

**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

WESTERN CANADA FOR US AND GLENN BAHR

Respondents

les intimés

BEFORE/DEVANT:

JULIE LLOYD

THE CHAIRPERSON/
LA PRÉSIDENTE

LINE JOYAL

REGISTRY OFFICER/
L'AGENTE DU GREFFE

FILE NO./N^o CAUSE:

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

HEARING HELD IN THE QUEEN ELIZABETH ROOM, DELTA EDMONTON CENTRE,
10222 102 STREET, EDMONTON, ALBERTA ON WEDNESDAY, MAY 31, 2006,
AT 9:30 A.M. LOCAL TIME

IN THE MATTER OF a complaint filed by Richard Warman dated June 8, 2004, pursuant to Section 13(1) of the Canadian Human Rights Act against Western Canada For Us and Glenn Bahr. The complainant alleges that the respondents have engaged in a discriminatory practice on the grounds of religion, sexual orientation, race, colour, national and/or ethnic origin and disability in the matter related to the usage of telecommunication undertaking.

APPEARANCES/COMPARUTIONS

Richard Warman	on his own behalf
Giacomo Vigna Ikrame Warsame	on behalf of the Commission
Paul Fromm	on behalf of Glenn Bahr

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1 Edmonton, Alberta

2 --- Upon resuming on Wednesday, May 31, 2006

3 at 9:30 a.m.

4 THE CHAIRPERSON: Good morning,
5 everyone. I will deal first with a request yesterday
6 that the closing arguments be adjourned until
7 transcripts have been released or produced, and of
8 course, I am governed by the rules of the Tribunal to
9 conclude these hearings in an expeditious manner, so I
10 am going to proceed to closing oral arguments this week
11 at the conclusion of the evidence.

12 I will, however, allow any party that
13 wants to file additional legal argument in written form
14 to do so by the 30th of June or before the 30th of
15 June. I think that balances the request and rules that
16 I am governed by.

17 All right, so let us carry on.

18 MR. BAHR: Just before we begin,
19 ma'am, I was just wondering. I think there was some
20 documents missing from the police complaint that was
21 filed as an exhibit. I think there might have been
22 some pages missing.

23 THE CHAIRPERSON: From which?

24 MR. BAHR: From the police complaint
25 that was filed as an exhibit.

1 THE CHAIRPERSON: Do you know what
2 the exhibit number was?

3 MR. BAHR: No. It is the police
4 complaint, the one that I submitted to Internal
5 Affairs.

6 MR. VIGNA: It is the complaint that
7 the respondent provided. I think you retranscribed an
8 audio tape or something?

9 MR. BAHR: Yeah, that was part of it.

10 MR. VIGNA: I will try to locate it
11 in the exhibits.

12 THE CHAIRPERSON: I think that is one
13 of the loose documents, is it?

14 MR. VIGNA: Yeah. I will try to find
15 it. Maybe HR-15.

16 THE CHAIRPERSON: HR-15?

17 MR. VIGNA: I am not sure. Maybe
18 not. GB-2.

19 THE CHAIRPERSON: And it was a loose
20 document?

21 MR. BAHR: Yeah, there was, like,
22 three or four pages, I think.

23 THE CHAIRPERSON: I have got it.

24 MR. BAHR: Yeah. May I step up and
25 just show you?

1 THE CHAIRPERSON: No, Madam
2 Registrar, if you could just give him this, I guess,
3 Mr. Bahr.

4 And Mr. Bahr, if there are particular
5 pages, you can provide them to Madam Registrar.

6 MR. BAHR: Yeah, if you notice --
7 yeah, in here I talk about Exhibit 'A', Exhibit 'B'
8 that was attached to it.

9 THE CHAIRPERSON: M-hm.

10 MR. BAHR: And I think some of the
11 exhibits are missing.

12 THE CHAIRPERSON: Yeah, I noticed
13 that when we reviewed it. It was Exhibit 'A' and 'D',
14 I think, attached.

15 MR. BAHR: Yeah, they were part of my
16 disclosure I had it in here. I think when we were
17 putting them we must have forgot. If I photocopy them
18 at break, is it okay if I --

19 THE CHAIRPERSON: Yeah, that is fine
20 and then I will just have counsel review them and then
21 perhaps best thing to do would be to, Madam Registrar,
22 replace that old copy with the new one.

23 So, yeah, we will take care of that
24 after the break.

25 All right, let us proceed.

1 MR. FROMM: I have an initial matter
2 as well, Madam Chairman. On Friday when I inquired of
3 Eveliene about the cost of the transcript --

4 THE CHAIRPERSON: I am sorry,
5 inquired of who?

6 MR. FROMM: Eveliene, from the
7 recording secretary of the cost of the transcript of
8 your ruling, I was told it would probably be no more
9 than \$60. However, yesterday I was presented with a
10 bill of considerably over 200.

11 THE CHAIRPERSON: So was it yourself
12 that was -- gave the estimate?

13 THE COURT REPORTER: No, but I can
14 explain.

15 THE CHAIRPERSON: Please.

16 THE COURT REPORTER: Our firm is not
17 the one that has the contract and that would have been
18 our prices, had we been the ones billing. But it
19 wasn't our firm that was billing for it, so...

20 THE CHAIRPERSON: So is that correct,
21 though, that that would have been the information that
22 was given to Mr. Fromm?

23 THE COURT REPORTER: That is the
24 information that was given to Mr. Fromm.

25 THE CHAIRPERSON: And it was \$60?

1 THE COURT REPORTER: From my
2 understanding, that is what Eveliene told him.

3 THE CHAIRPERSON: Okay. And the
4 actual invoice was \$240?

5 MR. FROMM: That is correct, yes.

6 THE CHAIRPERSON: All right. Well, I
7 am willing to conclude that you made your request on
8 the basis of that information. I think in fairness, a
9 payment of \$60 will secure the copy of the transcript
10 for you.

11 MR. FROMM: I will have it for
12 Ms. Joyal later this morning.

13 THE CHAIRPERSON: Thank you.

14 Carry on.

15 MR. FROMM: I would like to file, if
16 I might, as an exhibit, correspondence between myself
17 and the Commission in regards to our request for
18 mediation. I would just like that on the record.

19 MR. VIGNA: Objection, Madam Chair.
20 It is totally irrelevant and I don't think that that
21 kind of information is admissible in evidence when we
22 deal with discussions between parties.

23 MR. WARMAN: It specifically goes to
24 the question of settlement discussions.

25 THE CHAIRPERSON: I agree, Mr. Fromm.

1 It is not relevant to the proceeding before us right
2 now which, of course, is the complaint.

3 MR. FROMM: I would still like it on
4 the record, because we have not --

5 MR. WARMAN: Madam Chair, objection.
6 If he is going to continue the exact same thing he has
7 tried to introduce, to put it on the record through
8 viva voce evidence.

9 THE CHAIRPERSON: You can redress and
10 make use of the Tribunal file that you want in your
11 submissions. Certainly you can address those matters
12 in your closing arguments.

13 MR. FROMM: Madam Chair, I would like
14 to introduce as an exhibit the Affidavit of Constable
15 Kent Dahl of the R.C.M.P. in Red Deer.

16 In March 19th of 2004, Mr. Bahr went
17 to the R.C.M.P. detachment in Red Deer to lay a
18 complaint or provide information about the hacking of
19 his e-mail and other computers that he had, and a
20 statement was taken by Constable Dahl and a tape
21 recording was made of the dialogue between Constable
22 Dahl and Mr. Bahr.

23 We have that tape recording. We also
24 have the transcript made by Mr. Bahr of the tape
25 recording and we have the statement yesterday by

1 Mr. Hughson of the Department of Justice that he had
2 reviewed the tape and Mr. Bahr's transcript and found
3 the transcript to be accurate.

4 So I was wondering if, to lead this
5 evidence, if we might just hear the audio tape this
6 morning?

7 THE CHAIRPERSON: This is -- we have
8 learned that this is an accurate transcript, so I don't
9 know that hearing the audio tape is necessary. Do we
10 have a cassette? We don't have a cassette player here.
11 It is fairly lengthy. I would propose that we take a
12 time to read it, or if you would prefer to read it into
13 evidence, because we just don't have the equipment to
14 deal with it.

