and that is
2 to identify --

3 MS KULASZKA: Yes. Well, that was
4 the initial motion for the subpoena, that's it exactly.

5 THE CHAIRPERSON: It's the same
6 information?

7 MS KULASZKA: That's exactly what the
8 motion was about.

9 MS BLIGHT: Very well.

10 THE CHAIRPERSON: And then, in those
11 circumstances, yes, I do request and order you to
12 disclose this information.

13 MR. MONFETTE: Perfect.

14 MS KULASZKA: Before you do so, I
15 just want to ask what position you hold at Bell Canada?

16 MR. MONFETTE: Certainly. I'm
17 director of law enforcement support team for BCE and
18 all our companies related to Bell Canada.

19 MS KULASZKA: And did you have access
20 yourself to this information?

21 MR. MONFETTE: No, my team have it --
22 has it and I requested my team as usual to extract the
23 information and making sure that the accuracy of the
24 information.

25 MS KULASZKA: And this is the usual

1 procedures that you follow?

2 MR. MONFETTE: Absolutely. This is
3 regular procedures.

4 MS KULASZKA: So, could you provide
5 us with the information.

6 MR. MONFETTE: Certainly. Do you
7 want a copy of the information that I have?

8 MS KULASZKA: Yes.

9 MR. MONFETTE: Okay.

10 THE CHAIRPERSON: Are there more than
11 one copy?

12 MR. MONFETTE: No. I have five
13 copies here.

14 MS KULASZKA: Just for the record,
15 Mr. Chairperson, I've never seen this document.

16 THE CHAIRPERSON: Okay. I'm hearing
17 that some of the counsel will share on one side.

18 And we've kept one copy here with the
19 Registry Officer, so that will be the official --

20 MR. ADLER: Just for the record --

21 THE CHAIRPERSON: Yes, sir.

22 MR. ADLER: -- Mr. Chairperson...

23 THE CHAIRPERSON: Oh.

24 MR. ADLER: That's all right, we
25 haven't proceeded yet. My name is Leo Adler, I'm with

1 the Friends of Simon Wiesenthal Center counsel and --

2 THE CHAIRPERSON: You're accompanied
3 by...?

4 MR. MOSTEN: Michael Mosten, B'Nai
5 Brith Canada.

6 THE CHAIRPERSON: Thank you.

7 The other participants -- perhaps for
8 the purposes of recording since this is one of the few
9 times -- first times I believe that we've used the
10 digital voice recording for this hearing, so, we have
11 Ms Kulaszka who has already spoken a number of times.

12 Ms Davies.

13 MS DAVIES: Yes, Alicia Davies for
14 the Attorney General.

15 THE CHAIRPERSON: Ms Blight.

16 MS BLIGHT: Margot Blight on behalf
17 of the Canadian Human Rights Commission.

18 MR. CHRISTIE: Douglas Christie on
19 behalf of the Canadian Free Speech League.

20 THE CHAIRPERSON: Thank you, sir.

21 MR. FROMM: Paul Fromm on behalf of
22 the Canadian Association for Free Expression.

23 THE CHAIRPERSON: We're all in. And
24 I guess Mr. Lemire will not be speaking, but he's next
25 to you, Ms Kulaszka; right?

1 All right. So, let's get back to
2 this document. Go ahead, Ms Kulaszka.

3 MS KULASZKA: Could you read this
4 information into the record.

5 MR. MONFETTE: Yes, definitely. So,
6 I brought the information concerning the IP address
7 7P.48.181.203 that was connected on December 8, 2006 at
8 3:29 Eastern Time.

9 THE CHAIRPERSON: Let's stop there.
10 This document just bears the
11 information that you've already given.

12 MR. MONFETTE: Absolutely.

13 THE CHAIRPERSON: Let's get it
14 identified right away. And are you going to produce
15 it, Ms Kulaszka?

16 MS KULASZKA: Yes.

17 THE CHAIRPERSON: Okay. Let's take
18 care of business.

19 REGISTRY OFFICER: The document as
20 described dated December 8th, 2006 will be filed as
21 Respondent Exhibit R-21.

22 EXHIBIT NO. R-21: Bell document
23 dated December 8, 2006.

24 MS KULASZKA: If you could continue.

25 MR. MONFETTE: No problem. So, the

1 user then was connected at that time was identified as
2 B1CJSW59, which is related to a phone number
3 613-236-7831, which the account is under the name of
4 Nelly Hechme, H-e-c-h-m-e, and the address of the
5 account working -- in fact, the address where the phone
6 number is working is 570 Laurier Avenue West, Ottawa,
7 Ontario. The postal code is K1R 1C8.

8 And the account was connected from,
9 in fact, from December 7th, 2006 at 18:36:22 Eastern
10 Time to December 8th, 2006 at 21:35:56 Eastern Time.

11 MS KULASZKA: Now, what is the user
12 ID? Can you just describe what that number means?

13 MR. MONFETTE: User ID is, in fact,
14 the identifier number that belong to the account that
15 was connected.

16 So, in our records the B1 number is
17 related to an account.

18 So, each time that an account, a B1
19 will be connected to Internet, it will go and connect
20 itself to, in fact, an IP address. So, that is why we
21 are able to identify that that IP address was used by
22 that account number.

23 MS KULASZKA: And that's a number
24 that Bell assigns?

25 MR. MONFETTE: Absolutely.

1 MS KULASZKA: What Bell e-mails are
2 associated with this account; do you know?

3 MR. MONFETTE: I don't have the
4 information. That wasn't requested.

5 MS KULASZKA: Now, the connection
6 date and time, that means this person signed on on
7 December 7th at 18:37:22 and stayed on line?

8 MR. MONFETTE: That's right. That's
9 why I can confirm that on December 8th, 2006 at 3:21
10 Eastern Time that same IP address was connected to that
11 account.

12 MS KULASZKA: Now, can you tell us,
13 is this a hi-speed...

14 MR. MONFETTE: I cannot confirm that.

15 THE CHAIRPERSON: So, then that would
16 mean that this connection may not have been a hi-speed
17 connection for this duration, it may have been a
18 continuous telephone connection, a regular 56K.

19 MR. MONFETTE: In fact, each time
20 that Sympatico or Bell account will go and connect
21 itself to Internet it will be connected to a dynamic IP
22 address. So, it's never the same address, IP address.

23 So, that time when the account was
24 connected to Internet it did connect itself with that
25 IP address.

1 MS KULASZKA: Now, this account was a
2 DSL account; is that correct? I see it says DSL
3 Bell.ca?

4 MR. MONFETTE: I don't have the
5 information. I cannot confirm that.

6 MS KULASZKA: That was on the
7 subpoena. So, that was the information you gave your
8 team?

9 MR. MONFETTE: That -- like I said,
10 you know, I brought out the information I extracted,
11 but I didn't verify if it was a hi-speed or low speed
12 or what kind of connection it was, but it's definitely
13 that account that was connected.

14 MS KULASZKA: Those are my questions.
15 Thanks.

16 THE CHAIRPERSON: Thank you.

17 Again, I recall the practice last
18 time with the other witnesses that we had when we sat
19 in Ottawa was that I allowed Mr. Fromm, now Mr.
20 Christie's here to make some questions and then I'll
21 pass over to the other side.

22 Do you wish to make any questions,
23 Mr. Fromm or Mr. Christie?

24 MR. CHRISTIE: I have no questions,
25 sir.

1 MR. FROMM: No questions.

2 THE CHAIRPERSON: All right. So, now
3 I'll turn to -- do you have any questions, Ms Blight?

4 MS BLIGHT: No questions.

5 THE CHAIRPERSON: No questions.

6 Ms Davies? No questions.

7 Mr. Adler, no?

8 Okay. So, thank you, sir.

9 MR. MONFETTE: My pleasure.

10 --- Witness stands down

11 THE CHAIRPERSON: Ms Kulaszka?

12 MS KULASZKA: The next witness I wish
13 to call on behalf of Mr. Lemire is Hannya Rizk.

14 THE CHAIRPERSON: Yes, Ma'am.

15 MS BLIGHT: Ms Rizk is here and
16 available, I just wanted to rise to inform the Tribunal
17 that the Commission has received further request for
18 disclosure, partially in relation to the testimony of
19 these witnesses, I wanted to advise the Tribunal, and
20 also the Tribunal's order with respect to the scope of
21 their examination, that being questions arising
22 directly from the questions that had previously been
23 refused.

24 THE CHAIRPERSON: Right.

25 MS BLIGHT: So, I do want to advise

1 the Tribunal that in advance of this hearing in order
2 to minimize the possibility of any necessity of further
3 objections, I have met with both Ms Rizk and Mr.
4 Steacy, I have reviewed the request for disclosure with
5 them and I have reviewed with them the questions to
6 which answers had been declined in May and reviewed
7 again with them the answers that had been subsequently
8 provided and canvassed with them additional information
9 that might arise therefrom, all of that in order to
10 assist and facilitate these proceedings.

11 There had been a prior ruling that
12 these evidence in regard to their examination as to the
13 general practices the Commission were being called by
14 the Respondent in direct. So, I wanted to state that
15 on record.

16 I also want to state on record that
17 the Commission has in place a plan for very quickly
18 obtaining instructions in the event of any potential --

19 THE CHAIRPERSON: All right.

20 MS BLIGHT: -- difficulties with
21 respect to evidence.

22 THE CHAIRPERSON: All right.

23 MS BLIGHT: So, Ms Rizk is here. If
24 we could perhaps have a five-minute break to bring her
25 in.

1 THE CHAIRPERSON: Wait a minute. You
2 allude to my ruling. Let's be clear about this, Ms
3 Kulaszka and everyone. I mean, this is not the first
4 time these witnesses are testifying. We originally had
5 looked at one day, we ended up scheduling three days,
6 we actually sat five days hearing Commission employees
7 testify.

8 All the questions were asked at the
9 time, there were just a number of questions that were
10 asked for which objections were made by the Commission
11 under section 37, we never got those answers. That's
12 what we're here to get today, nothing more.

13 MS BLIGHT: I wonder if it would
14 assist if we were to provide a copy of those answers
15 and simply have the witnesses confirm.

16 THE CHAIRPERSON: One of the things
17 that was brought to my attention, parties, all counsel
18 have this knack of sending all of their correspondence
19 a day or two -- two business days before the hearings
20 are to commence and when you find the Member stuck in
21 an airport somewhere having to receive these by
22 BlackBerry it's a little difficult.

23 But, in any event, one of these
24 letters was March 20th that you had sent Ms Blight to
25 the Tribunal, you addressed this to the Tribunal.

1 MS BLIGHT: Yes, sir.

2 THE CHAIRPERSON: And in it you put
3 questions asked of Dean Steacy and questions asked of
4 Hannya Rizk. You also put some answers next to them of
5 what you think the answers would be.

6 I want to tell everyone that I have
7 ignored those answers.

8 You were c.c.'d on this; weren't you,
9 Ms Kulaszka? I see a puzzled look on your face.

10 MS KULASZKA: I don't remember
11 getting those. Are you referring to --

12 THE CHAIRPERSON: March 20th, it was
13 fax.

14 Did you not get that, Ms Kulaszka?

15 MS BLIGHT: That was a letter in
16 which I had proposed that the request for further
17 disclosure be dealt with in a subsequent procedure if
18 necessary and I did copy my friend.

19 THE CHAIRPERSON: 9:57 a.m., March
20 20th.

21 MS KULASZKA: Is there some issue
22 about this, or...

23 THE CHAIRPERSON: No, nothing at all.
24 I just wanted to say, she detailed
25 here the questions on which objections had been made.

1 MS KULASZKA: Yes.

2 THE CHAIRPERSON: She put in a
3 numbered order. Perhaps Mr. Lemire can show it to you.

4 MS KULASZKA: Yes. Disclosure was
5 made in the Federal Court case and I do have that
6 letter, it's from December 20th, 2007.

7 THE CHAIRPERSON: No, no, it's a
8 recent one, March 20th. In any event --

9 MS BLIGHT: The same questions and
10 answers are set out just --

11 THE CHAIRPERSON: Okay, it's the same
12 ones. I've reviewed the transcript of May 9th and May
13 10th just to sort of verify, with all respect, whether
14 you were including all the questions in the list that
15 you compiled here in this letter of March 20th and it's
16 fairly accurate.

17 Just about every time that Mr. Vigna
18 rose to say section 37, public interest or anything
19 like that sort, that's been listed in this letter that
20 was sent on March 20th by you, Ms Blight.

21 So, it's a fairly accurate
22 representation of where the objections took place.

23 What I want to point out is that you
24 went on and you had put some kind of answers at the end
25 of your letter.

1 MS BLIGHT: Those questions were the
2 questions as they had been formulated by Ms Kulaszka in
3 the Federal Court.

4 THE CHAIRPERSON: And then you
5 submitted how the witness would answer.

6 MS BLIGHT: Yes.

7 THE CHAIRPERSON: I have ignored
8 those answers.

9 MS BLIGHT: Oh, very well.

10 THE CHAIRPERSON: I just want to be
11 clear, okay. I don't care what you wrote here, I will
12 hear it from the witnesses, that's not evidence. That
13 may be your disclosure. It has no bearing on what I
14 take to be their answers. Their answers will be what
15 they testify to at this moment.

16 But I will say that your list of, I
17 think it's about 15 questions to which Mr. Vigna rose
18 to object, section 37 objections are pretty much
19 representative of what I read through the transcript as
20 well, unless you have a different take on it.

21 MS KULASZKA: Yes. Those are the
22 questions that were formulated by me in the judicial
23 review --

24 THE CHAIRPERSON: Oh, that's where it
25 comes from. So, I give you the credit, Ms Kulaszka.

1 MS KULASZKA: I never --

2 THE CHAIRPERSON: I'm sorry, do not
3 take the credit, Ms Blight, the credit is Ms
4 Kulaszka's.

5 MS KULASZKA: Yes. Well, I think Ms
6 Blight said that, but she was responding to the
7 judicial review.

8 THE CHAIRPERSON: I missed that. I
9 missed that.

10 All right. So, all that being said,
11 that's my guide for the day, so to speak, with regard
12 to those witnesses.

13 I did say in my ruling that any
14 ensuing questions, but they really have to be ensuing
15 questions, Ms Kulaszka. You understand, and it's how
16 you worked it with other questions that you made that
17 day.

18 I mean, there's five days of
19 examination of Commission employees, it's not the first
20 time we're here, right?

21 So, all that being said, yes, I'd
22 like Ms Rizk to come in.

23 MS BLIGHT: I'd also request leave
24 during the -- while we're waiting for Mr. Steacy's
25 testimony, to share with Mr. Steacy the exhibit that's

1 just been filed in order that he might familiarize
2 himself with it.

3 I anticipate that he may be
4 questioned with respect to this.

5 MS KULASZKA: I don't know if that's
6 proper. He's a witness and I don't think he should be
7 told what other testimony is.

8 I do want to ask him about that
9 obviously.

10 THE CHAIRPERSON: I hesitate to do
11 that, Ms Blight. It's just a one-page document. We'll
12 put it to him when he comes to testify.

13 MS BLIGHT: Very well.

14 If I could have a couple of minutes
15 to --

16 THE CHAIRPERSON: Yes. So, you'd
17 like me to --

18 MS BLIGHT: -- bring Ms Rizk in.

19 THE CHAIRPERSON: It will take a
20 couple of minutes?

21 MS BLIGHT: Well, it will take a
22 minute or two --

23 THE CHAIRPERSON: All right. I'll
24 step outside.

25 MS BLIGHT: -- to escort her in and

1 have --

2 THE CHAIRPERSON: Oh, Mr. Fromm,
3 you've risen.

4 MR. FROMM: Yes. For the record,
5 sir, by my calculation this is the 20th straight day in
6 which the Respondent -- I mean, the Complainant Richard
7 Warman has not been in attendance.

8 THE CHAIRMAN: I intended to bring
9 that up. Okay. Yes, he's not here.

10 --- Upon recessing at 9:56 a.m.

11 --- Upon resuming at 9:58 a.m.

12 AFFIRMED: HANNYA RIZK

13 EXAMINATION BY: MS KULASZKA

14 MS KULASZKA: Okay. Ms Rizk, we're
15 just here to finish off a few questions from last time.

16 Last time you were here in May I
17 asked you what kind of investigations would you do, for
18 instance, to verify the identity of a respondent.

19 MS RIZK: As I remember, there were
20 two -- two searches I did, one was a Whois and one was
21 a virtual route search.

22 THE CHAIRPERSON: Could you repeat
23 the last one, Whois...?

24 MS RIZK: Whois and virtual route or
25 virtual route.

1 MS KULASZKA: And your answer relates
2 to complaints under section 13 alone; correct?

3 MS RIZK: Yes.

4 MS KULASZKA: So, were these the two
5 research methods that Mr. Warman taught you?

6 MS RIZK: Yes.

7 MS KULASZKA: Was he the only person
8 who gave you training on those two investigative
9 methods?

10 MS RIZK: Yes, I believe so and a
11 colleague of mine who had been doing that.

12 MS KULASZKA: And who was that?

13 MS RIZK: Her name was Nancy Lalonde.

14 MS KULASZKA: So, those two people?

15 MS RIZK: Yeah.

16 MS KULASZKA: And what is -- could
17 you explain for the Tribunal what virtual route is?

18 MS RIZK: It is a -- it's a -- sorry,
19 I just have to remember, it's been a really long time.

20 Okay. Basically you put in the
21 website's name and it takes you to the registrant
22 information and where it came out of, where the site
23 comes out of.

24 MS KULASZKA: And that's it?

25 MS RIZK: From what I remember, yes.

1 MS KULASZKA: And is that a website
2 you go to on the Internet?

3 MS RIZK: Yes.

4 MS KULASZKA: Is it a free service?

5 MS RIZK: I believe so, yes.

6 MS KULASZKA: Were you taught any
7 other strategies about how to identify a respondent?

8 MS RIZK: Just the Whois.

9 MS KULASZKA: Just the Whois?

10 MS RIZK: Yeah.

11 MS KULASZKA: Just to clarify the
12 dates, when did you receive training on those two
13 methods?

14 MS RIZK: I can't say for sure. I
15 believe it was -- I would need to go back to files.

16 I believe it was -- sorry, just give
17 me a second here.

18 MS KULASZKA: Would it be the fall of
19 2003?

20 MS RIZK: Around fall, 2003, yeah.
21 Fall, winter, 2003 or beginning of 2004.

22 MS KULASZKA: And Marc Lemire's case
23 was the first case you had done under section 13?

24 MS RIZK: It was the first full
25 investigation, yes.

1 MS KULASZKA: So, can you say for
2 sure it would be fall, 2003 you received that training?

3 MS RIZK: Around then. It would be
4 around then. It would have been around then. I
5 can't -- I don't have anything in front of me, yes.

6 MS KULASZKA: When you were given
7 that training by Richard Warman, did he mention the
8 Lemire case to you?

9 MS RIZK: No.

10 MS KULASZKA: With respect to the
11 investigation of Mr. Lemire and the Freedom site, what
12 investigations did you do concerning whether he owned
13 the Freedom site?

14 MS RIZK: I'm sorry, could you repeat
15 the question?

16 MS KULASZKA: With respect to the
17 investigation of Mr. Lemire and the Freedom site --

18 MS RIZK: Mm-hmm.

19 MS KULASZKA: -- what investigations
20 did you do concerning whether he owned the Freedom
21 site?

22 MS RIZK: I did virtual route and
23 Whois.

24 MS KULASZKA: Anything else?

25 MS RIZK: No.

1 MS KULASZKA: Now, we're going to go
2 back to that posting on Stormfront. Do you remember
3 that, it was The Canadian Immigrant Poem, the one you
4 couldn't find?

5 MS RIZK: Yeah.

6 MS KULASZKA: And at the bottom of
7 that page --

8 MS BLIGHT: Mr. Chairman --

9 THE CHAIRPERSON: Yes.

10 MS BLIGHT: -- this is entirely
11 outside of the --

12 THE CHAIRPERSON: No, no, it's at
13 question 14, the next question.

14 MS KULASZKA: Yes, it's the next
15 question.

16 THE CHAIRPERSON: It's the
17 preliminary point.

18 MS BLIGHT: 14 the question was:

19 "Did you undertake any other
20 investigations to determine who
21 owned the Freedom site?" (As
22 read)

23 THE CHAIRPERSON: Right. And all
24 she's doing is reminding the witness what the Freedom
25 site's about. I think the question is going there.

1 MS BLIGHT: We're going into the
2 poem.

3 MS KULASZKA: It's question 15.

4 MS BLIGHT: Oh. Well, I will wait
5 until the question is asked.

6 THE CHAIRPERSON: It helped to remind
7 me, for instance, that what we're going to do when
8 dealing with the Freedom Site we're talking about the
9 poem.

10 MS KULASZKA: Perhaps we could
11 show -- if you wouldn't mind showing that exhibit to
12 the witness just to refresh her memory. It should be
13 in HR-1, I believe.

14 THE CHAIRPERSON: HR...?

15 MS KULASZKA: Or 2, HR-2.

16 THE CHAIRPERSON: HR-2.

17 MS KULASZKA: It's the binder of --

18 MS BLIGHT: Are we talking about the
19 poem?

20 MS KULASZKA: It's the Canadian
21 Immigrant poem. I believe the witness will remember
22 the poem.

23 THE CHAIRPERSON: Well, but I don't
24 mind looking at it. What's the tab?

25 MS KULASZKA: I don't know the tab.

1 If you can look at the Table of Contents. We didn't
2 bring it up with us.

3 THE CHAIRPERSON: What was it called?

4 MS KULASZKA: It's a Stormfront
5 posting --

6 THE CHAIRPERSON: No, what's the poem
7 called, I have the descriptions here.

8 MS KULASZKA: Canadian Immigrant
9 Poem.

10 THE CHAIRPERSON: Okay. I can't find
11 it readily here.

12 All right. So, we remember the poem.
13 Go ahead.

14 MS KULASZKA: Do you remember at the
15 bottom it said, "The cloak.com"?

16 MS RIZK: No. I mean, maybe. If it
17 says it then it does, yeah.

18 THE CHAIRPERSON: Let's pull it out.

19 MS KULASZKA: I think it might be
20 better to pull it out.

21 THE CHAIRPERSON: Someone find it for
22 us.

23 Ms Kulaszka, you can go to see the
24 exhibit binders there if you want to look for it
25 yourself.

1 MS RIZK: Okay, yes.

2 THE CHAIRPERSON: Found it. Where is
3 it, please?

4 MS RIZK: Sorry, tab 16.

5 THE CHAIRPERSON: Which binder?

6 MS RIZK: HR-2.

7 THE CHAIRPERSON: Okay. There it is.

8 MS KULASZKA: You said that you
9 entered a url. If you look at page 4 this is from the
10 cloak.com, could you just say which url you put in?

11 MS RIZK: I put in where, to -- I'm
12 sorry, I don't understand the question.

13 MS KULASZKA: I think in the context
14 of that question you were trying to find out -- you
15 were trying to find the poem.

16 MS RISK: That's right.

17 MS KULASZKA: And I think you made a
18 comment that you had put in a url somewhere to try and
19 find the poem and I asked you, what url did you put in
20 because the url isn't from Stormfront it's from the
21 cloak.com.

22 THE CHAIRPERSON: Maybe it would be
23 helpful for you to look at it. Put it in front of her.

24 MS KULASZKA: Yes, here it is. Mr.
25 Lemire's got it.

1 THE CHAIRPERSON: That was at page
2 4483 of the transcript.

3 MS KULASZKA: 4483. This is what --
4 this is how it went:

5 "MS KULASZKA: How familiar are
6 you with using Stormfront?

7 MS RIZK: This was the first
8 time I went on Stormfront to
9 check. I got this from the
10 complainant and I went in and I
11 checked. I must have checked
12 the forum as well and checked to
13 see if Mr. Lemire was a member,
14 which he was, as I indicated in
15 the report but I couldn't come
16 across this particular posting.

17 MS KULASZKA: Did you sign up an
18 account to do the search?

19 MS RIZK: No.

20 MS KULASZKA: You said that you
21 entered a url. If you look at
22 page 4 it is from the cloak.com.
23 Could you just say which url you
24 put in?" (As read)

25 And then there was the objection.

1 MS RIZK: Okay.

2 MS KULASZKA: Do you remember how you
3 checked to try and find that poem on Stormfront?

4 MS RIZK: I would have -- what I
5 would have done is I would have done everything I done
6 to check. So, I would have gone into Stormfront and I
7 would have put this in and if I would have, I may have
8 put this in because it was down here.

9 THE CHAIRPERSON: Put what in, sorry?

10 MS RIZK: Sorry, the url at the
11 bottom of the page here.

12 THE CHAIRPERSON: Which one? This
13 long one?

14 MS RIZK: This long one here. That's
15 how I would have tried to check where the poem is.

16 MS KULASZKA: So, you just entered it
17 just --

18 MS RIZK: Just the way it was.

19 MS KULASZKA: -- just the way the url
20 is.

21 MS RIZK: Yeah.

22 MS KULASZKA: And nothing came up?
23 Could you explain what the cloak.com is?

24 MS RIZK: No. I have no idea what it
25 is.

1 MS KULASZKA: So, you were never
2 trained to use it?

3 MS RIZK: No.

4 MS KULASZKA: Do you know whether
5 other investigators used it?

6 MS RIZK: No, no.

7 MS KULASZKA: Did you ever ask the
8 complainant what the cloak was?

9 MS RIZK: I can't remember and I --
10 no, I don't think -- well, I don't know what it is, so
11 I wouldn't have -- if I would have asked him and he
12 would have told me, I don't remember.

13 MS KULASZKA: Okay. Did you ever
14 tell Mr. Warman that you could not find the poem?

15 MS RIZK: Honestly, I can't remember
16 that. I would need to look through the files.

17 MS KULASZKA: Were there any tools
18 given to you as an investigator under section 13 on how
19 to anonymously surf the Internet?

20 MS RIZK: No.

21 MS KULASZKA: I think those are my
22 questions.

23 THE CHAIRPERSON: Just a moment,
24 please.

25 All right. Following the same

1 practice, Mr. Fromm?

2 MR. FROMM: I have no questions.

3 THE CHAIRPERSON: Mr. Christie?

4 MR. CHRISTIE: Yes, I have some
5 questions. These will be related to the questions in
6 issue Nos. 9, 10, 11.

7 THE CHAIRPERSON: I have different
8 numbering, so...

9 MR. CHRISTIE: Well, I'm looking at
10 the letter of December 20th from Ms Blight, so I just
11 want to make sure that the reasons for my questions are
12 precisely clear so no objections will be taken. They
13 are subsequent and auxiliary questions to what we were
14 denied when we were told under section 37 that no
15 further answers would be given.

16 THE CHAIRPERSON: All right. Except
17 according to my -- I don't have this December 20th, I'm
18 sorry, letter, I have the March 20th letter.

19 MR. CHRISTIE: Well, I'll read the --

20 THE CHAIRPERSON: Those questions
21 relate to not this witness the other witness.

22 MR. CHRISTIE: No, that's quite true,
23 but if the questions were improperly denied as the
24 Commission now concedes they were, or agrees to answer,
25 those questions would be equally appropriate to the

1 extent that they're possible to any witness and it's
2 not appropriate to say, well, they were only asked and
3 denied in relation to Mr. Steacy so you can't ask them
4 in regard to Ms Rizk.

5 THE CHAIRPERSON: One problem.

6 MR. CHRISTIE: Yes.

7 THE CHAIRPERSON: Ms Rizk was the
8 first witness to testify.

9 MR. CHRISTIE: Well, that's not her
10 fault.

11 THE CHAIRPERSON: Yes, sir. Well,
12 no, but Ms Kulaszka and Mr. Fromm did not put those
13 questions to this witness as they could have subsequent
14 to that, those other three questions, I'm assuming it's
15 9, 10, 11 on the March 20th letter, were not asked of
16 that witness.

17 I'm not going to enlarge the scope of
18 this examination. Ms Kulaszka said, and Mr. Fromm said
19 at the end of their questioning, they had no further
20 questions to ask of the witness and that was it.

21 I believe you weren't present that
22 day, Mr. Christie.

23 MR. CHRISTIE: That's correct. So,
24 it would seem --

25 THE CHAIRPERSON: Besides, those

1 questions relate to Mr. Steacy, they don't relate to Ms
2 Rizk.

3 MR. CHRISTIE: They relate to the
4 investigative techniques and relationship between the
5 police and the Commission. Those are the questions
6 that I thought were once denied and now are not any
7 longer denied and they're very important to the subject
8 of the nature of the inquiry itself and the scope of
9 section 13.1 which is the subject of the inquiry.

10 THE CHAIRPERSON: All right. I raise
11 the obvious problem, but do the Commission or the
12 Attorney General have any objections to these
13 questions?

14 MS BLIGHT: The Commission's
15 position, the Commission's understanding was that the
16 witnesses would be produced to answer the questions
17 which those witnesses were denied the opportunity to
18 answer in the first instance and it was never our
19 understanding that there would be cross-over or that
20 there is any real purpose to be gained in asking one
21 witness the questions that have been put not to that
22 witness but to the other witness.

23 MS DAVIES: To the extent that it
24 relates to the constitutional issue, Chairperson, our
25 position is that you ruled that the evidence is closed

1 and that new evidence that was not elicited at the time
2 cannot be elicited now.

3 THE CHAIRPERSON: Do any of the
4 others -- Ms Kulaszka?

5 MS KULASZKA: Yeah, I think there's a
6 problem when so many section 37 objections were made.
7 It really interrupted the examination and obviously it
8 wasn't closed --

9 THE CHAIRPERSON: But I wasn't going
10 to enlarge --

11 MS KULASZKA: -- because I had to go
12 to a judicial review to be able to come back here
13 today.

14 THE CHAIRPERSON: I know, Ma'am. But
15 I made it clear and I gave you every opportunity, I
16 said be specific in your questions, ask any question
17 you want, get it on the record, it will go upstairs.

18 That's what we did. And, Mr.
19 Christie, you probably would have wanted to ask these
20 questions at the time, but you weren't here. I mean,
21 these things happen. Also, some of the other
22 intervening parties were not here that day and that's
23 the way it is.

24 I'm not going to -- my point here,
25 we're done, this case is done, it was done last June,

1 but for these questions.

2 MR. CHRISTIE: Well --

3 THE CHAIRPERSON: Right now you
4 should have had the benefit of my reasons and findings
5 on everything, the Charter challenge, the merits and
6 you perhaps would be doing something else than being
7 here at this point.

8 MR. CHRISTIE: There's nothing more
9 important than being here at this point.

10 THE CHAIRPERSON: Thank you, sir.
11 But that being said, Mr. Christie, not that I think
12 much is going to come of the answers to these
13 questions, quite honestly, I can anticipate what the
14 answers will probably be. I mean, in fact, given what
15 this witness has just testified, there's much in her
16 recollection, but I don't want to enlarge the scope of
17 the case. That's my finding on that.

18 We heard the evidence, it's done.

19 MR. CHRISTIE: All right, sir.

20 THE CHAIRPERSON: You may ask
21 questions relating to the items -- what I have as items
22 12, 13, 14, 15.

23 MR. CHRISTIE: So, you're going to
24 restrict us to those questions which Ms Rizk
25 specifically relied on section 37 to forbid.

1 THE CHAIRPERSON: She did not, no,
2 that's not a fair --

3 MR. CHRISTIE: Her counsel, her
4 counsel, the Commission.

5 THE CHAIRPERSON: Mr. Vigna rose and
6 objected to a series of questions when Ms Rizk was
7 testifying and those are the ones that will be
8 addressed to Ms Rizk today.

9 MR. CHRISTIE: All right. Well, I
10 just conclude my submissions by observing that it's
11 only appropriate when an objection has been allowed
12 many times not to raise the questions that elicit that
13 objection over and over again, and I suspect that's why
14 Ms Kulaszka simply gave up at that point --

15 THE CHAIRPERSON: I said that I gave
16 her the reassurance, it's on the record, to ask every
17 question over and over and be clear and specific.

18 MR. CHRISTIE: Right.

19 THE CHAIRPERSON: That's clear on the
20 record.

21 MR. CHRISTIE: All right.

22 EXAMINATION BY: MR. CHRISTIE

23 MR. CHRISTIE: In regard to what
24 investigations you would do to verify the identity of
25 the respondent, were you ever investigating actually

1 postings on a message board?

2 MS RIZK: Was I actually
3 investigating postings on a message board as in --

4 MR. CHRISTIE: That is the question,
5 now I'm waiting for the answer. Yes, that is the
6 question.

7 MS RIZK: If you mean if I was to go
8 in and check out if there was messages on the message
9 board; is that what you mean?

10 MR. CHRISTIE: Well, that's the
11 second time you've rephrased it, but I think it's
12 closer --

13 MS RIZK: Because I'm not clear
14 whether that's all --

15 THE CHAIRPERSON: I'm not clear
16 either, sir. So, please can you repeat the question.

17 MR. CHRISTIE: All right. Were you
18 investigating messages on a message board owned or
19 allegedly owned and operated by the respondent? Was
20 that your investigation?

21 MS RIZK: I'm going to try to answer
22 the question. Again, I'm not very clear on the
23 question. I'm going to try to answer the question the
24 best I can.

25 We had a complaint, I went in to

1 check out the website and I --

2 MR. CHRISTIE: Where did you go?

3 MS RIZK: Well, the complaint was
4 against the Freedom site and I went in to check it out.
5 I went in to -- I viewed the information and I
6 downloaded the information.

7 MR. CHRISTIE: What information? Was
8 it from a message board?

9 MS RIZK: There was some information
10 from a message board, there were articles as well.

11 MR. CHRISTIE: I see. Did Mr. Warman
12 who gave you some guidance in this regard tell you that
13 he and others sometimes posted messages to target
14 sites?

15 MS RIZK: No.

16 THE CHAIRPERSON: You have an answer.
17 You rose, but we got an answer.

18 MR. CHRISTIE: Did Mr. Warman --

19 MS BLIGHT: I would ask that counsel
20 be directed to limit his questions to the -- as per
21 your order to questions directly related to --

22 MR. CHRISTIE: The learned counsel
23 for the Commission would like to restrict us so that we
24 can only repeat the questions verbatim, it seems.

25 But it seems appropriate when the

1 Commission repeatedly objected under section 37, that
2 follow-up questions would normally occur.

3 THE CHAIRPERSON: Yes, follow-up
4 questions would normally occur.

5 MR. CHRISTIE: Now, I'm asking --

6 THE CHAIRPERSON: Do you have
7 follow-up questions.

8 MR. CHRISTIE: I'm asking a follow-up
9 question.

10 THE CHAIRPERSON: So, your follow-up
11 question was, did Mr. Warman counsel her on how to
12 identify the respondent; was that your follow --

13 MR. CHRISTIE: No, that's the
14 verbatim text where we were stopped at last time.

15 THE CHAIRPERSON: So, what's the
16 follow-up question that you just asked?

17 MR. CHRISTIE: Did Mr. Warman tell
18 you that he and others sometimes posted messages to
19 target sites?

20 THE CHAIRPERSON: That's not a
21 follow-up question. Next question.

22 MS KULASZKA: Oh, I object. That's
23 an excellent question.

24 THE CHAIRPERSON: How is that a
25 follow-up question?

1 MR. CHRISTIE: Can I explain, because
2 it's my question?

3 THE CHAIRPERSON: Go ahead, sir.

4 MR. CHRISTIE: Look, if we're
5 alleging that there's a whole abuse of the process of
6 natural justice by Mr. Warman instructing this
7 Commission employee on his own complaint to go to a
8 target site, and we have information that he and
9 others, police included posted messages to the very
10 message board that she's supposed to investigate under
11 his guidance, it would be appropriate for him to tell
12 her that sometimes he and police post messages to these
13 very same boards which would be a clear indication of
14 the abuse of the Human Rights system and would
15 demonstrate that section 13.1 is open to such very
16 obvious abuses.

17 THE CHAIRPERSON: That's wonderful,
18 sir. We got all those questions last time when you
19 weren't here. We had all those questions. We had --

20 MR. CHRISTIE: She did not get asked
21 the question as to whether Mr. Warman told her the fact
22 that we can now demonstrate that he and others, that he
23 knew about, were doing these very things. That's
24 why --

25 THE CHAIRPERSON: And what prevented

1 that question from being asked?

2 MR. CHRISTIE: At that time section
3 37 prevented us from inquiring about investigative
4 techniques. These are investigative techniques.

5 Mr. Steacy didn't admit at that time
6 that he was jadewarr.

7 THE CHAIRPERSON: That's why it
8 relates to Mr. Steacy and that's his concern, sir.

9 MR. CHRISTIE: That's fine. We're
10 asking questions that are auxiliary to relevant
11 questions as to what kind of investigations would you,
12 for instance, do to verify the identity of the
13 respondent.

14 THE CHAIRPERSON: Right.

15 MR. CHRISTIE: That's irrelevant.

16 THE CHAIRPERSON: That's irrelevant?

17 MR. CHRISTIE: Yes. What she did to
18 identify the respondent is not in doubt, the respondent
19 is here. He doesn't deny, never did deny the ownership
20 of this site.

21 The question that ought to have been
22 asked, an auxiliary question which I'm trying to ask is
23 was she aware that these messages could very well be
24 posted by the complainant himself, the very person who
25 was instructing her.

1 Now, if that isn't relevant to the
2 abuse --

3 THE CHAIRPERSON: It was and it could
4 have been asked that day. Why wasn't it asked?

5 MR. CHRISTIE: Well, for the simple
6 reason that when you're told you can't inquire about
7 the kinds of investigative techniques used because of
8 an objection under section 37 and then when that
9 question is reviewed in the Federal Court, the answer
10 is provided and auxiliary questions naturally flow.

11 And this is a relevant auxiliary
12 question.

13 THE CHAIRPERSON: I think it's a more
14 relevant auxiliary question to the next one.

15 MR. CHRISTIE: Well, it may be, and I
16 have other questions if I can get beyond the first one.

17 MS BLIGHT: Mr. Chairman, I rise only
18 to point out for the record that Mr. Christie has
19 unfairly characterized the evidence given previously
20 when he suggested that there was evidence that the
21 complainant had been coaching Ms Rizk in the conduct of
22 this investigation. There's no such evidence.

23 THE CHAIRPERSON: Yeah, I'm aware of
24 that.

25 MR. CHRISTIE: The evidence is that

1 he gave her guidance. Now, whether it's coaching or
2 guidance, it's relevant to consider whether the
3 complainant assists the investigator in pointing the
4 investigator in direction of message boards which he
5 himself might have posted t o.

6 That would seem to be obvious
7 evidence of a potential abuse that is quite relevant to
8 assess whether section 13.1 is open to such abuses.

9 MS BLIGHT: And, again, Mr. Christie
10 is grandstanding. There is no evidence of any
11 involvement by the complainant in this particular
12 investigation on record and I'd like that to be clear.

13 THE CHAIRPERSON: Okay. You know
14 what, we've wasted too much -- I don't even know if the
15 answer is going to be of any help.

16 MR. CHRISTIE: We have an answer.

17 THE CHAIRPERSON: So, let's hear it
18 again. Go ahead.

19 MR. CHRISTIE: Well, she's answered
20 that question. I don't normally repeat questions to
21 which the answer's given.

22 THE CHAIRPERSON: Ask the question.
23 Ask the question. Ask the question.

24 MR. CHRISTIE: She said no.

25 Here's the question: Did Richard

1 Warman tell you that he and others sometimes posted
2 messages to target sites. She said no.

3 I have another question. Did Richard
4 Warman tell you he may have posted some of the postings
5 to which he was referring you in the complaint? That's
6 my next question.

7 THE CHAIRPERSON: Let's let it go.
8 Go ahead.

9 MS RIZK: He never referred me to
10 this complaint. I - he showed me how to do two
11 searches, the Whois and the virtual route.

12 He had no involvement in this
13 complaint and, no -- the answer is no, he did not do --
14 there was no -- he didn't tell me anything about this
15 complaint.

16 MR. CHRISTIE: Did he tell you that
17 he may have posted some of the messages to the Freedom
18 site on the message board?

19 MS RIZK: No.

20 MR. CHRISTIE: Before you gave
21 evidence here today you were under cross-examination on
22 the last occasion; is that right?

23 MS RIZK: Yes.

24 THE CHAIRPERSON: Cross -- we treated
25 the questions polled by Ms Kulaszka as an

1 examination-in-chief last time, not cross-examination.
2 Cross-examination was by Mr. Vigna. That's how we
3 dealt with it, sir. Again, you weren't here, but
4 that's how we dealt with it.

5 MR. CHRISTIE: So, I take it the
6 Commission --

7 THE CHAIRPERSON: Ms Kulaszka
8 subpoenaed this witness and that's how it was treated,
9 yes.

10 MR. CHRISTIE: All right. All right.
11 Since that time when you were
12 examined and allegedly cross-examined by the
13 Commission, have you had occasion to be instructed in
14 any way on what to say?

15 MS RIZK: No.

16 MR. CHRISTIE: Mm-hmm. On what
17 occasions would you have met for the purpose of
18 discussing your new evidence with Commission counsel?

19 MS RIZK: I just met with counsel
20 last week just to talk about what's the -- what's going
21 to happen today and the three questions that were going
22 to be asked of me, follow-up questions.

23 MR. CHRISTIE: Just three questions,
24 eh?

25 MS RIZK: Yes.

1 MR. CHRISTIE: Okay.

2 MS RIZK: Or whatever.

3 MR. CHRISTIE: Were any efforts made
4 by you in the course of your investigation to obtain
5 assistance from any police department?

6 MS RIZK: No.

7 MR. CHRISTIE: And when you were
8 inquiring about any messages that you were looking for
9 as substance to the complaint, did you have any
10 guidelines given to you by any authority on what to
11 look for?

12 MS BLIGHT: Mr. Chairman, these were
13 asked of the witness when she was examined initially.
14 This is just going over the same ground --

15 THE CHAIRPERSON: Right.

16 MS BLIGHT: -- and doesn't arise from
17 the review questions.

18 THE CHAIRPERSON: Doesn't arise.

19 Go ahead, sir, next question.

20 MR. CHRISTIE: Thank you.

21 What proportion of the investigation
22 you made was of posts on the message board?

23 MS RIZK: I downloaded the
24 information that was in the -- it's still in the file,
25 all the information. I can't tell you exactly how much

1 of it was of the message board.

2 A lot of the complaint had to do with
3 the message board, so I did have to go into the message
4 board to download the information.

5 MR. CHRISTIE: Well, what efforts did
6 you make to identify the people who posted the message?

7 MS RIZK: I didn't make any efforts
8 to identify who posted the message. I had -- the
9 complaint was against the -- was against the respondent
10 and I just downloaded the information that was on the
11 website.

12 MR. CHRISTIE: All of it, eh?

13 MS RIZK: I can't remember how much I
14 downloaded. It's in the file and...

15 MR. CHRISTIE: Why weren't you given
16 a copy of the file to refresh your memory before giving
17 evidence here today?

18 MS BLIGHT: I don't think the why is
19 a fair question, Mr. Chairman.

20 MR. CHRISTIE: All right. Were you
21 given access to the file to refresh your memory before
22 giving evidence here today so that you could answer
23 questions completely?

24 MS RIZK: My understanding was I was
25 asking -- I was going to respond to three follow-up

1 questions that were asked of me.

2 MR. CHRISTIE: Were you given access
3 to the file to refresh your memory so you could answer
4 completely today?

5 MS RIZK: I wasn't -- I didn't ask
6 for the files and I wasn't given -- I wasn't given the
7 files.

8 MR. CHRISTIE: And that's why you
9 can't answer some of these questions.

10 MS RIZK: Yes. I don't have the file
11 in front of me.

12 MR. CHRISTIE: Mm-hmm. Could the
13 file be produced to the witness so she can refresh her
14 memory and answer questions in a few minutes?

15 THE CHAIRPERSON: Which file are you
16 referring to?

17 MR. CHRISTIE: Well, I assume the
18 investigation file to which reference has been made by
19 way of what kind of investigations would you do.
20 That's the question that she said was one of the three
21 she was going to be asked.

22 So, maybe if she could look at that
23 file --

24 THE CHAIRPERSON: Have you got the
25 file, Ms Kulaszka, that she had in front of her when

1 you asked her the questions last time?

2 MS KULASZKA: When Ms Rizk was here
3 last time, she brought the file with her, yes.

4 THE CHAIRPERSON: Do we have the file
5 here, Ms Blight?

6 MS BLIGHT: Ms Kulaszka had asked the
7 witness bring a copy with her of the download that was
8 made of the part of the site, and to that extent Ms
9 Rizk has a CD version she has brought with her that
10 contains that information.

11 THE CHAIRPERSON: I saw a letter that
12 went between you and Ms Blight I believe in the c.c.'d
13 correspondence to me that referred to some CD.

14 MS BLIGHT: The witness has the CD
15 with her which she has been asked to bring.

16 THE CHAIRPERSON: So, you don't have
17 the file with you?

18 MS BLIGHT: Not the whole file, no.
19 We have what we have been requested to bring is this
20 here.

21 THE CHAIRPERSON: And that's what you
22 were asked to bring.

23 MR. CHRISTIE: So, my request is that
24 she look at it and then she might be able to answer
25 some of these questions.

1 THE CHAIRPERSON: You don't have the
2 file with you?

3 MS RIZK: I don't have the file, I
4 only have the CD.

5 THE CHAIRPERSON: You only have the
6 CD?

7 MS RIZK: Yeah.

8 THE CHAIRPERSON: And it wasn't asked
9 of her. Did you ask of that -- ask for that, Mr.
10 Christie, in anticipation of your question, ask that
11 she bring her file with her?

12 MR. CHRISTIE: I wasn't in the
13 position of knowing that she wouldn't. It's customary
14 for witnesses who are expecting to give evidence that
15 they be familiar with what -- in fact, usually
16 subpoenas require that witnesses familiarize themselves
17 with the material.

18 THE CHAIRPERSON: And Ms Kulaszka did
19 send a letter saying that she should bring along these
20 documents that she has with her. Right, Ms Kulaszka?

21 MS KULASZKA: Yeah, she's appearing
22 pursuant to a subpoena that required her to bring the
23 files.

24 THE CHAIRPERSON: To bring what,
25 sorry?

1 MS KULASZKA: To bring the files.

2 THE CHAIRPERSON: The files.

3 So, my concern is this, Ms Blight,
4 only one concern, is that this is the continuation of
5 the old testimony and she had her file that day, so,
6 how can she continue her evidence if she doesn't have
7 the file today?

8 Can we get it?

9 MS BLIGHT: Well, I assume that we
10 can get it, Mr. Chairman. But -- and the difficulty
11 that I have is that Mr. Christie was not here the first
12 time this witness was examined.

13 Mr. Christie seems to want to start
14 over in terms of exploring the file with the witness.
15 That was done. The witness was questioned about the
16 file. There were no particular questions with respect
17 to her conduct of the file other than questions 13, 14
18 and 15 that were refused with respect to her actual
19 conduct of the investigation in the file.

20 So, you have reviewed the transcript
21 of her testimony. There has been a full opportunity to
22 examine this witness with respect to what investigation
23 she undertook --

24 THE CHAIRPERSON: Yes, there was.

25 MS BLIGHT: -- and why she did it

1 with those three limited exceptions.

2 THE CHAIRPERSON: The question that's
3 being asked now, it flows from what I have as No. 12:

4 "What kind of investigation
5 would you do, for instance, to
6 verify the identity of a
7 respondent?" (As read)

8 And the material that's on there.

9 So, the respondent's -- sorry, the material that the
10 respondent has been linked to includes message boards
11 which other people may have written. So, it's a
12 follow-up -- it's a legitimate follow-up question.

13 MS BLIGHT: Well, except that that's
14 a hypothetical question and the witness has responded
15 to it very concretely by saying that the only things
16 that she has ever done are these two particular kinds
17 of investigations to verify the identity and it's
18 specifically with respect to the identity of a section
19 13 respondent.

20 So, identifying the identities of
21 other posters who are not respondents to a complaint
22 is --

23 THE CHAIRPERSON: You're putting
24 answers -- all right.

25 MS BLIGHT: It's a different line of

1 questioning and --

2 THE CHAIRPERSON: Well, no, I don't
3 quite see it as a different line. I think it would
4 have followed.

5 Yes, sir.

6 MR. CHRISTIE: Sir, in the interests
7 of brevity, I'd like to withdraw
8 the question and move on.

9 THE CHAIRPERSON: Okay.

10 MS BLIGHT: Yes, the file can be
11 produced --

12 THE CHAIRPERSON: Obtained.

13 MS BLIGHT: -- if that is necessary.

14 THE CHAIRPERSON: What do counsel
15 think, will it be necessary?

16 MR. CHRISTIE: Not for me. I'm
17 interfering with the time available and I want to get
18 on with it.

19 THE CHAIRPERSON: Okay. So, you're
20 through, Mr. Christie?

21 MR. CHRISTIE: Yes, sir.

22 THE CHAIRPERSON: Mr. Fromm, you said
23 you had no questions.

24 MR. FROMM: No questions.

25 THE CHAIRPERSON: Okay. So, Ms

1 Blight?

2 MS BLIGHT: I just have one question
3 by way of re-examination of the witness.

4 EXAMINATION BY: MS BLIGHT

5 MS BLIGHT: Ms Rizk, you were asked a
6 series of questions about the cloak and which url you
7 entered into a particular website and your answer was,
8 I made have put this long url in at the bottom of the
9 page.

10 My question to you is: Do you have
11 any specific recollection of that?

12 MS RIZK: No.

13 MS BLIGHT: Those are all my
14 questions.

15 MS DAVIES: None, Chair.

16 THE CHAIRPERSON: The others?

17 MR. ADLER: Just very briefly.

18 EXAMINATION BY: MR. ADLER

19 MR. ADLER: Ms Rizk, as I understand
20 it, the training that you received, whether it be from
21 Richard Warman or Nancy Lalonde --

22 MS RIZK: Sorry, can I...

23 MR. ADLER: Sure.

24 MS RIZK: Can I clarify the Nancy
25 Lalonde part? It wasn't training -- can I clarify.

1 THE CHAIRPERSON: In your answer.

2 MS RIZK: Okay, go ahead, sorry.

3 THE CHAIRPERSON: Let's hear the
4 question first, okay.

5 MR. ADLER: I take it that it was
6 just generalized instruction training as to how to
7 search for who's behind various sites; is that correct?

8 MS RIZK: That is correct.

9 MR. ADLER: Mr. Warman never ever
10 pointed you specifically to Mr. Lemire or to the
11 Freedom site?

12 MS RIZK: No, not beyond just filing
13 his complaint, no.

14 MR. ADLER: Right. Thank you.

15 THE CHAIRPERSON: Okay.

16 No other questions from -- in
17 re-exam? Okay.

18 Thank you.

19 Mr. Fromm?

20 MR. FROMM: I think Ms Rizk was
21 trying to clarify something about --

22 THE CHAIRPERSON: Ms Lalonde.

23 MR. FROMM: -- Ms Lalonde. Should
24 she not be allowed to perfect her evidence.

25 MS RIZK: Yeah, thank you.

1 THE CHAIRPERSON: Go ahead.

2 MS RIZK: It's not that she pro --
3 she was a colleague of mine and we spoke about what, if
4 I would have gone to her for help in terms of how to
5 search. She wasn't -- I didn't receive actual training
6 from her.

7 MR. ADLER: She was another source of
8 assistance --

9 MS RIZK: That's right.

10 MR. ADLER: -- if you needed --

11 MS RIZK: That's right.

12 MR. ADLER: -- as to what to do, just
13 as you had other colleagues that you could have gone to
14 as well?

15 MS RIZK: That's right.

16 MR. ADLER: Thank you.

17 THE CHAIRPERSON: Okay, thank you.

18 --- Witness stands down

19 THE CHAIRPERSON: That would be it
20 for this witness then. So, the next witness is Mr.
21 Steacy.

22 MS KULASZKA: I believe so.

23 THE CHAIRPERSON: Okay. So, I'll
24 take a break for that as well to allow him to enter the
25 room.

1 --- Upon recessing at 10:38 a.m.

2 --- Upon resuming at 10:55 a.m.

3 AFFIRMED: DEAN STEACY

4 THE CHAIRPERSON: Good morning, Mr.
5 Steacy.

6 MR. STEACY: Good morning.

7 THE CHAIRPERSON: Ms Kulaszka?

8 MS BLIGHT: Mr. Chairman, I'm sorry.
9 Mr. Steacy's assistant is not here today.

10 THE CHAIRPERSON: Yes.

11 MS BLIGHT: So, what I'd like to
12 request is that any document or excerpt from a document
13 that is put to Mr. Steacy that it be proceeded by the
14 place where it's being read from, that the quote be
15 read verbatim and that the question be asked subsequent
16 to the quote being finished and not interjected within
17 the middle of it.

18 THE CHAIRPERSON: All right. I did a
19 fair bit of that last time.

20 MS BLIGHT: Yes.

21 THE CHAIRPERSON: I don't know if you
22 saw in the transcript and Ms Kulaszka did too. So, no
23 problem with that, Ms Kulaszka, right?

24 MS KULASZKA: No, that's fine.

25 THE CHAIRPERSON: Since it's our

1 first time in this room with these recording
2 mechanisms, I don't know if you've been informed, but
3 the microphones are -- they're always on. No, they're
4 not? Okay. Fine.

5 They will be when we go to our next
6 location in Toronto and I'll be explaining to you how
7 to mute them, but you should be cautious in any event.
8 You'll never know, these microphones could pick it up
9 and, as you know, the digital voice recording is then
10 sent to all the parties and you may end up
11 inadvertently hearing what other people are saying.
12 So, keep it to yourselves as much as possible.

13 MS KULASZKA: I've handed up a
14 binder, if I could get that marked.

15 THE CHAIRPERSON: Is this a new
16 binder?

17 MS KULASZKA: This is a new binder.

18 THE CHAIRPERSON: This one here?

19 Yes.

20 MS KULASZKA: Mm-hmm.

21 MS BLIGHT: Mr. Chairman, we have a
22 few issues. I mean, I've had literally 10 seconds to
23 look at this binder, but I note that it appears to --
24 well, it contains, first of all, at the last tab an
25 affidavit which we would object to the production of

1 evidence by of affidavit in the examination of a
2 witness.

3 And, second of all, it appears to
4 relate primarily to this whole Ann Kuhl's (ph) issue
5 that the respondent has been seeking to raise new
6 evidence about after closing its case.

7 As a general matter it would be our
8 submission that this whole Ann Kuhl's (ph) is really
9 nothing that arises from the questions that were
10 declined during Mr. Steacy's examination, but there
11 have been, as you are aware, a number of motions in
12 which the respondent has sought to file material
13 related to this whole Ann Kuhl's (ph) issue. It's been
14 unsuccessful to date and now it appears that this is
15 now an issue that they're going to attempt to explore
16 with this witness kind of through the back door of the
17 questions that have been objected to.

18 So, I raise in a general -- to advise
19 you of that general objection.

20 THE CHAIRPERSON: All right. But we
21 are here with this witness and if the questions flow
22 for this witness, that's fine.

23 But, Ms Kulaszka, my point is clear
24 on this, okay, you closed your cases. I mean, the Ann
25 Kuhl's (ph) issue, I mean, I have enough information

1 perhaps for you to make your arguments in any event;
2 don't you think?

3 I mean, you --

4 MS KULASZKA: I don't know how -- Ms
5 Blight only got this binder five minutes ago and she's
6 making --

7 THE CHAIRPERSON: Quick reader
8 perhaps.

9 MS KULASZKA: Yes, very fast reader.
10 I would hope we could mark the binder and go through
11 and if there's objections to individual tabs, perhaps
12 the Commission can raise it then.

13 THE CHAIRPERSON: We'll deal with it
14 on a one-by-one document basis. We'll follow the same
15 practice we've always followed, that the entire binder
16 gets entered and then I'll ask you to refer to tabs and
17 ask that they be produced and only those tabs that are
18 produced are kept in the binder, the remaining tabs are
19 removed subsequent.

20 Okay. So, let's get this one in.

21 HEARINGS OFFICER: The newly
22 submitted binder will be filed as Respondent Exhibit
23 R-22.

24 EXHIBIT NO. R-22: Binder

25 MS KULASZKA: If I could go to tab 8.

1 Pursuant to your order there were
2 three matters that were going to be allowed to be filed
3 as exhibit and this is -- tab 8 is the first one.
4 These were documents disclosed by the Commission after
5 the testimony of Mr. Goldberg and I made a motion to
6 enter them as exhibits and these are documents tab 8.
7 It's a series of e-mails of Harvey Goldberg.

8 Tab 9 are the series of letters
9 written by the Canadian Jewish Congress to the
10 Commission regarding setting up means of blocking
11 access to foreign ISPs and they wanted the cooperation
12 of the Commission in doing that, and that was also to
13 be entered as an exhibit pursuant to your order.

14 And tab 10 are the letters to ISPs
15 from the Commission and that is also covered by your
16 order. And, so, I was wondering if we could just
17 produce tabs 8, 9 and 10 immediately just as a
18 housekeeping matter.

19 THE CHAIRPERSON: Okay, just a
20 second.

21 All right. I recall, I believe --
22 any objections? None.

23 MS BLIGHT: I'll check through them,
24 but they appear to be the documents that had been --

25 THE CHAIRPERSON: I recall them. If

1 you want, perhaps at a break you could look at the
2 specific details of the order.

3 I sort of remember the ISP letters, I
4 remember discussing that.

5 MS BLIGHT: No, you had ordered that
6 certain materials be -- I just want to cross-reference
7 them against the materials that were disclosed.

8 THE CHAIRPERSON: All right. I'll
9 call them produced now subject to -- I'll give you the
10 opportunity to look at them.

11 MS BLIGHT: Thank you.

12 THE CHAIRPERSON: But let's rush --
13 but let's match things. Tab 8, tab 9, tab 10
14 disclosed -- produced.

15 EXAMINATION BY: MS KULASZKA

16 MS KULASZKA: Okay, Mr. Steacy.
17 We're going to go back to the questions that were asked
18 in May that were objected to under section 37 and we're
19 going to go through those questions and follow-up
20 questions.

21 My first question to you is: Getting
22 back to jadewarr, do Commission employees sign up
23 accounts on Stormfront under pseudonyms such as
24 jadewarr?

25 Mr. Steacy?

1 MR. STEACY: Yes.

2 MS KULASZKA: That was the question.

3 MR. STEACY: Oh, I'm sorry.

4 MS KULASZKA: That was one of the
5 questions objected to.

6 MR. STEACY: And what...?

7 MS KULASZKA: Getting back to
8 jadewarr, do Commission employees sign up accounts on
9 Stormfront under pseudonyms such as jadewarr?

10 MR. STEACY: Yes.

11 MS KULASZKA: And did you sign up as
12 jadewarr?

13 MR. STEACY: Yes.

14 MS KULASZKA: And what e-mail did you
15 use to sign up your account on Stormfront as jadewarr?

16 MR. STEACY: Yahoo.

17 MS KULASZKA: Could you repeat that?

18 MR. STEACY: Yahoo. Yahoo.ca. I
19 signed up as

20 MS KULASZKA: And how did you choose
21 the name jadewarr?

22 MR. STEACY: It's actually a short
23 form for jade warrior which is a character out of a
24 novel that I read as a teenager.

25 MS KULASZKA: Why did you sign up?

1 MR. STEACY: Because I needed to be
2 able to get on to the websites to investigate.

3 MS KULASZKA: Stormfront, you'll
4 agree, is a very large message board? It's open to the
5 public; is it not?

6 MR. STEACY: Yes.

7 MS KULASZKA: Anybody, any member of
8 the public can go on to Stormfront and view the
9 threads; correct?

10 MR. STEACY: My understanding is if
11 you go on and you just view, you don't view everything.

12 MS KULASZKA: And who told you that?

13 MR. STEACY: From the information
14 that we had gotten in some of the files, when we went
15 to try and locate those threads we couldn't get them
16 and it was only when -- after we had logged on, set up
17 an account that we were able to retrieve those -- the
18 threads.

19 MS KULASZKA: And who is we?

20 MR. STEACY: The Commission is we.

21 MS KULASZKA: The Commission is not a
22 we. You and who else?

23 MR. STEACY: Me. As far as I know,
24 I'm the only investigator that logged on as jadewarr.

25 MS KULASZKA: And what other benefits

1 were there to becoming a member of Stormfront?

2 MR. STEACY: I don't know, I didn't
3 really use any other benefits that were there.

4 MS KULASZKA: Did you private message
5 people?

6 MR. STEACY: I don't recall. I know
7 that there were certain functions that I could use on
8 it, whether it was posting or sending messages, and I
9 did on occasion interact.

10 MS KULASZKA: And how many posts did
11 you make?

12 MR. STEACY: I don't remember.

13 MS KULASZKA: Five?

14 MR. STEACY: I don't remember the
15 exact number.

16 MS KULASZKA: Okay, we'll get back to
17 that, but first I want to ask you if you know who Nelly
18 Hechme is, H...

19 MR. STEACY: I have no idea who that
20 is.

MS KULASZKA: I'll spell her name.
21 It's Nelly, N-e-l-l-y and her last name is H-e-c-h-m-e.
22 She lives at 570 Laurier Avenue West in Ottawa,
23 Ontario.

24 MR. STEACY: I have no idea who that
25 is.

1 MS BLIGHT: Mr. Chairman, just on a
2 point related to that, I don't have any idea who that
3 is either.

4 I don't have any idea who that is
5 either and a concern arises with respect to the
6 possibility of personal information of some innocent
7 bystander to these proceedings who may have ended up
8 with personal information in our records.

9 So, I rise to express a concern about
10 that. The witness doesn't know who this individual is.

11 THE CHAIRPERSON: Right.

12 MS BLIGHT: I don't know who this
13 individual is and I question the appropriateness of
14 leaving personal information that's on -- of an
15 uninvolved person.

16 THE CHAIRPERSON: All right. Last
17 time we did something similar, you remember, Ms
18 Kulaszka.

19 MS KULASZKA: I think as the evidence
20 goes on this evidence will be seen to be relevant.

21 THE CHAIRPERSON: Okay.

22 MS BLIGHT: Well --

23 THE CHAIRPERSON: Last time around we
24 struck it from the transcript. Now, we don't have
25 transcripts any more at the Tribunal, we've gone with

1 this digital recording.

2 So, all I can ask the parties is
3 counsel to be a little more circumspect with private
4 information like addresses and so on.

5 MS BLIGHT: Or perhaps, Mr. Chairman,
6 if at the end of the day it's determined that that
7 information should not be in record, we could perhaps
8 refer to that person by -- be directed to refer to that
9 person by her initials for publication purposes.

10 THE CHAIRPERSON: Yeah. Nothing
11 being published, that's the problem.

12 MS KULASZKA: Okay. Mr. Steacy,
13 could you look at the exhibit, R-17.

14 THE CHAIRPERSON: All right. So,
15 someone has to go help --

16 MS BLIGHT: I will, binder 17.

17 MS KULASZKA: Tab 18.

18 THE CHAIRPERSON: So, I need...

19 MS BLIGHT: That's not in that book.

20 MR. STEACY: It is in this book.

21 MS BLIGHT: No, it's in the book I'm
22 now putting here before you. It's open to tab 18.

23 MS KULASZKA: Tab 18 and page 5 and
24 look at the bottom of the page, you'll see written page
25 numbers and it will be page 5.

1 THE CHAIRPERSON: R-17, 18.
2 MS KULASZKA: It'S R-18.
3 THE CHAIRPERSON: Sorry.
4 MS KULASZKA: Or, sorry, R-17, tab
5 18.
6 THE CHAIRPERSON: And then...?
7 MS KULASZKA: Page 5.
8 THE CHAIRPERSON: Page 5.
9 Ms Blight, there's a chair there.
10 Why don't you just stay there and assist him. And if
11 you ever need to make an intervention, the microphone
12 should be able to pick you up.
13 So...
14 MS KULASZKA: Now, Mr. Steacy, when
15 did you join --
16 MS BLIGHT: Perhaps my friend could
17 describe the document that Mr. Steacy is looking at.
18 MS KULASZKA: Yes, I had a question
19 first.
20 Mr. Steacy, when did you join
21 Stormfront, when did you become a member?
22 MR. STEACY: I don't remember the
23 exact date.
24 MS KULASZKA: Would you agree it
25 would be February, 2005?

1 MR. STEACY: Yeah, it could be.

2 THE CHAIRPERSON: 2005?

3 MS KULASZKA: February, 2005. That
4 is the date which is given under the post which you
5 made.

6 So, would you agree that's when you
7 joined, February, 2005?

8 MR. STEACY: It could have been
9 earlier. It could have been around that date, yes.

10 MS KULASZKA: And why did you join?

11 MR. STEACY: Because we were -- I was
12 doing an investigation.

13 MS KULASZKA: And what specifically
14 were you looking for?

15 MR. STEACY: I need to know what the
16 post says that you're referring to.

17 THE CHAIRPERSON: Right. No --

18 MR. STEACY: You're asking me to
19 answer something that I can't answer right now.

20 THE CHAIRPERSON: Sorry, to be fair,
21 what Ms Kulaszka was referring to in terms of the date,
22 on this post -- and perhaps that will be explained to
23 you in a moment -- it does show forum info, join date,
24 02/02/2005, see.

25 MR. STEACY: Well, she's asking --

1 THE CHAIRPERSON: At this point it
2 says total posts one.

3 MR. STEACY: She's asking me to give
4 a question and I don't have the information. She's
5 asking me -- she's got the information in front of her.
6 This is what I need -- she's got to read this to me so
7 I can give her the answer that she's -- that she wants
8 me to answer.

9 THE CHAIRPERSON: I guess the
10 question in the broadest sense, by seeing the term
11 total posts one, my sense is it might be one of the
12 first posts that would have been made by the person
13 posting as jadewarr.

14 MR. STEACY: I would assume so.

15 THE CHAIRPERSON: Yeah.

16 MR. STEACY: But, I mean, unless I'm
17 told what's in front of me, I don't have the recall of
18 somebody looking at the piece of paper to see what's
19 there.

20 MS KULASZKA: Okay.

21 MR. STEACY: So, what she's doing is
22 unfair.

23 THE CHAIRPERSON: I understand, sir.

24 MS KULASZKA: Hold on to that page
25 that you've got, Mr. Steacy, and then go on from page 5

1 to page 11.

2 THE CHAIRPERSON: Okay, and you
3 have --

4 MS KULASZKA: And this will help
5 matters, I think.

6 THE CHAIRPERSON: Ms Blight, please
7 assist the witness.

8 MS BLIGHT: May I describe the
9 document for the witness.

10 THE CHAIRPERSON: Yes.

11 MS KULASZKA: I'll describe it,
12 that's fine.

13 THE CHAIRPERSON: But there's a lot
14 of pages here, 6 to 11; right?

15 MS BLIGHT: Page 11.

16 MS KULASZKA: Page 11.

17 THE CHAIRPERSON: Oh, actual page 11.
18 Okay, sorry.

19 MS KULASZKA: What this is, Mr.
20 Steacy, is a posting by forum member jadewarr, it says
21 the join date is February, 2005 and this post is made
22 on September 15th, 2006 and it states:

23 "Re Canadian Human Rights
24 Commission finds promotional
25 tape by R.C.M.P. no problem."

1 (As read)

2 THE CHAIRPERSON: That's the re:
3 section in bold face at the top.

4 MS KULASZKA: That's in bold and it
5 goes on, this is the post:

6 "Why did you ---" (As read)

7 THE CHAIRPERSON: "what did you"...

8 MS KULASZKA:

9 "What did you expect from the
10 Government??? I read your stuff
11 with interest but did the
12 R.C.M.P. deal with the officers
13 in question?" (As read)

14 THE CHAIRPERSON:

15 "...didn't the R.C.M.P. deal
16 with the officers in question?"
17 (As read)

18 MS KULASZKA: I don't know. It must
19 be these glasses.

20 "...but didn't the R.C.M.P. deal
21 with the officers in question?
22 From what I read in the paper I
23 was under the impression that
24 the officers were punished, SO I
25 don't understand why you're

1 making a complaint. I also read
2 Human Rights Act and it would
3 seem to me that if R.C.M.P.
4 dealt with it, the Canadian
5 Human Rights Commission wouldn't
6 deal with it. Anyways, I'm no
7 expert and I don't know why all
8 this effort is being wasted on
9 filing a complaint where the
10 perpetrators had already been
11 punished." (As read)

12 End of post. Did you post that?

13 MR. STEACY: Yes, I did.

14 MS KULASZKA: And that was on a
15 thread responding to -- who initiated that thread?

16 MR. STEACY: I don't recall. I think
17 it was Mr. Lemire.

18 MS KULASZKA: That's right. Turn to
19 page 7 and you will see the initiating post and it's by
20 Marc Lemire, and it's on page 7 and his post is headed:
21 Canadian Human Rights Commission finds promotion of
22 hate by R.C.M.P. no problem.

23 And it is a description of what, do
24 you remember what the post said, what it was about?

25 MR. STEACY: Vaguely recall that he

1 was writing about the fact that he had initiated some
2 complaints with the Commission.

3 MS KULASZKA: Well, in fact, it was
4 not his complaint.

5 THE CHAIRPERSON: Well, would you
6 like to read -- oh, it's long.

7 MS KULASZKA: It' very long. It was
8 a complaint against Steven Camp, an Officer with the
9 Edmonton Police Service. Does that ring a bell?

10 MR. STEACY: Not really.

11 MS BLIGHT: If we could go off
12 record, I would be happy to read the posting to the
13 witness quietly.

14 MS KULASZKA: Well, that's fine. I
15 can read parts of it.

16 MS BLIGHT: I'm just concerned to
17 make sure that he has the full context when he's being
18 asked the questions.

19 THE CHAIRPERSON: I'll ask Ms
20 Kulaszka to read parts because that might be more
21 efficient, and if you really think it warrants stating
22 more, stand up at that point.

23 MS BLIGHT: Well, that would be up to
24 Mr. Steacy.

25 THE CHAIRPERSON: Well, but he

1 can't -- he might not be aware of what's been omitted,
2 so I'll ask you to, if you wish, or any other counsel,
3 wish to add more information in front of the witness to
4 go ahead and do so.

5 MS KULASZKA: Okay. After that main
6 heading that I read there was a sub-heading and it
7 said:

8 "CHRC proceeds only against
9 white working-class victims. On
10 August 14th, 2006 the Canadian
11 Human Rights Commission (CHRC)
12 found there was no problem with
13 Officers from the Royal Canadian
14 Mounted Police sending messages
15 that would likely expose First
16 Nations persons and white
17 persons to hatred and/or
18 contempt contrary to section
19 13.1 of the Canadian Human
20 Rights Act. Some of the hate
21 messaging by R.C.M.P. officers
22 include curb-stomping whites..."

23 (As read)

24 THE CHAIRPERSON: "whities".

25 MS KULASZKA:

1 "...whities, slapping women and
2 shaking babies. The R.C.M.P. is
3 always chasing me because I'm a
4 smelling f...ing native and I
5 can't even see. The R.C.M.P.'s
6 always chasing me because I
7 stole six cases of Mr. Clean.
8 The R.C.M.P.'s always chasing me
9 `cause I stink."

10 This decision comes on a heels of a
11 August 10th, 2006 ruling by the Canadian Human Rights
12 Commission to allow officers from the Edmonton Police
13 to post hate messages on the Stormfront.org website.
14 Included in those posts by an Edmonton Police officer
15 were:

16 "How can you hold the little red
17 skin responsible, he's only an
18 animal."

19 "With any luck, they will end up
20 like the nogs in the States who
21 predominantly cull each other."

22 (As read)

23 MS KULASZKA: There's a misspelling.

24 "The Canadian Human Rights
25 Commission never bothered to

1 conduct proper investigation or
2 even contact the R.C.M.P. for
3 their side of the complaint,
4 instead the complaint was swept
5 under the rug, unlike white
6 working-class individuals who
7 the CHRC obsessively harass with
8 a vengeance, the R.C.M.P. are
9 not the preferred targets of the
10 politically correct enforcers.
11 Acting like typical anti-freedom
12 dictators, Marc Lemire hit a
13 roadblock at every turn while
14 trying to file the complaint.
15 It took almost a dozen e-mails
16 and faxes to get any action from
17 the Commission, including a
18 letter that had to be written to
19 the head of the CHRC. Contrast
20 that to the treatment other
21 complainants have received,
22 which includes the Commission
23 even writing up the complaint
24 for them! In my case, the
25 complaint was returned because

1 Dean Steacy "Human Rights
2 Investigator" claims it was
3 "double sided" even though it
4 had been faxed! The real reason
5 the CHRC doesn't want to accept
6 my complaint is because they are
7 only interested in persecuting
8 working-class whites with
9 limited or no means of being
10 able to defend themselves." (As
11 read)

12 MS KULASZKA: Now, the rest of the
13 post goes on about basically who complaints have been
14 laid against, whether the Commission is impartial,
15 talks about the Canadian Human Rights Tribunal, that
16 truth is no defence, intent is no defence, their
17 comment is no defence and that there have been -- there
18 are zero defences.

19 I don't know if Ms Blight wants
20 anything further read.

21 MS BLIGHT: Perhaps the question can
22 be asked of Mr. Steacy whether he now has the context
23 he requires to answer the question that had been posed.

24 MS KULASZKA: Yeah. Mr. Steacy, do
25 you recall now that posting?

1 MR. STEACY: Yes, I do.

2 MS KULASZKA: Now, you're mentioned
3 in that posting. What role did you play in these
4 complaints?

5 MR. STEACY: The role that I played
6 in the complaint was I was the assigned investigator to
7 the R.C.M.P., the Peel Regional Police, CBC,
8 Bellglobemedia, then CTV, those complaints.

9 I was not specifically involved in
10 the initial stage when Mr. Lemire filed the complaint.

11 However, as sort of summarized in the
12 posting, there were some issues with the format that
13 the complaint came in and the Commission has fairly
14 strict rules about complaint forms coming in and the
15 way they come in, and Mr. Lemire had not adhered to
16 them and the intake unit had advised him of this and he
17 was treated the same way that any other complainant
18 would have been corresponded with about not adhering to
19 section 40 of the Act.

20 MS KULASZKA: Okay. Just for
21 confirmation, if you could look at binder R-3, Exhibit
22 R-3, that is the Paul Fromm binder. I want you to look
23 at tab 1.

24 THE CHAIRPERSON: Let's give Ms
25 Blight a chance to find it.

1 MS BLIGHT: Will Ms Kulaszka be
2 describing --

3 MS KULASZKA: Yes.

4 MS BLIGHT: -- this document here.
5 I'm putting it on top of the other one.

6 THE CHAIRPERSON: Just remind me, has
7 it been produced? Yes.

8 MS KULASZKA: Okay, Mr. Steacy, this
9 is a copy of a complaint laid by Marc Lemire, it's
10 against the R.C.M.P., Peel Regional Police, CBC,
11 Bellglobemedia Publishing, the Globe and Mail.ca,
12 CBC.ca. It concerned repeated communication of hate
13 messages through an Internet website and by e-mails
14 through the use of a computer or group of
15 interconnected or related computers and the allegation
16 was that they had discriminated on the basis of race,
17 colour and national or ethnic origin by repeatedly
18 communicating messages through Internet websites
19 e-mails that would likely expose First Nations persons
20 and white persons to hatred and/or contempt against
21 section 13.

22 The particulars basically were
23 e-mails that were circulated on computer systems of the
24 R.C.M.P. and Peel Regional Police and they were
25 basically jokes about Aboriginal people. Do you

1 remember that?

2 MR. STEACY: Yes, I remember the
3 complaint.

4 MS KULASZKA: And you reply as the
5 anti-hate advisor of the investigations division on May
6 17th, 2006. You said:

7 "Mr. Lemire: Thank you for your
8 letter of December 11th, 2005
9 concerning your potential
10 complaints against Peel Regional
11 Police, Canadian Broadcasting
12 Corporation and its website,
13 CBC, Bellglobemedia and Globe
14 and Mail.ca." (As read)

15 MS KULASZKA: And you were of the
16 view that the criteria had not been met under the Act
17 to file a complaint. Is that correct?

18 MR. STEACY: Yes.

19 MS KULASZKA: So, that is the
20 complaint that Marc Lemire is referring to in this
21 posting; isn't it? That's one of the complaints?

22 MR. STEACY: Yes.

23 MS KULASZKA: So, we'll get back to
24 your posting on Stormfront in response to Marc Lemire's
25 post.

1 Why did you post this post?

2 MR. STEACY: I think the posting's
3 pretty obvious. I was trying to find out why he was
4 trying to file a complaint against the R.C.M.P.

5 MS KULASZKA: You understand that Mr.
6 Lemire would have no idea who you were?

7 MR. STEACY: Yes.

8 MS KULASZKA: Why didn't you ask Mr.
9 Lemire if you wanted to know certain things?

10 MR. STEACY: Because at the time
11 there were other things happening within the Commission
12 where we were getting e-mails and correspondence and
13 there was chatter on the posts where individuals were
14 advising each other, and as Mr. Fromm had said in his
15 website, send as much information or as many letters as
16 you can to the Commission. In essence, they were
17 trying to disable the Commission from being able to do
18 their job, trying to prevent us from being able to
19 investigate.

20 MS KULASZKA: Okay. So, the date of
21 that post is September 15th, 2006 and you --

22 THE CHAIRPERSON: Remind me where the
23 post is again, Ms Kulaszka, I lost the page.

24 MS KULASZKA: The day of the jadewarr
25 post --

1 THE CHAIRPERSON: Can you tell me
2 what tab it's in again?

3 MS KULASZKA: It's --

4 THE CHAIRPERSON: Oh, here it is, tab
5 18.

6 MS KULASZKA: It's on page 11 of tab
7 18.

8 THE CHAIRPERSON: Okay. So, the date
9 yo say is September 15, right.

10 MS KULASZKA: September 15, 2006.

11 And you had -- the date of your letter basically
12 rejecting Mr. Lemire's complaint was May 17th, 2006,
13 which was several months earlier, you had already
14 dismissed it.

15 MR. STEACY: I hadn't dismissed his
16 complaint. I don't have the ability to dismiss a
17 complaint, only the Commissioners can dismiss a
18 complaint. Mr. Lemire was being advised in that letter
19 that he wasn't filing a complaint in the proper -- in a
20 proper format.

21 MS KULASZKA: So, it had not met the
22 criteria and you said:

23 "As such, the Commission cannot
24 offer you assistance in this
25 matter. Thank you." (As read)

1 MR. STEACY: And that's a letter that
2 hundreds of other individuals that have come to the
3 Commission have received.

4 MS KULASZKA: Then why are you
5 writing this post after the matter had been closed?

6 MR. STEACY: The matter wasn't
7 necessarily closed. We were just saying at this point
8 in time we weren't able to provide Mr. Lemire any
9 specific assistance.

10 MS KULASZKA: Had Mr. Lemire taken
11 any subsequent steps to make you think that the matter
12 was not closed?

13 MR. STEACY: I don't recall.

14 MS KULASZKA: Had he re-submitted any
15 new complaint concerning those e-mails?

16 MR. STEACY: I believe that he did
17 re-submit the complaints in the format that he was
18 requested to, but I would have to go through the files
19 again.

20 MS KULASZKA: About the e-mails that
21 were sent out by Peel Regional Police. Could you think
22 about that again.

23 MR. STEACY: Best of my recollection
24 is that after that letter was sent he -- he filed
25 specific separate complaints -- instead of one

1 complaint listing all those respondents he filed
2 separate complaints against each respondent.

3 MS KULASZKA: Do you have any
4 evidence of that?

5 MR. STEACY: He has the reports that
6 he -- and the letters that he received.

7 MS KULASZKA: Yeah. I'm advised by
8 my client that was the end of the matter. You must be
9 thinking of something else.

10 MR. STEACY: Well --

11 MS KULASZKA: I come back to it
12 again, to this posting --

13 THE CHAIRPERSON: You're standing up
14 to say anything or just to read.

15 MS BLIGHT: Well, I mean, this
16 witness is being called as Ms Kulaszka's witness and --

17 THE CHAIRPERSON: Not this one.

18 MS BLIGHT: Yes.

19 THE CHAIRPERSON: No, because last
20 time around we determined that he would be examined on
21 his affidavit, so I treated that as a
22 cross-examination.

23 MS BLIGHT: Mr. Chairman, in a
24 subsequent discussion with respect to the following
25 witness after that, who was Harvey Goldberg.

1 THE CHAIRPERSON: Yes.

2 MS BLIGHT: There was a long
3 discussion on record in which I understood you to have
4 ruled that this witness -- the two witnesses were under
5 cross-examination with respect to their affidavit --

6 THE CHAIRPERSON: Yeah.

7 MS BLIGHT: -- which concerned
8 production and disclosure and were under direct
9 examination with respect to the issues for which they
10 had been subpoenaed because they had both been
11 subpoenaed.

12 THE CHAIRPERSON: I recall that now,
13 you've got a point.

14 MS BLIGHT: So, I just raise to say
15 that this is Ms Kulaszka's witness and if she doesn't
16 like the answers...

17 THE CHAIRPERSON: Ms Kulaszka can
18 deal with that, she's been able to deal with it before.

19 MS KULASZKA: You will agree though,
20 Mr. Steacy, that Mr. Lemire has made a series of
21 complaints to the Commission under section 13; is that
22 correct?

23 MR. STEACY: Yes.

24 MS KULASZKA: And other people have
25 made complaints to the Commission such as Andrew Gill

1 and Alex Kulbashian under section 13 which have been
2 rejected as vexatious; is that correct?