15 MR. FROMM: Fair enough.

16 THE CHAIRPERSON: First we need to
17 enter this, Madam Registrar, if you would.

18 THE REGISTRAR: Could I take this
19 time to enter the video tape as well, please?

20 THE CHAIRPERSON: Yes, please.

21 THE REGISTRAR: The VHS of The Secret
22 Rulers of the World, Episode 2, David Icke, the Lizards
23 and the Jews will be filed as respondent Exhibit GB-8.

24 EXHIBIT NO. GB-8: VHS of The
25 Secret Rulers of the World,

1 Episode 2, David Icke, the
2 Lizards and the Jews

3 THE REGISTRAR: And the Affidavit of
4 Kent Dahl sworn on May 26th, 2006 with attached
5 transcript will be filed as respondent Exhibit GB-9.

6 EXHIBIT NO. GB-9: Affidavit of
7 Kent Dahl sworn on May 26th,
8 2006 with attached transcript

9 MR. WARMAN: Madam Chair, if it is of
10 any assistance, I believe Mr. Vigna and I had agreed
11 that, based on the lawyer for Justice's representations
12 that there wouldn't be any objection to entering this
13 document.

14 THE CHAIRPERSON: Thank you.

15 MR. FROMM: Would you like me to read
16 this?

17 THE CHAIRPERSON: Well, if you would
18 like to read it in, I suppose that would be fine.

19 MR. FROMM: So this is the complaint
20 transcript that Constable Kent Dahl of the Red Deer
21 R.C.M.P. Friday, March 19th, 2004:

22 "DAHL: Ok it's Friday March
23 Nineteenth Two Thousand Four and
24 it's Eight Forty Four PM and
25 we're at the Red Deer city RCMP

1 interview room on I guess it
2 would be the north side and we
3 are doing the witness statement
4 here. Myself, Constable Kent
5 Dahl --"

6 THE CHAIRPERSON: Mr. Fromm, we are
7 going to see steam coming out of her in a couple of
8 minutes.

9 MR. FROMM: We have a copy. It is an
10 exhibit.

11 THE CHAIRPERSON: If you want to read
12 it in just so that you know we are attending to this,
13 that is fine, but you are going to have to do it in a
14 manner that preserves our Court Reporter.

15 MR. FROMM: Are you okay so far?

16 MR. WARMAN: Madam Chair, I am just
17 thinking in terms of the time of all the parties
18 involved, if there are specific passages, perhaps, that
19 Mr. Fromm wants to draw our attention to. I am just
20 wondering for it is necessary to read in ten pages.

21 THE CHAIRPERSON: I notice the first
22 part here seems to be quite introductory, name and
23 address and stuff. Mr. Fromm, I would be happy to give
24 you a couple of minutes if you want to direct your
25 attention to particular elements of it or even start a

1 few pages in, just in the interests of saving some time
2 and our Court Reporter.

3 MR. FROMM: Give me five minutes.

4 THE CHAIRPERSON: Yes, please.

5 Just so you know, Mr. Fromm, I am
6 going to read the whole document, but you can prepare
7 some extracts.

8 MR. FROMM: I will read it.

9 "DAHL: Myself Constable Kent
10 Dahl, D-A-H-L my regiment is
11 46741, and I have here with me
12 Glenn Bear.

13 BAHR: Bahr.

14 DAHL: Bahr, sorry, Glenn. What
15 i'm going to get you to do is
16 you might want to move over a
17 little closer to the desk
18 here... um ... Get used to the
19 recorder after a couple of
20 minutes you won't even notice it
21 here. Uh first of all i'm going
22 to get you to spell your first
23 name for me.

24 BAHR: Glenn, G-L-E-N-N...

25 B-A-H-R.

1 DAHL: Do you have a middle name
2 Glenn?
3 BAHR: David.
4 DAHL: Ok, and what would be your
5 address right now.
6 BAHR: Is it on file or anything?
7 DAHL: Uh...
8 BAHR: Oh it'll be on the poster.
9 DAHL: Do you know which
10 apartment number you're in?"
11 And the original of it
12 understandable, but No. 1.
13 MR. FROMM:
14 "DAHL: So I have here 5830 59 A
15 street?
16 BAHR: Ya.
17 DAHL: Does that sound right?
18 BAHR: Ya.
19 DAHL: And your home phone number
20 please?
21 BAHR: Uh... (403) 396-8888.
22 DAHL: Do you have a work number?
23 BAHR: No.
24 DAHL: Cell number?
25 BAHR: Ya thats my cell.

1 DAHL: Thats your cell?
2 BAHR: (Not understandable) I
3 don't have a home now.
4 DAHL: Ok... uh your date of
5 birth?
6 BAHR: August twelve nineteen
7 seventy five.
8 DAHL: And your occupation?
9 BAHR: I am a multimedia
10 developer.
11 DAHL: So you have a background
12 with computers, is that right?
13 BAHR: Yup.
14 DAHL: K, so I don't and i'm not
15 really good withcomputers. So
16 um you may need to explain.
17 dumb things down for me OK.
18 Just so your aware of it... I
19 have a hard time with the
20 computers I work with right here
21 so.
22 BAHR: OK.
23 DAHL: So were going to be doing
24 a witness statement here and um
25 this is in regards to a

1 complaint that we uh... the Red
2 Deer city RCMP received about
3 two weeks ago from you and so
4 what I want you to do is in your
5 own words I want you to tell me
6 in as much detail as possible
7 why your here tonight.
8 BAHHR: Mmm basically because i've
9 been receiving umm threatening
10 emails and um people have been
11 hacking into my email accounts
12 stealing personal information.
13 Um they've also posted my
14 picture and um and personal
15 info, like my address and phone
16 number on different websites.
17 Um they've made up false
18 information and posted that on
19 the website. Um they have,
20 theres other people to they've
21 broken into their computers and
22 emails um and then the posters
23 they put up to. I just feel
24 like i'm been made um like an
25 object of violence to be taken

1 against me.

2 DAHL: OK um lets get some

3 background first of all Glenn.

4 How long have you been in Red

5 Deer?

6 BAHR: About two & a half months.

7 DAHL: Have you lived in the same

8 place the entire time?

9 BAHR: Yes.

10 DAHL: K... Tell me ah when you

11 first received these, umm...

12 emails?

13 BAHR: Umm... started receiving

14 them about, i'd say a month

15 after I got here.

16 DAHL: How did you receive them?

17 BAHR: Umm... in my email

18 account.

19 DAHL: What is your e-mail

20 account?

21 BAHR: Umm... i'm not going to

22 give that out. Do you need an

23 actual address?

24 DAHL: Ya, do you have an

25 address?

1 BAHR: Ya OK i'll give it to you.
2 Umm it's um glennbahr@yahoo dot
3 ca.
4 DAHL: So would your name be in
5 lowercase letters or...
6 BAHR: lower.
7 DAHL: All lowercase letters?
8 BAHR: Yup.
9 DAHL: At Yahoo dot ca?
10 BAHR: Yup.
11 DAHL: And thats the account
12 where you've received these
13 threats?
14 BAHR: Umm... that one and one oh
15 theres one. Umm... lets see...
16 glennbahr at hotmail dot com.
17 DAHL: And do you know who you
18 received these threats from?
19 BAHR: I believe it's Jason
20 Devine.
21 DAHL: How do you spell his last
22 name?
23 BAHR: D, E, V, I, N, E.
24 DAHL: And what address ah have
25 these emails been coming from?

1 BAHR: It was anonymous meaning
2 they went through some encryption
3 program to send them, so it
4 can't be traced.
5 DAHL: How do you know they can't
6 be traced?
7 BAHR: Umm... well thats what the
8 encryption program does. It
9 scrambles the email address, so
10 you can't tell where it came
11 from.
12 DAHL: And how do you know then
13 that they came from this Jason
14 Devine?
15 BAHR: Thats what I figure. He's
16 the one that put up the posters
17 and he's the one who's, I mean
18 theres statements from him
19 against us, against me on the
20 internet.
21 DAHL: OK, can you describe the
22 threats that have been made to
23 you?
24 BAHR: Umm... oh, theres lots,
25 ummm... well after they posted

1 my information on the website
2 underneath a whole bunch of
3 people posted different threats.
4 I mean there was swearing,
5 violence, name calling.
6 DAHL: I wanna talk directly
7 about the email umm... that you
8 received.
9 BAHR: OK the email I received?
10 DAHL: Yup.
11 BAHR: Basically that wasn't a
12 threatening email it was
13 basically umm, it was a fake
14 email with... actually... with
15 someone I know, they made it
16 with someone I know was writing
17 to the RCMP. Like they faked,
18 it was a fake. They made an
19 email with a fake email inside
20 of it. Umm... basically what
21 they were doing was making it
22 look like the person I knew had
23 been e-mailing the RCMP. The
24 RCMP had been talking back about
25 forth to them.