3 MR. STEACY: The Commission made a
4 decision and if the Commissioners decided that they
5 were section 41(d), then that's what the Commissioners
6 decided.

7 MS KULASZKA: And you were one of the
8 investigators who recommended that one of those
9 complaints be rejected as vexatious?

10 MR. STEACY: That's correct.

11 MS KULASZKA: And the other
12 investigator was Sandy Kozac (ph)?

13 MR. STEACY: That's correct.

14 MS KULASZKA: When we get back to the
15 posting by jadewarr that you made on September 15th,
16 2006, I put to you that you were trying to get an
17 answer from Mr. Lemire that would show that what he is
18 doing is done with the motivation of being vexatious.

19 Is that what you were trying to do,
20 get an answer out of him that would show that?

21 MR. STEACY: Probably. I don't
22 recall specifically. There was a lot of things going
23 on at the time and that could have been one of the
24 reasons that I e-mailed him was to determine whether or
25 not he -- it was more to find out, specifically as you

1 said, why are filing the complaint. I don't know that
2 I was doing it specifically to, oh, to say that he was
3 doing it in a vexatious manner. It would have depended
4 on his answer.

5 MS KULASZKA: And, so, once you had
6 that answer, if he had given it, you could have
7 basically used that posting to reject any complaint he
8 made thereafter; isn't that true?

9 MR. STEACY: No. It would have -- if
10 the reason that he had filed the complaints in these
11 cases was vexatious, it would have shown that those
12 complaints were vexatious, it wouldn't say that any
13 complaint that Mr. Lemire made hereon after was on a
14 different respondent or subject matter would have been
15 vexatious.

16 Commission doesn't do that, we don't
17 deal with cases like that, it's a case-by-case basis.
18 It's not because Mr. Lemire filed a complaint it's
19 vexatious. That would fly in the face of what the
20 Canadian Human Rights Act is set up to do.

21 MS KULASZKA: Then we come again to
22 why you would post this because you had already told
23 Mr. Lemire that that particular complaint did not fall
24 within the Act.

25 MR. STEACY: I didn't say that it

1 didn't fall within the Act, I said it didn't meet the
2 criteria.

3 MS KULASZKA: You said it didn't meet
4 the criteria.

5 MR. STEACY: There's a big difference
6 between not falling within the Act and not -- and him
7 not meeting the criteria to file a complaint.

8 There's a distinction. I mean, we
9 get complainants all the time who -- we have limits to
10 the size that the complaint can be. We have criteria
11 as to how individuals have to file the complaint.

12 Mr. Lemire in this case didn't meet
13 the criteria and it was rejected on that, it was not
14 rejected on the substance of what was there.

15 He re-filed later when he filed the
16 complaint against the Peel Regional Police, the
17 R.C.M.P., CBC and those complaints were dealt with.

18 MS KULASZKA: You believe that
19 subsequent complaints were laid. Are you saying he
20 made separate complaints later after May of 2006?

21 MR. STEACY: I don't know the exact
22 date, but we have files that show Mr. Lemire filed a
23 complaint specifically against the Peel Regional
24 Police, against the R.C.M.P., CBC and Bellglobemedia.

25 MS KULASZKA: And are you saying

1 those complaints are further complaints laid after your
2 letter of May 17th, 2006?

3 MR. STEACY: I don't have the exact
4 date off the top of my head. I'd have to call back to
5 the office to find out what dates those were filed.

6 MS KULASZKA: Yes, if you could do
7 that.

8 THE CHAIRPERSON: Well, Ms Kulaszka,
9 I have to ask the question of this witness who can't --
10 who's unable to view the May 17th letter because, sir,
11 you've indicated a couple of times that your
12 recollection of the May 17th letter that you sent to
13 Mr. Lemire was that the complaint could not be
14 addressed, I guess, because it did not meet the
15 criteria alluding to the failure to meet the formal
16 criteria of what the form should look like.

17 However, when I read the letter I
18 don't see that, sir.

19 MR. STEACY: It said that it didn't
20 meet the criteria of the Act.

21 THE CHAIRPERSON: Oh.

22 MR. STEACY: So, we couldn't provide
23 him with -- we don't accept complaints when a person
24 lists eight or nine different respondents specifically
25 that are different as he's -- you know, he's listed

1 different respondents and the documentation on the
2 file that we had at the time, the file has -- the
3 complaint has to be single sided and the information
4 that we had on the file, and I don't know what happened
5 to the fax that came in, but it was a fax --

6 THE CHAIRPERSON: Sir, you must let
7 me interrupt you because I'll tell you what your letter
8 says and I think this is only fair.

9 The letter was a two-page letter and
10 the first part, just to paraphrase quickly, refers --
11 it cites section 13, puts the excerpt from section 13,
12 paraphrases the criteria set out in the Taylor Decision
13 and Nealy and Johnson and so on, and then you move
14 directly into the two streams of the complaint that Mr.
15 Lemire had filed.

16 You preface your comments by saying:
17 "As you may or may not be aware,
18 the aforementioned is not an
19 exhaustive list of the criteria
20 needed to determine if material
21 communicated over the Internet
22 may be considered hatred and/or
23 contempt. While it is given
24 that the fact that Internet
25 communication is a passive

1 medium requiring the user to
2 take positive steps in order to
3 access material, it is also
4 important to determine how the
5 information in question is being
6 communicated." (As read)

7 THE CHAIRPERSON: And then you pass
8 into the two complaints. So, one was the Peel Regional
9 Police in bold face and then underneath you write:

10 "You allege that the Peel
11 Regional Police is
12 discriminating against First
13 Nations peoples and white people
14 by repeatedly sending e-mails
15 via their computer systems which
16 would likely contravene section
17 13 of the CHRA. It would appear
18 that this was a private e-mail
19 that was sent by the employees
20 of the Peel Regional Police to
21 employees of the Royal Canadian
22 Mounted Police. As such, the
23 sending of the said e-mail would
24 constitute private
25 communication. In the Taylor

1 Decision the Supreme Court of
2 Canada explored the purpose of
3 section 13 stating that:
4 "By focusing upon "repeated"
5 telephonic messages, section
6 13.1 directs its attention
7 to public, large-scale
8 schemes for the
9 dissemination of hate
10 propaganda."
11 You did not provide any
12 documentation or evidence that
13 would indicate that this e-mail
14 was disseminated to the general
15 public, or was made accessible
16 to the general public by the
17 respondent. Consequently, it
18 does not appear that your
19 complaint falls under section 13
20 of the Canadian Human Rights
21 Act." (As read)
22 THE CHAIRPERSON: And that was just
23 regard to Peel.
24 MR. STEACY: Okay.
25 THE CHAIRPERSON: With regard to the

1 media you wrote:

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 was a fair
7 and 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. In this
15 context, the media organizations
16 which you have cited within your
17 letter could be considered
18 broadcasting undertakings and,
19 therefore, would be exempted
20 pursuant to section 13.2 of the
21 CHRA which states..." (As read)

22 THE CHAIRPERSON: And I won't cite it
23 out, but you must be familiar with it, section 13.2.

24 MR. STEACY: Mm-hmm.

25 THE CHAIRPERSON: The one that does

1 not -- exempts broadcast undertakings. And then you
2 conclude, sir, Mr. Steacy, you conclude:

3 "In conclusion, in reviewing the
4 material you provided, I am of
5 the view that you have not met
6 the criteria of the CHRA to file
7 a complaint. As such, the
8 Commission cannot offer you
9 assistance in this matter. If
10 you have any questions in this
11 regard, you can contact the
12 undersigned..." (As read)

13 THE CHAIRPERSON: And you give a
14 phone number, a 1---800 number.

15 "Thank you for advising us of
16 your concerns." (As read)

17 THE CHAIRPERSON: So, you didn't have
18 this document -- you weren't aware of the contents of
19 the document perhaps as we were as the questions were
20 being asked, but as I read your conclusion, sir, you're
21 not saying the form itself had not been properly
22 prepared, you're actually alluding to the provisions of
23 the Act.

24 MR. STEACY: I apologize because I
25 mixed up the letters.

1 THE CHAIRPERSON: Okay.

2 MR. STEACY: Because there were
3 letters that were sent to Mr. Lemire explaining to him
4 the initial complaints that were -- that came in, the
5 way they came in, they didn't meet the criteria. That
6 is the letter that was sent after he came back with
7 more -- further information saying that and sort of
8 abiding by or completing with the criteria under
9 section 40. That is the last letter that I'm aware of
10 that we sent him.

11 THE CHAIRPERSON: Ms Kulaszka.

12 MR. STEACY: There are other letters
13 on the file that, you know, where we corresponded with
14 him about the formatting of his complaint.

15 THE CHAIRPERSON: Thank you, sir.

16 Ms Kulaszka.

17 MS KULASZKA: So, you agree that this
18 letter was the last letter in the file and that ended
19 the matter?

20 MR. STEACY: To best of my
21 recollection, yes.

22 MS KULASZKA: Okay, we'll get back to
23 your posting for jadewarr.

24 What is the name you use for
25 jadewarr, do you call it a membership, an account?

1 What do you call that, your moniker, your pseudonym?

2 MR. STEACY: It's a pseudonym.

3 MS KULASZKA: I'm going to also put
4 to you that a possibility arising out of that posting
5 is that Marc Lemire might have come back to answer you
6 and make some comment about Richard Warman and how easy
7 it was for his complaints to go forward and nobody
8 else's and that might have been classified as
9 retaliation under the Act.

10 Isn't that true?

11 MR. STEACY: I can't answer that
12 question for you because he didn't put it out, I don't
13 know what he wrote.

14 MS KULASZKA: No, he didn't answer,
15 he didn't answer.

16 MR. STEACY: Well, I'm not prepared
17 to answer a hypothetical.

18 MS KULASZKA: Did you ever consider
19 that possibility?

20 MR. STEACY: No.

21 MS KULASZKA: Not at all?

22 MR. STEACY: No.

23 MS KULASZKA: And yet Mr. Warman has
24 made a great deal of money from retaliation complaints;
25 hasn't he?

1 MR. STEACY: I haven't calculated
2 what Mr. Warman has or hasn't made because of the
3 complaints he's filed. That's none of my business.

4 MS KULASZKA: How many accounts or
5 pseudonyms do you have on Stormfront?

6 MR. STEACY: Two.

7 MS KULASZKA: And what's the other
8 one?

9 MR. STEACY: Odensrevenge.

10 THE CHAIRPERSON: Could you spell
11 that out, sorry.

12 MR. STEACY: O-d-e-n-s.

13 THE CHAIRPERSON: O-d-e-n-s?

14 MR. STEACY: Yeah, revenge.

15 MS KULASZKA: E-n.

16 THE CHAIRPERSON: Isn't there an
17 apostrophe somewhere, Odens?

18 MR. STEACY: No, just Odensrevenge.

19 THE CHAIRPERSON: Is that one word or
20 is there a space?

21 MR. STEACY: All one word, I believe.

22 THE CHAIRPERSON: Odensrevenge.

23 MR. STEACY: But the account is
24 actually set up -- when it got set up there was a
25 spelling error, so it's set up as Oldens, O-l-d-e-n-s

1 revenge, but the e-mail is -- or .com, sorry.

2 MS KULASZKA: Yeah, could you say
3 that again? What is the moniker that you post under?

4 MR. STEACY: I didn't post under
5 that. The only pseudonym that I posted under on
6 Stormfront is jadewarr.

7 MS KULASZKA: If you could just give
8 the e-mail again.

9 MR. STEACY: -- but the account at
10 Stormfront is Oldens, O-l-d-e-n-s, there was a typo
11 when we were setting it up.

12 MS KULASZKA: And who helped you set
13 this up?

14 MR. STEACY: My assistant.

15 MS KULASZKA: Did she also know about
16 jadewarr?

17 MR. STEACY: Yes, she did.

18 MS KULASZKA: Did she help you set
19 that up?

20 MR. STEACY: No, she didn't.

21 MS KULASZKA: Who did?

22 MR. STEACY: I set that up.

23 MS KULASZKA: Yourself?

24 MR. STEACY: Yes. I could see at the
25 time.

1 MS KULASZKA: Who else did you tell
2 at the time you set it up?

3 MR. STEACY: Other investigators that
4 were investigating hate on the Internet.

5 MS KULASZKA: And who were they?

6 MR. STEACY: I don't recall everybody
7 that I told, but everybody that's presenting work --
8 that's investigating hate on the net knew about it.

9 MS KULASZKA: Sandy Kozac (ph) would
10 know?

11 MR. STEACY: Yes.

12 MS KULASZKA: Who else?

13 MS BLIGHT: Mr. Chairman, I've been
14 reluctant to raise on this, but is it relevant to any
15 issue in this complaint whether other people in the
16 Commission were aware of jadewarr?

17 THE CHAIRPERSON: The extent perhaps,
18 perhaps we don't need every single name but we've heard
19 the whole team, we've had mention before about the
20 team, Ms Kulaszka.

21 MS KULASZKA: Yes. It's becoming
22 obvious that there were many people on Stormfront,
23 including Richard Warman who were posting regularly on
24 Stormfront and that's one of the postings that is the
25 subject of this proceeding, is a posting on Stormfront.

1 And so issues arise, and it's arisen
2 in many other Tribunal proceedings and --

3 THE CHAIRPERSON: Yeah. We're
4 dealing with this one, though, Right?

5 MS KULASZKA: Yes. And what was the
6 effect of those other postings.

7 I mean, up to this point, Mr. Lemire
8 had no idea that jadewarr was a Commission employee.

9 THE CHAIRPERSON: So, what exactly is
10 being objected to, that we get all the names of
11 everyone whom Mr. Steacy knows knew about it?

12 We have the names of the whole team.
13 Would everyone on your team have known about it, Mr.
14 Steacy?

15 MR. STEACY: I'm not sure that a
16 couple of them would have known about it, the policy
17 and the legal advisor may not have known about it.

18 There are other individuals that may
19 have known about it are no longer at the Commission,
20 moved on.

21 MS KULASZKA: Did --

22 MR. STEACY: I'm not sure if they did
23 know about it because I was away on leave for a while
24 after the account had been set up, so I have no idea
25 specifically when I was away who did or didn't know

1 about it.

2 MS KULASZKA: Did Sandy Kozac (ph)
3 know about it? She knew about it?

4 MR. STEACY: Yes, she did.

5 MS KULASZKA: Did she have any
6 accounts on Stormfront?

7 MR. STEACY: I don't know.

8 MS KULASZKA: Did you ever sign up on
9 the Freedom site?

10 MR. STEACY: Yes.

11 MS KULASZKA: And when was that?

12 MR. STEACY: I don't recall the date.

13 MS KULASZKA: And what was your user
14 name and your e-mail.

15 MR. STEACY: Same, jadewarr --
16 jadewarr@yahoo.

17 MS KULASZKA: Yahoo.ca?

18 MR. STEACY: Yes.

19 MS KULASZKA: Do you have any idea
20 when that would be?

21 MR. STEACY: No, not off the top of
22 my head I don't.

23 MS KULASZKA: And why did you do
24 that?

25 MR. STEACY: Because we had a

1 complaint against them.

2 MS KULASZKA: Against who?

3 MS BLIGHT: Well, I thought we were
4 trying generally in this hearing to avoid kind of
5 naming names of persons who are not involved in this
6 hearing.

7 THE CHAIRPERSON: I assumed when you
8 said them you meant Freedom site. Is that what you
9 meant, sir?

10 MR. STEACY: Yes.

11 MS BLIGHT: Against the Freedom site.
12 Oh, I'm sorry, I said against someone, I misread the
13 answer, I apologize.

14 MS KULASZKA: Okay. The complaint
15 comes in I believe at the end of November, 2003, laid
16 by Mr. Warman who works at the Commission.

17 When did you sign up?

18 MR. STEACY: Against Freedom site?

19 MS KULASZKA: Yes, the Freedom site.

20 MR. STEACY: I need to speak to Ms
21 Blight to --

22 MS BLIGHT: Mr. Steacy would like to
23 refer to his documents.

24 THE CHAIRPERSON: Okay.

25 MS BLIGHT: May I assist him in that

1 regard?

2 THE CHAIRPERSON: Yes.

3 MS BLIGHT: And, Mr. Chairman, how
4 would you like us to do that? Do you want to take the
5 morning break or...

6 THE CHAIRPERSON: Will it be long,
7 Mr. --

8 MS BLIGHT: No, it won't be long.

9 MR. STEACY: I don't think it will be
10 long.

11 MS BLIGHT: If we could just take a
12 10---minute break.

13 THE CHAIRPERSON: All right. We'll
14 do a 10---minute break.

15 MS BLIGHT: We'll try to do that
16 right here.

17 THE CHAIRPERSON: Let me ask you
18 something. Are there any other things that you, Ms
19 Kulaszka, may be needing him to consult with documents
20 on in the next --

21 MS KULASZKA: It's very hard to know.

22 THE CHAIRPERSON: Hard to know, eh.

23 We could take this opportunity to
24 cover off a couple of points, if we could.

25 All right. We'll take our

1 10---minute break at this point.

2 --- Upon recessing at 11:47 a.m.

3 --- Upon resuming at 12:02 p.m.

4 MS KULASZKA: Mr. Steacy, do you know
5 when you --

6 MR. STEACY: I don't know when I --

7 THE CHAIRPERSON: Just moment, let's
8 let Ms Blight get in here.

9 MR. STEACY: I don't know when I
10 signed up to Freedom site.

11 THE CHAIRPERSON: Just a second,
12 please.

13 So, your answer, sir, was that you do
14 not recall when you signed up with Freedom site?

15 MR. STEACY: I don't know when I
16 signed up.

17 MS KULASZKA: But it was after Mr.
18 Warman laid his complaint?

19 MR. STEACY: I believe so.

20 MS KULASZKA: Were you the
21 investigator on the case?

22 MR. STEACY: Of Freedom site?

23 MS KULASZKA: Yes.

24 MR. STEACY: No.

25 MS KULASZKA: So, why did you sign

1 up?

2 MR. STEACY: Because I was part of
3 the process at the time when the complaint came in,
4 when we were doing things, the complaint landed, it
5 was -- well, it was assigned to me and then when I went
6 away on leave it was assigned to somebody else to
7 investigate.

8 MS KULASZKA: And would that be
9 Hannya Rizk?

10 MR. STEACY: I don't know exactly who
11 it was assigned to at first. I would assume that it
12 eventually ended with Hannya because she wrote the
13 report.

14 MS KULASZKA: And how long were you
15 on the case?

16 MR. STEACY: Not very long, maybe a
17 couple of months.

18 MS KULASZKA: And why would it be
19 part of the process to sign up on a message board
20 that's the subject of a complaint?

21 MR. STEACY: To see what's on the
22 website.

23 MS KULASZKA: But the Freedom site
24 you could simply sign in as a guest.

25 MR. STEACY: Well, at the time when

1 we were doing this I didn't know that and I would have
2 assumed to be able to see everything you needed to
3 register with an account.

4 MS KULASZKA: So, you used

5 MR. STEACY: Yes, I used jadewarr.

6 THE CHAIRPERSON: It's jadewarr.

7 MR. STEACY: It's jadewarr, it's not
8 jadeware.

9 THE CHAIRPERSON: Two r's at the end?

10 MR. STEACY: Two r's, yeah.

11 MS KULASZKA: It sounds so

12 militaristic if you say jadewarr.

13 THE CHAIRPERSON: I think the origin
14 of the word was warrior; right?

15 MR. STEACY: That's correct.

16 THE CHAIRPERSON: Okay.

17 MS KULASZKA: Did you post on the
18 Freedom site?

19 MR. STEACY: I don't recall.

20 MS KULASZKA: Did Sandy Kozac (ph)
21 have any accounts on Stormfront?

22 MR. STEACY: I don't know.

23 MS KULASZKA: Did Richard Warman?

24 MR. STEACY: I don't know.

25 MS KULASZKA: Did Richard Warman know

1 that you had signed up an account on the Freedom site?

2 MR. STEACY: I don't know.

3 MS KULASZKA: Did you talk to him
4 about his complaint?

5 MR. STEACY: I don't recall that I
6 did.

7 MS KULASZKA: Where else did you sign
8 up on message boards?

9 MR. STEACY: Stormfront, Vanguard
10 News Network, BC White Pride, Freedom Site, Free
11 Dominion, Recom.net, AOL.

12 THE CHAIRPERSON: Slow down, slow
13 down. BC White Pride, after that...?

14 MS BLIGHT: Freedom Site, Free
15 Dominion, Recom.net.

16 MR. STEACY: Recom and then AOL.

17 THE CHAIRPERSON: Recom Network and
18 AOL?

19 MR. STEACY: I think it was Recom --
20 I don't remember the exact address, but I think it was
21 recom.net, I don't remember the exact address.

22 THE CHAIRPERSON: Okay. And AOL?

23 MR. STEACY: And AOL.

24 MS KULASZKA: Can you tell us what
25 name you used for each one of those. Perhaps we can

1 just go through them.

2 VNN...?

3 MR. STEACY: Vanguard News Network.

4 All of them were jadewarr.

5 MS KULASZKA: @yahoo.ca?

6 MR. STEACY: Yes.

7 MS KULASZKA: Did you post on any of
8 those accounts?

9 MR. STEACY: Yes.

10 MS KULASZKA: Where?

11 MR. STEACY: BC White Pride and
12 Stormfront.

13 MS KULASZKA: And what did you post
14 on BC White Pride?

15 MR. STEACY: When or what?

16 MS KULASZKA: What?

17 MS BLIGHT: Mr. Chairman, I think out
18 of prudence because there may be other cases involved
19 that the witness could be directed to provide a general
20 answer initially, at least initially.

21 THE CHAIRPERSON: Okay. Just so you
22 know, BC White Pride, the decision's out, I signed it,
23 so that's done.

24 But go ahead, so --

25 MS KULASZKA: What did you post on BC

1 White Pride?

2 MR. STEACY: I posted a conversation
3 that I had with -- at the time I would assume they were
4 two different individuals who were part of BC White
5 Pride and I had interaction with them.

6 MS KULASZKA: For what purpose?

7 MR. STEACY: Trying to find a mailing
8 address and find out who they were.

9 MS KULASZKA: And you were the
10 investigator on the case?

11 MR. STEACY: Yes, I was.

12 MS KULASZKA: Did you post on
13 Canadian Heritage Alliance message board?

14 MR. STEACY: I don't believe so.

15 MS KULASZKA: Who was aware at the
16 Commission that you were making -- or signing up to
17 these message boards?

18 MR. STEACY: My manager.

19 MS KULASZKA: And who's that?

20 MR. STEACY: John Chamberlain (ph)
21 (ph).

22 MS KULASZKA: And --

23 MR. STEACY: And before that the
24 director Sherry Elgeson (ph).

25 MS KULASZKA: And were you directed

1 that this was something you could do as an
2 investigator?

3 MR. STEACY: I wasn't directed not
4 to.

5 MS KULASZKA: But who suggested it?

6 MR. STEACY: I did.

7 MS KULASZKA: So, this was your idea
8 that this might be a strategy to sign up to the message
9 boards and using pseudonyms and use this as a
10 technique; is that correct?

11 MR. STEACY: Yes.

12 MS KULASZKA: And did Richard Warman
13 support that?

14 MR. STEACY: I don't know. You'd
15 have to ask him.

16 MS KULASZKA: Well, did you have
17 discussions?

18 MR. STEACY: No. What I did as an
19 investigator, as an investigator in investigating I did
20 not at any time ever consult with Mr. Warman.

21 MS KULASZKA: Did Richard Warman know
22 that you were jadewarr?

23 MR. STEACY: Yes.

24 MS KULASZKA: When did he find out?

25 MR. STEACY: I'm not sure the exact

1 date, but he was aware. It would have been, to the
2 best of my recollection, it would have been before the
3 Beaumont Tribunal hearing.

4 MS KULASZKA: So, he would probably
5 know quite early that you were jadewarr or warr?

6 MR. STEACY: I don't know if I would
7 say quite early, but he was aware that the Commission
8 had an account with the pseudonym of jadewarr.

9 MS KULASZKA: And he knew that was
10 you?

11 MR. STEACY: Wasn't specifically just
12 me.

13 MS KULASZKA: Oh. So, somebody else
14 could use this account?

15 MR. STEACY: Yes. I already said
16 that.

17 MS KULASZKA: Hmm. So, how many
18 people -- let me put it this way so I understand how it
19 works. You set up an e-mail, would there be a password
20 to that e-mail so various people could use it?

21 MR. STEACY: Yes.

22 MS KULASZKA: And how many people
23 used that e-mail?

24 MR. STEACY: I don't know. I didn't
25 control it. I let the investigators that needed to

1 know know what was there. I mean, they're -- I'm not
2 their manager or their supervisor and they have
3 responsibilities to investigate. I didn't stand over
4 their shoulders to see what they did.

5 MS KULASZKA: So, this e-mail didn't
6 really belong to you, it belonged to the Commission?

7 MR. STEACY: That's correct.

8 MS KULASZKA: And various people
9 could use that?

10 MR. STEACY: That's correct.

11 MS KULASZKA: Now, to use that
12 e-mail, could -- say somebody at the Commission,
13 another investigator used that e-mail, could they go to
14 another message board and sign on using a different
15 name, but using that e-mail?

16 MR. STEACY: I guess.

17 MS KULASZKA: So, the e-mail would be
18 but the moniker that they might sign up with might be
19 quite different?

20 MR. STEACY: Yes.

21 MS KULASZKA: What was the password?

22 MS BLIGHT: Mr. Chairman, you know,
23 I'm loathe to interfere, but I don't understand what
24 the relevance of that password is.

25 THE CHAIRPERSON: I don't know what

1 the relevance of the password is either, but I don't
2 know if this will get us anywhere.

3 MS KULASZKA: Did your assistant know
4 what the password was?

5 MR. STEACY: Everybody that knew what
6 the account knew what that password was.

7 MS KULASZKA: And how many people
8 would know about that account?

9 MR. STEACY: Presently there would be
10 four.

11 MS KULASZKA: And who are they?

12 MR. STEACY: My assistant, John
13 Chamberlain (ph) (ph) the manager and Sandy Kozac (ph).

14 MS KULASZKA: Do you know whether
15 Sandy Kozac (ph) has used that password or that --

16 MR. STEACY: I don't know.

17 MS KULASZKA: You don't know. Is
18 anybody accountable, do they report to someone about
19 how they're using this password and where they're
20 posting?

21 MR. STEACY: It would be in the files
22 that we're investigating and the manager would be aware
23 of what was going on because we report to him and he
24 knows what, in general terms, he knows what's going on
25 in our cases.

1 MS KULASZKA: So, it would be John
2 Chamberlain (ph) (ph) and he'd be the central person
3 who would have control over who is using the password
4 and how they're using it?

5 MR. STEACY: I wouldn't characterize
6 it that he would have control over it. As an
7 investigator, I have the ability to investigate and I'm
8 given a certain amount of latitude within the
9 investigation to do what I have to do.

10 MS KULASZKA: So, it's not like you
11 had to report every time you posted something using it?

12 MR. STEACY: No.

13 MS KULASZKA: Did Warman have the
14 password?

15 MR. STEACY: No. At least I didn't
16 give it to him.

17 MS KULASZKA: Yes. I was just going
18 to say, maybe you didn't give it to him but he might
19 have had it. You don't know really.

20 MR. STEACY: I don't know.

21 MS KULASZKA: Okay. Since the
22 Beaumont case has come up we'll just go to that right
23 now.

24 If we look at the binder I just
25 handed out. I've got -- it's at tab 6.

1 MS BLIGHT: Just a moment.

2 THE CHAIRPERSON: That's R-22, tab 6.

3 MS KULASZKA: And what I produced at
4 tab 6, Mr. Steacy, is just a kind of selection of pages
5 from the transcript of the case of Warman vs. Jessica
6 Beaumont.

7 MR. STEACY: Okay.

8 MS KULASZKA: And what happened
9 there, Mr. Warman was the person who gave testimony and
10 on the first page that is reproduced there, it's page
11 66, and Mr. Vigna says:

12 "The materials that we'll be
13 looking to later in the
14 documents before we go to each
15 one, can you tell us if these
16 are documents you actually
17 printed yourself from where and
18 tell us generally the process
19 you undertook and then we will
20 go into the specifics.

21 MR. WARMAN: Yes. As I
22 explained, essentially what
23 happened is these are materials
24 that I saw on the Internet
25 myself, printed off and then

1 provided copies to the Canadian
2 Human Rights Commission further
3 to my complaint against Ms
4 Beaumont." (As read)

5 MS KULASZKA: And that set the stage.
6 If you just go over a few pages,
7 we'll go to page 123 at the top and Mr. Vigna goes
8 to -- he's jumping to tab 17 and he asks Mr. Warman:

9 "Do you recognize the document?"
10 (As read)

11 MS KULASZKA: Mr. Warman says:
12 "Sorry, Mr. Chair, if I may,
13 there's another copy of this
14 document that I will be able to
15 identify and pages 2 and 3 of
16 that are about to come up in
17 another exhibit, so I just think
18 there's a bit of -- if we could
19 just skip to tab 19 I think is
20 the next one." (As read)

21 MS KULASZKA: And Mr. Vigna says:
22 "Okay.
23 We'll go to tab 19 and we'll
24 have a clear copy of that which
25 I will provide the Registry

1 MS KULASZKA: And then the testimony
2 goes on, we'll turn to the next page.

3 THE CHAIRPERSON: What number?

4 MS KULASZKA: 226. And there starts
5 to be a discussion about this page that there seemed to
6 be two different kinds of pages.

7 Mr. Warman -- well, the Chairperson
8 brings up the fact that there seems to be a slight
9 discrepancy.

10 "MR. WARMAN: I have no idea,
11 this isn't my copy. In the copy
12 that I will provide it will be
13 clear.

14 MR. VIGNA: We will reserve, Mr.
15 Chair, the right to bring it in
16 tomorrow.

17 MR. WARMAN: You can tell
18 because all the information is
19 the same, the join date,
20 location, Coquitlam, et cetera,
21 it is posting to their
22 Totenkopf..." (As read)

23 MS KULASZKA: And then they go on.

24 The next day comes, the next day is
25 December 12th, 2006 and the corrected copies are

1 produced, and this is tab 17, it's a poem. The content
2 and the layout appear to be different.

3 "THE CHAIRPERSON: I do see that
4 the content is similar, it's got
5 the poem in it but how come the
6 layout is different as Mr. Vigna
7 has indicated?

8 MR. WARMAN: Sure, I will
9 happily explain. The first one
10 is a Commission document, the
11 second one is a document that
12 was printed off in my presence
13 on Friday.

14 THE CHAIRPERSON: So, the second
15 document was available on the
16 Internet and printed off?

17 MR. WARMAN: Yes, on Friday.

18 THE CHAIRPERSON: On Friday.

19 MR. WARMAN: So, if it's more
20 appropriate we can withdraw the
21 first one and simply tender the
22 second one." (As read)

23 MS KULASZKA: There's a discussion,
24 maybe they should keep both and they talk again about
25 the date. This is at the bottom of page 241.

1 "THE CHAIRPERSON: Now, you have
2 the second document and this one
3 has been, according to you,
4 printed out. Is there any
5 indication that you printed it
6 out -- you said yesterday?
7 MR. WARMAN: Friday.
8 THE CHAIRPERSON: You said
9 Friday.
10 MR. WARMAN: Yes. There is no
11 date on it but I can testify
12 that it was printed off on
13 Friday.
14 THE CHAIRPERSON: It does refer
15 to a radio broadcast at the top,
16 Friday, December 8th.
17 MR. WARMAN: Yes.
18 MR. VIGNA: We can keep both,
19 Mr. Chair.
20 THE CHAIRPERSON: I think it
21 might be better for the purposes
22 of the record to keep both. So,
23 last Friday would mean December
24 8th?
25 MR. WARMAN: I believe it would

1 be December 8th.

2 REGISTRY OFFICER: So, it is the
3 8th. So, we are adding this to
4 tab 17?

5 THE CHAIRPERSON: Yes. I think
6 we should add it to tab 17."

7 (As read)

8 MS KULASZKA: Now, if we could go
9 over several pages to page 273.

10 THE CHAIRPERSON: 270...?

11 MS KULASZKA: 273 at the top, Mr.
12 Warman is examining Mr. -- or Mr. Fromm is
13 cross-examining Mr. Warman.

14 He states:

15 "Could I direct your attention
16 to tab 17.

17 THE CHAIRPERSON: Perhaps you
18 should specify which of the two
19 versions.

20 MR. FROMM: Yes. To the one we
21 were given yesterday, one of
22 three, where it says across the
23 top Welcome jadewarr. Do you
24 see that, Mr. Warman?

25 MR. WARMAN: I do.

1 MR. FROMM: Can you explain what
2 that is, Welcome jadewarr?
3 MR. WARMAN: Appears to be a
4 name that was logged in under.
5 MR. FROMM: By whom?
6 MR. WARMAN: I'm sorry, I don't
7 know.
8 MR. FROMM: Would that not have
9 to have been by you?
10 MR. WARMAN: No, it would not.
11 THE CHAIRPERSON: Because you
12 indicated earlier that this was
13 not a copy that you had printed
14 out.
15 MR. WARMAN: That I produced
16 ,no. The second copy is the one
17 that I produced.
18 THE CHAIRPERSON: Does your name
19 appear on this one?
20 MR. WARMAN: A second copy was
21 printed off in my presence.
22 THE CHAIRPERSON: It was printed
23 off.
24 MR. FROMM: Then who is
25 jadewarr?

1 MR. WARMAN: I'm sorry, it's not
2 my document.
3 MR. FROMM: But it was produced
4 in your presence.
5 MR. WARMAN: No, the second
6 document I printed off.
7 MR. FROMM: Second document,
8 which is the clearer copy says,
9 Italy for Italians at the top,
10 you can see that. Is that the
11 one?
12 MR. WARMAN: It does, yes.
13 MR. FROMM: The other one, the
14 one which was given to us
15 yesterday which is much less
16 clear, you say it was printed
17 off in your presence?
18 MR. WARMAN: No, it was not.
19 MR. FROMM: It was not. Then
20 what's the origin of it?
21 MR. WARMAN: I don't know.
22 THE CHAIRPERSON: You don't know
23 now but you mentioned earlier
24 that it was from the Commission,
25 that's what I heard you say.

1 MR. WARMAN: It originates in
2 the broadest sense with the
3 Commission.

4 THE CHAIRPERSON: So, the
5 Commission had produced this
6 photocopy?

7 MR. WARMAN: Yes, but in terms
8 of its specific origins I have
9 no idea.

10 MR. FROMM: Is it your testimony
11 then that it's a Commission
12 document?

13 MR. WARMAN: It originates with
14 the Commission, I do not know
15 it's providence." (As read)

16 MS KULASZKA: Are you familiar with
17 that, the Beaumont situation?

18 MR. STEACY: Yes, I am.

19 MS KULASZKA: What happened there?

20 MR. STEACY: To the best of my
21 recollection, Mr. Warman and Mr. Vigna came over and
22 asked to have a certain posting printed off and went to
23 the computer and tried to find it just going on the
24 site and we weren't able to find it and when we logged
25 on under the jadewarr account, we were able to locate

1 the poem and it was printed off.

2 MS KULASZKA: And that's the document
3 that said, welcome jadewarr?

4 MR. STEACY: Yes. At the time I had
5 no idea that it was specific to the Beaumont procedure
6 that was going on.

7 MS KULASZKA: And what date was that
8 printed off?

9 MR. STEACY: I don't recall. If the
10 testimony is saying December 8th, that sounds right.

11 MS KULASZKA: It would be a Friday?

12 MR. STEACY: I don't remember what
13 December 8th, 2006 was. If it was a Friday then it was
14 a Friday. I just...

15 MS KULASZKA: Did you ever sign on
16 again to Stormfront after that?

17 MR. STEACY: Probably.

18 MS KULASZKA: Do you know for sure?

19 MR. STEACY: I don't remember off the
20 top of my head. I think I did. I don't keep track of
21 the sites that I'm looking at or going on, unless it's
22 very specific within the course of an investigation,
23 and then I can remember if I had -- I mean, you're
24 asking me to have total recall and I don't have total
25 recall.

1 MS KULASZKA: You've heard the
2 testimony Mr. Warman gave.

3 MR. STEACY: Yes, I did.

4 MS KULASZKA: Mr. Warman --

5 MS BLIGHT: Is my friend asking
6 whether the witness was present when the testimony was
7 given or whether he is --

8 MS KULASZKA: I'm sorry, I'm
9 referring to the reading of the transcript.

10 THE CHAIRPERSON: The Chairperson --

11 MS BLIGHT: I'd like that to be --

12 THE CHAIRPERSON: The Chairperson in
13 this case was me, so I know for a fact Mr. Steacy
14 wasn't there.

15 MS KULASZKA: So, Mr. Warman was, in
16 fact, present when you signed on to the jadewarr
17 account and printed off the document?

18 MR. STEACY: Yes, he did.

19 MS BLIGHT: Mr. Chairman, I'd just
20 like, just so there's no confusion, the document that
21 had been allegedly printed off has not been read to the
22 witness and the witness has not identified which
23 particular document, so I just make that point.

24 THE CHAIRPERSON: Right. There's an
25 allusion in the evidence that I heard at the time from

1 Mr. Warman of that document that we were looking at at
2 that time which I certainly recall, having done that
3 case, having been printed off at the Commission.

4 But your point is there may have been
5 another document; right? Okay.

6 MS KULASZKA: Do you know who printed
7 off the other document, the one that allegedly was not
8 clear?

9 MR. STEACY: No.

10 MS KULASZKA: Okay, we might come
11 back to that after. What I'd like to -- I'd like to go
12 to a matter of a website called Free Dominion.

13 If you recall your previous
14 testimony, you stated that monitoring of websites or
15 message boards was complaint driven. Do you remember
16 that?

17 MR. STEACY: Yes, I do.

18 MS KULASZKA: That you would not view
19 or monitor a website unless a complaint had been made.
20 Is that true?

21 MR. STEACY: When I testified that
22 last time, yes, that was true.

23 MS KULASZKA: I want to take you to
24 tab 2 of the binder that's been handed up today and on
25 the first page is the viewing profile of jadewarr and

1 it says that jadewarr joined April 5th, 2006.

2 Would that be you?

3 MR. STEACY: I would assume so, yes.

4 MS KULASZKA: You did sign on to Free
5 Dominion you said?

6 MR. STEACY: Yes.

7 MS KULASZKA: And what is Free
8 Dominion, just for the Tribunal?

9 MR. STEACY: It's a website.

10 MS KULASZKA: It's a message board;
11 isn't that more accurate? It's a very large message
12 board.

13 MR. STEACY: Well, I would call a
14 message board, it comes under the domain of -- you have
15 to have a website to have a message board.

16 MS KULASZKA: That's right.

17 MR. STEACY: It's web space.

18 MS KULASZKA: And what kind of topics
19 does it deal with?

20 MR. STEACY: A variety of different
21 topics.

22 MS KULASZKA: Would you classify it
23 to be like Stormfront?

24 MR. STEACY: There's topic matter in
25 there that is similar to Stormfront, yes.

1 MS KULASZKA: Now, when you joined
2 was there a complaint against Free Dominion?

3 MR. STEACY: Yes, there was.

4 MS KULASZKA: By who?

5 MR. STEACY: That complaint's since
6 been withdrawn.

7 MS KULASZKA: Are you referring to a
8 complaint by Marie Lynne Gentiles?

9 MR. STEACY: Yes.

10 MS KULASZKA: Now, if you turn to
11 page 2 of that tab, there is a summary of complaint.
12 This is in the matter of Marie Lynne Gentiles, the
13 complainant, the respondent is Free Dominion, the date
14 the complaint was received is given as September 29th,
15 2006. The date of the alleged conduct is April 19th,
16 2006. And it's under section 13 of the Canadian Human
17 Rights Act.

18 Does that sound correct?

19 MR. STEACY: Yeah.

20 MS KULASZKA: Were you the
21 investigator?

22 MR. STEACY: No.

23 MS KULASZKA: Who was the
24 investigator?

25 MR. STEACY: I don't know.

1 MS KULASZKA: You'll notice that the
2 complaint was received in September of 2006, but you
3 joined in April of 2006, so why did you join?

4 MR. STEACY: Because we were having
5 difficulty trying to determine who was exactly running
6 the website and finding a mailing address.

7 MS KULASZKA: So, obviously the date
8 of the complaint is September, but you had been
9 contacted much earlier about a possible complaint.

10 MR. STEACY: That's correct.

11 MS KULASZKA: When were you
12 contacted?

13 MR. STEACY: I don't recall the exact
14 date that we had the initial contact.

15 MS KULASZKA: But it would be before
16 April, 2006?

17 MR. STEACY: Yes.

18 MS KULASZKA: And who were you
19 contacted by?

20 MR. STEACY: The complainant.

21 MS KULASZKA: Marie Lynne Gentiles?

22 MR. STEACY: Yes.

23 MS KULASZKA: And do you know her
24 personally?

25 MR. STEACY: No, I have never had any

1 contact with her.

2 MS KULASZKA: Did Mr. Warman know
3 her?

4 MR. STEACY: I don't know.

5 MS KULASZKA: Did he have anything to
6 do with this file; do you know?

7 MR. STEACY: At the initial intake
8 stage, yes, I had some -- I did some work on it.

9 MS KULASZKA: You did?

10 MR. STEACY: Yes, with the intake
11 officer because there was some formatting problems with
12 it and there were some other issues within section 40
13 of our Act, so I helped the intake officer with the
14 complainant.

15 MS BLIGHT: Mr. Chairman, in fairness
16 to the witness, I think he may not have heard the
17 question.

18 THE CHAIRPERSON: Yeah, that's what
19 I'm wondering. I'm going to ask. The question was
20 whether you had worked on the file with Mr. Warman; was
21 that the question, Ms Kulaszka?

22 MS KULASZKA: Yes.

23 MR. STEACY: No. I didn't work on
24 any file with Mr. Warman.

25 MS KULASZKA: So, how did you receive

1 this complaint? I just don't understand. I thought a
2 complaint is received and then you investigate?

3 Was there just an informal letter?

4 MR. STEACY: Complaints are received
5 in many different forms, they can start from a letter,
6 to a phone call and through our process we would send
7 out a kit to a complainant asking them to fill out the
8 kit and in that there's instructions on what they have
9 to do to file a complaint and often complainants don't
10 follow the instructions, or they misunderstand the
11 instructions and then the intake officer has to go
12 through the complaint with the complainant, at the time
13 the potential complainant and try and make sure that
14 the complaint is in a proper format that's acceptable
15 to the Commission.

16 And my recollection is that when the
17 initial complaint came in from Ms Gentiles that there
18 were issues with the length and the formatting and such
19 as that and I helped the intake officer get those
20 straightened out and so that she could file her
21 complaint, Ms Gentiles being she.

22 MS KULASZKA: Okay. If you noticed,
23 you joined, the profile shows that you joined on April
24 5th of 2006, but when the complaint -- the complaint
25 summary is written up, it talks about April 19th, 2006

1 and ongoing, so you'll notice that's two weeks after
2 you signed up.

3 Do you see what I mean?

4 MR. STEACY: Well, the information
5 could have come in pre hence to this and then that
6 was -- I don't know why there's a difference in the
7 date.

8 MS KULASZKA: Well, what was the
9 subject of that complaint? Wasn't it a posting by a
10 man named Bill Wutcotte (ph) and it was about Muslims
11 or homosexuals; what was it about?

12 MR. STEACY: I don't recall.

13 MS KULASZKA: You recall it was a
14 posting by Bill Wutcotte (ph)?

15 MR. STEACY: I vaguely recall about
16 the specifics of the complaint. There was something to
17 do with Mr. Wutcotte (ph) and take back Canada and
18 something that was being dropped in people's mailboxes,
19 but I don't -- I don't recall the specifics of that
20 complaint.

21 MS KULASZKA: And do you realize that
22 that is the day that Bill Wutcotte (ph) posted was
23 April 19th, 2006?

24 MR. STEACY: If you say so.

25 MS KULASZKA: Then can you explain

1 how you were on the website two weeks before that?

2 MR. STEACY: Because Ms Gentiles
3 probably contacted the Commission before that wanting
4 to file about other information.

5 There possibly could have been
6 another complaint in the system or another individual
7 that was wanting to file a complaint about that site.

8 MS KULASZKA: Do you know for sure?

9 MR. STEACY: My recollection is that
10 there were other complaints, other individuals had made
11 inquiries about that site as well.

12 MS KULASZKA: Perhaps at lunch you
13 could just have a look at that file, would that be too
14 much to ask? It's probably not a big file because, as
15 I understand, Ms Gentiles did withdraw the complaint.

16 MR. STEACY: I don't know what's on
17 the file or where it is. There's a good chance that
18 it's not at the Commission. I mean, if it's been
19 withdrawn, it's probably at archives.

20 MS KULASZKA: And when was it
21 withdrawn?

22 MR. STEACY: I don't know.

23 MS KULASZKA: When was the last time
24 you visited Free Dominion?

25 MR. STEACY: I don't recall.

1 MS KULASZKA: If you look at the last
2 page of that tab there is a document from Free Dominion
3 about members and it gives join dates and the last
4 time visited, it says, January 18th, 2008.

5 Do you recall visiting Free
6 Dominion --

7 MR. STEACY: Yes, I do.

8 MS KULASZKA: And what were you doing
9 there?

10 MR. STEACY: I'd been made aware that
11 there was a specific posting on Free Dominion
12 concerning jadewarr.

13 MS KULASZKA: And you wanted to look
14 at it?

15 MR. STEACY: Yeah.

16 MS KULASZKA: And who made you aware
17 of that posting?

18 MR. STEACY: I don't recall.

19 MS KULASZKA: Was that posting
20 discussed at the Commission?

21 MR. STEACY: I would assume that it
22 was amongst the anti-hate team.

23 MS KULASZKA: Are you aware of any
24 other people who have joined up with Free Dominion?

25 MR. STEACY: No.

1 MS KULASZKA: Do you know that for
2 certain?

3 MR. STEACY: I don't go ask people
4 what they do on their own time. I've not asked any
5 investigator if they've joined Free Dominion.

6 MS KULASZKA: Would you know any
7 poster that uses the moniker cleanteeth?

8 MR. STEACY: I have no idea who that
9 is.

10 MS KULASZKA: Or clinks?

11 MR. STEACY: No idea who that is.

12 MS KULASZKA: Or victoriacalendar?

13 MR. STEACY: No idea who that is.

14 MS KULASZKA: Are there other e-mails
15 used at the Commission, the same way that the yahoo.ca
16 account is used with jadewarr?

17 MR. STEACY: Odensrevenge.

18 MS KULASZKA: Odensrevenge. That's
19 it?

20 MR. STEACY: That's it.

21 MS KULASZKA: To your knowledge?

22 MR. STEACY: To my knowledge, yes.

23 MS KULASZKA: I'm going to turn now
24 to the Fendrison (ph) post, I think we had talked about
25 the Fendrison post last time.

1 So, just to review, two complaints
2 were brought to the Commission, one complaint was by
3 Andrew Gill and it was against Alan Dutton and various
4 people from the CARES website and you were the
5 investigator; is that right?

6 MR. STEACY: That's correct.

7 MS KULASZKA: The other complaint was
8 by Alex Kulbashian against Richard Warman and the
9 investigator was Sandy Kozac (ph) ; that's right?

10 MR. STEACY: That's correct.

11 MS KULASZKA: Now, we can -- we may
12 as well look at those complaints, they are in the
13 Fromm, R-3 binder and they are found at tab 3 -- sorry,
14 tab 4 and tab -- tab 3 and tab 4.

15 Tab 3 is the Gill complaint that you
16 were on, tab 4 is the complaint by Mr. Kulbashian
17 against Mr. Warman.

18 THE CHAIRPERSON: Just a second,
19 please. If I can find the binder being...

20 MS BLIGHT: Tab 3 and 4?

21 MS KULASZKA: Yes, so they are tab 3
22 and tab 4.

23 Now, you wrote up a report on this
24 which is found -- I'll just give you the page -- it's
25 unfortunately there's no page numbers here.

1 THE CHAIRPERSON: Right.

2 MS KULASZKA: But flip in through Ms
3 Blight can do that for you, it's the 40---41 analysis
4 report which you filed October 17th, 2006.

5 MS BLIGHT: Behind 3 or 4?

6 MS KULASZKA: It's behind -- it's at
7 3, tab 3.

8 THE CHAIRPERSON: So, do you mean the
9 investigation report, Ms Kulaszka?

10 MS KULASZKA: Yes.

11 THE CHAIRPERSON: At the top right
12 corner there are page numbers; aren't there?

13 MS KULASZKA: Yes, but I was looking
14 to see, just to get to that page. Once you're in it,
15 yes, there are page numbers.

16 MS BLIGHT: Can you tell me what page
17 you're looking at?

18 MS KULASZKA: Yeah, that's it.

19 THE CHAIRPERSON: So, it's the cover
20 sheet which would be page 1 of the Commission
21 investigation -- well, it's under investigation,
22 section 40---41 analysis report.

23 MS BLIGHT: Section 40---41.

24 MS KULASZKA: And your recommendation
25 was that the Commission not deal with the complaint

1 because the complaint is trivial, frivolous, vexatious
2 and/or made in bad faith and the matter has been
3 redressed.

4 And that complaint was about postings
5 made on the CARES website, on their message board; is
6 that right?

7 MR. STEACY: That's correct.

8 MS KULASZKA: And in paragraph 14 of
9 your report you stated:

10 "As stated above, the main goal
11 of CARES website
12 recomnetwork.org is to educate
13 the general public about racism.
14 In pursuing this goal, CARES
15 stated that its website,
16 recomnetwork.org has become the
17 object of hate mongers who are
18 intent on trying to embarrass
19 and harass it by posting hate
20 messages on its bulletin board."

21 (As read)

22 MS KULASZKA: And that was one of
23 their defences; wasn't it?

24 MR. STEACY: That was their defence,
25 yes.

1 THE CHAIRPERSON: Sorry, you just
2 read from what paragraph?

3 MS KULASZKA: Paragraph 14.

4 THE CHAIRPERSON: 14.

5 MS KULASZKA: So, you're very well
6 aware that in the world of these message boards and
7 bulletin boards, it can be a very dog-eat-dog world and
8 people are making posts on each other's bulletin
9 boards; isn't that true, to try to get them into
10 trouble?

11 MR. STEACY: Yes.

12 MS KULASZKA: And that was what CARES
13 alleged, it was -- did you deal with Alan Dutton?

14 MR. STEACY: Sorry?

15 MS KULASZKA: You dealt with Alan
16 Dutton?

17 MR. STEACY: Yes, I did and their
18 legal representative.

19 MS KULASZKA: So, you're well aware
20 of what is going on in these message boards?

21 MR. STEACY: Yes, I am.

22 MS KULASZKA: Now, in your report you
23 mention the Fenrison (ph) posting and you do that at
24 paragraph 7 which is on page 2 of your report.

25 "CARES states that this kind of

1 vexatious complaint "is a device
2 which has received explicit
3 recognition in neo-Nazi circles.
4 It provided the following
5 posting from Stormfront.org, a
6 well-known white supremacist
7 website..." (As read)

8 MS KULASZKA: And then you provide
9 the url, I won't read it.

10 "...posted by user "Fendrison
11 (ph)"." (As read)

12 MS KULASZKA: And the Fenrison (ph)
13 posting, I'll just state it for the record:

14 "For the rest of us, we can use
15 the CHRC to our advantage as it
16 costs no more than the price of
17 an envelope you can file a claim
18 against someone without fear of
19 real retaliation as you are
20 protected by the CHRC from such.
21 Should someone come after our
22 own, say or do something that
23 even remotely contravenes the
24 rules of the Commission, they
25 may find they are suddenly

1 swamped with dozens of claims
2 against them. If nothing else
3 it bogs down an already stressed
4 system designed to destroy us,
5 all for the price of a letter."

6 (As read)

7 MS KULASZKA: And so, although you
8 mention that, you didn't seem to mention that in your
9 conclusions. Did you rely on that? I don't think you
10 did in your conclusions. You mention it in that
11 paragraph, you don't mention it again, I don't think
12 I'm --

13 MR. STEACY: That was part of the
14 position that CARES put forward.

15 MS KULASZKA: And in making your
16 conclusions, did you rely on the Fenrison (ph) posting?

17 MR. STEACY: I don't believe that I
18 did.

19 MS KULASZKA: We're just going to get
20 some dates here of chronology. This complaint was laid
21 by Andrew Gill I believe on January 30th, 2006; is that
22 right?

23 MR. STEACY: The date that he filed
24 the complaint would be on the cover sheet of the
25 section 40---41.

1 THE CHAIRPERSON: It says date
2 accepted April 7th, 2006.

3 MS BLIGHT: April 7th?

4 THE CHAIRPERSON: 2006. Is the
5 question when the complaint started?

6 MS KULASZKA: Okay, that's fine.
7 Okay, April 7th, 2006. That's fine.

8 And you wrote your report, making
9 your recommendations on October 17th, 2006. Is that
10 right?

11 MR. STEACY: I'll have to --

12 MS BLIGHT: If that's what the
13 document says...

14 MS KULASZKA: Yes, that's what it
15 says.

16 THE CHAIRPERSON: That's fair.

17 MS KULASZKA: Okay. Who was it from
18 CARES who gave you a copy of the Fenrison (ph) post?

19 MR. STEACY: I don't recall. I
20 believe it would have been the legal representative for
21 CARES. It could have been Alan Dutton.

22 MS KULASZKA: And, in fact, the same
23 post was given to Sandy Kozac (ph) ?

24 MR. STEACY: I believe so.

25 MS KULASZKA: And she was investing

1 the complaint against Mr. Warman.

2 MR. STEACY: Yes.

3 MS KULASZKA: Do you know who gave
4 her a copy of that post?

5 MR. STEACY: No idea.

6 MS KULASZKA: But you and Ms Kozac
7 (ph) discussed that post; didn't you?

8 MR. STEACY: How do you mean
9 discussed it? I mean, we talked about our files, yes,
10 but I didn't -- we didn't discuss the post, anything
11 more than as a matter of providing each other with the
12 information.

13 MS KULASZKA: Yes. I just got the
14 impression from your previous testimony that you had
15 discussed it with someone. Your testimony is at tab 7
16 in the binder I handed out today.

17 MS BLIGHT: Just a moment, please.

18 MS KULASZKA: So, go to tab 7 of the
19 new binder and it's page 4774, just flip through until
20 you find 4774. This is when there was a discussion
21 about the Fenrison (ph) post.

22 And let's go over to the next page at
23 the bottom.

24 MS BLIGHT: I think we need to be
25 reading this to the witness.

1 MS KULASZKA: Yes, I'll start over on
2 the next page, page 4777 at the bottom, starting at
3 line 22.

4 "MS KULASZKA: Do you know who
5 Mr. Fenrison (ph) is?

6 MR. STEACY: I have an idea of
7 who he is." (As read)

8 MS KULASZKA: Continuing on to the
9 next page, 4778:

10 "MR. VIGNA: Mr. Chair, I object
11 to speculation on matters that
12 Mr. Steacy doesn't know anything
13 about.

14 THE CHAIRPERSON: He just said
15 that he has an idea of who it
16 is. Perhaps he knows.

17 MR. STEACY: In stating that I
18 have an idea of who he is, I
19 haven't gone into any great
20 detail to track down who
21 specifically to make sure that
22 what I found -- I haven't
23 verified it. So, for me to say
24 that it is specifically an
25 individual, I can't do that

1 because I haven't verified it.

2 THE CHAIRPERSON: So, your
3 concern is that you would be --

4 MR. STEACY: Saying that I know
5 who it is when it isn't that
6 person because I haven't taken
7 the steps to determine if it is
8 that individual." (As read)

9 MR. STEACY: That's correct.

10 MS KULASZKA: And what steps did you
11 take to determine who Fenrison (ph) was?

12 MR. STEACY: I did some research on
13 the net and looked at some documents and tried to
14 determine who Fenrison (ph) was.

15 MS KULASZKA: Okay. In fact, you had
16 private e-mail messages with Fenrison (ph) on
17 Stormfront; did you not?

18 MR. STEACY: I interacted with him.
19 I don't recall if it was posts -- postings that
20 everybody could see or if it was done as a private
21 message, I don't remember.

22 MS KULASZKA: Okay. Let's go to tab
23 17 of R-17. I'm sorry, it's tab 18. Tab 18 of R-17.

24 THE CHAIRPERSON: R-17.

25 MS KULASZKA: If you go to page 12

1 you'll see that number on the bottom on the right-hand
2 side written in.

3 This is a private -- are we there?
4 This is a private message from jadewarr, it's headed
5 Canadian Human Rights Commission, and then the message
6 states:

7 "Hi. I read your comments
8 concerning bogging down the CHRC
9 with interest. I'm not exactly
10 sure how one goes about that
11 without identifying themselves.
12 It appears from reading the
13 threads that people like Terry,
14 when found out, lost their jobs.
15 I don't want to lose mine. Any
16 thoughts on this?" (As read)

17 MS KULASZKA: Did you write that?

18 MR. STEACY: Yes, I did.

19 MS KULASZKA: And why did you do
20 that?

21 MR. STEACY: I was trying to find out
22 who Fenrison (ph) was.

23 MS KULASZKA: And you suspected in
24 fact it was Alan Dutton?

25 MR. STEACY: No, I didn't.

1 MS KULASZKA: You thought it was one
2 of the respondents.

3 MR. STEACY: Yes -- no, I thought it
4 was one of the complainants.

5 MS KULASZKA: Let's go back to the
6 transcript then.

7 We'll go to -- we're back again at
8 tab 7, we'll go to page 4828.

9 THE CHAIRPERSON: Tab 7 of R-22?

10 MS KULASZKA: That's right.

11 MS BLIGHT: Which tab again, please?

12 MS KULASZKA: Tab 7.

13 MS BLIGHT: And page...?

14 THE CHAIRPERSON: 4828.

15 MS KULASZKA: 4828.

16 I'll start reading about line 14:

17 "MS KULASZKA: You stated that
18 you thought you knew who
19 Fenrison (ph) was, so, you have
20 been investigating who Fenrison
21 (ph) is.

22 MR. STEACY: I didn't
23 investigate Fenrison (ph)
24 specifically in the context of
25 those postings or any other

1 postings.

2 MS KULASZKA: Then how do you
3 know who he is?

4 MR. STEACY: Because when we got
5 the first posting we were able
6 to determine who we thought it
7 was from the posting." (As
8 read)

9 MS KULASZKA: And so I ask at this
10 point, who is we?

11 MR. STEACY: Myself and my assistant.

12 MS KULASZKA: Okay. And then we'll
13 continue on to the next page and then we'll go over to
14 page 4842 at the bottom at 19 and you're being
15 questioned at this point by Mr. Fromm.

16 MS BLIGHT: 48...?

17 THE CHAIRPERSON: 42. It was just
18 the next sheet.

19 MS BLIGHT: Okay.

20 MS KULASZKA: Mr. Fromm says:

21 "I putting two possibilities.
22 From what you believe was, the
23 character Fenrison (ph) a white
24 nationalist or somebody who
25 might be considered an

1 anti-racist?

2 THE CHAIRPERSON: That's fine.

3 I don't quite know what the
4 relevance would be in the big
5 picture but I will allow it.

6 MR. STEACY: I didn't go that
7 far in making an assumption
8 about his character. I was more
9 interested in (a) trying to
10 determine in the context of an
11 investigation at the time to try
12 to find out, to the extent that
13 I could, who he was and, more
14 potentially, to determine if he
15 was one of the respondents at
16 the time." (As read)

17 MS KULASZKA: You actually said
18 respondents, you didn't say complainants. The
19 respondents of course were Alan Dutton and various
20 people from CARES.

21 MR. STEACY: Well, I apologize
22 because at the time I was -- I met the complaint, I met
23 Mr. Gill and/or Mr. Lemire and/or Mr. Kulbashian and/or
24 Mr. Fromm and/or potentially anybody that had been
25 submitting a lot of different documents to us and

1 respondent is often a term that gets used and because
2 these complaints are now being back and forth between
3 everybody, I misspoke there.

4 MS KULASZKA: Did it ever occur to
5 you that Alan Dutton might have done that post?

6 MR. STEACY: At the time, no.

7 MS KULASZKA: Because it certainly
8 worked to help get rid of some complaints; didn't it?

9 MR. STEACY: What Fenrison (ph) wrote
10 on those postings, at least for my complaint that I
11 investigated in section 41, it had -- it didn't have an
12 ultimate bearing on the recommendation that I made.

13 MS KULASZKA: But it did with Sandy
14 Kozac (ph) ?

15 MR. STEACY: You'd have to ask Ms
16 Kozac (ph) . I don't know.

17 MS KULASZKA: Well, her complaint
18 will speak for itself.

19 So, your investigation, you contact
20 Fenrison (ph) with a view to finding out who it was; is
21 that it?

22 MR. STEACY: Yes.

23 MS KULASZKA: Okay. We'll go back to
24 your postings to Fenrison (ph), that was tab 18 at page
25 12 and we'll go on to page 13.

1 And Fenrison (ph) replies to you on
2 July 10th, 2006.

3 MS BLIGHT: Just a moment, please.

4 MS KULASZKA: It'S page 13.

5 MS BLIGHT: Tab...?

6 MS KULASZKA: 18.

7 MS BLIGHT: 18 of Exhibit...

8 THE CHAIRPERSON: Of 17, yeah, the
9 white one.

10 MS BLIGHT: R-17.

11 MS KULASZKA: And this is a private
12 message from Fendrison (ph).

13 MS BLIGHT: Tab 18, page...?

14 MS KULASZKA: 13.

15 MS BLIGHT: Thank you.

16 MS KULASZKA: And Fenrison (ph) is
17 replying to the private message which I had just read
18 to you a few moments ago about, "I read your comments
19 about bogging down...", that one. So, he quotes it, he
20 reproduces it and he says:

21 "You will have to identify
22 yourself but not your politics.
23 If your claim is of a religious
24 nature, you may be asked your
25 faith." (As read)

1 MS KULASZKA: I don't think I need to
2 read the whole thing.

3 Do you remember that posting that he
4 sent you? He ends it by saying:

5 "The CHRC has been a weapon used
6 against us for too long. Time
7 we turned their swords back on
8 them. Good luck." (As read)

9 MR. STEACY: I remember the posting,
10 yes.

11 MS KULASZKA: Now, in your previous
12 posting you had mentioned Terry. Who is Terry?

13 MR. STEACY: I believe at that time
14 it was Terry Tremayne.

15 MS KULASZKA: And what happened to
16 Mr. Tremayne, you said he lost his job?

17 MR. STEACY: I believe that that's
18 what was in part of the posting, that he had his
19 employment terminated and I don't recall specifics.

20 MS KULASZKA: As a result of a
21 complaint laid with the Commission?

22 MR. STEACY: I believe so, but I
23 don't recall specifically.

24 MS KULASZKA: Okay. If you turn the
25 page to 15, this is a private message sent by jadewarr

1 to Fenrison (ph) and there's a quote of the previous
2 message and you write:

3 "Okay, thanks. It sounds like a
4 lot of work, so I don't think I
5 will be doing it. And after
6 reading the threads from Marc
7 Lemire, it looks like he's
8 having his own sort of problem."

9 (As read)

10 MS KULASZKA: Did you write that?

11 MR. STEACY: I believe I did.

12 MS KULASZKA: Why did you mention
13 Marc Lemire?

14 MR. STEACY: Because in other
15 postings there was postings and conversation going on
16 concerning Mr. Lemire's complaints.

17 MS KULASZKA: And Mr. Lemire was one
18 of the people you thought might have posted that -- the
19 Fendrison post?

20 MR. STEACY: Yes.

21 MS KULASZKA: Were you inviting
22 information about Marc Lemire?

23 MR. STEACY: As I said, I was trying
24 to determine who Fenrison (ph) was.

25 MS KULASZKA: Okay. If you turn the

1 page, page 17, you quote Fendrison (ph), you're sending
2 a private message to Fendrison (ph). It says:

3 "Re: Canadian Human Rights
4 Commission. Really it is no
5 more work..." (As read)

6 MS KULASZKA: And this is a quote
7 from Fendrison (ph):

8 "Really it is no more work than
9 a well-worded letter, a letter
10 that will not only tie up the
11 Canadian Human Rights Commission
12 for several months but cause the
13 accused much stress and expense
14 should they hire a lawyer to
15 represent them. It's up to
16 you." (As read)

17 MS KULASZKA: And you wrote:

18 "Have you got a copy of a letter
19 I can send?" (As read)

20 MS KULASZKA: Did you write that?

21 MR. STEACY: Yes.

22 MS KULASZKA: And did you ever get a
23 reply?

24 MR. STEACY: No. No, I didn't.

25 MS KULASZKA: Did you write the whole

1 thing, or it looks slightly different from the other
2 messages where it's clearly a quote that appears in a
3 box in italics.

4 Did you -- do you remember, did you
5 actually write the words in, "Really it is no more work
6 than...", that portion?

7 MS BLIGHT: I think we need to
8 provide a better explanation to the witness.

9 THE CHAIRPERSON: Right. I'm a
10 little confused. So, Ms Kulaszka...

11 MS KULASZKA: If you look at page...

12 MS BLIGHT: These are graphics. I'm
13 not sure the witness is in a position to comment on the
14 graphics.

15 MS KULASZKA: I'll just ask a simple
16 question.

17 THE CHAIRPERSON: Okay. Repeat your
18 question.

19 MS KULASZKA: Instead of hitting a
20 quote button, did you actually just type those words
21 in, "Really, it is no more work..."

22 THE CHAIRPERSON: Okay. So, it's the
23 previous statement that's been copied.

24 MS KULASZKA: Yeah.

25 THE CHAIRPERSON: It's re-printed.

1 MS KULASZKA: It could be.

2

3 THE CHAIRPERSON: Yeah. We see the
4 same -- the same letters are there, so how did those
5 letters get onto this private message?

6 You know what, I will ask the
7 question in the way that's being suggested just to make
8 it more obvious.

9 MS KULASZKA: Yeah. Mr. Lemire says
10 that's not true, it's not a quote from anywhere.

11 THE CHAIRPERSON: Because this is
12 evidence that I've had in this case and I've had in
13 other cases. When one sometimes quotes simply by
14 clicking on a quote and reply button on these message
15 boards, the previous message is in a different font or
16 is encased in a frame or table.

17 In this particular case, the previous
18 message's quote is in the same font as -- it's not in
19 bold face, it appears to be similar to the additional
20 phrase that's added at the bottom, which is:

21 "Have you got a copy of a letter
22 I can send?" (As read)

23 THE CHAIRPERSON: That's the question
24 you're asking, Ms Kulaszka?

25 MS KULASZKA: Mm-hmm.

1 THE CHAIRPERSON: Can you explain why
2 it doesn't look like one normally sees if it's a simple
3 quote and reply, like clicking on the quote and reply
4 button?

5 MR. STEACY: I can't answer why it's
6 different, sir. I just would have instructed my
7 assistant. She would have, you know, I dictated, she
8 typed and it would -- the normal course would have been
9 to do the normal post and reply to ensure that what had
10 been previously sent was included.

11 MS KULASZKA: Now, the posts we've
12 gone through, would that constitute the entirety of the
13 conversation you had with Fenrison (ph) privately?

14 MR. STEACY: It sounds like it.

15 MS KULASZKA: So, it wasn't
16 extensive?

17 MR. STEACY: No.

18 THE CHAIRPERSON: Ms Kulaszka, we're
19 approaching one o'clock and if this is a good point for
20 you to take a break or not.

21 MS KULASZKA: I'll just have one more
22 question about this.

23 THE CHAIRPERSON: Okay.

24 MS KULASZKA: The words:

25 "Really, it is no more work than

1 a well-worded letter, a letter
2 that will not only tie up the
3 CHRC for several months but
4 cause the accused much stress
5 and expense should they hire a
6 lawyer to represent them. It's
7 up to you." (As read)

8 MS KULASZKA: Are those your words?

9 MR. STEACY: No. I believe they were
10 already there, it was something that Fenrison (ph) had
11 previously provided and we provided.

12 MS KULASZKA: Okay, this would be a
13 good time to break.

14 THE CHAIRPERSON: Thank you.

15 So, we'll try to take a one-hour
16 break, if possible. Let's target that just to
17 ensure -- I know that some of you are from out of town,
18 you may have flights and so on, so we'll try to finish
19 in good time.

20 --- Upon recessing at 1:04 p.m.

21 --- Upon resuming at 2:12 p.m.

22 THE CHAIRPERSON: Go ahead, Ms
23 Kulaszka.

24 MS KULASZKA: I was wondering if we
25 could produce some of the tabs I've referred to today

1 in R-22, specifically tab 6, that was the Beaumont
2 transcript.

3 THE CHAIRPERSON: Well, we should be
4 producing everything. I mean, I forgot honestly to
5 follow our process.

6 What have we looked at?

7 MS KULASZKA: Tab 6, that was the
8 Beaumont transcript.

9 THE CHAIRPERSON: Okay. But there's
10 more than that, right?

11 MS KULASZKA: Tab 7 is just excerpts
12 from this case that I had read to Mr. Steacy.

13 THE CHAIRPERSON: As well.

14 MS KULASZKA: I've re-read it to him,
15 I think we should produce it.

16 THE CHAIRPERSON: Yeah. How about
17 before that?

18 MS KULASZKA: Now, tab 2 is Free
19 Dominion. I think I just want to ask Mr. Steacy a few
20 more questions about one of the documents in there.

21 THE CHAIRPERSON: All right. And
22 you'll produce it after that?

23 MS KULASZKA: And we can produce it
24 after.

25 THE CHAIRPERSON: What about -- is

1 there anything else?

2 MS KULASZKA: No, I think that's it
3 for now.

4 THE CHAIRPERSON: That's it. Okay.

5 MS KULASZKA: Okay. Mr. Steacy, if
6 you can go to R-22, tab 2, page 3 and page 3 at the top
7 it's written in there.

8 THE CHAIRPERSON: Handwritten page 3.

9 MS KULASZKA: This is a post on Free
10 Dominion, it's January 6th, 2001, it's by
11 (indiscernible)audible), by Mark Fournier, Free
12 Dominion, it's also dated January 18th, 2006, there's
13 several dates here.

14 Oh, right, joined, sorry. I've got
15 the wrong date.

16 THE CHAIRPERSON: Mm-hmm.

17 MS KULASZKA: It's posted January
18 17th, 2008.

19 THE CHAIRPERSON: The date below says
20 January 18th. You're working with the posted dates.

21 MS KULASZKA: Yeah, I'm working
22 with -- so, it's posted very late at night.

23 THE CHAIRPERSON: Hmm.

24 MS KULASZKA: And, so, it looks like
25 the author simply put the next day's date on because

1 that's when most people would be looking at it.

2 And the title is:

3 "CHRC Operative Dean Steacy is a
4 Free Dominioner. Earlier this
5 week in a Toronto Federal
6 courtroom a lawyer representing
7 the Canadian Human Rights
8 Commission surrendered the
9 Commission's position that it
10 should be able to continue to
11 self-servingly conceal
12 information behind section 37 of
13 the Canadian Evidence Act." (As
14 read)

15 MS KULASZKA: I won't read the rest
16 of it, I just want to make sure this was the post you
17 were referring to when you said you went on Free
18 Dominion, you logged in to look at that post?

19 MR. STEACY: I need to hear more of
20 the post.

21 THE CHAIRPERSON: And just to be
22 clear, Ms Kulaszka, you're referring here to his
23 earlier statement that his most recent visit to the
24 website which is at the end of this.

25 MS KULASZKA: January 18th.

1 THE CHAIRPERSON: January 18th. So,
2 you're asking him if his most recent visit was on
3 account of this particular posting?

4 MS KULASZKA: That's right. He said
5 there was a post on it, somebody had told him there was
6 a post on Free Dominion and, so, he logs in on January
7 18th at 8:55 to go look at it.

8 So, I'll read a bit more of the post.

9 THE CHAIRPERSON: Go ahead.

10 MS KULASZKA: I'm just continuing off
11 where I left.

12 "The Commission made this move
13 because they knew the judge's
14 decision would go against them
15 and they didn't want future
16 operations bound by a
17 potentially restrictive ruling.
18 This open to the public
19 testimony given in a closed CHRC
20 Tribunal by one of the
21 Commission's Operatives, Dean
22 Steacy." (As read)

23 MS KULASZKA: Part of that testimony
24 is reproduced here and there is a reproduction of
25 several questions, answers. Continuing on with the

1 post.

2 "One of the many questions
3 remaining to be answered is why
4 CHRC Operative Dean Steacy
5 register at Free Dominion using
6 his official section 13
7 complaint screen name jadewarr
8 on April 5th, 2006. View Dean
9 Steacy's Free Dominion public
10 profile (note he used the same
11 official investigative e-mail
12 address he spoke of in his
13 testimony). According to the
14 documents Connie and I were
15 served from the Canadian Human
16 Rights Commission last summer,
17 Marie Lynne Gentiles did not
18 bring Free Dominion to the
19 Commission's attention with her
20 bogus complaint against us until
21 September 29th, 2006, over five
22 months after Dean Steacy began
23 his "investigation" by
24 registering as jadewarr. It may
25 be coincidence, but the posting

StenoTran

1 that ultimately caused poor Ms
2 Gentiles such distress, happened
3 to be posted just two weeks
4 after Dean Steacy began his
5 complaint-less investigation of
6 Free Dominion by registry. Why
7 was Dean Steacy investigating
8 Free Dominion half a year before
9 any complaint was filed? And is
10 there a connection between Dean
11 Steacy and Marie Lynne
12 Gentiles?" (As read)

13 MS KULASZKA: Do you remember that
14 post?

15 MR. STEACY: Yes, I do.

16 MS KULASZKA: And that's the one you
17 viewed?

18 MR. STEACY: Yes, it is.

19 MS KULASZKA: Now, that post was
20 posted late at night on the 17th and you're logging in
21 to look at it before nine o'clock the next day.

22 Did you have some means of knowing
23 that such a posting had been made mentioning your name?
24 Were you sent an e-mail through Free Dominion?

25 MR. STEACY: No, I wasn't.

1 MS KULASZKA: So, somebody at work
2 told you?

3 MR. STEACY: Yes.

4 MS KULASZKA: Who was that?

5 MR. STEACY: I don't recall.

6 MS KULASZKA: Do you have people
7 looking at Free Dominion every day?

8 MR. STEACY: No. I -- no.

9 MS KULASZKA: Was it Richard Warman
10 that told you about it?

11 MR. STEACY: No.

12 MS KULASZKA: When you looked at that
13 post, why did you log in?

14 MR. STEACY: Because I believe the
15 first time I went to look at what I was looking at I
16 couldn't find it and when I logged in with my account I
17 was able to find it right away.

18 MS KULASZKA: Well, why is that so?
19 Why is it easier for you to find things when you log
20 in?

21 MR. STEACY: It seems to be that some
22 of the sites are set up that it's once you've logged in
23 with their account using their keyword search you get
24 more information than if you're just -- if you're not
25 logging in.

1 MS KULASZKA: Can I produce that tab,
2 tab 2.

3 THE CHAIRPERSON: The entire tab?
4 Yes.

5 MS BLIGHT: Just like it to be noted
6 for the record --

7 THE CHAIRPERSON: Yes.

8 MS BLIGHT: -- that the witness
9 hasn't identified any of the other contents of that tab
10 other than the first post.

11 THE CHAIRPERSON: I thought it was
12 one -- well, how about the -- all right, let's break --
13 would you like to break it up, is that what you'd like
14 to do, Ms Kulaszka?

15 MS KULASZKA: No, I can go to page 1.
16 I thought I did that. That's the public profile and it
17 shows the join date of April 6th, 2006 and he confirmed
18 that was when he joined.

19 THE CHAIRPERSON: Okay.

20 MS BLIGHT: My point is just that
21 there's several additional postings and comments that
22 follow the one that was read to the witness.

23 THE CHAIRMAN: I thought it was
24 continuing though. I thought it went page 1 of 9 all
25 the way to page 9 of 9.

1 MS BLIGHT: Well, the witness hasn't
2 identified anything but the first posting in that
3 chain.

4 THE CHAIRPERSON: Okay.

5 MS BLIGHT: And there's nothing to
6 indicate that the witness read the entire chain.

7 THE CHAIRPERSON: All right.

8 MS KULASZKA: Okay. I'll continue on
9 then.

10 I read you the posting of Mark
11 Fournier of Free Dominion.

12 MR. STEACY: Yes.

13 MS KULASZKA: Did you subsequently
14 read the messages that were posted in response to that
15 posting?

16 MR. STEACY: I don't believe I did.
17 What I read or what I was interested in seeing was the
18 mention of the profile to see what they had put on
19 about who they believed jadewarr was.

20 MS KULASZKA: Was this a concern to
21 you?

22 MR. STEACY: Yes.

23 MS KULASZKA: Why?

24 MR. STEACY: Because there's been
25 security concerns at the Commission about information

1 that's being posted about myself and other employees
2 that are working on hate files.

3 MS KULASZKA: Well, if there's no
4 objection I would just put in the whole thread, the
5 thread is complete as of the date it was printed off.

6 THE CHAIRPERSON: It's produced.

7 MS KULASZKA: Okay.

8 I don't know if you've had a chance,
9 but with respect to Free Dominion, have you been able
10 to refresh your memory about why you were on Free
11 Dominion, why you signed on before there was a
12 complaint?

13 MR. STEACY: I have. To the best of
14 my recollection it was because there was the potential
15 for a complaint to come in.

16 MS KULASZKA: Had somebody contacted
17 the Commission?

18 MR. STEACY: Ms Gentiles had
19 contacted the Commission and the best of my
20 recollection there had been several other individuals
21 who had also made inquiries about filing a complaint
22 against Free Dominion prior to Ms Gentiles.

23 MS KULASZKA: And who were they?

24 MS BLIGHT: Mr. Chairman --

25 MR. STEACY: I'm not going to --

1 MS BLIGHT: I don't understand why
2 that would be necessary to identify individuals who may
3 have been in touch with the Commission about a concern
4 over a website where there was no complaint
5 subsequently filed.

6 MR. CHRISTIE: Mr. Chair, I see this
7 as a fruitful line of inquiry on whether or not there
8 really was a cause -- thank you -- for logging on in
9 the name jadewarr at all prior to the time when Ms
10 Gentiles complained. We're concerned about the
11 possibility and we'd like not to explain why, but
12 naturally we have to, but it seems reasonable to
13 inquire why an officer allegedly investigating
14 complaints is logging on before a complaint is ever
15 laid.

16 THE CHAIRPERSON: That's close
17 enough. I'll allow the question, sir.

18 MR. CHRISTIE: All right. Thank you.

19 MS KULASZKA: The question was, who
20 were the people who were inquiring about laying a
21 complaint?

22 THE CHAIRPERSON: Other than Ms
23 Gentiles, who else, sir?

24 MR. STEACY: I refuse to answer.

25 THE CHAIRPERSON: You refuse to

1 answer.

2 MR. STEACY: I'm not telling -- they
3 weren't complaints.

4 THE CHAIRPERSON: You refuse to
5 answer.

6 MR. STEACY: I'm refusing to answer
7 the question.

8 MS BLIGHT: Mr. Chairman, I will
9 raise on behalf of the Commission to formally object to
10 that question on the basis of -- well, first of all,
11 relevance, that's been overruled. I would also raise
12 an objection based on common law privilege.

13 THE CHAIRPERSON: Which one?

14 MS BLIGHT: Well, under the Wigmore
15 test, this presumably if individuals are contacting the
16 Commission with a concern, there's some reasonable
17 expectation that that will not be made public
18 necessarily.

19 I mean, there's a relationship of
20 confidence there that the Commission have with members
21 of the public who are calling or informally inquiring
22 without later choosing to file a complaint.

23 That would be quite an egregious
24 breach of those individual's reasonable expectation of
25 confidentiality. And if you wish, I can take you

1 through the four Wigmore criteria, but it's really the
2 privacy interests of those individuals that are of
3 concern here and the position it puts the Commission in
4 if it can't speak with those individuals with some kind
5 of a reasonable assurance that their names will not
6 thereafter become public.

7 THE CHAIRPERSON: Ms Kulaszka, is
8 it -- we could get into this debate, sir, and I see you
9 getting up there, but at least we're talking about a
10 real privilege this time and not invoking section 37.

11 MS KULASZKA: Mr. Steacy's testimony
12 has been very clear. He stated that they never go on a
13 website or a message board unless it's complaint
14 driven.

15 They don't simply go on websites and
16 monitor them, and unless there is -- he didn't say
17 inquiries about complaints, he said complaints. I can
18 take you to the transcript, so what is he --

19 THE CHAIRPERSON: Yes, but I also
20 understand his other answers afterwards.

21 MS KULASZKA: We're now learning that
22 that's not true that, in fact, they are going on
23 numerous message boards and websites and for the most
24 part, are there even complaints --

25 THE CHAIRPERSON: Do you need the

1 specific name, Ma'am, or do you need knowledge of
2 whether -- the qualities of those persons?

3 MR. CHRISTIE: What would really
4 probably solve the problem is if they have a complaint,
5 even a record of it, obliterate the name. That will
6 demonstrate it's reality.

7 THE CHAIRPERSON: I think I have the
8 evidence now that there wasn't a formal complaint on
9 the record when he signed up with Freedom site. Is
10 that correct, sir?