1 DAHL: OK, who was the person
2 that you know that they tried to
3 make this look like they come
4 from?
5 BAHR: Umm... I don't know his
6 last name. His first name is
7 Peter.
8 DAHL: How do you know him?
9 BAHR: Umm... through the
10 internet.
11 DAHL: And whats your
12 relationship to this Peter?
13 BAHR: Ah he belongs to the group
14 that I belong to.
15 DAHL: And what group do you
16 belong to?
17 BAHR: Ah Western Canada For Us.
18 DAHL: And what kind of group is
19 this?
20 BAHR: Umm... basically we
21 believe in free speach and
22 immigration reform.
23 DAHL: And you are a member of
24 this group?
25 BAHR: Mhmm.

1 DAHL: And Peter is a member of
2 this group? as well?
3 BAHR: Not anymore.
4 DAHL: And how do you know these
5 emails didn't come from Peter?
6 BAHR: Well... they have supposed
7 RCMP names and email addresses
8 on them, I don't think it did.
9 I think it was fake email to you
10 know throw us off or...
11 DAHL: K, have you talked to
12 Peter since you received these
13 emails?
14 BAHR: Oh ya.
15 DAHL: And what has he told you?
16 BAHR: That they are fake and I
17 don't think they are his either.
18 DAHL: So he has said that he has
19 not sent them to you?
20 BAHR: Correct.
21 DAHL: And how many emails did
22 you receive?
23 BAHR: Umm... four or five.
24 DAHL: And was... how often did
25 you receive them?

1 BAHR: Within a one week period.
2 DAHL: So all of them were within
3 one week?
4 BAHR: Yup. There was other
5 people to, receiving fake ones
6 to.
7 DAHL: Umm... When you say other
8 people receiving them, how do
9 you know that?
10 BAHR: Well they told me.
11 DAHL: And who were these other
12 people?
13 BAHR: Umm... friends.
14 DAHL: Are they members of your
15 group as well.
16 BAHR: Some of them are, some of
17 them aren't.
18 DAHL: Have they contacted the
19 police?
20 BAHR: No.
21 DAHL: So, just can you umm give
22 me some of the details that were
23 in these e-mails?
24 BAHR: Umm... lets me see,
25 basically how... basically like

1 the fake correspondence between
2 umm... him and the RCMP.
3 Apparently you guys have been
4 following me all around Red Deer
5 umm surveillance on me. There
6 was one that said get out, stay
7 out go back to B.C. or something
8 like that.
9 DAHL: So are these emails
10 directed at you.
11 BAHR: They have my name on them.
12 DAHL: K, so is it like is it to
13 Glenn Bahr or is it that they
14 are sending attachments of what
15 they think or...
16 BAHR: No, no, no it's sent to
17 me.
18 DAHL: OK, and so what are some
19 of the threats that have been...
20 BAHR: On the internet?
21 DAHL: Ya.
22 BAHR: Oh lots...
23 DAHL: Not, now hold on, not the
24 internet. On your email, emails
25 that do you received right now.

1 Thats all I want to talk about
2 right now.
3 BAHR: Theres no actual threats
4 on those emails.
5 DAHL: K, the details are just
6 about uh... a conversation
7 between someone and the RCMP.
8 BAHR: Mhmm.
9 DAHL: Who in the RCMP are they
10 directed to?
11 BAHR: Umm... I have the email...
12 I don't know after the top of my
13 head, but theres fake names RCMP
14 members and fake RCMP email
15 addresses and stuff.
16 DAHL: Have you kept all these
17 emails you have received?
18 BAHR: Yup.
19 DAHL: And they're on your
20 computer?
21 BAHR: Yup, I sent them also to
22 Srgnt. Glassgow and Barry. I
23 can print them all out."
24 That's spelled here G-L-A-S-S-G-O-W
25 and Barry, B-A-R-R-Y.

1 BAHR: I can print them all out.
2 DAHL: Ok. It's always nice to
3 always have them printed off.
4 I'd like to get a copy as well.
5 BAHR: Sure. Ya I can do that.
6 DAHL: OK ummmm... and so on
7 those emails that you received
8 it'll have the date?
9 BAHR: Mhmm.
10 DAHL: Ah the time that you
11 received them.
12 BAHR: Mhmm.
13 DAHL: And will it give you any
14 type of ah of address where they
15 came from?
16 BAHR: Yup, but it's encrypted.
17 It's just blah, blah, blah.
18 DAHL: So no one can understand
19 it basically?
20 BAHR: No.
21 DAHL: OK. Umm four or five of
22 these?
23 BAHR: Yup.
24 DAHL: Now did you get these
25 emails before these posters

1 started surfacing around the
2 neighbourhood?
3 Bahr: Yes.
4 Dahl: K, what happened first,
5 the emails?
6 Bahr: Umm... no they started
7 posting. I think they posted my
8 picture with a couple, like six
9 other people's pictures... so
10 six in total and um... with a
11 bunch of lies and crap about us
12 on the internet and then we
13 started receiving threats under
14 that. People started writing
15 threats.
16 Dahl: OK, let's talk about that a
17 little bit more. OK. How did
18 you come across ummm... this
19 website?
20 Bahr: Um... my friend in Calgary
21 was receiving threats. He
22 received, umm... actual letters
23 on his car, his girlfriend
24 received letters on his car and
25 um then he was doing a search

1 and he found the website on the
2 search. He put, like, our names
3 in the search engine.
4 DAHL: Um... did do you this as
5 well?
6 BAHR: No.
7 DAHL: So your friend gave you an
8 actual website address?
9 BAHR: Yup.
10 DAHL: OK, who was this friend?
11 BAHR: Uh his name is Tony.
12 DAHL: His lastname?
13 BAHR: I don't know it.
14 DAHL: And how do you know Tony?
15 BAHR: Um... I met him in
16 Calgary.
17 DAHL: Whats your relationship
18 with him?
19 BAHR: Friend.
20 DAHL: Is he part of your group
21 as well?
22 BAHR: No, not anymore.
23 DAHL: Was his ah picture one of
24 the six that was posted.
25 BAHR: Yup.

1 DAHL: K. Umm... and how did he
2 contact you?
3 BAHR: Ah, through email.
4 DAHL: And what did he tell you
5 in his email?
6 BAHR: Um... well he just told
7 me, "check this out" or
8 somethin. And then he had the
9 link.
10 DAHL: OK and do you still have
11 that email attached to your
12 computer as well?
13 BAHR: Yup.
14 DAHL: Umm... what was the link
15 that he provided you?
16 BAHR: Ah it goes to, what is it?
17 It's Indymedia..."
18 Spelled I-N-D-Y-M-E-D-I-A.
19 "BAHR: ...but I mean the link
20 isn't on there but thats the
21 website.
22 DAHL: OK.
23 BAHR: And ah (coughing) and um
24 I contacted them and told them
25 to take it off. (coughing).

1 DAHL: Do you need a glass of
2 water?
3 BAHR: No i'm OK.
4 DAHL: Sure. Umm, Ok, so you
5 went on this website?
6 BAHR: Yup.
7 DAHL: Who, whos ah umm... made
8 this website?
9 BAHR: Umm... i'm not sure.
10 DAHL: Is it a personal website
11 or is it a buisness website?
12 BAHR: (Coughing) ah ya I think I
13 need a glass of water.
14 DAHL: Sure. Let me, i'm gonna
15 grab you a water. I8ll be just
16 in a sec, K?
17 BAHR: Ok thanks. (coughing)...
18 Thanks.
19 DAHL: OK, i'm still getting over
20 it to.
21 BAHR: Really, did you have the
22 bronchitis crap?
23 DAHL: Ya lots of flem coughing
24 up.
25 BAHR: Ya.