11 MR. STEACY: Yes.

12 MR. CHRISTIE: You mean Free Dominion
13 site?

14 THE CHAIRPERSON: Free Dominion site.
15 Free Dominion, sorry, Free Dominion. I have the answer
16 there. So, if that's the purpose of what's behind
17 this, that's quite clear and if it contradicts his
18 prior evidence, so be it, Ms Kulaszka, you will argue
19 the point.

20 But it's clear in my mind now that
21 this individual is saying that they were contacted in
22 some other way than a formal complaint and that is why
23 he went on the site. That is what he's saying.

24 MS BLIGHT: Mr. Chairman, just
25 perhaps to add something. I mean, it's not the intent

1 to be obstructionist about this. If we could call them
2 individual A and individual B and individual C, it
3 might be possible to elicit other information --

4 THE CHAIRPERSON: It's a privacy
5 concern.

6 MS BLIGHT: -- about it. It's just
7 an issue, as I understand it, of protecting the
8 individual privacy of those individuals.

9 THE CHAIRMAN: Once we've established
10 that it's not a Commission employee, these are
11 outsiders.

12 MR. STEACY: It's not a Commission
13 employee.

14 MS KULASZKA: Pardon?

15 MR. STEACY: It was not a Commission
16 employee.

17 MS BLIGHT: So, before you said you
18 really couldn't remember who these people were, but now
19 all of a sudden you do remember who they are, but you
20 just don't want to tell anybody; is that right?

21 MR. STEACY: I know that they're not
22 Commission employees, I don't remember their specific
23 names, but even if I did I wouldn't tell you who they
24 were because they didn't file complaints.

25 If Mr. Lemire had come to us and

1 wanted to file a complaint and during the process
2 decided that he didn't want to file a complaint and
3 then somebody comes to us and says, has Mr. Lemire
4 filed his complaint, the Commission would not answer
5 that question.

6 He didn't file a complaint. He has
7 the right to have that information protected. It's not
8 whether it's section 13.1 complaints, it's any
9 complaint.

10 If we have an individual who comes to
11 the Commission and they want to file a sexual
12 harassment complaint against their employer and
13 through the process before they sign a complaint or
14 take a complaint, they decide not to proceed because of
15 whatever's going on in their allegations they choose
16 not to proceed and the employer comes and says, did Ms
17 XY come to us and file a complaint, we would not tell
18 the respondent whether the person even contacted us.

19 They have an expectation of privacy
20 if they have not filed a complaint and, you know, it's
21 the way the Commission has operated and continues to
22 operate.

23 MS KULASZKA: Okay. So, I think
24 we've established that you do know their names?

25 MR. STEACY: I don't know their names

1 off the top of my head.

2 MS KULASZKA: So, in fact,
3 investigators do look at websites and message boards
4 even before complaints are laid?

5 MR. STEACY: As part of the complaint
6 process, we have to go on to the sites to determine (a)
7 if the site is operating, to determine jurisdictional
8 issues, to determine -- it's part of the complaint
9 process.

10 Often times the complainants are not
11 necessarily technologically savvy and they'll give us
12 information and we need a mailing address and sometimes
13 we have to go on the site to find a mailing address.

14 But it is all complaint related, it
15 is all complaint driven.

16 THE CHAIRPERSON: When you say
17 complaint, what do you mean by complaint, sir? When
18 you say complaint driven?

19 MR. STEACY: Well, I mean that
20 somebody -- I mean, our whole process is complaint
21 driven. I mean, if somebody calls us and has an intent
22 to file a complaint, we enter into a process and
23 whether at the end of the day an actual complaint gets
24 signed and accepted by the Commission, is the next
25 step --

1 THE CHAIRPERSON: There's a
2 contradiction in your statement. You say when we
3 receive a complaint and when a complaint gets signed.
4 So, we're getting sort of a mixed message there.

5 MR. STEACY: Sorry.

6 THE CHAIRPERSON: So, perhaps you
7 should be more specific so that I can better
8 understand.

9 MR. STEACY: When an individual sends
10 in a complaint form or a request to file a complaint --

11 THE CHAIRPERSON: Mm-hmm.

12 MR. STEACY: Okay, a potential
13 complaint, it has not necessarily been accepted as a
14 finalized complaint that we're going to investigate or
15 send to mediation, but during the initial intake stage,
16 before the complaint has been signed or accepted by the
17 Commission we have to go through a process and
18 sometimes that requires us to find or help find certain
19 information and it's not just in section 13.1
20 complaints.

21 It could be to resolve a
22 jurisdictional issue, it could be to resolve many
23 different issues, we have to do some research and once
24 we have that research completed, that information, we
25 make it part of the complaint.

1 And then the individual often will
2 sign a complaint and then the date that they've signed
3 a complaint often becomes the date the complaint is
4 accepted.

5 So, there is some pre-work done on
6 some -- on different complaints and it's not just 13.1
7 complaints that this happens in.

8 MS KULASZKA: Mr. Chair, I made a
9 request on March 17th for disclosure of various
10 documents relating to jadewarr and --

11 THE CHAIRPERSON: To whom?

12 MS KULASZKA: I made that request to
13 Mr. Steacy himself and to Ms Blight, to the Commission.
14 It was March 17th, I don't think it was copied to you.

15 THE CHAIRPERSON: I don't think so.
16 I saw reference to this --

17 MS KULASZKA: No.

18 THE CHAIRPERSON: -- and saw the
19 responses that came in and left me scratching my head
20 and thinking...

21 MS KULASZKA: I actually didn't think
22 it was --

23 THE CHAIRPERSON: I lost a lot of
24 time looking on our computers and so on trying to find
25 this document I didn't have.

1 MS KULASZKA: It was a demand for
2 disclosure that I didn't think should go to the
3 Tribunal.

4 THE CHAIRPERSON: Okay.

5 MS BLIGHT: I forwarded that letter
6 for disclosure along with my letter to the Tribunal --

7 THE CHAIRPERSON: That's where I saw
8 it.

9 MS BLIGHT: -- after I responded to
10 Ms Kulaszka because -- Mr. Steacy has brought with him
11 the information he has been able to find pertaining to
12 the jadewarr account and I have that, what he has been
13 able to find since this letter was received herein
14 available.

15 MS KULASZKA: I have not seen it.

16 MS BLIGHT: However, to the extent
17 that anything is requested that goes beyond that, we
18 have some real issues with respect to this.

19 THE CHAIRPERSON: You haven't
20 disclosed it, though.

21 MS BLIGHT: No. I advised my friend
22 that Mr. Steacy would be bringing those here --

23 THE CHAIRPERSON: Yes.

24 MS BLIGHT: -- with him when he came
25 to testify. So, I --

1 THE CHAIRPERSON: I have a double
2 problem and it extends to all of you, all right.

3 You've known since we did the
4 conference call way back in the winter time, it's still
5 winter but, you know, in January that March 25th was
6 the date we would be getting together, if we get
7 together.

8 March 2nd or 3rd, I informed the
9 parties that we are getting together on this date for
10 sure and yet, Ms Kulaszka you make your disclosure
11 request on March 17th.

12 MS KULASZKA: And it was a request
13 for things which could be produced in literally an
14 hour.

15 MS BLIGHT: No.

16 MS KULASZKA: Because they're
17 e-mails.

18 THE CHAIRPERSON: I don't know, but
19 it's late, it's a late request.

20 MS KULASZKA: I could produce e-mails
21 just like that.

22 THE CHAIRPERSON: So, she brings them
23 here and then you don't get me involved in it at all,
24 so that if I could have done anything on Wednesday or
25 Thursday while I was stuck in an airport all day while

1 still trying to put out your ruling and receiving all
2 your e-mails back and forth, might have been able to do
3 something, but I haven't -- I literally learned of this
4 disclosure issue late last night when I was looking
5 through your material, and not your material, the reply
6 material that Ms Blight put in.

7 So, disclose what you have now, Ms
8 Blight and, Ms Kulaszka, take it as it is, we're not
9 going to get any further into this.

10 That it could have been and would
11 have been, I'm not going to deal with that now.

12 MS BLIGHT: This does not purport to
13 be everything in all of the Commission's files
14 pertaining to the jadewarr e-mail account, it is what
15 Mr. Steacy's been able to find. There may be bits and
16 pieces lying in various files that we don't know about,
17 but this is what we have been able to find and product.

18 THE CHAIRPERSON: And I will give us
19 a break at one point, Ms Kulaszka, to give you some
20 quick time to look at it. We've done it before, we did
21 it the last time, it worked. In fact, you even ran off
22 photocopies and you presented it to the witness.

23 MS BLIGHT: I have a couple more sets
24 of copies I can give my friend at the break.

25 THE CHAIRPERSON: Excellent.

1 MS KULASZKA: But, Mr. Chair, I do
2 want to put it on the record.

3 THE CHAIRPERSON: Yeah.

4 MS KULASZKA: This has been the story
5 from the very beginning. They are under a duty of
6 disclosure. I shouldn't have to demand and demand and
7 demand and bring motion after motion and start to feel
8 like one of those little animals on a fly wheel.

9 It's up to them.

10 THE CHAIRPERSON: It is. There is an
11 ongoing duty to disclose, but sometimes things get
12 missed on all sides. We see this happen all the time.
13 This case is not unique, Ms Kulaszka, and that's where
14 the burden falls on the other side who identifies the
15 problem to bring it to the other party's attention
16 promptly.

17 Now, my sense is there's nothing new
18 that would have happened in the last week that prompted
19 you to make this request, you probably could have made
20 it -- because I'm not familiar with what your initial
21 request was really -- but you probably could have made
22 it on March 3rd when I issued my ruling or perhaps
23 earlier.

24 MS KULASZKA: Quite frankly, I'm
25 hearing evidence today that I would never have thought

1 possible concerning all the e-mail accounts they've got
2 and they're all accessing it there at the Commission
3 and who knows who's saying what.

4 THE CHAIRPERSON: That's the way
5 hearings go, right? That's why we have to be quick.

6 MS BLIGHT: Mr. Chairman, I think
7 that's a mischaracterization of the evidence. There
8 has been no evidence that anyone other than Mr. Steacy
9 accessed that particular account.

10 THE CHAIRPERSON: The evidence is
11 whatever he said. I'm not going to let anyone
12 misrepresent it. I have his answers, those are his
13 answers. I won't let anyone else characterize them at
14 this point.

15 It's been complicated, I'll give you
16 all that. It's amazing what we've done here and people
17 may not be aware of it who perhaps were not involved at
18 the early stages. This is a five, six-week hearing
19 that we've managed to pull off with I don't know how
20 many witnesses conducted in Toronto, Mississauga,
21 Oakville and it's amazing that we've reached this far
22 and we would have all been done had we not had the bit
23 of a side tracking issue.

24 So, Ms Kulaszka, let's make the best
25 of it, as we've done before.

1 MS KULASZKA: Mr. Steacy, you gave
2 testimony last year. I asked you whether you knew that
3 Richard Warman was posting as povemahone (ph), I
4 believe axetogrind, you said you didn't know.

5 MS BLIGHT: Mr. Chairman, I really
6 fail to see how this arises from any of the questions
7 that were declined.

8 THE CHAIRPERSON: I again assume
9 she's getting to the question, it's just background.
10 I'm not going to rewrite the same evidence down.
11 Let's --

12 MS BLIGHT: Well --

13 THE CHAIRPERSON: She's restating
14 what he said before. Let's hear the question.

15 MS KULASZKA: Mr. Steacy, when did
16 you learn that Richard Warman was posting as
17 povemahone(ph)?

18 MS BLIGHT: And now I'm going to
19 object to it.

20 MS KULASZKA: Well, I thought that
21 would be a quicker way of doing it, instead of me
22 restating his testimony he could just say it again.

23 THE CHAIRPERSON: Sorry, it was in
24 evidence before?

25 MS BLIGHT: I don't understand how --

1 THE CHAIRPERSON: Was that in
2 evidence, Ms Kulaszka?

3 MS KULASZKA: Yes, it was.

4 THE CHAIRPERSON: Can you just take
5 me to it? I am assuming that you're going to another
6 question.

7 MS KULASZKA: We'll go to tab 7 and
8 we'll go to page 4780.

9 "MS KULASZKA: And was there any
10 way they could find out who was
11 making those postings? Did they
12 realize it was Mr. Warman? Did
13 you know that Mr. Warman was
14 making posts on Stormfront.org?

15 THE CHAIRPERSON: We are on a
16 different line now.

17 MR. STEACY: No, I didn't become
18 aware of it until it was in the
19 Tribunal documentation.

20 MS KULASZKA: Did you know that
21 he made posts on VNN?

22 MR. STEACY: No, I did not.

23 MS KULASZKA: Were complaints
24 subsequently made about those
25 postings?

1 MR. STEACY: There is a
2 complaint in process right now,
3 yes, from Mr. Lemire about Mr.
4 Warman's postings." (As read)

5 MS KULASZKA: Was that your
6 testimony?

7 MR. STEACY: Yes, it is.

8 MS BLIGHT: Well, again, there's no
9 section 37 objection at any point in this line.

10 THE CHAIRPERSON: I know, but --

11 MS BLIGHT: Well --

12 THE CHAIRPERSON: We've lost more
13 time dealing with the fact that there wasn't an
14 objection. It's not that we're getting into new
15 evidence yet, Ms Blight, she's restating stuff that was
16 already on the record, presumably to get somewhere else
17 that is relevant.

18 MS BLIGHT: All right.

19 THE CHAIRPERSON: Let's go ahead, Ms
20 Kulaszka. You do know the guidelines, we're working
21 with the objections, so get me to an objection
22 question.

23 MS KULASZKA: Now, if you go to tab
24 4, we'll just establish some lines here. Tab 4 is the
25 Winnicki transcript and the first page is 434 and Ms

1 She who is the lawyer for Mr. Winnicki states:

2 "Thank you. And, in fact, you
3 did more than that, you started
4 responding to some of Mr.
5 Winnicki's by posing under an
6 alias axetogrind; am I correct?
7 MR. WARMAN: I believe they're
8 fairly limited in number, but
9 yes." (As read)

10 MS KULASZKA: And the date for that
11 would be October 18th, 2005. Is that the first time
12 you realized that Mr. Warman was posing as axetogrind?

13 MR. STEACY: No, I didn't -- until
14 you just read it to me, I didn't know that it had been
15 revealed specifically that way in the Winnicki file.

16 MS KULASZKA: So, how did you find
17 out?

18 MR. STEACY: From reading the
19 Beaumont Tribunal hearing decision.

20 MS KULASZKA: So, you didn't know
21 about Mr. Warman until the Beaumont decision?

22 MR. STEACY: That's correct.

23 THE CHAIRPERSON: Mr. Warman posing
24 as axetogrind until the Beaumont decision.

25 MS KULASZKA: So, when would that be,

1 2006?

2 THE CHAIRPERSON: No, that was 2007.

3 MS KULASZKA: 2007?

4 MR. STEACY: That sounds about right.

5 I further became aware of it when Mr. Lemire put in his
6 complaint against Mr. Warman.

7 MS KULASZKA: Does anyone review
8 transcripts of hearings, the investigators that are
9 section 13?

10 MR. STEACY: We don't have time.

11 MS KULASZKA: Do you review Tribunal
12 decisions?

13 MR. STEACY: It depends. If you were
14 the investigator to the file or if our legal
15 department's pointed out something that is relevant to
16 a case that we may be doing. Yeah, occasionally I look
17 at Tribunal transcripts or, sorry, Tribunal decisions.

18 THE CHAIRPERSON: That's reassuring
19 to hear.

20 MS KULASZKA: So, the fact that Mr.
21 Warman was posting under these various names was not a
22 shock to anyone at the Commission, this was business as
23 usual?

24 MS BLIGHT: The various names part
25 has...

1 MS KULASZKA: axetogrind and
2 povemahone (ph).

3 MS BLIGHT: povemahone (ph), I don't
4 think we've discussed, but I still don't --

5 THE CHAIRPERSON: Yeah. Let me hear
6 the question again. Go ahead.

7 MS KULASZKA: Do you know right now
8 that Mr. Warman posted under the alias povemahone (ph)?

9 MR. STEACY: I know now, yes.

10 MS KULASZKA: When did you find out?

11 MR. STEACY: From reading the -- I
12 don't recall if it was reading the information from Mr.
13 Lemire in his complaint or if I read it in the Beaumont
14 and Barr and in the Kuba Tribunal decisions.

15 A lot of them came out in a close, or
16 relatively close period of time, so I don't recall
17 which one of those Tribunal decisions that it was in,
18 but my recollection it was in one of those three.

19 MS KULASZKA: Are there any
20 guidelines for investigators about what kind of posts
21 they can make using aliases?

22 MR. STEACY: No.

23 MS KULASZKA: Did you ask Mr. Warman
24 after you found out that he had posted under those two
25 names whether he was posting under any other names?

1 MS BLIGHT: Mr. Chairman, we still
2 haven't gotten to section 37 and we're starting to very
3 kind of get into the Ann Kuhl's (ph) territory that we
4 have anticipated was the major thrust of the
5 respondent's evidence today.

6 It really does fall very far outside
7 of the questions that were refused on behalf of this
8 witness and --

9 THE CHAIRPERSON: Okay.

10 Please, sir, I'm going to direct my
11 question first to Ms Kulaszka. Ms Kulaszka, where in
12 section 37 is that last question -- in the section 37
13 objections that were the object of your application
14 before the court.

15 MS KULASZKA: What the thrust of my
16 questioning was last year was basically are
17 investigators posting on Stormfront, or any other
18 message board.

19 THE CHAIRPERSON: Mm-hmm.

20 MS KULASZKA: Because anybody can
21 post anything on these message boards and the entire
22 case practically against my client is a message board,
23 anybody can go on there and put anything they want on.

24 And then the problem arises, it turns
25 out they are doing this.

1 THE CHAIRPERSON: Okay.

2 MS KULASZKA: Numerous investigators
3 are doing this, no one is keeping track of who is who,
4 how do they know what they're doing? How do they know
5 who to investigate, who not to investigate? They could
6 be investigating a State, an Estate, turns out to be a
7 policeman from Edmonton. How come there was no
8 investigation of Estate, he certainly put up enough
9 racist information.

10 THE CHAIRPERSON: This is argument
11 that you're giving to me right now; isn't it?

12 All those components of the argument
13 you've just made, I have more than enough evidence on
14 it.

15 MS KULASZKA: And, so, I'm asking him
16 basically how is he keeping track of who's who on
17 Stormfront and these other message boards, how does he
18 know who they are.

19 THE CHAIRPERSON: Okay. And that
20 flows out of the objected question with regard to
21 Stormfront; does it not, to your knowledge is jadewarr
22 a Commission employee, do Commission employees sign up
23 on accounts on Stormfront, including such as jadewarr,
24 that area, okay.

25 MS BLIGHT: I'd like to remind you --

1 THE CHAIRPERSON: Mm-hmm.

2 MS BLIGHT: -- that the question was
3 asked was what are Warman's pseudonyms, that has
4 nothing to do with any of this.

5 MS KULASZKA: No, I --

6 MS BLIGHT: I have no objections to
7 what are pseudonyms to the witness' knowledge are used
8 by employees in the Commission.

9 And I want to correct my friend
10 again, because there is no evidence of anyone other
11 than Dean Steacy using a pseudonym on the Internet. He
12 has alluded to the possibility of that because he
13 didn't have sole control of the jadewarr account, but
14 his testimony is he's not aware of anyone else having
15 done it and there's no evidence of anyone else having
16 done it.

17 MR. CHRISTIE: Mr. Chairman, my
18 learned friend is grandstanding.

19 MS BLIGHT: We are here to bring
20 forward the evidence --

21 MR. CHRISTIE: And I have an
22 objection.

23 THE CHAIRPERSON: She's not
24 grandstanding, she's answering -- you'll speak in a
25 second, sir.

1 MR. CHRISTIE: I hope so.

2 MS BLIGHT: -- about the Commission's
3 activities within the knowledge of this witness, using
4 pseudonyms in investigating section 13 complaints and
5 it's all being laid there, but that was the thrust of
6 the questions that were refused, not what does the
7 Commission know about what Mr. Warman does in his free
8 time. That is totally unrelated to any of the
9 questions that were refused.

10 THE CHAIRPERSON: All right. Sir?

11 MR. CHRISTIE: It is a logical
12 concomitant of the question, do any investigators post
13 on Stormfront?

14 The appropriate line of inquiry is to
15 determine if those who are posting under pseudonyms,
16 somehow registered, who else is so they know they're
17 not investigating other investigators.

18 That's a logical inquiry arising out
19 of those questions as to who's posting under false
20 names, so that at the end of the day, if you look at
21 this in a constitutional context, which we're here to
22 do.

23 THE CHAIRPERSON: Right.

24 MR. CHRISTIE: Are these people
25 conducting an inquiry that's other than of postings

1 they and their other investigators have made, which
2 would be a demonstration of how absurd this legislation
3 can become if they can use these tactics.

4 Those questions -- and Ms Kulaszka's
5 question is very clear, did you ever ask Mr. Warman if
6 he used these pseudonyms, that was the question.

7 THE CHAIRPERSON: And which
8 pseudonyms were those, to be clear?

9 MR. CHRISTIE: She --

10 THE CHAIRPERSON: povemahone (ph) and
11 axetogrind.

12 MR. CHRISTIE: povemahone (ph) and
13 axetogrind. He also used Mary Duffard, but that's
14 another point.

15 The point being, that's a very good
16 question to inquire whether this investigator finds out
17 who's using pseudonyms. There really should be, to be
18 safe, a registry of pseudonyms so they don't
19 investigate each other, but there isn't, and this is a
20 good point, this is a good point Ms Kulaszka raised.
21 She should be allowed to ask that question.

22 THE CHAIRPERSON: Ms Kulaszka, any
23 closing comments?

24 MS KULASZKA: No.

25 THE CHAIRPERSON: So, are your

1 questions specifically whether the witness knows that
2 Mr. Warman uses those pseudonyms?

3 MS KULASZKA: And did he ask him.

4 THE CHAIRPERSON: Did he ask him.

5 MS KULASZKA: And what other names
6 was he posting under?

7 THE CHAIRPERSON: I don't think much
8 is going to come of this. Go ahead, ask your question.

9 MS KULASZKA: Mr. Steacy, did you
10 ever ask Mr. Warman what names he was posting on on
11 Stormfront?

12 MR. STEACY: I don't recall
13 specifically asking him that way.

14 MS KULASZKA: What did you ask him?

15 MR. STEACY: It was more in a context
16 of in the section 41 that I did that Mr. Lemire brought
17 out when they were providing Internet protocol
18 addresses about those addresses, if they were his
19 addresses.

20 THE CHAIRPERSON: I'm sorry, I didn't
21 quite understand your answer, sir. Could you kindly
22 repeat it.

23 MR. STEACY: Well, when the complaint
24 came in Mr. Warman made a 41 objection, so I had --
25 instead of investigating, I had to deal with the

1 complaint now as a 41 objection.

2 THE CHAIRPERSON: The complaint
3 against Mr. Warman?

4 MR. STEACY: When Mr. Lemire made
5 his -- the complaint against Mr. Warman for posting,
6 Mr. Warman made a section 41 objection, so instead
7 of -- that sort of takes the complaint out of a normal
8 investigation stream and I have to deal with it as a
9 section 41 objection.

10 So, the questions in dealing with the
11 complaint in a section 41 objection stream are
12 different and Mr. Lemire provided -- copious pieces of
13 information showing IPA addresses, Internet protocol
14 addresses, stating that these belong to Mr. Warman and
15 different things were belonging to Mr. Warman. I
16 focused on the technical information rather than
17 focusing on the pseudonyms and the report was done in a
18 manner to determine whether or not Mr. Lemire's
19 complaint was -- met the section 41 objection raised.

20 I didn't get to a point where I was
21 investigating to be able to ask Mr. Warman if he was
22 indeed using those pseudonyms.

23 MS KULASZKA: So, you have never
24 asked him ever about the uses he made of the two names,
25 monikers povemahone (ph) and axetogrind?

1 MR. STEACY: No, I have never asked
2 him specifically if he was those pseudonyms or if he
3 used those pseudonyms.

4 MS KULASZKA: Has this ever become a
5 discussion at the Commission on a formal level to
6 discuss the use of accounts on such message boards, has
7 this become a matter of discussion at the Commission,
8 the fact that Mr. Warman was making these types of
9 postings on such websites as Stormfront?

10 MS BLIGHT: Mr. Chairman, I must
11 again register an objection. Mr. Warman's
12 participation on the Internet, it was not part of the
13 questions -- in any way part of the questions that were
14 objected to.

15 What was objected to was the
16 Commission's investigation techniques. It was limited
17 to that.

18 THE CHAIRPERSON: You are going
19 further afield here, Ms Kulaszka. Besides, I think we
20 have a sense of where the answers are on this.

21 Move on.

22 MS KULASZKA: Has anyone at the
23 Commission done a study of the threads where a person
24 such as Richard Warman or Steven Camp or perhaps other
25 investigators at the Commission have posted on a

1 message board such as Stormfront to determine whether
2 respondents in section 13 cases have been entrapped or
3 enticed into saying -- or posting the message that they
4 were subsequently complained against for?

5 MR. STEACY: Not that I'm aware of.

6 MS KULASZKA: Have you ever asked
7 other investigators that you work with if they are
8 posting on target message boards?

9 MR. STEACY: No, I haven't.

10 MS KULASZKA: Why wouldn't you do
11 that?

12 MR. STEACY: I don't have the need.
13 I have to do my investigations, as I indicated in my
14 testimony last time, I have my own case load and I
15 assume that the investigators that have their own case
16 load know what they're doing.

17 I don't need to go around and
18 intervene in their case load, it's not my job.

19 MS KULASZKA: By giving your answers
20 to these questions, why would a webmaster like Marc
21 Lemire be held liable for any messages on a message
22 board that he did not write?

23 MS BLIGHT: I object to that
24 question. Counsel is asking the witness to argue the
25 case.

1 MR. CHRISTIE: Well, is that part of
2 an investigative technique? To determine that
3 question, isn't a prima facie necessary to carry on
4 with the investigation?

5 THE CHAIRPERSON: No, I find -- and
6 we've been down this line before. These were the types
7 of questions that were already asked of this witness
8 last time around in terms of his role that he does play
9 as an investigator and making recommendations to the
10 Commission, but they could have been asked at the time
11 too.

12 Ms Kulaszka.

13 MR. CHRISTIE: Well, we didn't know
14 at the time that they were posting and they've now
15 admitted that.

16 THE CHAIRPERSON: Ms Kulaszka.

17 MR. STEACY: Excuse me, can I ask a
18 common courtesy?

19 THE CHAIRPERSON: Yes.

20 MR. STEACY: Can I know who's
21 speaking when they speak.

22 THE CHAIRPERSON: The gentleman on
23 the left side you're hearing is Mr. Christie. That's
24 the only other person you've been hearing, I think.

25 MR. STEACY: Okay, thank you.

1 MS KULASZKA: Why is it never
2 disclosed -- why was it never disclosed that you were
3 on the message board of the Freedom site?

4 THE CHAIRPERSON: Disclosed in the
5 context of this case, Ma'am?

6 MS KULASZKA: In the context of this
7 case because he has given testimony he is registered on
8 the Freedom site message board.

9 MS BLIGHT: Perhaps I can answer that
10 question, Mr. Chairman.

11 Until recently the Commission was
12 taking that position that that information was
13 protected from disclosure. That position has changed
14 and the information is now being disclosed through this
15 witness.

16 THE CHAIRPERSON: Just a second,
17 please.

18 One slight problem with that, Ms
19 Blight, and that is that our rules of procedure say
20 that where privilege is claimed with regard to
21 information that should otherwise be disclosed, a list
22 is to be provided with the reasons why the information
23 is not being disclosed and then the privilege claims
24 can then be challenged.

25 But, in any event, I'll let that go

1 and I'll leave that for final argument.

2 MS KULASZKA: Okay, Mr. Steacy, I
3 just want to go quickly through a number of tabs.

4 Go to tab 3 and this is R-22.

5 THE CHAIRPERSON: R-22.

6 MS KULASZKA: This is a transcript in
7 the case of Warman vs Warman. It's from 2005.

8 THE CHAIRPERSON: What would be the
9 odds.

10 MS KULASZKA: Well, given that nobody
11 knows who anybody is, it just could be Warman vs
12 Warman.

13 --- Laughter

14 MS KULASZKA: If we go to page 20.
15 This is testimony which Mr. Warman gave.

16 THE CHAIRPERSON: I'm sorry, which
17 tab is that? I'm sorry.

18 MS KULASZKA: It's tab 3.

19 THE CHAIRPERSON: Okay. And page 20,
20 you said?

21 MS KULASZKA: 20, that's the first
22 page. It's a document which has been introduced before
23 the Tribunal.

24 THE CHAIRPERSON: I'm sorry, I must
25 be in the wrong document. Did you say -- is it R-3?

1 MS KULASZKA: It's tab 3 of R-22.

2 THE CHAIRPERSON: Sorry.

3 MS KULASZKA: It's the transcript.

4 THE CHAIRPERSON: Page 20, okay.

5 MS KULASZKA: And Ms Phillips asked

6 Mr. Warman:

7 "Could you identify that
8 document for the Tribunal?" (As
9 read)

10 MS KULASZKA: And Mr. Warman says:

11 "I can, it is a message that was
12 sent by me using the pseudonym
13 Mary Duffard, using the e-mail
14 address" (As read)

15 MS KULASZKA: Is one of the
16 Commission e-mails used by investigators?

17 MR. STEACY: No, it's not.

18 MS KULASZKA: And in this case Mr.
19 Warman had sent this e-mail pretending to be Mary
20 Duffard, a supporter of Mr. Eldon Warman and he said
21 there was -- he tells Mr. Warman there's a Tribunal
22 hearing coming up and they want to come and does Mr.
23 Warman know about it, it's going to be in Ottawa April
24 25th and he gets a reply from Mr. Warman.

25 And on page 23, Mr. Richard Warman

1 testifies:

2 "Yes, within an hour and a half
3 Mr. Eldon Warman had responded.
4 He thanked me for my support.
5 He talked about the extensive
6 efforts that I'm assuming both
7 the Commission and the Tribunal
8 had undergone to attempt to
9 serve him with documents." (As
10 read)

11 MS KULASZKA: And to make a long
12 story short, that e-mail by Mr. Warman and the reply by
13 Eldon Warman where he acknowledges that he received
14 documents that the Tribunal had been trying to serve
15 him with was used to establish that, in fact, Mr. Eldon
16 Warman knew about the hearing, he had been served with
17 the documents and, therefore, the matter could proceed.

18 Did you know about that incident?

19 MR. STEACY: This is the first time
20 I'm hearing about it.

21 MS KULASZKA: So, you didn't know
22 about that?

23 MR. STEACY: No, I didn't.

24 MS KULASZKA: Is this type of
25 activity used by yourself, using false names with

1 e-mails to respondents to try to obtain information?

2 MR. STEACY: I've used our pseudonyms
3 to try and locate individuals on the Internet when we
4 weren't able to specifically locate them off the
5 website.

6 MS KULASZKA: Using e-mails?

7 MR. STEACY: I've used jadewarr.

8 THE CHAIRMAN: Let's be specific.
9 When you're saying e-mails, you mean as opposed to
10 message boards, Ms Kulaszka?

11 MS KULASZKA: Yes. In this, the Eldon
12 Warman case, Richard Warman actually e-mails the
13 respondent at his e-mail address and they go back and
14 forth by e-mail.

15 THE CHAIRPERSON: Okay.

16 MS KULASZKA: It's not done through a
17 posting on a message board.

18 THE CHAIRPERSON: Nor a private
19 message on a message board?

20 MS KULASZKA: Nor a private message
21 on a message board. So, do you know what I'm asking
22 you?

23 MR. STEACY: Yes, I do.

24 MS KULASZKA: Have you ever used an
25 e-mail in that manner?

1 MR. STEACY: Yes.

2 MS KULASZKA: When did you do that?

3 MR. STEACY: In BC White Pride.

4 MS KULASZKA: So, you had an e-mail
5 exchange with who?

6 MR. STEACY: With two different
7 individuals identifying themselves, one as David and
8 one as Peter.

9 MS KULASZKA: And what e-mail did you
10 use?

11 MR. STEACY: Jade Warrior, jadewarr.

12 MS KULASZKA: Any others?

13 MR. STEACY: No.

14 MS KULASZKA: If I could produce that
15 tab 3?

16 THE CHAIRPERSON: Well, given that
17 we've referred to it, yes.

18 MS KULASZKA: Have you done it in any
19 other case?

20 THE CHAIRPERSON: I don't think he
21 understands that you posed the question to him.

22 Mr. Steacy...?

23 MR. STEACY: Yes.

24 THE CHAIRPERSON: You're being asked
25 I think whether you have used e-mails in any other case

1 in that manner, e-mails in that manner in any other --

2 MR. STEACY: To identify individuals?

3 To the best of my recollection the only one that I've
4 done it in was e-mail -- specifically e-mails with BC
5 White Pride.

6 MS KULASZKA: Okay, if we could turn
7 to tab 4. I think I referred to this, it was the
8 Winnicki case, it was just to establish the date that
9 Mr. Warman admitted being povemahone (ph), sorry,
10 axetogrind.

11 If I could produce that. I put that
12 to Mr. Steacy.

13 MS BLIGHT: Which one again?

14 MS KULASZKA: It's tab 4, the next
15 tab.

16 THE CHAIRPERSON: Oh yes, yes, we
17 have referred to it, yes, yes. That's fine.

18 MS KULASZKA: The next tab is Warman
19 vs Western Canada for Us and Glen Barr, the transcript.
20 If you could turn to that, it's tab 5, the first page
21 reproduced, it's page 658.

22 This was a case where Steven Camp who
23 was an officer with the Edmonton Police Service gave
24 testimony and were you the investigator on that case?

25 MR. STEACY: I didn't complete the

1 investigation but I was -- for a time I was the
2 investigator on that case.

3 MS KULASZKA: And on this page
4 starting at line 17 Mr. From asked a question of Mr.
5 Camp.

6 He states:

7 "From your investigation were
8 you able to identify who Estate
9 was?

10 MR. WARMAN: Madam Chair, I am
11 objecting on the ground that
12 that goes to the issue of the
13 police investigative
14 techniques." (As read)

15 MS KULASZKA: And Mr. Fromm says:
16 "Excuse me. How is Mr. Warman
17 privy to police investigation
18 techniques?" (As read)

19 MS KULASZKA: Were you aware that
20 Estate on Stormfront was Officer Camp?

21 MR. STEACY: No, I was not aware.

22 MS KULASZKA: When did you learn
23 that?

24 MR. STEACY: When I read it in the
25 Tribunal decision.

1 MS KULASZKA: Continuing on:
2 "THE CHAIRPERSON: We did canvas
3 the identity of proud18 and so
4 I'm going to allow that
5 question. Do you have an answer
6 Sergeant Camp?
7 MR. CAMP: I refuse to answer on
8 that ground that it is an
9 ongoing investigation for
10 officer safety." (As read)
11 MS KULASZKA: And the Chairperson
12 says:
13 "Thank you. Carry on.
14 MR. CAMP: In fact, any post
15 that is brought up be Estate
16 won't be answered." (As read)
17 MS KULASZKA: The next page continues
18 a series of questions where Mr. Fromm asks Officer
19 Camp, and this is at page 660, about line 11.
20 "Officer Camp, did you post on
21 Stormfront? You said you
22 visited. Have you ever posted
23 on it?" (As read)
24 MS KULASZKA: That question was
25 objected to but allowed, and Mr. Camp testified:

1 "I am not going to answer that
2 in regards to officer safety of
3 ongoing criminal investigations
4 as far as any law enforcement
5 official of the Edmonton Police
6 Service posting on any website."
7 (As read)

8 MS KULASZKA: Turning to 662, at line
9 16, Mr. Fromm made an objection, he stated that the
10 evidence was -- the relevance was potentially
11 entrapment or incitement.

12 And if we can go on several pages, it
13 goes into the next day and we'll go to page 1006, so
14 it's several pages along in the same case and Mr. Camp
15 at line 15 states:

16 "I won't identify who but I can
17 state that it was a police
18 officer that posted on
19 Stormfront as Estate." (As
20 read)

21 MS KULASZKA: And I won't read the
22 rest. He simply claimed that there was uncover
23 operations, but he would reveal that it was a police
24 officer.

25 So, you did not know that Sergeant

1 Camp was Estate until when, you read this transcript?

2 MR. STEACY: When I read -- no, but
3 my recollection is when it came out in the Tribunal
4 decision.

5 THE CHAIRPERSON: Tribunal decisions.

6 MS KULASZKA: Again, I have the same
7 question. Is there any concern by you or your -- the
8 anti-hate investigators about revelations such as this
9 on your work?

10 MR. STEACY: I don't understand the
11 question.

12 MS KULASZKA: Well, Estate -- have
13 you ever read any of the postings by Estate on
14 Stormfront?

15 MR. STEACY: I don't recall if I have
16 or I haven't.

17 MS KULASZKA: So, once you knew that
18 Estate was a police officer, you never went to
19 Stormfront just to see what he had posted?

20 MR. STEACY: No. In the course of
21 investigating complaints against Mr. Barr and Western
22 Canada for Us and Mr. Kuba, there were lots of
23 different postings that had been provided and I don't
24 recall who signed what postings, I just recall there
25 were a lot of different postings from -- you know, from

1 different users on Stormfront and Western Canada for Us
2 and such, so I don't remember who posted what.

3 MS KULASZKA: So, in other words, you
4 didn't go back just to see what Estate had been doing
5 on Stormfront?

6 MR. STEACY: No, I didn't have a
7 complaint against Estate.

8 MS KULASZKA: But there subsequently
9 was a complaint against Estate; was there not, and
10 that's Steven Camp ?

11 MR. STEACY: An individual and I
12 don't recall who it was right off the top of my head,
13 had tried to file a complaint against Steven Camp,
14 yes.

15 MS KULASZKA: Okay. Could I produce
16 that. It's tab 5.

17 THE CHAIRPERSON: Yes.

18 MS KULASZKA: Tab 6 is produced, tab
19 7, I believe tab 8 is produced, tab 9 and tab 10.

20 Now, the Kulbashian case, you
21 obtained a CD of the computer drive of Scott Richardson
22 from Terry Wilson who was the officer down in London, a
23 police officer?

24 MR. STEACY: Yes, I did.

25 MS KULASZKA: And how did you get

1 that CD from Terry Wilson?

2 MR. STEACY: Terry Wilson provided it
3 to me.

4 MS KULASZKA: And you just asked him
5 for it?

6 MR. STEACY: I don't recall
7 specifically asking him for a CD. I did ask him for
8 whatever information he could provide and he provided
9 me with the police report and I don't recall if I asked
10 him for a copy of the hard drive or not. I'd have to
11 relook at my notes to that file. I probably would have
12 asked him for a copy of the hard drive.

13 MS KULASZKA: Now, we're into some
14 white tabs and we started over 1, 2 again, it should be
15 like 11, 12, but I'll say white tab 2. If we -- this
16 is the transcript of the Kulbashian and Richardson
17 case.

18 And Constable Wilson gave testimony.
19 At page 655, the first part of that transcript is
20 testimony by Mr. Warman and he states that he obtained
21 a CD through disclosure and it was from the police and
22 he ran it off and a lot of the materials were put into
23 the evidence.

24 MS BLIGHT: Where are we, sorry?

25 MS KULASZKA: That's at the white tab

1 2.

2 MS BLIGHT: Yeah. Page...?

3 MS KULASZKA: And you can look at
4 page 368.

5 THE CHAIRPERSON: You said 655 I
6 thought.

7 MS KULASZKA: Yes. I may as well
8 just put it on the record though. Mr. Warman, he
9 testified at page 368.

10 "It's my understanding that
11 this -- that that is the CD that
12 or copy of the CD that was
13 disclosed to all of the parties
14 pursuant to the disclosure
15 obligations of the Commission.

16 MS PALLETTE: So, how did you
17 become familiar with that CD?

18 MR. WARMAN: It was disclosed to
19 me by the Commission in the
20 course of the preparation for
21 the hearing. My understanding
22 of it is is that it is, in fact,
23 the hard drive as it alleges on
24 the face of it to be James
25 Richardson's hard drive. Once

1 the CD itself was disclosed to
2 me, I studied the materials
3 within it every extensively and
4 became familiar with them." (As
5 read)

6 MS KULASZKA: And for several pages
7 he gives testimony. On page -- if we could flip over
8 to page 510, he testifies near -- just under the middle
9 of the page.

10 "MR. WARMAN: I have already
11 explained and my understanding
12 is that that CD was provided to
13 the Canadian Human Rights
14 Commission by Terry Wilson of
15 the London Police Hate Crimes
16 Unit." (As read)

17 THE CHAIRPERSON: I'm sorry, where
18 was that?

19 MS KULASZKA: That was on page 510.

20 THE CHAIRPERSON: Okay. "I have
21 already explained...", is that the one?

22 MS KULASZKA: That one.

23 THE CHAIRPERSON: Yeah.

24 MS KULASZKA: If we skip over to 655,
25 at that point Mr. Wilson -- or Detective Wilson is

1 giving testimony, he testifies and if I can paraphrase
2 on that page, that as part of his job as being a hate
3 investigator with the police he does things proactively
4 by monitoring hate sites, white supremacist sites
5 particularly, especially ones that are centered around
6 southwestern Ontario and the London area.