1 DAHL: Not fun.
2 BAHR: Nope.
3 DAHL: OK umm... so the website
4 is there, you went onto that a
5 personal website or a buisness
6 website?
7 BAHR: No, I think it's a
8 buisness but they had a contact
9 number on there and I called it
10 and it went to some post office
11 and they said no this isn't them
12 and then I, they had four email
13 addresses and I emailed each one
14 and it came back email cannott
15 be sent so i'm not sure.
16 DAHL: And so you still have this
17 ah website address on your
18 computer, thats right?
19 BAHR: Ya, it's still up on the
20 internet to.
21 DAHL: K, what umm... when you
22 went onto this website what did
23 you see there?
24 BAHR: Umm... it's got six
25 pictures of us. I'm in the

1 middle and then it's got a write
2 up underneath it of it calling
3 us Nazis and all this other
4 stuff. And then underneath you
5 can post comments and so people
6 have been posting threats and
7 stuff.
8 DAHL: Are they directed to you?
9 BAHR: Well us general,
10 generally.
11 DAHL: K, tell me about the
12 threats that are on this
13 website.
14 BAHR: Umm... basically they're
15 just talking about violence,
16 kicking our asses, better watch
17 out, fuck you, that kinda stuff
18 you know... I think, ya I can
19 print it out.
20 DAHL: Mm K... does ah, do... are
21 there updated messages
22 constantly being posted on this
23 website?
24 BAHR: Yup.
25 DAHL: And do you know how often

1 they're changing?
2 Bahr: Mmm... no I don't check it
3 everyday so... but that Jason
4 Devines on there to.
5 Dahl: What, hows he on there?
6 Bahr: Hes posted comments. I
7 forget what the comment says but
8 it has his name.
9 Dahl: Whos Jason Devine?
10 Bahr: Um... hes the guy that is,
11 is, in charge of a the ARA
12 Calgary also the Communist Party
13 in Calgary.
14 Dahl: K, can you tell me what
15 the ARA Party is?
16 Bahr: Um... there called Anti
17 Rascist Action and they're
18 basically for anarchy and all
19 that stuff. If you go to there
20 website it's got like pictures
21 of violence and stuff on it.
22 Dahl: You said he was also a
23 member of what other group?
24 Bahr: Um... The Calgary
25 Communist Party.

1 DAHL: Have you ever spoken to
2 him personally?
3 BAHR: Never.
4 DAHL: Have you ever had any
5 contact with him through a
6 computer or by phone?
7 BAHR: Never.
8 DAHL: K, and you said you
9 emailed this website?
10 BAHR: Yup.
11 DAHL: What did you put in your
12 email to them?
13 BAHR: I told them that my
14 picture was up there. Well I
15 have it I can print that out to.
16 I told them my picture was up
17 there and we comments about me
18 and umm... that it's making me a
19 target for attack and that I
20 think I gave them my phone
21 number. I told them I wanted it
22 taken down. I told them I
23 contacted the RCMP as well.
24 DAHL: K, um... what information
25 was posted regarding yourself?

1 BAHR: Um... geezus I can't
2 remember everyrhing... Umm...
3 basically not much different
4 than the poster.
5 DAHL: Was your address posted?
6 BAHR: No I don't think my
7 address was posted there.
8 DAHL: Was your name posted?
9 BAHR: Yup.
10 DAHL: Um... was your date of
11 birth posted?
12 BAHR: Yes.
13 DAHL: Was there a phone number
14 posted?
15 BAHR: Umm... I don't think so.
16 DAHL: Umm... was there
17 information about where you work
18 posted?
19 BAHR: I don't think so.
20 DAHL: Umm... was there
21 information about where you."
22 Sorry, this is repeating.
23 "DAHL: K, was there any personal
24 information about your post
25 or...

1 BAHR: I think, ya I think they
2 put I came from B.C. or
3 something. Again I can't
4 remember everything.
5 DAHL: And what did they say
6 about you in the website?
7 BAHR: They called me a Nazi, I
8 can't remember everything else.
9 DAHL: It, you have a copy of it
10 though?
11 BAHR: Yup, yup.
12 DAHL: K, umm... So you found
13 this website, that was the first
14 thing that started with all of
15 this?
16 BAHR: Yup.
17 DAHL: OK umm... After you sent
18 your email to them and your
19 phone number to them, umm...
20 what happened then?
21 BAHR: To who?
22 DAHL: Ah, to this website.
23 BAHR: Oh the website. Nothing.
24 A couple of days back I got a
25 emails -- all the emails back

1 saying it couldn't be delivered.
2 DAHL: K... and how long was it
3 that you found this website to
4 when you first started receiving
5 emails?
6 BAHR: I'd say about a week.
7 DAHL: Did you reply to any of
8 the emails that you received?
9 BAHR: Never.
10 DAHL: Is there a reason why you
11 stopped receiving emails after
12 that week?
13 BAHR: Umm... No. I don't know
14 why.
15 DAHL: There isn't a way that you
16 could block your email address
17 or anything like that?
18 BAHR: No I don't think so.
19 DAHL: You never attempted to do
20 that anyways?
21 BAHR: No.
22 DAHL: K... Did you ever receive
23 any phone messages?
24 BAHR: No but i've had prank
25 calls.

1 DAHL: And do you want to discuss
2 those?
3 Bahr: Just no ones there,
4 someone keeps phoning.
5 DAHL: K, so nothing is said on
6 the phone?
7 Bahr: Right.
8 DAHL: Umm... Do you know where
9 these phone calls are
10 originating from?
11 Bahr: It says restricted.
12 DAHL: How often are you
13 receiving them?
14 Bahr: A couple of times a day.
15 DAHL: And for how long has this
16 been going on?
17 Bahr: Couple of weeks.
18 DAHL: Umm... How did you find
19 about the posters in your
20 neighbourhood?
21 Bahr: Umm... I was in,
22 (coughing) I was in Edmonton at
23 a friend's house and my landlord
24 called.
25 DAHL: When did this happen?

1 BAHR: Umm... twenty eighth of
2 February, Sunday.
3 DAHL: What did your landlord
4 tell you?
5 BAHR: She told me that there
6 were posters um, up all around
7 the neighbourhood with her
8 address on it and she read what
9 it said to me.
10 DAHL: Whats your um landlords
11 name?
12 BAHR: Judy MacDonald.
13 DAHL: Where does she live?
14 BAHR: Same address, upstairs.
15 DAHL: Does she live with anyone
16 else.
17 BAHR: Yup, her husband and their
18 son. I think he's, like 3.
19 DAHL: Do you live with anyone
20 else?
21 BAHR: No.
22 DAHL: Does anyone else use your
23 computer?
24 BAHR: No.
25 DAHL: So what did ya do when

1 your landlord told you about the
2 posters?
3 Bahr: Umm... what did I do?
4 Well basically I told her that
5 it was eleven o'clock at night on
6 a Sunday. I told her I would
7 come home early in the morning
8 and take a drive around before
9 work to see if there was any up.
10 Dahl: And what did you find?
11 Bahr: Nothing. She took, she
12 went and took them all down.
13 Dahl: Did you talk to her about
14 this then?
15 Bahr: Yup.
16 Dahl: How many did she ah take
17 down?
18 Bahr: About fifty.
19 Dahl: And umm... where were they
20 posted?
21 Bahr: Umm... On the
22 streetlights, that kinda thing.
23 Dahl: So why did she call you
24 about the posters?
25 Bahr: I guess cause she was

1 concerned, I dunno.
2 DAHL: What was her mood like?
3 BAHR: Well she was upset because
4 it had her address on it right.
5 Which I understand.
6 DAHL: And what did she ask you.
7 BAHR: Umm... well at first she
8 told me she would like me to
9 find another place to live and
10 then umm... we discussed it and
11 she said she would, cause my job
12 is temporary untill uh June and
13 then the softwares gonna be done
14 so we discussed staying untill
15 May and then umm... a couple of
16 days ago I got my fourteen days
17 eviction notice um... and then
18 we discussed that and I said if
19 I couldn't find another place
20 for a month, and then she gave
21 me another... later that evening
22 she gave me a written letter
23 that said umm... I Glenn Bahr
24 agree to be out by April
25 thirtyth, but if theres anymore