7 And the last paragraph on that page:

8 "On August 17^t of 2001 I start
9 what the police would call an
10 intelligence probe into some
11 particular websites." (As read)

12 MS KULASZKA: And if we can skip over
13 two pages to page 657. He said:

14 "Essentially what happens on
15 monitoring websites,
16 particularly the Tri-City Skins
17 website which is out of
18 Kitchener/Waterloo, not only do
19 you monitor the content of those
20 websites, we would monitor or I
21 would monitor the forum or the
22 chats, chat line sections of
23 those websites mostly because
24 the content section not only
25 gives you the content of what an

1 organization believes but you
2 can also get from the chat lines
3 or forum sections individual
4 perceptions of what those
5 websites are about. When I'm
6 doing that I see, I guess, a
7 participant in this forum site
8 coxswain88 or coxwain24wpcanada,
9 he had put a posting on this
10 forum site and advised that he
11 was a London resident and that
12 he thought the site was great.
13 Seeing that and being a
14 detective with the London City
15 Police, that obviously sparked
16 my interest and so what I did
17 was start an Internet or e-mail
18 electronic conversation with
19 this gentleman. I started with,
20 because my name is known in that
21 area, I started with the
22 fictitious name Conrad
23 Macdonald. This fictitious name
24 was created to (1) to keep the
25 integrity of the investigation,

StenoTran

1 obviously if I used my own name
2 no intelligence would come
3 forward and, (2) to keep it
4 consistent through the
5 investigation, I kept this name
6 all the way through the
7 investigation. I actually
8 created an electronic
9 conversation between Conrad
10 Macdonald and Jen Macdonald his
11 sister, so I started to write as
12 a lady would on the Internet,
13 which is a whole other unique
14 situation whatsoever, is to
15 write like a lady would on the
16 Internet." (As read)

17 MS KULASZKA: And then he gives
18 testimony about how he starts a conversation with
19 coxswain24wpcanada. And we'll go over to page 660, he
20 gets a telephone number from this person after some
21 e-mail correspondence and on page 661 he admits that no
22 crime has been committed, but he keeps investigating.

23 Now, eventually of course this was
24 James Scott Richardson and a search warrant was
25 executed, and in the pages following he describes how

1 they seized the computer and how forensics was done on
2 the computer on the hard drive.

3 And you can see that, especially on
4 684, he -- at 686 he talks about the imaging process;
5 687.

6 If we switch over to 704, he talks
7 about the fact that Mr. Richardson seemed to be working
8 with another person called Alex Krause. They didn't
9 know who Alex Krause was, they were attempting to find
10 out and on page 704 at the bottom Detective Wilson
11 testifies:

12 "And on the 23rd of November I
13 receive a fax from Mr. Richard
14 Warman who at the time was a
15 Windsor Ontario lawyer and he
16 again supported the information
17 telling me that Alex Krause is
18 Alex Kulbashian and that Mr.
19 Kulbashian is responsible for
20 hosting a number of racist and
21 neo-Nazi websites and that Mr.
22 Richard Warman was in the
23 process of making a complaint to
24 the Canadian Human Rights
25 Commission that involved these

1 websites or as a result of the
2 information on these websites."

3 (As read)

4 MS KULASZKA: Do you know when Mr.
5 Warman started the complaint against Mr. Kulbashian?
6 Were you the investigator on that
7 case?

8 MR. STEACY: Yes, I was. It's a 2001
9 file, so it would have had to have been in 2000.

10 I don't remember the exact date that
11 the complaint was signed.

12 MS KULASZKA: And on page 726 Ms
13 Pallette asked the question:

14 "Now, when you received the
15 request from the Canadian Human
16 Rights Commission investigator,
17 did you yourself send this CD to
18 Mr. Dean Steacy?

19 DET. WILSON: Yes, I did." (As
20 read)

21 MS KULASZKA: So, that is the image
22 copy of the hard drive of Scott Richardson, James Scott
23 Richardson.

24 Was there any protocol you went
25 through to obtain a copy of evidence in a criminal case

1 from the police?

2 MR. STEACY: I picked up the phone
3 and called the London Police, identified myself and
4 provided proof that I was an investigator with the
5 Canadian Rights Commission and then Detective Wilson
6 provided me with the CD and the police report that he
7 had on Mr. Scott Richardson and Mr. Kulbashian.

8 MS KULASZKA: And so, pursuant to the
9 duty of disclosure of the Commission, that CD and other
10 evidence was disclosed to the other parties?

11 MR. STEACY: Yes.

12 MS KULASZKA: And were Mr. Kulbashian
13 and Mr. Richardson charged criminally with hate?

14 MR. STEACY: Through the complaint
15 that Mr. Warman laid?

16 MS KULASZKA: Yes, the police
17 executed a search warrant, that's how they seized the
18 computer and got a copy of his hard drive and then they
19 arrested them.

20 Did you know that?

21 MR. STEACY: I knew that Mr. Scott
22 Richardson had been charged for uttering death threats
23 and I know that Mr. Kulbashian had also been charged
24 for a crime in Toronto that concerned the beating of a
25 black person on a TTC bus.

1 MS KULASZKA: So, did you know why
2 the computer had been seized?

3 MR. STEACY: I found out when I read
4 the investigate -- his police report.

5 MS KULASZKA: So, you do know that
6 they were charged with hate propaganda under the
7 Criminal Code?

8 MR. STEACY: My understanding, what I
9 saw, they had not been specifically charged with hate
10 propaganda under the Criminal Code, they had been
11 charged for uttering a death threat and that Mr.
12 Kulbashian had been charged for -- it was a hate -- I
13 think it was characterized in the --

14 THE CHAIRPERSON: Ms Kulaszka, I'm
15 going to intervene because that was not -- what you
16 suggested in your question did not occur, because I did
17 this hearing. There wasn't a hate crime charge.

18 MS KULASZKA: Okay.

19 THE CHAIRPERSON: Mr. Richardson was
20 charged for a death threat, but -- and I know Mr.
21 Kulbashian is in the room but I'm not going to ask him
22 to stand up here and speak, but his recollection is
23 closer to the truth than your question.

24 MS KULASZKA: Okay. Could I produce
25 that transcript. That would be tab 2 -- well, it's

1 white tab 2, could we call it 12.

2 THE CHAIRPERSON: I'm going to start
3 calling them with a digit in front 1 to keep -- I
4 prefer to use that term so that we maintain the
5 sequence. So, it's tab 11, tab 12 and so on.

6 So, you've just produced tab 12.

7 Ms Kulaszka, I'm mindful of the time.
8 It's 3:20 and...

9 MS KULASZKA: Another 10 minutes.

10 THE CHAIRPERSON: Oh, okay.

11 MS KULASZKA: Mr. Steacy, if you go
12 to tab 3, the next tab, it's a transcript of Warman vs
13 Kuba.

14 MS BLIGHT: 13.

15 MS KULASZKA: Or 13, sorry. This is
16 the testimony of Sergeant Steven Camp . He's giving
17 testimony about how proud18 was identified.

18 If you go to page 38, he states:

19 "So, one of the first things we
20 had to do is identify who
21 proud18 is and we used a number
22 of investigative techniques to
23 discover who proud18 was,
24 everything from surveillance,
25 computerized checks on motor

1 vehicles, directory checks
2 utilizing CPIC, utilizing his
3 information that he was
4 providing on Stormfront to come
5 to the conclusion that proud18
6 was Peter Kuba at an address
7 here in Edmonton." (As read)

8 MS KULASZKA: By utilizing in these
9 cases the testimony of police officers, you're gaining
10 access to the type of evidence you could not obtain
11 yourself; aren't you, as an investigator for the
12 Commission?

13 MR. STEACY: No.

14 MS KULASZKA: So, you have access to
15 CPIC?

16 MR. STEACY: Presently no, but if I
17 became aware of information, I have -- under the Act we
18 do have the ability to get a subpoena, get a warrant.

19 MS KULASZKA: For something -- for
20 Stormfront? Isn't that server in the United States?

21 MR. STEACY: For Stormfront I
22 wouldn't be able to get anything because it is in the
23 United States, but if it's Canadian and I can link
24 something to Canada, you know, not having anything
25 forthcoming and I believe there's enough to go get a

1 warrant, I'll consult with our legal department as any
2 other investigator would and if we feel there's enough
3 there to ask for a warrant, we'll ask for a warrant.

4 MS KULASZKA: So, could you utilize
5 CPIC?

6 MR. STEACY: I can't answer that
7 question. I don't think I can utilize CPIC.

8 MS KULASZKA: Do you have powers of
9 surveillance?

10 THE CHAIRPERSON: Your answer again,
11 sir, I'm sorry, I didn't hear it, sir. On CPIC what
12 was your answer?

13 MR. STEACY: I don't know if I talk
14 to a police officer and ask for some information, I
15 have no idea to know if they utilize CPIC if they
16 cooperate and give me information.

17 I don't know what their -- if they're
18 using CPIC or if they're using their own local
19 database. I don't know what information that they're
20 using.

21 MS KULASZKA: How often have you
22 gotten warrants for cases under section 13?

23 MR. STEACY: At least two times that
24 I can think of.

25 MS KULASZKA: And what cases would

1 those be?

2 MR. STEACY: One was AOL and the
3 other was BC White Pride. Sorry, no it wasn't, it was
4 Warman vs DeCivida (ph) I believe.

5 MS KULASZKA: Is that Church of the
6 Creator?

7 MR. STEACY: I think that was one of
8 the related files to the World Church of the Creator,
9 yes.

10 MS KULASZKA: Do you have any powers
11 of surveillance on people, and I mean going to their
12 rallies and watching them?

13 MR. STEACY: No.

14 MS KULASZKA: Do you have any access
15 to computerized checks on motor vehicles?

16 MR. STEACY: No.

17 MS KULASZKA: Is it a strategy of the
18 Commission in section 13 cases to simultaneously seek
19 criminal charges against respondents while also
20 pursuing complaints against them under section 13?

21 MS BLIGHT: I'm sorry to ask for that
22 question to be repeated, I was --

23 THE CHAIRPERSON: Yeah, I'd like to
24 hear it again too.

25 MS BLIGHT: -- I was (indiscernible)

1 my notes.

2 MS KULASZKA: Is it a strategy being
3 used by the Commission to simultaneously pursue
4 criminal charges against a respondent while at the same
5 time a complaint is being pursued under section 13,
6 because that has been done several times in many cases.

7 MR. STEACY: I'm not aware the
8 Commission ever having pursued criminal charges against
9 any individual while we were investigating a complaint.

10 MS KULASZKA: But Mr. Warman has.

11 MR. STEACY: But Mr. Warman's not an
12 investigator with the Commission.

13 MS KULASZKA: But he was, he was an
14 investigator with the Commission.

15 MR. STEACY: Well, what he did as an
16 individual outside of the Commission is his business.
17 He never did -- he never investigated any hate files
18 when he was at the Commission.

19 MS KULASZKA: Well, the Commission
20 has -- was it the Commission who subpoenaed the police
21 officers in these cases?

22 MR. STEACY: You'd have to ask the
23 lawyers that did those Tribunal hearings who and what
24 they subpoenaed. I'm not privy to that information.

25 MS KULASZKA: But you were the person

1 who requested the CD from the police from Terry Wilson?

2 MR. STEACY: Yes, but I didn't do it
3 with a subpoena, he cooperated and provided me the
4 information in the course of an investigation.

5 MS KULASZKA: So, in other words,
6 it's very useful to have a police charge and the
7 resources of the police used in a section 13 case?

8 MR. STEACY: I don't know what you
9 mean by police charge, but I mean, in the course of
10 investigation we hope that complainants and respondents
11 on all sides cooperate with the investigation and
12 witnesses and such cooperate with the investigation.

13 MS KULASZKA: Can I produce that tab
14 13?

15 THE CHAIRPERSON: Yes.

16 MS KULASZKA: Tab 14, 15 and 16 are
17 documents which have been produced by the defence.
18 They're going to be used in argument, they're
19 chronologies.

20 THE CHAIRMAN: Mm-hmm.

21 MS KULASZKA: And summaries of
22 evidence. I don't know if you want them marked as
23 exhibits or simply handed up to you as something
24 which --

25 THE CHAIRMAN: You mean for this

1 witness or for argument?

2 MS KULASZKA: For argument.

3 THE CHAIRPERSON: Let me take a look
4 at it.

5 MS KULASZKA: Whatever the practice
6 would be.

7 THE CHAIRPERSON: There's no harm in
8 putting it in as an exhibit if you tell me that you
9 prepared it as such.

10 MS KULASZKA: That's --

11 THE CHAIRPERSON: Since it's here,
12 you might as well leave it here.

13 I see what you've done here. So,
14 what you've done is you've got dates, criminal docket
15 number, respondent and then how the respondent was
16 identified according to your assessment of it.

17 MS KULASZKA: That's right, which
18 we'll use in argument about (indiscernible) JR books on
19 line.

20 MS BLIGHT: I would simply request if
21 they're going to be produced that they be identified as
22 to who their author is, and that's on the top of the
23 document.

24 THE CHAIRPERSON: I thought it was Ms
25 Kulaszka. Is it you, Ms Kulaszka, or you and Mr.

1 Lemire?

2 MS BLIGHT: Or that, you know, it's a
3 respondent summary, it's not to be taken to be any
4 official document if it's later released in any public
5 forum.

6 THE CHAIRPERSON: I see. So, is
7 there a better way to do this then, to avoid that
8 confusion?

9 MS BLIGHT: As long as there's a
10 handwritten notation that they're, you know, prepared
11 on behalf of Mr. Lemire.

12 THE CHAIRPERSON: I'll put it in the
13 official record. These are documents prepared by
14 respondent counsel for the purpose --

15 MS BLIGHT: Counsel and respondent.

16 THE CHAIRPERSON: Well, yes, okay.
17 So, would you note that. For the purposes of --

18 MS BLIGHT: For the purposes of
19 argument.

20 THE CHAIRPERSON: -- final argument.

21 MS BLIGHT: Yes.

22 MS KULASZKA: Now, the affidavit of
23 Glen Barr at the end, that would be 17.

24 THE CHAIRPERSON: Just a second, just
25 a second. Let me do it one by one.

1 MS KULASZKA: I'm sorry.

2 THE CHAIRPERSON: Now, we've got tab
3 15 which is CHRC cases and police involvement methods
4 used to identify respondents, the same theme, right, Ms
5 Kulaszka? It's the same kind of a table 2?

6 MS KULASZKA: Yes, the same type of
7 thing, but it's the methods used.

8 THE CHAIRPERSON: As you submit,
9 subject to whatever evidence --

10 MS KULASZKA: Yes, from the
11 transcripts.

12 THE CHAIRPERSON: -- is already
13 before the Tribunal to support these conclusions that
14 you're drawing?

15 MS KULASZKA: That's right.

16 THE CHAIRPERSON: Again I'll write
17 prepared by respondent and respondent counsel for final
18 argument.

19 MS KULASZKA: And tab 6 it's simply
20 the chronology of events of -- sorry, 16, tab 16.

21 THE CHAIRPERSON: Yes.

22 MS KULASZKA: Of chronology of events
23 relating to posting up on websites using false
24 monikers.

25 THE CHAIRPERSON: Some of these

1 things I've seen, some of them I don't recall having
2 seen, Ms Kulaszka. The January 24, Shane Ruddell
3 Martinez (ph), I don't recall hearing any evidence
4 about that.

5 MS KULASZKA: Let me ask Mr. Steacy
6 that.

7 Mr. Steacy do you know on the
8 Stormfront message board who uses the moniker markw14?

9 MR. STEACY: I have no idea.

10 THE CHAIRPERSON: You know what, I'll
11 tell you something, I don't recall having seen that at
12 all, even in other cases, so...

13 MS KULASZKA: No, can we strike that
14 out?

15 THE CHAIRPERSON: I think in fairness
16 you should. I'll leave it to the other parties to drum
17 up -- no, again, this is for final argument as well?

18 MS KULASZKA: Mm-hmm, yes, this is to
19 be used for final argument.

20 THE CHAIRPERSON: So, I'll leave it
21 to the other parties to review these documents and if
22 there's any error in what's been written here, you can
23 bring it up in final argument.

24 MS KULASZKA: Okay. Tab 17 is
25 affidavit --

1 THE CHAIRPERSON: No, one minute,
2 please.

3 Okay.

4 MS KULASZKA: It's an affidavit of
5 Glen Barr, it's simply for the purposes of showing that
6 Mr. Barr was charged under the Criminal Code and the
7 charges were stayed. It's show what's happening with
8 the criminal charges.

9 THE CHAIRPERSON: Any objection to
10 this document?

11 MS BLIGHT: Yes.

12 THE CHAIRPERSON: Okay.

13 MS BLIGHT: The parties' cases were
14 closed, we're here for a limited purpose of reviewing
15 matters which had been refused.

16 THE CHAIRPERSON: Agreed. But in the
17 last line of questioning, we were talking about the
18 involvement with the police and so on and we got into
19 some of the criminal charges.

20 MS BLIGHT: Well, this has nothing to
21 do with the Commission's involvement with the police.

22 THE CHAIRPERSON: Isn't this
23 information already in the decision that was issued
24 ultimately in the Barr case?

25 MS BLIGHT: I don't know.

1 MS KULASZKA: They were only stayed,
2 the criminal proceedings on October 4th, 2007.

3 THE CHAIRPERSON: I know, but
4 whatever's mentioned in here, isn't it mentioned in the
5 Barr decision?

6 MS KULASZKA: When was the Barr
7 decision?

8 MR. CHRISTIE: Well, except for, sir,
9 except for what happened after the decision.

10 THE CHAIRPERSON: This is after the
11 decision.

12 MR. CHRISTIE: Some of it is.
13 Paragraphs, for instance, 5, 6 and 7 are Mr. Barr's
14 explanation of what happened after the decision
15 vis-a-vis the criminal proceedings which is the usual
16 practice once you've got the information using the
17 criminal powers, you drop the criminal charges and use
18 the information in the rights context.

19 MS KULASZKA: Okay. Paragraph 3 of
20 the affidavit states that the decision of the Tribunal
21 was December 1st, 2006 and, in fact, in the decision
22 the Tribunal mentioned the fact that Mr. Barr had had
23 charges laid against him under 319.2 of the Criminal
24 Code that arose from the same or substantially the same
25 material as considered in this proceeding and Mr. Barr

1 subsequently retained Mr. Christie to defend him on the
2 hate propaganda charges and those charges were stayed
3 just a few months ago on October 4th, 2007.

4 THE CHAIRPERSON: Ms Kulaszka, the
5 problem is you put an affidavit in, it opens up
6 Pandora's Box of people wanting to cross on affidavits
7 and so on.

8 Can we just get -- but it also is a
9 matter that was just discussed extensively with this
10 witness and it arose because the minute we approach
11 police investigation, police relationship with the
12 Commission there was an objection filed last time
13 around.

14 So, I follow you there.

15 MS BLIGHT: Mr. Chairman, this has
16 nothing to do with the police and the Commission. If
17 as it is alleged in this affidavit, which was sworn a
18 couple of weeks ago --

19 THE CHAIRPERSON: Okay.

20 MS BLIGHT: -- the police stayed the
21 charges, I mean, Ms Kulaszka can ask Mr. Steacy about
22 that and to the extent he knows anything about it he
23 can testify about it, but to keep putting affidavits
24 into the record, or trying to put affidavits into the
25 record just, you know, opens up all these additional

1 issues.

2 THE CHAIRPERSON: I won't allow the
3 affidavit to go into the record, Ms Kulaszka.

4 MS BLIGHT: And I don't know why
5 those charges were stayed.

6 THE CHAIRPERSON: Right.

7 MS BLIGHT: And, you know, maybe
8 that's relevant.

9 THE CHAIRPERSON: It's not going in
10 that way, Ms Kulaszka. You can ask questions on the
11 point in the same manner you've asked in all the other
12 questions, but don't put this affidavit in.

13 MS KULASZKA: Mr. Steacy, are you
14 aware that the criminal charges against Glen Barr under
15 319.2 which is the hate propaganda provision of the
16 Criminal Code were stayed last year on October 4th,
17 2007?

18 MR. STEACY: No, I wasn't.

19 MS BLIGHT: Mr. Chair, I wonder if
20 there's a kind of easy solution to this.

21 THE CHAIRPERSON: Think about it.
22 We'll take a break after you're done and you can
23 discuss it with the others.

24 Doing this is a Pandora's Box and I
25 won't allow. I'm removing tab 17.

1 So, go ahead.

2 MS BLIGHT: Oh, did you say we're
3 going to have a break.

4 THE CHAIRPERSON: Do you have any
5 further questions?

6 I could order the break now. Do you
7 have more questions? I thought you said 10 minutes a
8 few minutes ago, so that's why.

9 MS KULASZKA: Mr. Steacy, I'd like to
10 go to tab 1.

11 THE CHAIRPERSON: I mean, if you're
12 going to be a little longer, I'll take that break for
13 you, if that's what you'd like.

14 MS BLIGHT: Is this tab 11?

15 MS KULASZKA: It'S tab 1.

16 THE CHAIRPERSON: Ms Kulaszka, would
17 you rather --

18 MS BLIGHT: We could have a small
19 break, I think for Mr. Steacy too.

20 THE CHAIRPERSON: Okay, we'll do
21 that.

22 --- Upon recessing at 3:39 p.m.

23 --- Upon resuming at 4:01 p.m.

24 MS KULASZKA: Mr. Steacy, you were
25 asked to provide the names of individual respondents in

1 the AOL cases. Could you give those names.

2 MS BLIGHT: Perhaps I could put them
3 on record for the witness and have him confirm them
4 since he may not have had them in his memory.

5 THE CHAIRPERSON: Okay. Any problem
6 with that?

7 MS BLIGHT: Those were verifications
8 that were made on the witness' behalf.

9 THE CHAIRPERSON: Okay, go ahead.

10 MS BLIGHT: Those were Robert
11 Worsnop, Mrs. Ernesta Fleming.

12 THE CHAIRPERSON: Hold on.
13 Robert...?

14 MS BLIGHT: Worsnop, Mr. Or Mrs.
15 Fleming, Louise Gauthier Bossecker and Bert Graef.
16 Bossicker is spelled B-o-s-s-e-c-k-e-r and Bert Graef
17 is spelled B-e-r-t and Graef, G-r-a-e-f.

18 MS KULASZKA: Does that concur with
19 your recollection, Mr. Steacy?

20 MR. STEACY: I think so. I remember
21 those cases more by their user names than I do the
22 individuals' real names, but that sounds right.

23 MS KULASZKA: And what were the user
24 names?

25 MR. STEACY: I think the first

1 individual was bigbadrob@aol, and then Mr. Graef was
2 bertiegraef@aol and Bossecker was hboss and then the
3 Flemings, I can't remember what the Flemings, I think
4 it was drumsaremybeat.

5 THE CHAIRPERSON: Drumsaremybeat.
6 Some of these cases have been referred to the Tribunal,
7 so I'm familiar with the names.

8 MR. CHRISTIE: Was it drumsaremye
9 or --

10 MR. STEACY: Drumsaremybeat.

11 MR. CHRISTIE: Ah, thank you.

12 THE CHAIRPERSON: @aol.

13 MS KULASZKA: Mr. Hadjis, I'd like to
14 remove the two letters that are at tab 1. These are
15 the two letters that were provided to the Federal Court
16 of Canada.

17 THE CHAIRPERSON: You want to remove
18 them because you're not using them; right?

19 And I'd also remove that last tab you
20 spoke of at the end of the hour. Okay.

21 MS KULASZKA: And in tab 1, I would
22 like to place the documents which were disclosed today
23 by the Commission.

24 THE CHAIRPERSON: All right. They
25 have no holes in them, we can put them in after, but

1 this entire batch; right?

2 MS KULASZKA: That's right.

3 THE CHAIRPERSON: Okay.

4 MS KULASZKA: Mr. Steacy, the first
5 document in the batch which we're going to produce at
6 tab 1 which you have produced, at the top it says: To
7 Dear Totenkopf, it's a poem by Jessica Beaumont, it was
8 printed off April 13th, 2005. It says, Welcome
9 jadewarr. Did you print that off?

10 MS BLIGHT: Can I just go get that,
11 please.

12 THE CHAIRPERSON: Yes, I want the
13 witness to have that.

14 MS BLIGHT: A copy's been given.

15 THE CHAIRPERSON: So, page 1, the
16 poem.

17 MS KULASZKA: That's right. It's
18 from Stormfront. It's a poem by Jessica Beaumont and
19 it says: Welcome jadewarr.

20 Do you remember that poem? This is
21 the Beaumont case. I think this is the document which
22 was not entered into evidence because it was unclear.

23 THE CHAIRPERSON: Perhaps.

24 MR. STEACY: Yes, I believe I
25 printed -- if that's the...

1 MS BLIGHT: Can we describe the
2 document?

3 THE CHAIRPERSON: Sure.

4 MS KULASZKA: It's a poem by looks
5 like Jessie Destruction, it's to Dear Totenkopf.

6 MS BLIGHT: Can you -- there's a date
7 on the url at the bottom of this document.

8 MS KULASZKA: Yes, April 13th, 2005.

9 MR. STEACY: I'll have to say yes it
10 is. I mean, I printed off a poem -- I remember
11 printing off a poem by Jessie Destruction, I don't
12 remember the content of it.

13 THE CHAIRPERSON: All right. So, the
14 Welcome jadewarr part, to be clear here, is at the top
15 presumably to the person who is printing off, who is
16 entered into the message board.

17 MS KULASZKA: That's right.

18 THE CHAIRPERSON: Signed in, is now
19 viewing postings by others and is printing them off,
20 and as he prints or she prints them off, it says,
21 Welcome printer, the person who is doing the printing.

22 MS KULASZKA: That's right.

23 THE CHAIRPERSON: Okay.

24 MS KULASZKA: I believe this is the
25 document that is being discussed in the Beaumont case

1 which Mr. Warman says is unclear and he doesn't want to
2 enter it into evidence and I don't think it is entered
3 into evidence.

4 THE CHAIRPERSON: I hear your
5 submissions. I'm not sure in my recollection. We can
6 just look at that transcript and see if it seems to
7 reflect the same.

8 MS BLIGHT: Obviously, Mr. Chairman,
9 there's some difficulties. The testimony that Ms
10 Kulaszka referred to rather extensively, I believe it
11 was this morning or earlier this afternoon.

12 MS KULASZKA: Tab 6.

13 MS BLIGHT: Spoke to a certain by Mr.
14 War --

15 THE CHAIRPERSON: Warman.

16 MS BLIGHT: -- if I'm not mistaken,
17 indicating that something had been printed in his
18 presence on I believe it is December 8th of 2006.

19 THE CHAIRPERSON: That was the second
20 document.

21 MS KULASZKA: That was the second
22 document.

23 THE CHAIRPERSON: The cleaner
24 document.

25 MS BLIGHT: The cleaner document.

1 THE CHAIRPERSON: It was the dirtier
2 document, if I can use the term, that was in front of
3 the Tribunal at that time and it was already in a
4 binder -- in the binder from the Commission.

5 So, the suggestion from Ms Kulaszka
6 is that this is the "messy" or dirty document.

7 MS BLIGHT: The witness obviously can
8 attest to having some memory of printing a poem by
9 Jessica Beaumont, but obviously cannot identify the
10 document.

11 The witness did testify about his
12 recollection of the date upon which he was asked to
13 print the document and, you know, I think we're going
14 to probably need to leave it at that.

15 THE CHAIRPERSON: Right. To some
16 extent the document speaks for itself. We have
17 evidence that what I described earlier, when you enter
18 this website it says Welcome Mr. User, Madam User with
19 the user name and we can see that, of course computers
20 can have wrong dates on them if they're wrongly -- if
21 the dates are wrong when entered initially, but on the
22 assumption that this computer from which the print-out
23 occurred had the accurate date, the date that appears
24 at the bottom is April 13th, 2005, the url line.

25 MS BLIGHT: And if I understand

1 correctly, this particular document is not the document
2 that it is alleged was printed in Mr. Warman's presence
3 in 2006.

4 THE CHAIRPERSON: That would have to
5 be the case because Mr. Warman testified that that had
6 just occurred in December, 2006.

7 MS BLIGHT: Thank you for clarifying
8 that.

9 MS KULASZKA: Okay, that's produced
10 at tab 1.

11 THE CHAIRPERSON: Yes. You're
12 putting them all in tab 1; are you not?

13 MS KULASZKA: Yes.

14 THE CHAIRPERSON: Okay. So, I will
15 separate them out. I'll keep track of them.

16 So, that portion of it is produced.
17 What else do you want to show me.

18 MS KULASZKA: Mr. Steacy, are
19 investigators, do they have some sort of exemption from
20 complaints under section 13 for things they're posting
21 on message boards?

22 MR. STEACY: You're wanting to know
23 that if an investigator was to post hate on the
24 Internet whether a complaint could be taken against the
25 investigator for posting hate?

1 MS KULASZKA: That's right.

2 MR. STEACY: My understanding of the
3 legislation, there's not an exemption for anybody, so
4 that would have to include an investigator, if an
5 investigator were to post hate that there's a potential
6 that somebody could take a complaint against him or
7 her.

8 MS KULASZKA: Those are my questions.
9 Thank you.

10 THE CHAIRPERSON: Okay. So, what do
11 I do with the rest of the documents, do I give them
12 back to you?

13 MS KULASZKA: Oh.

14 THE CHAIRPERSON: You only showed me
15 page 1.

16 MS KULASZKA: Oh, I want to enter the
17 whole bunch as --

18 THE CHAIRPERSON: Oh, the whole
19 bunch.

20 MS KULASZKA: Yes, everything that
21 was given as, I don't know how many pages are --

22 MS BLIGHT: No objection, Mr.
23 Chairman.

24 THE CHAIRPERSON: Oh, fine. So, is
25 it all one. It's all one document?

1 MS BLIGHT: It is the documentation
2 produced today by the Commission.

3 THE CHAIRPERSON: All right. I'll
4 figure it out, don't worry about it. It's all right.

5 MS BLIGHT: Most of it is
6 self-explanatory.

7 THE CHAIRPERSON: That's fine.

8 Thank you, Ms Kulaszka.

9 Mr. Fromm, any questions?

10 MR. FROMM: The party yields to Mr.
11 Christie.

12 THE CHAIRPERSON: Mr. Christie.

13 MR. CHRISTIE: I'd like to focus on
14 the letter of December 20th, paragraphs 9, 10 and 11.
15 I appreciate you don't maybe have a copy of that.

16 THE CHAIRPERSON: Would that be the
17 letter that Ms Kulaszka just asked me to remove at tab
18 1?

19 MR. CHRISTIE: It very well could be.

20 MS BLIGHT: The same questions are
21 reproduced, although you will have to go to the second
22 page to see them.

23 THE CHAIRPERSON: I don't mind
24 looking at this tab 1 letter for now. Oh, you know
25 what, I'll put it -- I'll just look at it, we don't

1 have to...

2 MR. CHRISTIE: Right. You'll notice
3 paragraphs 9, 10 and 11 deal with the relationship
4 between the police and the Commission in these types of
5 cases.

6 And the answer given by Ms Blight on
7 behalf of this witness was, there's no formal
8 relationship.

9 Then I'd like to refer to tab 8 in
10 the binder of materials, all of which was disclosed in
11 July, 2007 for the first time after a request to Mr.
12 Goldberg to disclose his e-mails resulted in a very
13 restricted number of e-mails.

14 This disclosure then came after the
15 close of all evidence and after Mr. Goldberg was off
16 the stand.

17 It's my contention that in the
18 interests of fairness, justice and the adequate
19 consideration of the constitutional question, that
20 blacking out should be removed because many of the
21 obscured portions in these tabs deal with the person in
22 charge of apparently activities that are a related
23 nature between Commission, R.C.M.P. and other
24 government surveillance agencies.

25 So, my position is that they should

1 have been disclosed and it's not just irrelevant names
2 that are being obscured.

3 So, this material, in my
4 understanding has never been dealt with before this
5 hearing on any previous occasion.

6 That said, I would like to ask some
7 questions.

8 The first question is, how much time
9 do I have?

10 THE CHAIRPERSON: Not much.

11 MR. CHRISTIE: Well, could we be
12 precise so I know what to do? Can we say, I'm under a
13 deadline until what, five o'clock?

14 THE CHAIRPERSON: How much
15 questioning do you propose to --

16 MS BLIGHT: I will have a few
17 questions to clarify some of the documentation and some
18 of the witness' responses, so...

19 THE CHAIRPERSON: 30 minutes, 15
20 minutes?

21 MS BLIGHT: I can do it within 20,
22 25.

23 I also want to address some
24 submissions to you with respect to the document that
25 was put into evidence further to the Bell subpoena and

1 the identity of the individual and it was supposed to
2 become clear in the course of my friend's questioning
3 of the witnesses.

4 I'm advised, Mr. Chairman, that
5 whoever this person is her name and her telephone
6 number and her address are, as we speak, out there on
7 the Internet as someone who has some involvement with
8 this case, according to Bell Canada, and that is -- in
9 my submission contrary to the request that you made
10 this morning with respect to the disclosure of that
11 person's identity and contrary to the privacy interests
12 that ought to be protected.

13 I brought that matter to your
14 attention because --

15 THE CHAIRPERSON: It's troubling, but
16 all I can do is ask the parties in front of me if
17 they're responsible for that disclosure.

18 MS BLIGHT: Well, I understand that
19 Mr. Lemire has been blogging indirect from the hearing
20 room today through the course of the proceedings and
21 that the information -- I don't know, I haven't been on
22 the websites, but that may have very well been...

23 THE CHAIRPERSON: Well, let me ask Ms
24 Kulaszka.

25 MS KULASZKA: I don't have any

1 knowledge of this. But I will say this, it's been
2 filed as an exhibit and it's from December 8th and
3 somebody was on December 8th as jadewarr and we have
4 Mr. Steacy's testimony that all sorts of people had
5 access to that e-mail and he doesn't really know who
6 knows about that e-mail.

7 And he may not know this woman --

8 THE CHAIRPERSON: I've asked for an
9 undertaking from the parties to not disclose -- that
10 private information not go out. We've had it as a
11 consistent policy that we don't put out person's
12 addresses and phone numbers and...

13 MS KULASZKA: This is the first I've
14 heard of it.

15 MS BLIGHT: The address apparently
16 relates to an apartment building in Ottawa.

17 MR. CHRISTIE: When it comes to
18 grandstanding, can I say something?

19 THE CHAIRPERSON: It's not
20 grandstanding, it's a motion -- a discussion.

21 MR. CHRISTIE: Yes, I understand
22 that, but there's really nothing can be done about it.
23 We all know that.

24 THE CHAIRPERSON: Well, nothing can
25 be done other than an undertaking by the people in the

1 room not to do it themselves. It's done by one person,
2 it may not be repeated a dozen times.

3 MR. CHRISTIE: This is an open and
4 public inquiry as well.

5 THE CHAIRPERSON: It is an open an
6 public inquiry, but as I say, at least I'm asking from
7 counsel in front of us to try to not -- if they have
8 any control over the matter, to not allow personal
9 information to be disclosed. That's about it. Now --

10 MR. CHRISTIE: The other point was --

11 MS BLIGHT: But at this point would
12 it not be appropriate, since this individual is not
13 attached to anything in this proceeding, to request
14 that any personal information pertaining to this
15 individual be removed.

16 The Commission has never had an issue
17 since mid-December about whether jadewarr made the
18 postings that are in evidence here and that are
19 attributed to jadewarr. So, the necessity of the Bell
20 subpoena has always been, in our mind, somewhat in
21 question.

22 There was an admission, there has
23 been ad admission, the Commission, Mr. Steacy was
24 jadewarr and all the postings of which we're aware, all
25 the postings which are in evidence.

1 So, the explanation for this apparent
2 discrepancy with respect to the Bell subpoena and the
3 fact that it identifies an individual at a residential
4 address and the phone number, which have no apparent
5 connect to this hearing --

6 THE CHAIRPERSON: Right, except that
7 it's public.

8 MS BLIGHT: -- ought not to be
9 published.

10 THE CHAIRPERSON: But published how?

11 MS BLIGHT: On the Internet. They
12 are at large on the Internet.

13 THE CHAIRPERSON: I said, people
14 should not publish this on the Internet. On the other
15 hand, we were not using court reporting services, we
16 just have the audio recording of this, so I'm not
17 publishing it in any other way.

18 Ms Kulaszka and friends only learned
19 of that information this morning she said when the
20 witness brought the document, so it wasn't entirely in
21 her control. The witness testified and that was it.
22 The cat was out of the bag, so to speak.

23 MS BLIGHT: And, Mr. Chairman, you
24 requested that the parties not distribute that.

25 THE CHAIRPERSON: Right.

1 MS BLIGHT: And I'm now asking that
2 you issue a further request to the parties that that
3 information where it has been --

4 THE CHAIRPERSON: Not be distributed.

5 MS BLIGHT: -- put on the Internet,
6 that it be removed.

7 THE CHAIRPERSON: It should be
8 removed. I don't know if you're responsible for that,
9 Mr. Lemire, but it's not necessary to achieve the ends
10 of our discussion.

11 Now, in terms of time, you want 25
12 minutes you said? That was my question.

13 And how about you Ms Davies and you,
14 sir?

15 No questions?

16 MS DAVIES: I have none.

17 THE CHAIRPERSON: Nothing?

18 MR. MOSTEN: I'll have a few
19 questions, but extremely brief.

20 THE CHAIRPERSON: Sounds like half an
21 hour to me.

22 So, that clock is inaccurate. So,
23 sir, you have 45 minutes then.

24 EXAMINATION BY: MR. CHRISTIE

25 MR. CHRISTIE: Tab 8, page 18, I'd

1 like a ruling that the obliteration marks be removed,
2 there can be no claim of section 31 privilege to these
3 names and they're relevant to the document, so I'm
4 asking that ruling be made.

5 THE CHAIRPERSON: Tab 8.

6 MR. CHRISTIE: The whole of tab 8
7 contains many obliterations in black-out which I say
8 are unnecessary, unjustified and there's no right any
9 longer to claim section 37 of the Canada Evidence Act.

10 THE CHAIRPERSON: Ma'am.

11 MS BLIGHT: That was never a section
12 37 claim. When these documents were disclosed to Ms
13 Kulaszka, the nature of each of the redactions was at
14 her request also disclosed, as I recall it, and this is
15 the first expression of dissatisfaction of that that
16 we've heard.

17 As I recall it -- as I recall it --

18 MR. CHRISTIE: That's the third time.

19 THE CHAIRPERSON: Hold on, sir.

20 Go on.

21 MS BLIGHT: They were in great
22 majority, if not all the removal of the individual's
23 name. Now, I can also advise you those were reviewed a
24 second time by the Commission after they were disclosed
25 and the Commission had discovered a couple of areas

1 where it felt it could disclose a less redacted
2 document, for example, to show the back part of the
3 e-mail as opposed to the individual identifier at the
4 front part so that it would be known what organization
5 the person was from.. I'm not sure whether those
6 further documents have found their way into this
7 exhibit.

8 But certainly, and I see that Ms
9 Kulaszka is indicating no, but certainly there are a
10 number of these documents where less redacted versions
11 have been --

12 THE CHAIRPERSON: So, there is a less
13 redacted version or...

14 MS BLIGHT: Yes, but it was carefully
15 done in order to take the individual names out of the
16 mix in most part and I think there were some where we
17 wanted also not to identify the organization with whom
18 the communication was.

19 But to the extent that the
20 communication relates to the points under disclosure,
21 it is all there.

22 THE CHAIRPERSON: Who has the less
23 redacted version, Ms Kulaszka does?

24 MS BLIGHT: Ms Kulaszka has a less
25 redacted version. I haven't brought it with me.

1 MS KULASZKA: My recollection, it was
2 a very, very small number of documents, maybe five.

3 THE CHAIRPERSON: This request is
4 coming...

5 These documents were disclosed in
6 July, 2007. Yes or no? It was, right? You're making
7 a request today during the hearing? Too late, we'll
8 move on.

9 Sir.

10 MR. CHRISTIE: If you turn to page
11 18, do you know who Harvey Goldberg is?

12 MR. STEACY: Yes, I do.

13 MR. CHRISTIE: Who is he?

14 MR. STEACY: He's a colleague.

15 MR. CHRISTIE: What does that mean?
16 Does he have responsibility above you, below you or
17 beside you?

18 MR. STEACY: He's a member on the
19 anti-hate team.

20 MR. CHRISTIE: So, is he the team
21 leader --

22 MR. STEACY: No, he is not.

23 MR. CHRISTIE: -- of the anti-hate
24 team?

25 MR. STEACY: No, he's not.

1 MR. CHRISTIE: Is he the team leader
2 of proactive initiatives?

3 MR. STEACY: I don't know. I know
4 he's on strategic initiative team and that's where he
5 is at the Commission, but he's a member of the team.