1 ARA umm... developments or ah
2 any other organization involved
3 then I will leave immediate.
4 But I havent signed it cause i'm
5 gonna fight it.
6 DAHL: OK.
7 BAHR: I'm gonna write a letter
8 of objection, cause I havent
9 done anything.
10 DAHL: Umm... What was the nature
11 of these posters?
12 BAHR: Umm... Well you have one
13 right? Well it had my picture,
14 and then all the personal
15 information and a write up of
16 lies about me. Saying i'm poor,
17 or I hate the poor which is
18 B.S., i'm poor myself. I hate
19 women which is B.S. I love
20 women. I dunno it's just a
21 bunch of crap. I go around
22 protests, or Sieg Heiling
23 everybody and crap like that
24 which is bull.
25 DAHL: And, and uh is there

1 anything originating ah... place
2 from where where these posters
3 came from as far as you know?
4 BAHR: Well ya because... Our
5 group was had a meeting planned
6 in Inisfail at a hall I booked
7 that Sunday and these guys,
8 three of them including Jason
9 Devine showed up and they called
10 all the newspapers and
11 everything to meet them there
12 but we had another, we held our
13 meeting in Edmonton. Anyways
14 and so ya hes in the paper the
15 Calgary Herald stating, I forget
16 what he says... starting a
17 bunch of crap and it's got his
18 picture to and hes holding up a
19 poster, so I believe it was him
20 but later on came down, but
21 their the ones who had my
22 address."

23 End of tape on side 1.

24 "DAHL: Umm did you ever see one
25 of these posters?"

1 BAHR: Oh ya.
2 DAHL: Ah...
3 BAHR: Well back to the emails to
4 i've received one, a threatening
5 one. Something about they were
6 going to contact my employers
7 and stuff like that.
8 DAHL: K. Umm... have they
9 contacted your employers?
10 BAHR: Not that I know of. They
11 havn't said anything to me so...
12 DAHL: Who, who are you employed
13 by?
14 BAHR: Um... Kaster... why?
15 DAHL: No i'm not gonna...
16 BAHR: Are you gonna contact
17 them?
18 DAHL: No I don't have a reason
19 to contact them... so...
20 BAHR: OK. i'm not going to give
21 you the name, but basically
22 i've -- there a publishing
23 company for an anatomy book and
24 i'm doing the software to go
25 with the with the book.

1 DAHL: Do you work ah um at in a
2 office or do you work at home?
3 BAHR: I work out of a basement
4 of somebody elses home.
5 DAHL: So after the posters were
6 taken down...
7 BAHR: Mhmm.
8 DAHL: Have any other posters
9 surfaced?
10 BAHR: No.
11 DAHL: Have you received any
12 other emails?
13 BAHR: No.
14 DAHL: What type of computer do
15 you have?
16 BAHR: Umm... what is it?
17 Pentium three, eight hundred I
18 think... running Windows XP.
19 DAHL: Is it ah home computer or
20 is it a laptop?
21 BAHR: Ya. It's like a home
22 computer.
23 DAHL: So it dosn't travel with
24 you?
25 BAHR: No.

1 DAHL: Do you have um high speed
2 internet or dial up?
3 Bahr: Highspeed.
4 DAHL: For us to umm... do our
5 investigation properly Glenn
6 from what I can see right now is
7 we will probably need access to
8 your computer, in order to see
9 if we can figure out where these
10 emails originated from. Would
11 you be willing to give us your
12 computer so that we could do
13 this?
14 Bahr: No. I can give you all
15 the emails and save them onto a
16 disk. I can print them all out.
17 I can give you, but i'm not
18 going to give you my computer.
19 DAHL: OK. And what reason for
20 it?
21 Bahr: I have personal stuff on
22 there and because it's
23 inconvenient to as well so...
24 DAHL: Um your job involves ah
25 computer work right?

1 BAHR: Yup.

2 DAHL: Do you use your ah home

3 computer for that?

4 BAHR: Sometimes, yup.

5 DAHL: OK. Umm... Is there any

6 way that this could uh be a

7 flexible thing for us?

8 BAHR: No.

9 DAHL: No, OK. Is there any

10 other way that you know of that

11 we could find out where the

12 emails have originated from?

13 BAHR: No cause i'm not...

14 apparently they have hacking

15 meetings every Thursday where

16 they hack into our computers and

17 stuff and our MSN accoutns. MSN

18 is basically um... Do you know

19 instant messaging where you can

20 talk back and forth online kinda

21 thing?

22 DAHL: Thats like a live chat

23 thing is it?

24 BAHR: Ya kinda like that.

25 DAHL: OK tell me about that.

1 BAHR: Well they, they break into
2 our accounts and then they
3 pretend that i'm me and they'll
4 start talking as me through my
5 account to people. They did
6 that to a number of other
7 peoples to.
8 DAHL: How do you know that?
9 BAHR: Because someone came on
10 and said hey you were just
11 online what were you talking
12 about, and I wasn't. Also
13 somebody else I know umm... they
14 made a fake personality and I
15 had been um talking to them and
16 then the other person came
17 online who was the real person
18 and umm... like my friend.
19 Just, just happened last, like
20 last Monday. I was talking to
21 him and then he popped up with
22 another one saying, "Hey man
23 don't talk to me anymore it's
24 not me, they just broke into my
25 account." So...

1 DAHL: K, the emails that you
2 received um... over ah one week
3 period?
4 BAHR: Mhmm.
5 DAHL: Ah... are any of them
6 directly threatening you?
7 BAHR: Ya there was one.
8 DAHL: And what was the threat
9 that was made.
10 BAHR: Get out or something go
11 back to B.C. We're gonna tell
12 your bosses and blah, blah,
13 blah. I can't remember all of
14 it off hand but I have it.
15 DAHL: So the threat was um to
16 talk to your boss and make
17 trouble at work?
18 BAHR: Ya that was part of it.
19 DAHL: K, was there any threats
20 toward hurting you?
21 BAHR: No I don't think there
22 was.
23 DAHL: Ok. Umm... Based on
24 everything thats happened...
25 BAHR: Ya.

1 DAHL: Tell me how you feel about
2 ah all, all of this?
3 Bahr: Well I mean... I don't
4 feel safe where I live. Umm...
5 I mean they've caused me stress
6 by like you know... all like,
7 everybody in my neighbourhood I
8 drive home and you know all eyes
9 are on me kinda thing. Ummm...
10 i'm getting evicted. I haven't
11 done anything wrong. I did not
12 contact these people. I've been
13 ignoring them. I didn't you
14 know, I han't done anything
15 wrong. I don't do illegal
16 stuff, i'm quiet, I go to work
17 six days a week come home. I
18 don't go to parties. Umm... and
19 I feel to with my picture and
20 stuff that I could be assaulted
21 you know? That kinda thing.
22 DAHL: Has anything happened um
23 since you received this stuff?
24 Bahr: Uh no. No assaults or
25 anything.

1 DAHL: OK. Umm... so your not
2 denying that you belong to this
3 group that theyr saying you
4 do...
5 BAHR: No, I belong to it.
6 DAHL: OK but whas, whats your
7 beef with ah what they've said?
8 BAHR: Well because, I mean
9 they've put my life at risk as
10 far as i'm concerned.
11 DAHL: OK. Are they accurate in
12 what they're saying or are they,
13 are you saying that they're
14 saying I is not true?
15 BAHR: It's not true.
16 DAHL: OK. Umm... whats not true
17 about what they've said?
18 BAHR: Again the posters says I
19 hate women. I do not hate
20 women. Umm... it says I hate
21 the poor. I do not hate the
22 poor. It says publicly go
23 around announcing my love for
24 Hitler I do not do that. They
25 called me a neo-Nazi. I'm not a

1 neo-Nazi, i'm a national
2 socialist. Umm... what else
3 did they... do you the poster?"
4 What else did they say, do you have
5 the poster would appear to be Dahl.
6 "DAHL: I do but it's not here on
7 the file so...
8 BAHR: Ya I don't remember.
9 DAHL: We have to exhibit things
10 so...
11 BAHR: Um I think something about
12 violence. I'm not violent. I
13 don't have... the only thing I
14 have is a DUI five years ago.
15 Umm... I don't get into fights.
16 I don't go picking fights. I
17 have a fulltime job a career and
18 I don't want to screw up my life
19 for that. thats it.
20 DAHL: OK. Umm... Is there
21 anything else that you can tell
22 me that would help us in our
23 investigation.
24 BAHR: Umm... Well I know it's
25 this Jason Devine guy. Um I

1 mean hes trying to get publicity
2 for his Communist Party. Umm...
3 I don't think theres anything
4 else.
5 DAHL: Has anyone...
6 BAHR: They know my truck to so
7 thats another thing.
8 DAHL: How do they know, how do
9 you know that they know your
10 truck?
11 BAHR: Where is it? It's in
12 some... Is it in the poster? Ya
13 it might be in the poster or
14 something.
15 DAHL: And what, what...
16 BAHR: And they told the
17 newspaper to.
18 DAHL: OK. What information
19 about your truck?
20 BAHR: It was in the email as
21 well. Ya it was in the email as
22 well before all this posters
23 come up. Umm... What was it?
24 It was a blue Toyota Tacoma with
25 B.C, license plates.

1 DAHL: K, did they put all that
2 information object email?
3 BAHR: Ya that was on the email.
4 DAHL: Did they put your license
5 plate in the email as well?
6 BAHR: No.
7 DAHL: So they give a description
8 of your vehicle?
9 BAHR: Yup.
10 DAHL: OK, umm...
11 BAHR: And it's funny because
12 i've, I mean i've been to
13 Calgary once.
14 DAHL: Has any othern personal
15 information been displayed or ah
16 received on those emails?
17 BAHR: No. I don't think so.
18 DAHL: K is there anything else
19 that you can think of that might
20 help us out?
21 BAHR: Umm... Well their
22 obviously doing it because they
23 don't like our views, but I mean
24 it's a free country. We're not
25 doing anything ilegal. Umm...

1 DAHL: How do other people feel
2 that have had their photos
3 displayed on the website there?
4 Are they concerned about they're
5 safety?
6 BAHR: Ya, definately... and
7 those people live in Calgary to
8 cept one of them lives in
9 Edmonton.
10 DAHL: Have you ever you had
11 contact with all the people on
12 that website?
13 BAHR: Yup.
14 DAHL: And have they, do you know
15 if any of them have reported it
16 to the police as well?
17 BAHR: No I don't think so.
18 DAHL: K, Umm... the last thing I
19 wanna say is ah if for our
20 investigation to continue the
21 first thing I wanna do Glenn is
22 I wanna get a photocopy or
23 copies of all the emails that
24 you received.
25 BAHR: OK.

1 DAHL: Umm... Anything thats
2 related to the website regarding
3 the posting of your information.
4 BAHR: OK.
5 DAHL: I have a copy of the
6 posters so you know I won't need
7 another copy unless... Now do
8 you have copies of the posters
9 here?
10 BAHR: Umm... I have two, ya.
11 DAHL: OK, Umm... so you will
12 able to provide that to us
13 anyways?
14 BAHR: Yup... I'll, i'll, what
15 i'll do is print out all the
16 emails and all the websites and
17 then i'll also, i'll also save
18 them and put them on CD for you.
19 DAHL: OK, great. So I'm gonna
20 end the statement here unless
21 theres something else you can
22 think of that ah we need to talk
23 about?
24 BAHR: No, thats good.
25 DAHL: OK it's nine twenty five

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P.M.

End of statement."

THE CHAIRPERSON: Thank you,
Mr. Fromm. So perhaps it is time to call your first
witness.

MR. FROMM: Well, our witness will
not be available until tomorrow morning. I had
expected to be all of yesterday and most of today with
Mr. Warman. Of course, as you know, I was stymied on
almost all the lines of inquiry, so my witness will not
be available until tomorrow morning.

THE CHAIRPERSON: Counsel, can I hear
from you, please?

MR. WARMAN: Madam Chair, that is
unacceptable. This hearing has been scheduled for
several months. Mr. Fromm has known full well that his
witnesses are to be present and available whenever it
appears that they will be called.

There is no -- there was no
indication yesterday that Mr. Klatt would not be
available to testify today. The Tribunal and all of
the parties have gone to great expense to be here and
it has been indicated repeatedly that if there was
delay or if this was to be segmented into two different
hearing segments, that there would be a request to move

1 the hearing to Ottawa for the second part of it.

2 So in my respectful submission, this
3 is absolutely unacceptable.

4 MR. VIGNA: I would like to confer
5 with Mr. Warman on something, Madam Chair.

6 THE CHAIRPERSON: I beg your pardon?

7 MR. VIGNA: I would like to speak to
8 Mr. Warman on something in relation to this, just two
9 seconds.

10 MR. FROMM: May I add something?

11 THE CHAIRPERSON: Yes.

12 MR. FROMM: As I have indicated from
13 the very beginning, Mr. Bahr has no resources.
14 Mr. Klatt, and this will be my first question to him,
15 what are you being paid. And he will confirm he is
16 coming because he believes that he has something to
17 contribute because, as an expert, he has something that
18 may be of assistance to you.

19 He has taken time off work and I have
20 tried to all along give him my best estimate, which has
21 changed from day to day. I have told him, and on this
22 basis, he has booked an airfare to come late today. I
23 fully believed on the basis of the time it took with
24 Officer Camp that I would have Mr. Warman for at least
25 as long. I expected the cross-examination to go

1 yesterday and today, maybe even a bit tomorrow.

2 I was repeatedly stymied in my
3 attempts to pursue a whole long list of questions which
4 I had -- you could tell I certainly had a lot of
5 directions in which I wished to go and I was not able
6 to do that.

7 We have no budget. We are, unlike
8 the second witness for the -- for the Commission, we
9 have no budget to keep our witnesses in Edmonton day
10 after day.

11 THE CHAIRPERSON: Where does
12 Mr. Klatt live?

13 MR. FROMM: He lives in Oliver, which
14 is at the very bottom of the Okanagan Valley. So his
15 options were to drive in or fly in, so he is flying in.

16 THE CHAIRPERSON: When does his
17 flight arrive?

18 MR. FROMM: Late this afternoon.

19 THE CHAIRPERSON: What time?

20 MR. FROMM: I'm not exactly sure, but
21 it is late this afternoon. So he will be available
22 first thing tomorrow morning. I anticipate our direct
23 questions to him would last less than an hour.

24 THE CHAIRPERSON: Counsel?

25 MR. WARMAN: Madam Chair, as much as

1 I consider this to be completely and utterly
2 unacceptable, counsel for the Commission and I are
3 prepared to make a compromise suggestion.

4 THE CHAIRPERSON: Okay.

5 MR. WARMAN: That is we are prepared,
6 simply in the interests of concluding this hearing, to
7 accept the report on the basis as tendered on an as-is
8 basis.

9 THE CHAIRPERSON: Counsel is
10 suggesting that they are, and this would save your
11 witness some money, to accept his report on an as-is
12 basis without having an opportunity to cross-examine.
13 Do you have any comments with respect to that?

14 Have I seen that report? There has
15 been so much paper here.

16 MR. VIGNA: It is a two-page report,
17 Madam Chair. I think it is an extract from the
18 internet, if I am not mistaken. It should be in the
19 Tribunal file, because it was in the file. I don't
20 know if Ms. Joyal remembers it being sent.

21 THE CHAIRPERSON: So it is your
22 expert's will-say statement. Counsel are suggesting
23 that they are happy to accept or content to accept that
24 at face value, yes.

25 MR. WARMAN: If I may, Madam Chair,

1 no. It is, in fact, his expert report.

2 THE CHAIRPERSON: It is his expert
3 report?

4 MR. WARMAN: Yes.

5 THE CHAIRPERSON: That would
6 certainly save Mr. Klatt some time and expense.

7 MR. FROMM: Well, that certainly
8 would be helpful if his -- if it was an expert report.
9 It wasn't just a will-say, but that would certainly be
10 helpful, but there are a couple questions of fact that
11 I would like to put to Mr. Klatt, so I would still like
12 to have the opportunity to examine him.

13 THE CHAIRPERSON: All right. If I
14 could have a copy of that expert report, I would like
15 to review it and I would like you to advise me what two
16 questions you wanted to ask Mr. Klatt.