6 MR. CHRISTIE: All right. Page 19.

7 MR. STEACY: Sorry?

8 MR. CHRISTIE: I'm asking for the
9 person who is assisting you to turn to page 19 and I'm
10 asking the Commission to look at page 19 and I'm asking
11 for the disclosure of who this communication is
12 initiated by and sent to?

13 MS BLIGHT: Okay. First of all, the
14 witness has been given very little information about
15 the document that he is supposed to be commenting on.

16 Secondly, Mr. Chairman, you have
17 already provided a ruling as to the redactions on these
18 documents.

19 THE CHAIRPERSON: Right.

20 MS BLIGHT: Thirdly, these are Mr.
21 Goldberg's documents, these are not Mr. Steacy's
22 documents. Mr. Steacy has never, to my knowledge,
23 reviewed these documents, at least has not done so
24 systematically --

25 MR. CHRISTIE: Could we wait for my

1 question.

2 MS BLIGHT: -- of preparing for this
3 hearing.

4 MR. CHRISTIE: There's no objection
5 to a valid question, I haven't even got to the
6 question.

7 THE CHAIRPERSON: Your question --
8 there was a question, it was what names appear on
9 here --

10 MR. CHRISTIE: I asked the Commission
11 to disclose what names appear on there.

12 THE CHAIRPERSON: The Commission does
13 not have to disclose what names appear unless they want
14 to because I ruled that we're not going to go back into
15 the redactions, unless these were in the less redacted
16 documents that Ms Kulaszka has in her possession.

17 MS BLIGHT: And I have no objection
18 to any substitution of those less redacted documents
19 produced.

20 So, we can see at page 18 it's an
21 exchange with the New Westminster Police Force. Now,
22 in fairness to the witness, if he's going to be asked
23 to comment on Harvey Goldberg's documents they must be
24 read to him.

25 MR. CHRISTIE: Well, if is a

1 proposition that has not yet been achieved. I was
2 about to ask a question and I think it would be fair to
3 let me get the question out before she raises an
4 objection to a hypothetical question that hasn't been
5 asked.

6 If I have 45 minutes, may I proceed?

7 THE CHAIRPERSON: Yes, you can.

8 MR. CHRISTIE: You said, sir, that
9 there was no formal agreement or relationship between
10 the police and the Commission. Wasn't that your
11 answer?

12 MR. STEACY: Yes.

13 MR. CHRISTIE: I'm looking at a
14 document which reads: --

15 MS BLIGHT: It says, Mr. Chairman,
16 "In these types of cases".

17 THE CHAIRPERSON: Hold on, hold on.

18 MS BLIGHT: So, it's related to
19 section 13 basically.

20 THE CHAIRPERSON: I have to catch up.
21 Hold on.

22 MR. CHRISTIE: Wait until I get a
23 question out before I'm obstructed, please.

24 THE CHAIRPERSON: So, there's no
25 formal relationship between police and CHRC.

1 MR. CHRISTIE: That's what was stated
2 in question 9 by Ms Blight on behalf of this witness.

3 MS BLIGHT: In section 13 cases.

4 THE CHAIRPERSON: For the record,
5 I've stated that I don't pay any notice to whatever Ms
6 Blight had written in her...

7 MR. CHRISTIE: Well, I ask that you
8 be allowed to refer to it because it's necessary to put
9 this proposition in context.

10 THE CHAIRPERSON: All right. Then
11 the answer in the March 20th, 2008 letter that Ms
12 Blight wrote was:

13 "There's no formal relationship,
14 however, during the course of
15 investigations I have from time
16 to time called police
17 departments and been provided
18 information." (As read)

19 THE CHAIRPERSON: Okay. Go ahead,
20 sir.

21 MR. CHRISTIE: This document reads:
22 "As we are both aware, the
23 Commission has signed a memo or
24 MOU with the R.C.M.P. We are
25 currently finalizing the terms

1 of the action plan and based on
2 previous conversations with..."

3 (As read)

4 MR. CHRISTIE: Blanked out,
5 "...I put forward the idea of a
6 working group on hate crimes for
7 the R.C.M.P. to consider which
8 they thought was interesting.
9 In order to pursue it further,
10 I'd like to get more
11 information, the tools you would
12 be interested in having access
13 to as well as your input on
14 potential objectives for such a
15 working group. Would you be
16 available to meet tomorrow,
17 January the 18th?" (As read)

18 MR. CHRISTIE: That was 2006.

19 My question is: Were you an
20 investigator with the Canadian Human Rights Commission
21 in January, 2006?

22 MR. STEACY: Yes.

23 MR. CHRISTIE: Are you not aware of a
24 memo of understanding with the R.C.M.P. regarding hate
25 crimes?

1 MR. STEACY: There is no memo of
2 understanding with the R.C.M.P. concerning section 13.1
3 complaints.

4 MR. CHRISTIE: What are hate crimes?

5 MR. STEACY: Section 13.1 complaints
6 are hate messaging on the Internet. The MOU that we
7 have with the R.C.M.P. deals with other issues at the
8 Commission, it has nothing to do with investigating
9 section 13.1 complaints.

10 MR. CHRISTIE: What other
11 jurisdiction does the Commission have over hate crimes
12 other than section 13, to your knowledge?

13 MR. STEACY: None.

14 MR. CHRISTIE: Well, then obviously
15 any reference to hate crimes on the part of the
16 Commission must relate to section 13.1; isn't that
17 true?

18 MR. STEACY: Yes, but we don't have
19 an MOU with the R.C.M.P. concerning any investigation
20 under section 13.1, has to do with our prevention
21 initiative program, it has to do with how we deal with
22 other issues resolving, you know, complaints that are
23 coming from R.C.M.P. members, from the public against
24 the R.C.M.P. in service in section 7 and section 5
25 complaints, it has nothing to do with section 13.1.

1 MR. CHRISTIE: So, where is the memo
2 of understanding? Have you read it?

3 MR. STEACY: It's on the Internet.

4 MR. CHRISTIE: And it does indicate
5 what your cooperation is with the R.C.M.P. in your
6 investigation under section 13.1?

7 MR. STEACY: As I said, the memo of
8 understanding deals, it's a general memo of
9 understanding which we have with many organizations
10 that talk about prevention and other issues, but the
11 memo of understanding that is on the Internet that we
12 have with the R.C.M.P. has nothing to do with the
13 investigation of section 13.1 complaints.

14 MR. CHRISTIE: What part of this memo
15 excludes section 13.1 complaints?

16 MR. STEACY: I don't know the MOU
17 off -- verbatim off the top of my head.

18 MR. CHRISTIE: Have you read it?

19 MR. STEACY: A long time ago.

20 MR. CHRISTIE: And does it not
21 constitute a formal agreement with the police agencies?

22 MR. STEACY: Not in relation to
23 section 13.1 complaints.

24 MR. CHRISTIE: So, you're saying the
25 memo of understanding doesn't cover section 13.1

1 complaints. Is that your evidence?

2 MR. STEACY: Yes.

3 MR. CHRISTIE: And you're saying it's
4 available on the Internet and that's the one and only
5 agreement there is with the R.C.M.P.?

6 MR. STEACY: That's the only one I'm
7 aware of.

8 MR. CHRISTIE: Page 20 --

9 MS BLIGHT: It's also been
10 produced -- or disclosed, Mr. Chairman.

11 THE CHAIRPERSON: Fine. Page 20,
12 sir? Is that 20 or...

13 MR. CHRISTIE: Page 20. This memo
14 reads at the bottom of the page, we're not allowed to
15 know to whom it's sent, but it's in an exchange with
16 Harvey Goldberg.

17 "The main focus of this first
18 meeting was to get a better idea
19 of the tools you wanted to have
20 access to in order to better
21 conduct investigations in hate
22 cases." (As read)

23 MR. CHRISTIE: I pause there, sir,
24 end of quote.

25 I don't know who it's from but it

1 seems to be to Harvey because Harvey's mentioned in the
2 body of the letter.

3 So, what investigations of hate cases
4 is the Human Rights Commission involved in other than
5 section 13.1 in that context?

6 MR. STEACY: We're only investigating
7 section 13.1 complaints.

8 MR. CHRISTIE: The Commission doesn't
9 involve itself in investigation of criminal proceedings
10 under section 319.2; does it?

11 MR. STEACY: I would say no. I don't
12 know. I don't know how we would have the jurisdiction
13 to do that.

14 MR. CHRISTIE: Well, neither do I,
15 but I'm suggesting, therefore, the fact is the only
16 investigations in hate cases that the Commission would
17 legitimately undertake would be under section 13.1.

18 MR. STEACY: Yeah, that's all we do
19 when we do section 13.1 it's hate messaging as defined
20 in section 13.1 of the Act.

21 MR. CHRISTIE: Mm-hmm. And there's a
22 working group on hate messages e-mail according to the
23 page 21 reference from someone to Harvey Goldberg.

24 MS BLIGHT: Mr. Chairman, I don't
25 think that this is fair to the witness. If we look at

1 that e-mail it says --

2 THE CHAIRPERSON: Is it page 20 still
3 you're reading from?

4 MR. CHRISTIE: 21.

5 MS BLIGHT: Page 21.

6 THE CHAIRPERSON: I'm sorry.

7 MS BLIGHT: It says:

8 "To Harvey: Hello. Please find
9 enclosed the e-mail I am
10 planning to send the R.C.M.P. to
11 formally request the creation of
12 a working group on hate
13 messages." (As read)

14 MS BLIGHT: Mr. Christie premised in
15 his question that a working group exists.

16 MR. CHRISTIE: I haven't even got to
17 a question yet.

18 Could I have a moment, please?

19 THE CHAIRPERSON: Sure.

20 MS BLIGHT: Mr. Christie premised in
21 his question that a working group --

22 THE CHAIRPERSON: To avoid all this,
23 sir, all you have to do is read the entire sentence as
24 you lead to your question, sir.

25 MR. CHRISTIE: Well, you know what,

1 if I had thought that an objection preceding a question
2 could result in such a long discussion, I would read
3 the whole page. I'm stuck with 45 minutes, so I'm
4 trying to get to the point.

5 The question is: Do you know of a
6 working group on hate messages with the R.C.M.P.?

7 MR. STEACY: No, I don't.

8 MR. CHRISTIE: And are you aware of
9 an action plan involving the R.C.M.P. Labor Relations
10 and Human Rights Branch?

11 THE CHAIRPERSON: Sir?

12 MR. STEACY: I'm thinking. I believe
13 that there is an action plan that deals with prevention
14 issues and other issues at the Commission.

15 MR. CHRISTIE: Right. I'm going to
16 read you what I'm told is an e-mail back and forth to
17 Mr. Goldberg from somebody whose e-mail address and
18 name are obscured and I quote:

19 "Hello. As you are aware, an
20 action plan has been negotiated
21 by CHRC's Prevention Initiatives
22 and Liaison Branch and the
23 R.C.M.P.'s Labor Relations and
24 Human Rights Branch to support
25 the memorandum of understanding

1 signed by our respective
2 organizations." (As read)

3 MR. CHRISTIE: Are you aware that the
4 action plan was designed to support the memorandum of
5 understanding?

6 MR. STEACY: Yes. That's what the
7 e-mail says.

8 MR. CHRISTIE: Well, I'm just
9 wondering whether you acknowledge as being aware of it.

10 MR. STEACY: It has nothing to do
11 with section 13.1 complaints.

12 MR. CHRISTIE: Well, I've been
13 through that once already and I suggested to you that
14 if the Commission is investigating hate, then it has to
15 be under section 13.1; correct?

16 MR. STEACY: That's what I said, but
17 the action plan and the MOU with the R.C.M.P. has
18 nothing to do with the investigation of 13.1, it has to
19 deal with other issues that the Commission is dealing
20 with in its business of investigating complaints of
21 discrimination.

22 We just don't investigate hate
23 complaints and we have investigations going on for
24 sexual harassment, for failure to accommodate and
25 there's 11 grounds under the Act and that MOU is

1 specifically done and set up with that employer to try
2 and deal with the internal issues that are going on to
3 help resolve complaints before they happen.

4 It has nothing to do --

5 MR. CHRISTIE: You say, therefore, it
6 has nothing to do with hate message; is that correct?

7 MR. STEACY: That's correct.

8 MR. CHRISTIE: Well, let me read you
9 the second paragraph.

10 MS BLIGHT: The action plan has also
11 been produced, Mr. Chairman.

12 MR. CHRISTIE: Please, you know --

13 THE CHAIRPERSON: I don't need that
14 information, Ma'am.

15 MR. CHRISTIE: -- you're going to
16 give me 45 minutes and then I'm --

17 THE CHAIRPERSON: Have an extra five.

18 MR. CHRISTIE: Wow, thanks.

19 I'm reading:

20 "CHRC officers in charge of
21 investigating hate messages
22 complaints have outlined a few
23 issues that might be the subject
24 of potential working group
25 activities and/or discussions."

1 (As read)

2 MR. CHRISTIE: One bullet:

3 "Establishing direct contracts
4 (sic) between CHRC and R.C.M.P.
5 officers." (As read)

6 MR. CHRISTIE: Second bullet:

7 "Improving the sharing of
8 information between CHRC and
9 R.C.M.P. officers." (As read)

10 MR. CHRISTIE: Third bullet:

11 "Improving access to the
12 provincial and municipal level
13 information." (As read)

14 MR. CHRISTIE: Fourth bullet:

15 "Obtaining a more direct access
16 to CPIC and/or improving
17 efficiency and speed in sharing
18 information." (As read)

19 MR. CHRISTIE: Fifth bullet:

20 "Improving coordinating of human
21 rights related cases proceeding
22 with police efforts." (As read)

23 MR. CHRISTIE: Sixth bullet:

24 "Obtaining access to specialized
25 training or investigating

1 hate-related cases, Canadian
2 Police College." (As read)

3 MR. CHRISTIE: Were you aware of
4 those words, sir?

5 MR. STEACY: Yes.

6 MR. CHRISTIE: Well, that's clearly
7 in regard to investigating hate message complaints;
8 isn't it?

9 MR. STEACY: But that hasn't been
10 negotiated and hasn't been agreed to and it's beyond
11 what I'm -- my duties.

12 THE CHAIRPERSON: Hold on, sir.

13 MS BLIGHT: Sorry, Mr. Chair, I just
14 want to make a couple of corrections. The first bullet
15 was "Establishing direct contacts between CHRC and
16 R.C.M.P. officers...", not contracts.

17 MR. CHRISTIE: Well, the document is
18 on file and if I misspoke and said contracts...

19 MS BLIGHT: And the witness is blind,
20 Mr. Christie. The next line is --

21 MR. CHRISTIE: Personally, sir --

22 MS BLIGHT: -- "Improving
23 coordination of human rights-related cases
24 processing..."

25 MR. CHRISTIE: This is not an

1 objection, this is an obstruction to the only chance I
2 get to raise questions, having come 4,000 miles at my
3 own expense to proceed to try to raise questions.

4 The document is in black and white.

5 THE CHAIRPERSON: But the witness
6 cannot see it, so all it would have taken is to make
7 sure that you read it right, that's all.

8 I have interjected in the past, but
9 fine, okay, let's move on.

10 Do you understand? Look, Mr. Steacy,
11 it's quite clear that there's discussion here about
12 contacts between CHRC and R.C.M.P. officers to share
13 information and so on, so it seems rather striking and
14 odd that you say that this MOU is about section 7 and
15 5.

16 MR. STEACY: I don't get how that's
17 striking, sir, because if you go on the Internet and
18 you look at what the MOU says and what we disclosed in
19 the action plan, that's what we're doing now and we
20 are -- and what we have -- I'm not privy to what Mr.
21 Goldberg or what the people in our strategic
22 initiatives are presently negotiating or are trying to
23 negotiate in furtherance of investigation of section
24 13.1, it's not my job. I am not privy to that
25 information.

1 If that information --

2 THE CHAIRPERSON: The last line,

3 sir...

4 No, Ma'am, sit down.

5 The last line says:

6 "Obtaining access to specialized
7 training on investigating
8 hate-related cases at the
9 Canadian Police College." (As
10 read)

11 THE CHAIRPERSON: It doesn't sound
12 like the type of answers you've been giving me, sir.

13 MS BLIGHT: I would ask you to read
14 to the witness the second, third and fourth sentences
15 of the first paragraph, because those make it clear
16 that these types of initiatives are only being proposed
17 for --

18 THE CHAIRPERSON: Okay, I know that,
19 but the witness makes it sound as if there isn't any.

20 MS BLIGHT: The witness wasn't read
21 the entire memo and I think it's --

22 MR. CHRISTIE: Well, I don't have --

23 THE CHAIRPERSON: In fairness to Mr.
24 Christie, he has a very limited time, so he has to
25 proceed rather quickly and I don't think that's

1 intervening what the witness is trying to say here.

2 The witness has a sense -- has stated
3 how he understands things to be and it differs from
4 what the document says.

5 Go on, sir.

6 MR. CHRISTIE: Did you go to the
7 Canadian Police College yourself, sir?

8 MR. STEACY: I took a course from
9 them, yes.

10 MR. CHRISTIE: When? Well, never
11 mind. If you can't remember, it doesn't matter.

12 MR. STEACY: 2004.

13 MR. CHRISTIE: Was it while you were
14 an investigator for the Canadian Human Rights
15 Commission?

16 MR. STEACY: Yes.

17 MR. CHRISTIE: Thank you. It says:
18 "Obtaining more direct access to
19 CPIC." (As read)

20 MR. CHRISTIE: You know what CPIC is;
21 don't you?

22 MR. STEACY: Yes, I do.

23 MR. CHRISTIE: And it's a secured
24 information source about everyone and their supposed
25 criminal record or contacts; is that correct?

1 MR. STEACY: That's my understanding
2 of one of the pieces of information.

3 MR. CHRISTIE: Yeah. And what's
4 being sought is more direct access, which means to my
5 simple mind you already had some access and you want
6 more direct access. Is that what it is?

7 MR. STEACY: I -- whomever wrote
8 that, if they wrote "more direct access", I don't know
9 why they wrote that. As far as know, there's no
10 investigator that has any specific access to CPIC.

11 MR. CHRISTIE: What is CCAPS?

12 MR. STEACY: I don't know.

13 MR. CHRISTIE: It's referred to as:
14 "We're interested in getting an
15 opportunity to further discuss
16 the creation of a working group
17 with CCAPS who you will be
18 contacting on our behalf." (As
19 read)

20 MR. CHRISTIE: Maybe you don't know
21 who that is.

22 MR. STEACY: It may be the
23 Canadian -- I don't know who it is.

24 MR. CHRISTIE: All right.

25 MR. STEACY: I have no idea who that

1 acronym is.

2 MR. CHRISTIE: All right. Page 22,
3 Harvey Goldberg writes to somebody on May 3rd, 2006:

4 "I would suggest (blank)
5 Canadian Jewish Congress (blank)
6 who is now a private consultant
7 but previously was (blank) both
8 of them have given expert
9 testimony in the past. This was
10 a reply to a request from
11 (blank) who appears to be
12 looking for a witness in the
13 prosecution of a criminal case
14 who had previously asked
15 (blank)" (As read)

16 MR. CHRISTIE: And I quote:

17 "Hi, Harvey. We have laid a charge
18 of wilful promotion of hatred against an individual
19 from (blank) for running a hate site called (blank)
20 Crown counsel is looking for an expert to testify the
21 hate propaganda aspect of the website and some of the
22 comments he made on message boards including
23 stormfront.org and ypenterprises. This expert should
24 also be able to testify to the interpretation of
25 symbols, terms, et cetera. Can you suggest someone

1 (blank)" (As read)

2 MR. CHRISTIE: Is it the practice, to
3 your knowledge, of the Canadian Human Rights Commission
4 to orchestrate criminal prosecutions under the Criminal
5 Code?

6 MR. STEACY: To the best of my
7 knowledge, we don't orchestrate criminal prosecutions.

8 MR. CHRISTIE: It would seem that
9 this exchange was for the purpose of assisting the
10 Crown in the criminal prosecution of someone with a
11 Canadian Jewish Congress representative.

12 Are you familiar with such practices?

13 MR. STEACY: You'd have to ask Mr.
14 Goldberg what that's about. I have no -- this is the
15 first time I've ever heard of this e-mail.

16 MR. CHRISTIE: Well, we didn't get a
17 chance to ask Mr. Goldberg because we didn't have this
18 until after he was gone.

19 On May the 11th, 2006 we have an
20 e-mail to Mr. Goldberg Investigators Congress Invitee.

21 Were you an investigator at that
22 time?

23 MR. STEACY: Yes, I was.

24 MR. CHRISTIE: Were you invited to a
25 conference at that time?

1 MR. STEACY: Yes, I was.

2 MR. CHRISTIE: It says:

3 "Hi, Harvey. Could you add the
4 following to the list of people
5 to invite to the investigators
6 conference. The Winnipeg Police
7 Hate Crimes Unit (blank) (blank)
8 (blank) (blank) We have spoken
9 with (blank) He is most
10 interested in attending the
11 conferences." (As read)

12 MR. CHRISTIE: Was it your
13 understanding that representatives from various police
14 forces are invited to your investigator conferences?

15 MR. STEACY: Yes.

16 MR. CHRISTIE: Wouldn't that be
17 somewhat of a formal relationship?

18 MR. STEACY: There was no formal
19 relationship. We were trying to have a conference on
20 common practices. And at the end of it, if a formal
21 relationship or an informal relationship came out of
22 that meeting, that's where it worked, but that's not
23 what happened.

24 No formal or informal relationship
25 came out of it because it was determined that the

1 police are in certain circumstances are unable to
2 supply us with some forms of information.

3 MR. CHRISTIE: Some forms of
4 information.

5 Well, when was that conference and
6 where was it?

7 MR. STEACY: It was here in Ottawa
8 and I don't remember the exact date.

9 MR. CHRISTIE: June 15th, 2006?

10 MR. STEACY: That sounds about right.

11 MR. CHRISTIE: There's an e-mail on
12 page 24 from somebody we're not allowed to know to
13 somebody we're not allowed to know, dated June 15th,
14 2006 9:35 p.m.

15 "Meeting today. Hi, (blank).
16 Thanks for the meeting today. I
17 thought it was important to meet
18 in person and perhaps build a
19 relationship we can work towards
20 in the future on related or
21 cross-related cases. By the
22 sounds of your past contacts
23 with our department (blank) it
24 appears my timing was good as
25 (long blank). As such it's time

1 some new contacts were forged."

2 (As read)

3 MR. CHRISTIE: And then a whole
4 paragraph is blank.

5 "Secondly per 8(2)(f) of the
6 Federal Privacy Act, any
7 information under the control of
8 a government agency may be
9 disclosed to an institution of a
10 government or of a province for
11 the purpose for the purpose of
12 administering or enforcing any
13 law or carrying out a lawful
14 investigation under an agreement
15 between the Government of Canada
16 and the said province. On July
17 6, 1983, pursuant to section
18 8(2)(f), the Minister of Justice
19 for Canada signed an agreement
20 with the Attorney General of
21 Manitoba designating any police
22 force established pursuant to a
23 Municipal Act in Manitoba as a
24 provincial institution which may
25 receive access to and the use

1 and disclosure of personal
2 information. As the Winnipeg
3 Police Force is created pursuant
4 to the City of Winnipeg Act, a
5 provincial statute, would, may
6 receive access and the use of
7 disclosure of personal
8 information held by the Human
9 Rights Commission for the
10 purpose of administering or
11 enforcing any act or carrying
12 out a lawful investigation. I
13 have attached an electronic copy
14 of the agreement for your files,
15 should the need ever arise."

16 (As read)

17 MR. CHRISTIE: Were you aware of such
18 contacts arising out of that investigators meeting with
19 the Winnipeg Police Force?

20 MR. STEACY: No, I wasn't.

21 MR. CHRISTIE: Are you surprised that
22 they were actually occurring?

23 MR. STEACY: Very surprised by that
24 e-mail.

25 MR. CHRISTIE: I see. We don't know

1 who it's from or who it's to, but I'm hopeful the
2 Commission will admit it's to and from the Police
3 Service of Winnipeg -- from the Police Service of
4 Winnipeg to a Commission officer, but I guess I can't
5 assist on that.

6 MS BLIGHT: It was from the Winnipeg
7 Police Service.

8 THE CHAIRPERSON: You know what, I'm
9 going to say something. I made my earlier ruling on
10 the request because it was really out of time, but I
11 must question the basis on which some of these things
12 have been redacted.

13 I mean, some of this information
14 doesn't seem to me at all subject to privilege.

15 So, this is from Winnipeg Police?

16 MS BLIGHT: Winnipeg Police Service.

17 It's identified at the bottom.

18 MR. CHRISTIE: Yeah, but who is it
19 to? Is it to the Commission?

20 THE CHAIRPERSON: Is it someone at
21 the Commission, don't give me a name, but is it someone
22 at the Commission?

23 MS BLIGHT: You know, I would have to
24 check and I haven't brought the unredacted with me. I
25 do not think so because where e-mails originate or end

1 with the Commission, we should be leaving the
2 identifier at the end of the e-mail.

3 THE CHAIRPERSON: I'll tell you what
4 we're going to do.

5 Okay. I'm going to allow the
6 questioning, I don't want to take up the time here
7 because we have three other people who want to ask
8 questions. The questions will proceed and as we deal
9 with documents in relation to which questions are
10 asked, I'm going to ask the Commission to go back and
11 look at those documents and see what they feel they can
12 disclose or not disclose and then maybe we'll --
13 afterwards, not today.

14 MS BLIGHT: We will look at them a
15 third time, we will.

16 THE CHAIRPERSON: Keeping in mind the
17 indication of my position on this point.

18 MS BLIGHT: Yes.

19 THE CHAIRPERSON: Go ahead, sir.

20 MR. CHRISTIE: Well, speeding along
21 if I may, I'll skip over the B'Nai Brith letter, I
22 don't know who it's to.

23 But going to page 28, it's to Harvey
24 Goldberg, from whom we don't know.

25 "Hi, all. I'm forwarding you a

1 message from the (someone) of
2 the Winnipeg Police Service Hate
3 Crimes Unit. I thought you might
4 want to add this information to
5 your contact lists. Harvey,
6 I've let (blank) know that the
7 report on the conference last
8 year is now on our Internet
9 site. As well, I thought you
10 might be all interested in the
11 attached agreement respecting
12 the sharing of information."

13 (As read)

14 MR. CHRISTIE: And there's no
15 agreement attached, but...

16 Does that surprise you, sir?

17 MR. STEACY: No.

18 MR. CHRISTIE: So, you are aware that
19 there was an agreement for the sharing of information
20 between Harvey Goldberg and the Winnipeg Hate Crimes
21 Unit; is that correct?

22 MR. STEACY: I don't believe that
23 there's any agreement for sharing information between
24 Harvey Goldberg and the Winnipeg Police.

25 MR. CHRISTIE: Would it be between

1 the Commission and the Winnipeg Police?

2 MR. STEACY: We have no formal
3 agreement with any police department on the sharing of
4 information on section 13.1 complaints. We don't have
5 any informal agreements either.

6 MR. CHRISTIE: Well, sir, if what
7 I've read to you was provided to me by Ms Blight
8 through the disclosure requirement, which is what I'm
9 told has happened at page 28, this seems to be a
10 communication between the Winnipeg Police Service and
11 Harvey Goldberg and I'm putting it to you that it says:

12 "I thought you might all be
13 interested in the attached
14 agreement respecting the sharing
15 of information." (As read)

16 MR. CHRISTIE: Now, are you saying
17 that agreement, which is not attached here and not
18 disclosed, would never relate to section 13 matters?

19 MR. STEACY: I'm not saying that.
20 What I'm saying is that the Commission has not
21 formalized any agreement with any police department to
22 share information.

23 It doesn't mean that we aren't -- we
24 could be in negotiation to do so, but we're not -- we
25 have not, to the best of my knowledge as an

1 investigator, I've never been informed of any police
2 department that we have an agreement with that says we
3 have a -- that says formally, oh, you can share
4 information with X police department.

5 MS BLIGHT: Just to try to be
6 helpful, the agreement is between the Minister of
7 Justice for Canada and the Attorney General --

8 MR. CHRISTIE: Well, that's not what
9 it says on my copy.

10 MS BLIGHT: -- of Manitoba, it's
11 referred to in the e-mail at paragraph 24. The sharing
12 agreement informations are between Justice Canada and
13 the provinces.

14 THE CHAIRPERSON: Paragraph 24 of
15 what?

16 MS BLIGHT: It's at page 24.

17 THE CHAIRPERSON: Page 24.

18 MR. CHRISTIE: My learned friend is
19 giving evidence saying that page 28 refers to page 24.
20 I don't think it's clear that that is the case, but we
21 do not have the attached agreement in either situation
22 and if my friend's going to give evidence, perhaps she
23 could support it by disclosed document.

24 I'd like to move on quickly to page
25 32.

1 This document, sir, it purports to be
2 an e-mail, it could be from Harvey Goldberg or to
3 Harvey Goldberg. There's an obstruction of who else it
4 might involve. It seems to be 2006, October 13th. It
5 says:

6 "Good morning. The agenda is
7 attached. We have
8 representatives coming from
9 Ottawa, Toronto, London,
10 Montreal Police Services,
11 O.P.P., CSIS, Department of
12 Justice and the Commission.
13 There will be around 20 people.
14 Please see attachments. Harvey
15 Goldberg." (As read)

16 MR. CHRISTIE: Were you involved in
17 that meeting?

18 MR. STEACY: I believe -- yes, I was.

19 MR. CHRISTIE: So, do you have the
20 agenda somewhere?

21 MR. STEACY: I doubt it.

22 MR. CHRISTIE: Is it the case that
23 the Commission sits down with the police departments of
24 those major cities, Ottawa, Toronto, London, Montreal,
25 the Ontario Provincial Police and Canadian Security

1 Intelligence Service?

2 MR. STEACY: Well, we had a meeting.

3 MR. CHRISTIE: And we don't know what
4 the agenda is. Are you going to tell us then that it
5 doesn't involve anything to do with section 13.1?

6 MR. STEACY: The meeting had
7 everything to do with section 13.1.

8 MR. CHRISTIE: So, sir, does it
9 trouble you as a citizen with concerns about freedom of
10 speech that people regulating speech on the Internet
11 are involved with the Canadian Security Intelligence
12 Service, for instance. Does that bother you at all?

13 Did you ever question it?

14 MR. STEACY: You're asking for my
15 personal opinion?

16 MR. CHRISTIE: Yeah, as a human
17 being, one human being to another, me to you; doesn't
18 that trouble you?

19 MR. STEACY: It would depend on
20 what's being done.

21 MR. CHRISTIE: Well, we don't know
22 what's being done. We have a meeting, I wasn't
23 invited, you were. You said you don't know what the
24 agenda was but probably discussed section 13.1 and
25 we've got the Canadian Security Intelligence Service

1 who are a secret spy service; right?

2 MR. STEACY: They're Canadian
3 Security Intelligence Service.

4 MR. CHRISTIE: Well, do you know what
5 it is?

6 MR. STEACY: Yes, I do.

7 MR. CHRISTIE: It doesn't trouble you
8 then, I take it, that you'd be sitting down discussing
9 section 13.1 enforcement and investigation with all
10 those police forces in what you've called an informal
11 arrangement, including Canada's spy agency. That
12 doesn't trouble you?

13 MR. STEACY: No, it doesn't.

14 MR. CHRISTIE: All right.

15 MS BLIGHT: The witness isn't
16 being --

17 THE CHAIRPERSON: I have the answer.
18 I have the answer.

19 MS BLIGHT: He's an employee of the
20 Commission, his job is to investigate.

21 MR. CHRISTIE: He's also --

22 THE CHAIRPERSON: Don't minimize his
23 role, Ma'am.

24 MR. CHRISTIE: Many people have
25 discretion too, but that's a matter for argument.

1 I understand that my learned friend
2 is sitting beside the witness to assist him if there's
3 something that he needs assistance with, but not to
4 give answers.

5 THE CHAIRPERSON: That wasn't an
6 answer.

7 MR. CHRISTIE: Well, it's as close as
8 one would expect.

9 You mentioned earlier that you had to
10 decide jurisdictional issues in the course of your
11 investigation. Did you recall that?

12 MR. STEACY: Yes.

13 MR. CHRISTIE: And in the course of
14 deciding jurisdictional issues, do you decide or
15 consider whether the message is posted inside or
16 outside of Canada?

17 MR. STEACY: Yes.

18 MR. CHRISTIE: Do you decide or
19 consider whether the message is posted by a resident of
20 Canada or not?

21 MR. STEACY: That's -- yes, that's
22 one of the aspects that we look at.

23 MR. CHRISTIE: When you were looking
24 at message boards which are the subject of this
25 complaint in regard to Mr. Lemire, do you ever concern

1 yourself with whether the person who posts the message,
2 which might be offensive in the Canadian legal context,
3 was in fact a Canadian or not?

4 MR. STEACY: Yes.

5 MR. CHRISTIE: How do you find out if
6 they are when they use a pseudonym?

7 MR. STEACY: That's one of the
8 investigative techniques that we use to try and
9 determine who the pseudonym belongs to.

10 MR. CHRISTIE: So, I'm trying to
11 understand the method by which you decide that you may
12 have jurisdiction as opposed to not having it.

13 If you decide that the message posted
14 on a website perhaps located in the United States is
15 posted by a Canadian, you assume you have jurisdiction;
16 is that correct?

17 MR. STEACY: That's correct.

18 MR. CHRISTIE: And if it's posted by
19 an American, although it's just as accessible as it
20 would be if it was posted by a Canadian, you decide
21 then you don't have jurisdiction; is that right?

22 MR. STEACY: Well, we don't have
23 jurisdiction over Americans.

24 MR. CHRISTIE: Mm-hmm. So, the only
25 way that you hold someone who has a message board

1 liable for the posting of American messages is on their
2 website in your investigative techniques is to find out
3 if the person who owns the website is Canadian or not?

4 MR. STEACY: Control -- editorial
5 control of the website is Canadian, then we have
6 jurisdiction.

7 MR. CHRISTIE: Okay. If there are a
8 number of people using pseudonyms and you're not aware
9 of who they are, but the person who controls the
10 website where these pseudonymic postings appear is a
11 Canadian, would it concern you to find out if those
12 postings were actually by investigators such as Mr.
13 Camp and others?

14 MR. STEACY: Yes.

15 MR. CHRISTIE: Did you ever
16 investigate by setting up a central registry of
17 pseudonyms so that all those from various Human Rights
18 Commissions, police departments or the Canadian Human
19 Rights Commission who use pseudonyms to post are known
20 to each other so you don't make complaints or make
21 hearings against those who have inadvertently posted
22 that which came from a law enforcement agency?

23 MR. STEACY: We don't have any such
24 registry.

25 MR. CHRISTIE: No. So, it's quite

1 possible that if you were investigating postings on a
2 website that was a message board, even for Mr. Lemire
3 or anyone else, perhaps posted by Mr. Camp or by Mr.
4 Warman or by anyone, it's not your concern who actually
5 posts.

6 MR. STEACY: There's a potential that
7 a complaint could be taken against that individual that
8 posted.

9 MR. CHRISTIE: If you could find
10 them?

11 MR. STEACY: Correct.

12 MR. CHRISTIE: But if they're a
13 pseudonym you don't track them down, you find who is in
14 fact what you consider the editorial control?

15 MR. STEACY: It depends on the nature
16 of the complaint taken by the complainant.

17 MR. CHRISTIE: The nature of the
18 complaint taken by the complainant. That wouldn't have
19 anything to do with jurisdiction; would it?

20 MR. STEACY: Yes, it would if --

21 MR. CHRISTIE: Oh.

22 MR. STEACY: -- in the case of -- the
23 complainant may decide to take the complaint against
24 the website, the complainant may decide to take the
25 complaint against the poster. We don't direct the

1 complainant in how they take their complaint. If a
2 complainant wants to take their complaint against the
3 website, and he believes that it meets section 13, then
4 they file their complaint.

5 If a complainant wants to take a
6 complaint against an individual pseudonym we'll take --
7 and they believe that it meets section 13, we look at
8 it as well.

9 It could end up being both; it could
10 end up being one or the other.

11 MR. CHRISTIE: All right. So, it's
12 technically possible that you could prosecute someone
13 under the Human Rights Act for postings put up by a
14 police officer?

15 MR. STEACY: I guess.

16 MR. CHRISTIE: Right. How many times
17 have you received information from police forces in
18 your investigative techniques?

19 MR. STEACY: I don't think that I've
20 received any information directly from a police officer
21 coming to me.

22 MR. CHRISTIE: Not even Constable
23 Wilson?

24 MR. STEACY: I went to him.

25 MR. CHRISTIE: Oh, okay. How many

1 times have you gone to police officers and obtained
2 information then, if you want to be very precise.

3 MR. STEACY: I'm not sure. Probably
4 a dozen.

5 MR. CHRISTIE: How often have you
6 given police information for their purposes?

7 MR. STEACY: Two that I can think of.

8 MR. CHRISTIE: Have you seen CPIC
9 reports or obtained information from them?

10 MR. STEACY: I've never seen a CPIC
11 report.

12 MR. CHRISTIE: Well, have you
13 received information from a CPIC report?

14 MR. STEACY: I don't know.

15 MR. CHRISTIE: Well, why wouldn't you
16 know?

17 MR. STEACY: Because whatever
18 information I've asked for, I've relied on the police
19 officer to give it to me and I haven't asked where it
20 came from. I didn't ask: Did this come from a CPIC
21 report?

22 MR. CHRISTIE: Why does the Canadian
23 Human Rights Commission want access to "improving
24 access to provincial and municipal levels"?

25 MR. STEACY: Basically so we can find

1 addresses so that we can notify respondents

2 MR. CHRISTIE: Were you familiar with
3 the Kulbashian case as an investigator in any way?

4 MR. STEACY: Which one?

5 MR. CHRISTIE: Well, I'm only aware
6 of one Kulbashian human rights complaint case, maybe
7 I'm wrong.

8 THE CHAIRPERSON: I think you may be
9 saying that we know that there's one that was filed by
10 Mr. Kulbashian and one that he was the respondent.

11 MR. CHRISTIE: Right, all right,
12 thank you. I understand.

13 I'm talking about the one that was
14 alleged against Mr. Kulbashian.

15 MR. STEACY: I investigated that
16 complaint.

17 MR. CHRISTIE: Right. Now, what
18 information did the Human Rights Commission obtain from
19 the London City Police Service?

20 MR. STEACY: I obtained the police
21 report from Detective Wilson and I obtained a CD from
22 Detective Wilson for Mr. Scott Richardson's hard drive.

23 MR. CHRISTIE: And it wouldn't have
24 been possible for you to get that hard drive by any
25 other means; would it?

1 MR. STEACY: I could have probably
2 asked for it, for a warrant if I felt that it was
3 necessary in the course of investigation.

4 MR. CHRISTIE: Have you ever obtained
5 a warrant in the course of your investigations?

6 MR. STEACY: Yes, I have.

7 MR. CHRISTIE: In what case?

8 MR. STEACY: I've obtained many
9 warrants on many different cases and they aren't all
10 related to section 13.1.

11 MR. CHRISTIE: Well, I'm looking for
12 one 13.1 case where you obtained a warrant for computer
13 hard drives.

14 MR. STEACY: None, but I've obtained
15 warrants to get information concerning section 13.1
16 complaints.

17 MR. CHRISTIE: In what case?

18 MR. STEACY: The AOL case and the
19 DeCivida (ph) case.

20 MR. CHRISTIE: The who...?

21 MR. STEACY: The DeCivida (ph).

22 MR. CHRISTIE: And did you obtain
23 information by means of a search warrant?

24 MR. STEACY: Yes, I did.

25 MR. CHRISTIE: Did you go into a

1 house and get a hard drive?

2 MR. STEACY: Didn't have to do that,
3 I obtained the information one from Canada Post and the
4 other from AOL.

5 MR. CHRISTIE: So, actually you've
6 never obtained a person's personal computer and had
7 access to a hard drive through a warrant?

8 MR. STEACY: I haven't felt that it
9 was necessary.

10 MR. CHRISTIE: Well, the answer is
11 simply, no, you haven't. Isn't that the truth, whether
12 you felt it necessary?

13 MR. STEACY: I thought I answered. I
14 said that.

15 THE CHAIRPERSON: Yes, you did. He
16 answered that he had not -- you asked him at one point
17 specifically about computers and he said no.

18 MR. CHRISTIE: Now, if you had
19 obtained someone's computer, does the Commission have
20 the facilities to access their hard drive and analyze
21 the contents?