17 MR. VIGNA: Madam Chair, I would just
18 like to inform that, even if Mr. Klatt comes here I
19 made it very clear, abundantly clear in the reply that
20 is mentioned in the last paragraph that we would be
21 objecting to him going beyond the report.

22 THE CHAIRPERSON: I am sorry. You
23 would be --

24 MR. VIGNA: We would be objecting for
25 anything that would be going beyond the report, if he

1 does come and testify.

2 THE CHAIRPERSON: Yes, you do have a
3 very strict requirement for disclosure, Mr. Fromm, so
4 identify for me what are the couple of additional
5 questions you would like to ask and please could I have
6 a copy of that expert report? Thank you.

7 MR. WARMAN: Madam Chair, if I could
8 just direct your attention, in furtherance of
9 Mr. Vigna's submissions, draw your attention to the
10 teleconference with Member Jensen on the 9th of May,
11 2006.

12 I specifically stated:

13 "I will be relying on the expert
14 report as written and that that
15 is what Bernard Klatt will be
16 testifying to."

17 I draw your attention also to the
18 reply to the respondent's letter of particulars by the
19 Canadian Human Rights Commission dated 16 May, 2006,
20 paragraph 53:

21 "With regard to witnesses the
22 commission states: The
23 Commission wishes that his --
24 meaning Mr. Klatt's -- area of
25 expertise be established and

1 delineated. This expert should
2 be limited strictly to the
3 general statements regarding the
4 internet, but the Commission
5 will strongly object to anything
6 not mentioned in his report or
7 conclusions going beyond this
8 report."

9 I would submit respectfully that
10 Mr. -- the respondents have been put on notice
11 repeatedly that that is the extent to which we would
12 entertain his expert report.

13 THE CHAIRPERSON: Those are certainly
14 the normal rules of the Tribunal, is that disclosure is
15 required, and particularly with respect to an expert, a
16 statement has to be provided.

17 So, again, what are the additional
18 questions that you wanted to ask the expert?

19 MR. FROMM: Well, in terms of his
20 report, which speaks for itself, I would just like to
21 draw out how computer -- how e-mail computers can be
22 hacked and have his comments on the --

23 THE CHAIRPERSON: So that is not
24 included in his report.

25 MR. FROMM: That is in his report.

1 Now, we would also -- you accepted the hearsay report
2 from an officer of the Edmonton Police Service about
3 Mr. Klatt -- Mr. Bahr's computer, and I objected at the
4 time but you said you would allow that to be filed in
5 evidence.

6 We would like -- I would like to
7 question Mr. Bahr by way of rebuttal.

8 THE CHAIRPERSON: Sorry, question
9 who?

10 MR. FROMM: I am sorry, question
11 Mr. Klatt by way of rebuttal evidence about that Police
12 Report.

13 THE CHAIRPERSON: What in particular
14 on the Police Report?

15 MR. FROMM: Pardon?

16 THE CHAIRPERSON: The Police Report
17 that you just read into the record?

18 MR. FROMM: No, the Police Report
19 that you accepted from Sergeant Camp, his report, but
20 also attached to that was a two-page report from an
21 officer with the Edmonton Police Service who was
22 identified as a computer expert and I objected to that,
23 that we didn't have that officer here. This was an
24 expert report that has not been presented as an expert
25 report. We were not able to cross-examine him.

1 So I would like to ask Mr. Klatt
2 questions about that report that we do have before us
3 in evidence. And I would also like him to identify,
4 just as a matter -- just as a witness of fact, several
5 things that he will have seen on the internet.

6 THE CHAIRPERSON: What I am hearing,
7 Counsel, from Mr. Fromm, I believe, is, and I am
8 sensitive to the manner in which disclosure happened,
9 and I understand that there has been a problem with --
10 and suggestions that some of the disclosure has been
11 late.

12 How long has Mr. Bahr and Mr. Fromm
13 had that report that was attached to Sergeant Camp's
14 Investigation Report that is included in our materials?

15 MR. WARMAN: Madam Chair, I can't say
16 this for certain, but my understanding is that he would
17 have had it ever since he received the disclosure,
18 pursuant to the Section 319 criminal charge.

19 MR. BAHR: Madam?

20 MR. WARMAN: If I may finish. And in
21 fact, if that is, in fact, the case, then Mr. Fromm's
22 inability to obtain that information from Mr. Bahr
23 is --

24 THE CHAIRPERSON: I am not accepting
25 that line of argument. How long has Mr. Fromm and

1 Mr. Bahr had this report, the EPS report in this
2 proceeding? Because we can't establish when he may or
3 may not received it in some other forum.

4 MR. VIGNA: Madam Chair, I am the
5 best place to answer that question.

6 THE CHAIRPERSON: Okay. Then I am
7 glad to hear from you.

8 MR. VIGNA: We had sent a subpoena to
9 Sergeant Camp and he sent us the report May 16th, and I
10 would suspect he would have got it May 17th, the
11 Wednesday, I believe. That was a Wednesday.

12 So it was disclosed late. It was the
13 first issue we had raised at the very beginning of the
14 hearing, the late disclosure.

15 THE CHAIRPERSON: I remember. We
16 have already canvassed the reasons for the disclosure.
17 What I am asking now is when did he get it, this
18 particular report.

19 MR. VIGNA: According to me, it was
20 about May 17th, but what I can say also is considering
21 that there was a criminal trial, he must have -- we had
22 initially -- what I want to say is that we had
23 initially asked that report --

24 THE CHAIRPERSON: Yeah. It is a
25 simple question. When did Mr. Fromm or Mr. Bahr

1 receive the report that is attached to the
2 Investigation Report that is part of the Commission's
3 materials? What date?

4 MR. VIGNA: According to myself, May
5 17th or in that vicinity, because we got it on the
6 Tuesday, May 16th, and it was sent the next day.

7 THE CHAIRPERSON: And that was what
8 day of the week?

9 MR. VIGNA: I think it was Wednesday,
10 but I am going by memory here. Mr. Fromm can correct
11 me if I am mistaken.

12 MR. WARMAN: It is a Wednesday, Madam
13 Chair.

14 THE CHAIRPERSON: And when was the
15 expert report filed?

16 MR. VIGNA: It wasn't filed, Madam
17 Chair.

18 THE CHAIRPERSON: When was it
19 received? I am sorry.

20 MR. WARMAN: I have here the
21 submission -- sorry, Madam Chair. If I may, the
22 submission from Mr. Fromm to the Tribunal indicates the
23 date was the 28th of April, 2006.

24 THE CHAIRPERSON: Okay. So that
25 material was received after his expert report was

1 received.

2 MR. VIGNA: It was received on the
3 Tuesday, I think, the 16th by myself and we sent it the
4 next morning.

5 THE CHAIRPERSON: Right. And the
6 expert report was received at the end of April.

7 MR. VIGNA: Their expert report,
8 right. I was referring to the police -- that
9 Palamattam report.

10 THE CHAIRPERSON: Okay.

11 MR. VIGNA: I hope I am clear in
12 answering your question.

13 THE CHAIRPERSON: I think I am clear.
14 On the 17th of May, Mr. Fromm and Mr. Bahr received the
15 Investigation Report that he now wants to ask his
16 expert about. He provided his expert report at the end
17 of April, so prior to having received that additional
18 report. Yes?

19 MR. WARMAN: Madam Chair, I would
20 just note that Mr. Bahr has just admitted on the record
21 that his counsel in the criminal proceeding had the
22 documents, and the fact that Mr. Bahr has chosen to
23 retain counsel who live in another province is not the
24 fault of the Commission or myself.

25 THE CHAIRPERSON: I am within the

1 four corners of the proceeding of this Tribunal, and I
2 am not going to take into account that material may or
3 may not have been available in another proceeding. I
4 just don't think that is appropriate in the
5 circumstances.

6 All right. I am going to direct as
7 follows. You have -- I am going to allow Mr. Klatt to
8 give evidence first thing tomorrow morning. I am also
9 going to canvass with counsel, I would be quite happy
10 to have the Commission and the complainant commence
11 their legal argument this afternoon after lunch and
12 allow you to augment or supplement those arguments
13 depending on what we hear from the expert.

14 So it is a bit of a rough way to get
15 this concluded, but if we can -- is that something that
16 either of you are willing to entertain?