22 MR. STEACY: I don't know.

23 MR. CHRISTIE: Well, have you ever
24 inquired? It's my understanding the Commission does
25 not have any computer experts on staff who can access

1 someone's hard drive.

2 MR. STEACY: Okay.

3 MR. CHRISTIE: It's my
4 understanding -- do you agree?

5 MR. STEACY: I don't know the answer
6 to that. I know we have an IT section and they're
7 pretty good at doing what they do with the computers at
8 the Commission. I don't know we have that type of
9 software or if we have that type of facility to do
10 that.

11 MR. CHRISTIE: It's my understanding
12 that actually what you have done is used the London
13 Police Service Forensic computer capabilities to get
14 access to an otherwise protected password computer.

15 Isn't that really what happened in
16 the Kulbashian case?

17 MR. STEACY: No, I wouldn't
18 characterize it like that. I was investigating the
19 Canadian Ethnic Cleansing Team, et al complaint and
20 during the course of investigation I interviewed
21 Detective Wilson and he provided me that information.

22 I didn't specifically go out and ask
23 him to go get Mr. Scott Richardson's hard drive and
24 give me a copy of it, he advised me that it was there
25 and I asked for a copy, to the best of my recollection,

1 and he said I could have a copy and he sent me a CD.

2 MR. CHRISTIE: And you didn't have a
3 search warrant for that?

4 MR. STEACY: No, I didn't.

5 MR. CHRISTIE: So, I take it that
6 your position is that the police department who obtain
7 a search warrant for criminal purposes can simply take
8 that information acquired under a search warrant for
9 that purpose and give it to you on request; correct?

10 MR. STEACY: Yes.

11 MR. CHRISTIE: Mm-hmm. Did you ask
12 Mr. Wilson if he informed the Justice of the Peace when
13 he got the warrant that he was going to distribute
14 copies of the hard drive to people who asked for it?

15 MR. STEACY: No, I didn't.

16 MR. CHRISTIE: Have you ever been
17 allowed to receive a search warrant in which you said,
18 I'd like to get these things and I'm just going to
19 distribute them to whoever asks for them?

20 Have you ever thought of doing that?

21 MR. STEACY: The search warrants that
22 I've obtained for information have been very specific
23 to discrimination complaints and the information I
24 would have obtained, it wouldn't have led themselves to
25 that.

1 MR. CHRISTIE: It would be very
2 confidential; wouldn't it?

3 MR. STEACY: Yes.

4 MR. CHRISTIE: And it would not be
5 proper to distribute it to people who were not involved
6 n your complaint. You wouldn't give one to me, for
7 instance, or someone off the street who said, I'd like
8 a copy of the hard drive of someone's computer that you
9 got by a search warrant. You wouldn't do that; would
10 you?

11 MR. STEACY: No, I wouldn't.

12 MR. CHRISTIE: Well, did you think it
13 was proper for Constable Wilson to do that without some
14 formal agreement which I say exists and you say it
15 doesn't?

16 MR. STEACY: I would assume that he
17 would have checked with his superiors to find out if he
18 could have provided me with that information and the
19 fact that he provided it, it was okay with his
20 superiors that that information was provided. I would
21 have done the same thing if a police officer had asked
22 me for information and if -- I would have checked with
23 my superiors to find out if I could do that.

24 MR. CHRISTIE: Well, did you?

25 MR. STEACY: Check with my -- I've

1 never given information such as a hard drive.

2 MR. CHRISTIE: Hmm. Did you check
3 with your superiors to see if it was proper to receive
4 it, since it's otherwise private and we're very
5 concerned about privacy; aren't we?

6 MR. STEACY: My recollection of the
7 file was that there was a discussion about what we
8 should or shouldn't do at that point in the
9 investigation because Mr. Scott Richardson and Mr.
10 Kulbashian had been criminally charged and whether or
11 not we should hold off from the investigation until
12 those criminal charges were dealt with.

13 It was -- my recollection was that it
14 was decided that we could go ahead and continue with
15 the investigation and that the criminal charges would
16 proceed on their own course and we would continue
17 investigating.

18 MR. CHRISTIE: Well, my question was
19 specifically in regard to the acquisition of the hard
20 drive, did you consult with anybody to see if it was
21 proper for you to receive it, not whether you would
22 conduct (indiscernible) or anything else.

23 MR. STEACY: No, I didn't.

24 MR. CHRISTIE: You didn't?

25 MR. STEACY: No, no.

1 MR. CHRISTIE: Thank you.

2 Page 37 and probably finally, I
3 realize my time's up. February 27th, 2007 there's an
4 e-mail to Harvey Goldberg that seems to read:

5 "Thanks, will do. Meeting with
6 Canadian Heritage?" (As read)

7 MR. CHRISTIE: Is that a department
8 of government, Canadian Heritage?

9 MR. STEACY: Yes, it is.

10 MR. CHRISTIE: Mm-hmm.

11 "Please emphasize to her that
12 the Commission has continued to
13 implement its comprehensive
14 strategy on hate on the
15 Internet. We've been in contact
16 and are working with Justice on
17 the actions identified in the
18 action plan, TIP Line, et
19 cetera." (As read)

20 MR. CHRISTIE: Now, is that the
21 action plan we discussed earlier?

22 MR. STEACY: No, it's not.

23 MR. CHRISTIE: It's a different
24 action plan?

25 MR. STEACY: Yes, it is.

1 MR. CHRISTIE: And, so, your
2 department was working with Justice, that's the
3 Department of Justice?

4 MR. STEACY: Yes, it is.

5 MR. CHRISTIE:

6 "And, however, we still believe
7 there may be opportunities for
8 the Commission to work with
9 CH..." (As read)

10 MR. CHRISTIE: What's that?

11 MR. STEACY: I don't know.

12 MR. CHRISTIE:

13 "...and other departments on
14 issues relating to hate in
15 general and hate on the Internet
16 in particular, as well as issues
17 relating to religious
18 accommodation, such as religious
19 observance in the workplace."
20 (As read)

21 MR. CHRISTIE: Are you familiar with
22 those developments?

23 MR. STEACY: Peripherally I know
24 what's going on, but I mean...

25 MR. CHRISTIE: We have another

1 reference to this anti-racism action plan which we
2 haven't been able to receive, I guess.

3 The bottom of that page 37 reads:

4 "Hi, everyone." (As read)

5 MR. CHRISTIE: It's from God knows
6 who to God knows who on the 27th of the 2nd month,
7 2007.

8 "Following our meeting on this
9 matter, I made a number of calls
10 to (blank) for a meeting. I
11 have finally managed to connect
12 with her for tomorrow. At this
13 stage I'll go solo and focus on:
14 1. Leveraging of tools and
15 resources;
16 2. Community outreach in areas
17 of mutual interest;
18 3. Anti-racism action plan.
19 Please let me know if you have
20 any ideas you would like me to
21 raise as well or further
22 elaborations on the above. I
23 will brief everyone following
24 this meeting." (As read)

25 MR. CHRISTIE: Were you briefed about

1 that?

2 MR. STEACY: No, I wasn't.

3 MR. CHRISTIE: And do you have reason
4 to believe this did not involve your Commission, the
5 Human Rights Commission?

6 MR. STEACY: My understanding of that
7 e-mail that that is a different topic than hate on the
8 Internet.

9 MR. CHRISTIE: Oh, I see. Even
10 though the consequent reply seems to refer to: "hate
11 in general and hate on the Internet in particular", you
12 think otherwise; is that correct?

13 MR. STEACY: The first part of it
14 refers to the anti-racist action plan that my
15 recollection is that that was what was talked about in
16 a couple of budgets ago and there was money set aside
17 to deal with HRSDC, Human Resources Development Canada,
18 Canadian Heritage Alliance to deal with and setting up
19 an anti-racism project.

20 Other than that, that's as far as I
21 know what's going on. Where Harvey was taking that, I
22 don't know. I mean, again, you'd have to speak to him.

23 MR. CHRISTIE: There was one question
24 or actually two that arose in tab 6 and that was the
25 post on Free Dominion. I guess it may not be in tab 6

1 and this will be my last question.

2 There were two questions there on the
3 post that was on Free Dominion January 17th, '08 and I
4 thought the two questions were --

5 MS BLIGHT: Where can I find these?

6 MR. CHRISTIE: I'm asking them now.

7 Had you made contact with Marie Lynne
8 Gentiles prior to her complaint?

9 THE CHAIRPERSON: Sir, sorry, you're
10 at tab 6 of which of the binders?

11 MR. CHRISTIE: No, no, I aband --
12 it's the communication on Free Dominion that was in
13 regard to the -- it's tab 2 apparently.

14 THE CHAIRPERSON: I want to read what
15 you're reading too, that's why. Okay, tab 2.

16 MR. CHRISTIE: Page 4.

17 THE CHAIRPERSON: Page 4. Okay. And
18 how far down are you from the top?

19 Okay, "According to documents, Connie
20 and I...", is that the one?

21 MR. CHRISTIE: Yes.

22 THE CHAIRPERSON: Okay.

23 MR. CHRISTIE: There are two
24 questions there.

25 THE CHAIRPERSON: Mm-hmm.

1 MR. CHRISTIE: Why was Dean Steacy
2 investigating Free Dominion half a year before any
3 complaint was filed.

4 I'd just like you to answer that
5 question.

6 MS BLIGHT: Can I ask that Mr.
7 Christie take the time necessary to give the witness
8 the context of the document and what exactly is being
9 referred to.

10 THE CHAIRPERSON: Are you actually
11 citing the questions in the bottom of this, sir, or are
12 you actually asking the question on your own?

13 MR. CHRISTIE: I'm asking the
14 question on my own as if it was an intelligent
15 question, yes.

16 THE CHAIRPERSON: Well, the question,
17 sir, is: Why were you investigating Free Dominion
18 before the complaint was filed, and the text here says
19 half a year before, but is that what you want to say,
20 half a year, or just --

21 MR. CHRISTIE: Sure, we'll leave it
22 there, I think half a year is quite reasonable. It
23 seems to me April and September was mentioned, but
24 let's leave it at half a year.

25 So, why was Dean Steacy investigating

1 Free Dominion half a year before any complaint was
2 filed?

3 MR. STEACY: Commission and
4 specifically myself was not investigating Free Dominion
5 half a year before Ms Gentiles made her complaint.

6 MR. CHRISTIE: You weren't posting as
7 jadewarr at that time?

8 MR. STEACY: Didn't post anything at
9 that time. I may have gone on because, as I said
10 earlier, there had been previous inquiries about Free
11 Dominion and it may have been someone else who may not
12 have followed through with the complaint may have
13 initiated a complaint at the time.

14 MR. CHRISTIE: May have and you say
15 did but you won't tell us who; correct?

16 MR. STEACY: That's correct.

17 MR. CHRISTIE: All right, thank you.

18 Is there any connection between Dean
19 Steacy and Marie Lynne Gentiles?

20 MR. STEACY: I've never met her, I
21 don't know her.

22 MR. CHRISTIE: Did you have e-mail
23 communication with her prior to her complaint?

24 MR. STEACY: I don't believe that I
25 had any e-mail conversation with her prior to her

1 signing her complaint. I may have had an e-mail
2 conversation with her at the intake stage.

3 MR. CHRISTIE: Did you have an e-mail
4 conversation with Richard Warman about inviting her to
5 make the complaint?

6 MR. STEACY: No.

7 MR. CHRISTIE: What is the password
8 for the jadewarr account?

9 MS BLIGHT: We dealt with this
10 earlier, the --

11 THE CHAIRPERSON: My concern with
12 that, sir, is that if we put the password through, I
13 thought about this earlier. I mean, is this an active
14 account? If it's an active account, what's to prevent
15 anyone else...

16 MR. STEACY: Yes, it is.

17 THE CHAIRPERSON: ...just from
18 starting to post on that account today?

19 MR. CHRISTIE: Well, how many people
20 have access to that password?

21 MR. STEACY: Right now?

22 MR. CHRISTIE: Yeah.

23 MR. STEACY: Four.

24 MR. CHRISTIE: Are you sure that's
25 all there are?

1 MR. STEACY: To the best of my
2 knowledge there's only four people that have access to
3 that account presently.

4 MR. CHRISTIE: And they are...?

5 MR. STEACY: I already said who they
6 were.

7 THE CHAIRPERSON: I have those in
8 evidence, sir.

9 MR. CHRISTIE: All right.

10 So, you're saying that the records of
11 Bell Canada as to the use of that account must be false
12 then and by that I mean that it refers to Nelly Hechme.

13 MR. STEACY: I have no idea who that
14 is.

15 MR. CHRISTIE: Would your assistant
16 know?

17 MR. STEACY: No, she wouldn't. She's
18 a new assistant, she hasn't been working with me for
19 that long.

20 MR. CHRISTIE: Well, who was your
21 assistant in December the 8th, 2006?

22 MR. STEACY: I had two assistants at
23 that time.

24 MR. CHRISTIE: And --

25 MR. STEACY: During that period, I'm

1 not sure which one it would have been.

2 MR. CHRISTIE: But they would know
3 the password to the account; wouldn't they?

4 MR. STEACY: It would have been
5 changed.

6 MR. CHRISTIE: Well, it would have
7 been changed is not an answer to the question, with all
8 due respect.

9 They would have had to know -- when
10 you logged on, they would have had to know --

11 MR. STEACY: Mm-hmm.

12 MR. CHRISTIE: -- the password to
13 that account; wouldn't they?

14 MR. STEACY: At that time, yes.

15 MR. CHRISTIE: Yeah. Well, we're
16 talking 8th of December, 2006 you had two assistants,
17 whose names you need not give us, but both of them
18 would have had access to that password; wouldn't they?

19 MR. STEACY: Yes.

20 MR. CHRISTIE: Mm-hmm. They're not
21 still your assistants?

22 MR. STEACY: That's correct.

23 MR. CHRISTIE: And on the 8th of
24 December, 2006 at 3:29 in the morning, I don't suppose
25 they were on duty working for you at that time?

1 MR. STEACY: I doubt it.

2 MR. CHRISTIE: Was either of them a
3 friend of or went by the name Nelly Hechme?

4 MR. STEACY: As I said, I don't know
5 that name and I've never had an assistant by that name.

6 MR. CHRISTIE: And they didn't live
7 at 570 Laurier Avenue West?

8 MR. STEACY: I don't know anybody --
9 I don't even know where that is.

10 MR. CHRISTIE: So, you don't know
11 where they live then?

12 MR. STEACY: I know where my
13 assistant lived yes, but it's not at that address.

14 MR. CHRISTIE: Well, did you have two
15 assistants on the 8th of December, 2006?

16 MR. STEACY: There was a period of
17 time where I did have two assistants on similar days
18 because one of my assistants was a student doing co-op
19 and I had my regular assistant.

20 So, during that period of time
21 there's a possibility that I could have had two of them
22 working on that day.

23 MR. CHRISTIE: And I guess they're
24 not sworn to secrecy or anything; are they?

25 MR. STEACY: Yes, as much as any

1 other officer, they've got to keep things confidential.

2 MR. CHRISTIE: Well, once they leave
3 they're not under any obligation; are they?

4 All right. Thank you. Those are my
5 questions.

6 THE CHAIRPERSON: Okay.

7 Sir? Well, no, I'm going to ask
8 first Ms Blight to ask her questions.

9 MS BLIGHT: I'm going to need a
10 moment to sort through some documents and find a
11 reference to the documents that Ms Kulaszka --

12 THE CHAIRPERSON: So, perhaps then I
13 could go with Mr. Morton (sic) then?

14 MS BLIGHT: Pardon me?

15 THE CHAIRPERSON: Can I go with Mr.
16 Morton (sic), Mosten.

17 MS BLIGHT: Yes.

18 THE CHAIRPERSON: I'm sorry. Mr.
19 Mosten.

20 EXAMINATION BY: MR. MOSTEN

21 MR. MOSTEN: Okay, thank you very
22 much. It's Michael Mosten speaking for B'Nai Brith
23 and, as promised, I'll be very, very brief.

24 Mr. Steacy, you had previously spoken
25 about the complaint driven process and you had said

1 that there are various ways that you intake complaints
2 such as by telephone, other means.

3 So, if I can perhaps phrase it as,
4 small "c" complaints being an informal complaint,
5 something that might be received over a telephone
6 versus a big "C" complaint which would be something
7 going through a formal and approved process, do you
8 consider all of those complaint driven as you were
9 speaking previously?

10 MR. STEACY: Yes, I do.

11 MR. MOSTEN: Okay. Would you agree
12 that it's a common investigative technique to engage in
13 online conversations?

14 MR. STEACY: Yes, it is.

15 MR. MOSTEN: Is it an important and
16 essential investigative tool for you in your role in
17 the Commission to engage in online conversations?

18 MR. STEACY: It was.

19 MR. MOSTEN: Is it fair to say that
20 complaints come in various forms, there are multiple
21 postings on websites, there's all kinds of material
22 online and that these websites and message boards are
23 not blank slates before you would have in the past
24 taken a look at them?

25 MR. STEACY: I would agree with that.

1 MR. MOSTEN: And I put it to you, Mr.
2 Steacy, that to allege that any of these previous
3 Commission cases that there are any fabrication
4 involved with that is ludicrous.

5 Thank you very much, Mr. Chair, those
6 are my questions.

7 THE CHAIRPERSON: So, Ms Blight, have
8 you had enough time?

9 MS BLIGHT: Well, I need to --
10 perhaps Ms Kulaszka could help me. There was a letter
11 that was put to the witness or that was referred to
12 dated May 17th, 2006.

13 THE CHAIRPERSON: You can go back to
14 your table, if you wish.

15 MS BLIGHT: Just picking up all of
16 the documents off the floor.

17 THE CHAIRPERSON: Mr. From?

18 MR. FROMM: Mr. Chairman, in yielding
19 for Mr. Christie, I didn't think I was --

20 THE CHAIRPERSON: Oh, when you
21 yielded, I thought that's what you did, sir. I'm
22 sorry.

23 MR. FROMM: It's just that he had a
24 lot of questions and I only a few.

25 THE CHAIRPERSON: So then, Ms Blight,

1 you've been offered up some more time to prepare. I'll
2 take some questions from Mr. From.

3 MS KULASZKA: Just to help Ms --

4 THE CHAIRPERSON: No, no, we are in
5 charge of it. Just speak up.

6 MS KULASZKA: Just to help Ms Blight,
7 that letter of May 17th, 2006 is in R-3 at tab 1.

8 THE CHAIRPERSON: Okay. So, go
9 ahead, Mr. From, but please not too long.

10 EXAMINATION BY: MR. FROMM

11 MR. FROMM: Mr. Steacy, you indicated
12 when you were being asked about jadewarr you said that
13 the jadewarr correspondence would be put into the
14 investigative file.

15 Am I correct on that?

16 THE CHAIRPERSON: Was to be put into
17 the ...?

18 MR. FROMM: That the information
19 gathered from by posting as jadewarr and the posts he
20 made as jadewarr that information would be put into the
21 investigative file. I believe that was his testimony
22 this morning.

23 MR. STEACY: It should be, yes.

24 MR. FROMM: Sorry, is that a yes?

25 MR. STEACY: Yes.

1 THE CHAIRPERSON: You got a yes, yes.

2 MR. FROMM: And was that, to your
3 knowledge, disclosed to Mr. Lemire?

4 MR. STEACY: I don't know. When it
5 comes to disclosure at Tribunal, that's -- I don't have
6 anything to do with the file.

7 MR. FROMM: In discussing your
8 investigation as to who Fenrison (ph) might be, you
9 said that you thought it might be a complainant and you
10 mentioned I believe four people, Mr. Gill, Mr.
11 Kulbashian, Mr. Lemire or myself.

12 Do I have that right?

13 MR. STEACY: Yes.

14 MR. FROMM: Okay. Is it your
15 contention that I have ever been a complainant to the
16 Canadian Rights Commission?

17 MR. STEACY: No, not that I'm aware
18 of.

19 MR. FROMM: Okay. This morning you
20 said that you learned that Sergeant Camp of the
21 Edmonton Police hate squad was Estate. I believe you
22 said you learned it from the Tribunal decision in the
23 Barr case. Is that correct?

24 MR. STEACY: It was the Barr case.
25 the Kuba case or Western Canada for Us, one of those

1 three related cases.

2 MR. FROMM: But the admission that
3 Sergeant Camp was Estate, in your recollection, came
4 from one of the Tribunal cases. Is that your
5 testimony?

6 MR. STEACY: Yes, it is.

7 MR. FROMM: The Internet is a
8 visual -- a large visual medium, would you not agree?

9 MR. STEACY: Yes.

10 MR. FROMM: Okay. Well, I was
11 wondering if you could explain to us how it is that
12 you're able to do your work investigating largely what
13 is a visual medium?

14 MS BLIGHT: I would object to the
15 relevance of this. The matter of the witness'
16 accommodation in his own employment does not arise in
17 any way from any of the refused answers, even if it
18 were relevant.

19 THE CHAIRPERSON: The problem is that
20 the witness has testified extensively with regard to
21 his knowledge of things he's witnessed on the Internet
22 and, therefore, the question as posed raises I guess
23 the issue of the sufficiency or adequacy of his
24 comprehension of what he's viewed on the Internet.

25 MS BLIGHT: Well, I think that can be

1 challenged in the merits of the case. It doesn't have
2 to be challenged in terms of some kind of an attack on
3 the witness'

4 THE CHAIRPERSON: I don't think it's
5 an attack.

6 MR. FROMM: With respect --

7 THE CHAIRPERSON: That was a
8 respectful question. He's only asking what forms of
9 accommodation or means does the witness utilize in
10 order to access the Internet. I don't see a problem
11 there with the question.

12 Sir, how are you able to utilize the
13 Internet? I know there are some aids that are
14 available through Windows and other programs.

15 MR. STEACY: I have a jaw screen
16 reader which reads me -- can read me the site. I have
17 scanning material where I can print the pages off and
18 then scan it and it will read it to me.

19 I have my assistant reads me verbatim
20 what is there and before I lost my eyesight, I saw what
21 was on the Internet.

22 THE CHAIRPERSON: And you mentioned
23 at one point you've lost eyesight fairly recently I
24 sense, from your earlier --

25 MR. STEACY: Yes, 2004.

1 THE CHAIRPERSON: Okay.

2 MR. FROMM: So, this software, does
3 it convert the words on the screen to sound; is that
4 what you said?

5 MR. STEACY: For example, if you were
6 to open a website and the screen reader will tell me
7 what the graphics are, it will tell me that it's a
8 graphic, it will say what the graphic is.

9 It will then read me all the links
10 and it will read me any text that is on the page as if
11 you were -- it takes longer, but it's as if you were
12 viewing it, I'm hearing it.

13 MR. FROMM: So, the symbol that is
14 usually called the Celtic cross or the circle with a
15 cross in it, would the screen reader tell you that that
16 is a Celtic cross -- that there's a Celtic cross on the
17 screen?

18 MR. STEACY: I might. I would depend
19 on the person who was setting up their website had save
20 that graphic as. I guess it depends on how good the
21 person is at setting up their website and if I didn't
22 know what the graphic was, I would ask.

23 MR. FROMM: Whom do you ask?

24 MR. STEACY: My assistant.

25 MR. FROMM: What training do your

1 assistants have?

2 MR. STEACY: No specific training. I
3 mean, it doesn't take much training to be able to read
4 a page.

5 MR. FROMM: What about symbols?

6 MR. STEACY: Well, they would
7 describe the symbol and we have a compendium of
8 different symbols from the Internet and I've compiled
9 sort of a dictionary of different Internet terminology
10 and the person, my assistant was given that to read.

11 And if she's not sure, she describes
12 it in detail to determine what it is.

13 THE CHAIRPERSON: I understand his
14 answers, Mr. From, on that point.

15 MR. FROMM: Sorry?

16 THE CHAIRPERSON: I understand his
17 answers on that point.

18 MR. FROMM: Who compiled the
19 compendium?

20 MR. STEACY: I did.

21 MR. FROMM: Can you explain why most
22 of Richard Warman's complaints to the Commission were
23 given to you to investigate?

24 MR. STEACY: Because at the time I
25 was the investigator investigating hate on the

1 Internet.

2 MR. FROMM: At that time you were the
3 only one?

4 MR. STEACY: Yes.

5 MR. FROMM: When did you get more
6 assistance?

7 MR. STEACY: There was more
8 assistance given when I went on sick leave.

9 MR. FROMM: Which would be...?

10 MR. STEACY: In 2004.

11 MR. FROMM: Those are my questions.

12 THE CHAIRPERSON: Thank you, sir.

13 Ms Blight, are you prepared now?

14 MS BLIGHT: Yes, I believe I am more
15 or less prepared.

16 MS BLIGHT: I just want to clear
17 something up with respect to a series of complaints
18 that was discussed this morning.

19 And those are the series of
20 complaints taken by Marc Lemire against Canadian
21 Broadcasting Corporation, Bellglobemedia, Peel Regional
22 Police, the R.C.M.P., and I believe those were the
23 respondents.

24 THE CHAIRPERSON: Is this a
25 housekeeping matter you want to bring up, or are you

1 going to ask questions?

2 MS BLIGHT: No, I would just like to
3 file some documents and just let me contextualize that
4 for you.

5 Mr. Steacy as asked variety of
6 questions about that investigation, including reference
7 which was made to a letter dated May 17th, 2006 in
8 which Mr. Lemire was advised in relation to those
9 complaints that he had not met the criteria of the CHRA
10 to file a complaint.

11 THE CHAIRMAN: Right. I think it was
12 in R-3.

13 MS BLIGHT: I simply have certain
14 other documents from that file which post-date May
15 17th, 2006 that I would like to add to the record.

16 THE CHAIRPERSON: Okay. I mean, is
17 there any objection? These are documents of which Mr.
18 Lemire I assume would be quite aware.

19 MS BLIGHT: It's all
20 correspondence --

21 MS KULASZKA: I have no idea. I
22 don't know what they are.

23 MS BLIGHT: I'm walking over to hand
24 them to my friend.

25 THE CHAIRPERSON: It's in our binder.

1 It's not in the binder at this time?

2 MS BLIGHT: Not that I'm aware of.

3 THE CHAIRPERSON: Okay.

4 Ms Kulaszka, have you seen them?

5 MS KULASZKA: No, I've never seen
6 them.

7 THE CHAIRPERSON: Oh, okay. You're
8 seeing them now.

9 Ms Kulaszka, any comments?

10 Are there multiple copies of this?

11 MS BLIGHT: No, I just had them faxed
12 over during the witness' testimony.

13 THE CHAIRPERSON: Okay. So, that's
14 the only copy right there in front of Ms Kulaszka?

15 MS BLIGHT: Yeah. I can simply show
16 them to the witness. I don't propose to do anything on
17 the record except basically describe what they are --

18 THE CHAIRPERSON: All right. Can I
19 look at them.

20 MS KULASZKA: Oh yes, you can look at
21 them.

22 THE CHAIRPERSON: I don't have
23 copies. There's nothing, just what you have in your
24 hands.

25 MS KULASZKA: It's actually very

1 strange because the May 17th letter that we looked
2 at --

3 THE CHAIRPERSON: Right.

4 MS KULASZKA: -- basically ends the
5 matter and now we have a whole series of documents
6 where they seem to have an analysis and then they
7 refuse to deal with it anyway.

8 So, I haven't seen those documents
9 before.

10 THE CHAIRPERSON: Hold on a moment.

11 Okay, so give me a second.

12 There's one thing first of all wrong
13 with this. For the first time I've seen Mr. Lemire's
14 address. It's always been undisclosed in any of the
15 documents that we've had at the Tribunal, so I'm not
16 looking at -- that would have to be taken care of and
17 the parties in these section 13 cases have -- their
18 addresses are usually not disclosed, so...

19 But I am unclear on this too.

20 There's an allusion here to section 40---41 analysis
21 report.

22 MS BLIGHT: Yes.

23 THE CHAIRPERSON: Dated, I guess it's
24 the May 17th.

25 MS BLIGHT: No, no. The May 17th

1 document was not, in fact, the last document in the
2 file and I don't know what happened, but all of these
3 complaints were put through a section 40---41 process.

4 THE CHAIRPERSON: Mm-hmm.

5 MS BLIGHT: The section 40---41
6 report was disclosed to Mr. Lemire, he had an
7 opportunity to comment and, so, though the cover
8 letters with respect to that disclosure are what I
9 propose to file, along with copies of the ultimate
10 decisions taken by the Commission.

11 They will demonstrate that the files
12 were open until at least -- well, the last of the
13 letters is dated October of 2006.

14 THE CHAIRPERSON: It may complete the
15 story. I don't know if everything is here. Where is
16 the 40---41 analysis report?

17 MS BLIGHT: I didn't attach it just
18 because the only purpose of this documents is to
19 demonstrate the date line.

20 Now, I have the 40---41 reports, but
21 the only purpose for which I'm filing these is to
22 demonstrate that these files did remain open until
23 October, 2006.

24 THE CHAIRPERSON: All right. But,
25 nonetheless, I guess it may or may not detract from the

1 evidence we heard earlier and it may or may not detract
2 from the arguments that Ms Kulaszka proposed to make
3 with regard to the treatment of Mr. Lemire's complaint,
4 right.

5 MS BLIGHT: From my understanding,
6 the purpose of all of that evidence was to demonstrate
7 that Mr. Steacy was asking questions of Mr. Lemire
8 online that may have some relevance to the section
9 40---41 analysis in those cases, after the file was
10 closed.

11 But, in fact, these documents
12 demonstrate and they are for the limited purpose of
13 demonstrating that the file was open until at least
14 October.

15 THE CHAIRPERSON: The file was open,
16 but he was still conversing as jadewarr at this time?

17 MS BLIGHT: Yes, in September there
18 was a post and that's not disputed.

19 THE CHAIRPERSON: Okay. So, Ms
20 Kulaszka, I mean, it completes the story, this
21 documentation that reflects the situation.

22 I propose a possible solution. So,
23 you just want to enter the documents. They could come
24 in --

25 MS BLIGHT: And you'll note that some

1 of them bear Mr. Steacy's signature.

2 THE CHAIRPERSON: I know, I noticed
3 that.

4 MS BLIGHT: On behalf of his manager.

5 THE CHAIRPERSON: Right. And then I
6 don't know if you would want to have your client file
7 all the documents, perhaps make them an affidavit.

8 I mean, the problem is it opens a bit
9 of a door here. I find evidence from one side showing
10 that the door was closed on this complaint --

11 MS BLIGHT: And this is
12 cross-examination.

13 THE CHAIRPERSON: Well, I don't know
14 what to do because you just hand me up the documents,
15 you're not proposing --

16 MS BLIGHT: I'm quite content to take
17 the witness through them.

18 THE CHAIRPERSON: Okay.

19 MS BLIGHT: My intention was to save
20 time by showing them to my friend and telling you what
21 I propose to do in case we can put those in on consent
22 for that limited purpose.

23 But I'm also quite prepared to show
24 them to the witness and cross-examine him on them, read
25 them to him and to refresh his memory because these

1 come from the Commission's file.

2 THE CHAIRPERSON: Right.

3 MS BLIGHT: And he can't recognize
4 his signature. I don't know how we'll get around that
5 problem, but these are documents -- this is
6 documentation that has been faxed to me today from the
7 Commission's files.

8 So, you know, we can do it quickly or
9 ...

10 THE CHAIRPERSON: We can do it
11 quickly the other way, whatever it is. I mean...

12 MS KULASZKA: Well, for the record,
13 my client can't remember getting these documents, but
14 if they go in his address should be taken out.

15 MS BLIGHT: Absolutely.

16 THE CHAIRPERSON: Most definitely.
17 That's the first thing I noticed, there's no way that
18 that goes in as is.

19 MS BLIGHT: In fact, I have a heavy
20 pen.

21 THE CHAIRPERSON: But I also want the
22 rest -- there's reference there to another report, so I
23 mean, it has to be the complete document.

24 MS BLIGHT: Yeah, mm-hmm. I have no
25 problem filing the section 40---41 reports along with.

1 THE CHAIRPERSON: It goes without
2 saying. I think these were appendices to the letter,
3 right?

4 What's the problem with filing the
5 40---41 report?

6 MS BLIGHT: There's no problem with
7 filing them.

8 THE CHAIRPERSON: All right.

9 MS BLIGHT: Other than they're
10 unnecessary unless anyone requires any of the evidence
11 that's found in any of those reports.

12 The purpose for which they're being
13 filed is solely to show the time frame.

14 THE CHAIRPERSON: Well, they most
15 certainly need to be disclosed, I would think.

16 MS BLIGHT: Pardon me?

17 THE CHAIRPERSON: They need to be
18 disclosed to the other side.

19 MS BLIGHT: Mr. Lemire received them
20 back in 2006.

21 THE CHAIRPERSON: It would appear so,
22 but Ms Kulaszka is saying there's no recollectiOn.

23 MS BLIGHT: I have no problem with
24 disclosing them and making the full document available
25 on the record, if that is the parties' preference. I

1 just think it's adding paper, perhaps for no reason,
2 but either way is quite acceptable.

3 THE CHAIRPERSON: All right. I'll
4 allow -- we don't have to put the documents to the
5 witness just to identify the signature, they certainly
6 appear to be documents with his signature at the
7 bottom, right.

8 So, you were going to put them to the
9 witness simply for the fact that he made these letters.

10 MS BLIGHT: I simply want to file
11 them through the witness or otherwise for purpose of
12 demonstrating that the files remained open until
13 August, 2000 -- or until October 26th, 2006 at least
14 when the final letter to Mr. Lemire was read.

15 THE CHAIRPERSON: Can it go in
16 without any objection from the others?

17 MS BLIGHT: And that would be all.

18 THE CHAIRPERSON: That would be it.
19 Okay.

20 Perhaps, Ms Kulaszka, you'd like to
21 ask a question of the witness regarding those documents
22 while he's here.

23 MS KULASZKA: If the Commission wants
24 to put those documents, they've applied. My client
25 doesn't have any recollection of them.

1 If they do go in, they should produce
2 the whole file with the analysis reports as well.

3 THE CHAIRPERSON: I think that's only
4 fair.

5 MS BLIGHT: I have no objection to
6 doing that, I can provide it to you right now.

7 THE CHAIRPERSON: That's fair. The
8 whole thing.

9 MS BLIGHT: The whole file, meaning
10 the --

11 THE CHAIRPERSON: I mean, whatever --

12 MS BLIGHT: The correspondence.

13 THE CHAIRPERSON: You've given me
14 five letters and they refer to documents attached. So,
15 whatever documents were attached, they should be
16 included as well.

17 MS BLIGHT: If you give me one
18 moment, I can hand all of that...

19 THE CHAIRPERSON: It doesn't have to
20 be done immediately. You can do it afterwards, you can
21 do it tomorrow.

22 MS BLIGHT: Or...

23 THE CHAIRPERSON: Ms Kulaszka. Do
24 you want to ask questions on it? Seeing she needs to
25 make photocopies.

1 MS KULASZKA: Do you want to come
2 back tomorrow?

3 THE CHAIRPERSON: No, I do not want
4 to come back. When I say tomorrow, I mean you would
5 mail it to me as you have done with these other
6 documents that you've asked me to put into the record.

7 MS KULASZKA: Ms Blight can mail
8 them, how's that or is she going to give them to me
9 right now?

10 THE CHAIRPERSON: Do you want to ask
11 any questions on those documents, that's what I'm
12 asking.

13 MR. ADLER: Could I make a
14 suggestion, please?

15 THE CHAIRPERSON: Sure.

16 MR. ADLER: This could be a question
17 that could be contentious, but we're kind of left out
18 of the loop. I appreciate Ms Kulaszka is put in a bit
19 of a difficult position not even knowing all.

20 Would it not be reasonable and fair
21 for my learned friend Ms Blight to suggest and propose
22 this evidence and if we have submissions upon it, we
23 can do it in writing and you could consider it later
24 and decide for yourself if you think it's
25 appropriate...

1 THE CHAIRPERSON: That's what I
2 alluded to earlier was the possibility of exploring the
3 idea of perhaps an affidavit or something like that in
4 order to deal with it because -- I'm only doing that
5 because I'm hearing...

6 What's your objection to that, Ma'am?

7 MS BLIGHT: I can have the witness
8 identify the documents. I'm just very, very reluctant
9 to get -- open up any more avenues for any more
10 evidence. We want to get this case closed.

11 THE CHAIRPERSON: Well, it is. The
12 problem is this document was not disclosed before this
13 moment; right? You didn't think it was relevant until
14 this moment; is that the problem?

15 MS BLIGHT: Well, there have been a
16 series of propositions put to the witness upon which
17 argument is going to be made to you that he was busy
18 posting as jadewarr on the Internet after a case was
19 closed, okay.

20 THE CHAIRPERSON: But the argument
21 may also be he's busy posting as jadewarr while he's
22 investigating the complaint.

23 MS BLIGHT: And that is, in my
24 cross-examination of the witness, I simply seek to put
25 documents to him that he can identify that will

1 establish that the case was not indeed closed in May,
2 it was closed in October.

3 THE CHAIRPERSON: The only issue I
4 see --

5 MS BLIGHT: That's ordinary
6 cross-examination.

7 THE CHAIRPERSON: The only issue I
8 see arising is based on the reaction I see from Ms
9 Kulaszka here and her client that he claims he did not
10 receive them.

11 Now, I don't know what door that
12 opens. It certainly appears it was -- they are
13 documents that show his address on them. Is there a
14 proof of service in the Commission's file? Was it sent
15 by registered mail?

16 MS BLIGHT: Well, signature required
17 Express Post on some of them.

18 THE CHAIRPERSON: So, why don't you
19 attach those into the package that you file tomorrow
20 after you've done your photocopying, put it all in and
21 then once you see that, Ms Kulaszka, if there's some
22 reason for you to believe that that document was not
23 received by you, then I don't know what the relevance
24 would be about that, I'll take that in mind.

25 But for the time being I'll accept

1 the documents as they are, yes, but complete, complete
2 means whatever report was attached to it and proofs of
3 service.

4 MS BLIGHT: I will compile the letter
5 disclosing the section 40---41 report with the reports
6 attached and the letters finally disposing of the
7 complaint, including any proofs of service that are in
8 the file. I just want to make sure that that's what
9 you mean by complete.

10 THE CHAIRPERSON: That's what I mean.
11 That's what I mean.

12 MS BLIGHT: Very well.

13 THE CHAIRPERSON: So, the entire
14 package.

15 MS BLIGHT: There's no way I want to
16 create any possibility of having the witness have to
17 come back just over this.

18 THE CHAIRPERSON: No, the witness
19 doesn't have to come back.

20 MS BLIGHT: Okay.

21 THE CHAIRPERSON: And what I'm
22 concerned is more about Ms Kulaszka who's telling me
23 here she doesn't recall receiving that.

24 MS BLIGHT: I will compile that for
25 my friend in short order.

1 THE CHAIRPERSON: All right. No
2 other questions then for you?

3 MS BLIGHT: No other questions.

4 THE CHAIRPERSON: We're done.

5 Mr. Fromm?

6 MR. FROMM: I'm just wondering,
7 considering that through this entire hearing
8 transcripts are being provided.

9 THE CHAIRPERSON: Right.

10 MR. FROMM: I was wondering, do you
11 the power, sir, I believe to order a written transcript
12 and provide it to the parties at this hearing.

13 THE CHAIRPERSON: My understanding
14 based on complicated arrangements in Public Works and
15 so on that we cannot do that, not from the Tribunal
16 side of it.

17 Have you had the opportunity to use
18 the audio system; Mr. Fromm, that we have in place now,
19 because it's quite user friendly? I'm relying on it
20 quite extensively. There's a software that attaches to
21 your computer and you're able to scroll through it.

22 We will not have transcripts. It
23 will not prevent you from referring me -- I think I saw
24 it some of the material that was filed, but I think Mr.
25 Lemire had written something with Ms Kulaszka where he

1 said that on such date at such time this is what the
2 witness said, and that's a perfectly legitimate way to
3 put the information in front of us.

4 It's only been for this evidence of
5 today in this case. I believe all the other evidence
6 in this case was transcribed, but for a couple of
7 conference calls.

8 So, it's not within my power. My
9 understanding is, no, we cannot order that, not for the
10 purpose of being shared with the parties.

11 Nothing prevents any of you from
12 getting this audio transcribed yourselves in any formal
13 or informal way. This is how it's done in the courts
14 and this is how it's done here.

15 MR. CHRISTIE: Not even money?

16 THE CHAIRPERSON: I'm sorry, not even
17 one?

18 MR. CHRISTIE: Not even money I said.
19 Nothing prevents you from having it transcribed, not
20 even money.

21 --- Whereupon the hearing adjourned at 5:51 p.m.

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I hereby certify the foregoing
to be the Canadian Human Rights
Tribunal hearing, T1073/5405,
held on March 25, 2008, at
Ottawa, Ontario, transcribed to
the best of my skill and ability
from digital audio recorded by
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Tribunal.

Beverley Dillabough
Certified Shorthand Reporter

StenoTran