17 MR. WARMAN: Madam Chair, perhaps if
18 I may just speak with my colleague for a moment?

19 THE CHAIRPERSON: Yes. Mr. Fromm,
20 while they are chatting?

21 MR. FROMM: My memory is a little
22 hazy from the previous one. Do you set some sort of --
23 could you tell me the order or the sequence and can you
24 tell me whether you would impose a time limit on the
25 statements?

1 THE CHAIRPERSON: I like to canvass
2 with counsel how much time they think they will need.
3 We have had eight days of evidence so I would expect
4 that legal argument should be concluded within one day,
5 six hours of argument. I would be happy to hear from
6 counsel if they feel that that is problematic.

7 MR. FROMM: What would be the order
8 or the sequence?

9 THE CHAIRPERSON: I would have the --
10 these two can figure out who wants to go first, the
11 Commission and the complainant, and you would be last.

12 MR. FROMM: And does either side get
13 a rebuttal?

14 THE CHAIRPERSON: If they want one,
15 yes.

16 MR. FROMM: Well, if I may suggest in
17 directing my question yesterday, you seemed to narrow
18 the concerns to a couple of issues. Perhaps if the
19 summations were limited to, say, an hour per person,
20 would that be able to move this fairly expeditiously
21 and conclude by the end of the week?

22 THE CHAIRPERSON: So you are
23 proposing that you require only an hour for your
24 submissions?

25 MR. FROMM: Well, as you said, that

1 there would be the right of rebuttal, but so that there
2 is some structure --

3 THE CHAIRPERSON: M-hm.

4 MR. FROMM: -- to it. I think you
5 are saying that there are a couple of defined issues
6 and these have to be addressed.

7 THE CHAIRPERSON: I am sorry, I am
8 just trying to understand. Are you suggesting that you
9 will require an hour for your closing arguments orally?
10 Yes?

11 MR. FROMM: I could live with that,
12 yes, because I am just --

13 THE CHAIRPERSON: I am not trying to
14 impose that on you. I am just trying to canvass -- I
15 am just trying to understand what you are telling me,
16 Mr. Fromm.

17 MR. FROMM: What I am telling you, I
18 think, is that I would probably be prepared to go
19 today, but I don't think that will come up. Mr. Klatt,
20 I think -- I anticipate about an hour from my side in
21 terms of questioning. I have no idea what the
22 Commission or Mr. Warman would want to do with him.
23 But I believe it would be practical to think in terms
24 of starting tomorrow afternoon.

25 THE CHAIRPERSON: Okay. Thank you.

1 Counsel?

2 MR. VIGNA: Madam Chair, as for
3 myself, I don't know if the complainant agrees, but it
4 would be kind of awkward to start the pleading now that
5 the hearing is not finished. What I propose is today I
6 work on the pleadings and tomorrow right after
7 Mr. Klatt, we can go plead and I will just add in
8 whatever Mr. Klatt will have said, and I will limit --

9 THE CHAIRPERSON: Yes, I don't want
10 to compromise counsel's submissions, certainly, but I
11 am also sensitive to the fact that we now have dead air
12 here for several hours, and that doesn't make me happy.

13 So if anybody can propose a manner in
14 which to use this time in a productive fashion, I am
15 happy to hear that, but I am also happy to -- and I am
16 not surprised that counsel might not want to get
17 started immediately or even today.

18 But Mr. Warman, what do you think?

19 MR. WARMAN: Madam Chair, again, I
20 reiterate, this is really outrageous and, you know, if
21 Mr. Fromm were a member of the Bar, I would ask that he
22 receive some sort of rebuke or make a complaint or
23 something to the Bar Society. But I would suggest,
24 just in the interests of expediting this, that I am
25 prepared to make my closing submissions after lunch.

1 THE CHAIRPERSON: Great.

2 MR. WARMAN: Then Mr. Fromm also make
3 his closing submissions and that Mr. Vigna make
4 whatever submissions he needs to immediately following
5 the close of Mr. Klatt's testimony.

6 THE CHAIRPERSON: Okay.

7 MR. VIGNA: I would be okay with that
8 suggestion, if the Tribunal is agreeable.

9 THE CHAIRPERSON: And how long do you
10 think you will take, Mr. Warman?

11 MR. WARMAN: Twenty minutes, perhaps,
12 half an hour. As I said yesterday, it is the
13 responsibility of counsel and their agent to make sure
14 that we are prepared to finish our closing arguments at
15 the end of evidence.

16 THE CHAIRPERSON: All right. So you
17 are going to be a half an hour. Mr. Fromm, you
18 suggested that you will be an hour.

19 MR. FROMM: A pretty integral part of
20 our submissions, though, will be the confirmation that
21 Mr. Klatt will provide of our theory about the hacking.

22 Now, if I can pick up on that later
23 on, I can, but I could go this afternoon.

24 THE CHAIRPERSON: Great.

25 MR. FROMM: In response to

1 Mr. Warman, it is easy simply to gloss over --

2 THE CHAIRPERSON: You have my ruling.
3 I don't know that we need to go back and forth. My
4 ruling is in your favour, so let us just stop that
5 there.

6 Mr. Vigna, we are proposing that you
7 are the third to provide submissions.

8 MR. VIGNA: I would be able to do it
9 right after Mr. Klatt. I would be as short as
10 possible. Is that okay, Madam Chair?

11 THE CHAIRPERSON: Sure, yeah. Yes.

12 MR. VIGNA: I can provide the case
13 law as well. I have it already. I could give it right
14 away.

15 THE CHAIRPERSON: Okay. So
16 Mr. Warman, would 1:00 give you enough time or 1:30
17 give you enough time to get yourself polished off?

18 MR. WARMAN: 1:00 would be
19 acceptable.

20 THE CHAIRPERSON: 1:00 is fine?

21 MR. WARMAN: Yes, please.

22 THE CHAIRPERSON: So we will see you
23 back here at 1:00. We will start with Mr. Warman's
24 argument and then we will continue with Mr. Fromm and
25 we will see where that takes us.

1 --- Upon recessing at 10:50 a.m.

2 --- Upon resuming at 1:00 p.m.

3 THE CHAIRPERSON: Good afternoon.

4 Who is going to be first, Mr. Warman?

5 MR. FROMM: I have two matters.

6 THE CHAIRPERSON: Oh, sorry.

7 MR. FROMM: First is I would ask that
8 you revisit your decision this morning about allowing
9 me to file correspondence between me and the Commission
10 in regards to Mr. Bahr's desire for a mediation, and I
11 call your attention to Section 54(1) of the Act that
12 should the member find the complaint justified and
13 where a penalty is being sought, you are to consider
14 the willfulness or the intent of a person who engaged
15 in the discriminatory practice, and I think our
16 correspondence with the Commission would serve to
17 assist you in that, especially in terms of the
18 willfulness or intent of Mr. Bahr.

19 THE CHAIRPERSON: Counsel?

20 MR. VIGNA: Madam Chair, I will say,
21 firstly, that you have decided on the issue this
22 morning about whether that type of evidence is
23 admissible, so that is res judicata is what I am
24 pleading, first of all, in terms of your power to
25 revisit that position.

1 Secondly, the evidence that is wished
2 to be introduced is known and sacred in terms of the
3 law, in terms of settlement discussions could not be
4 disclosed in a hearing.

5 Thirdly, if there is any issues
6 relating to Section 54 that Mr. Fromm wants to put
7 forth for his client, he can do so at the end if there
8 is a liability finding.

9 So I will submit simply that this
10 issue cannot be revisited because of res judicata and I
11 reiterate my objection this morning based on relevance
12 and based on privilege in settlement discussions and
13 the whole principles that relate to that.

14 THE CHAIRPERSON: Okay. Mr. Warman?

15 MR. WARMAN: Madam Chair, I would
16 simply largely echo the concerns of Mr. Vigna as
17 expressed. This is a matter that is res judicata. You
18 have already ruled on this issue and nothing has
19 changed.

20 THE CHAIRPERSON: Mr. Fromm, I have
21 ruled on the matter. I will, though, respond to your
22 most recent submission and that is, as I understand it,
23 that the expression of intent or willingness to mediate
24 goes to the element of willfulness under the Act.

25 Mr. Fromm, the willfulness element

1 relates to the conduct giving rise to the complaint,
2 not conduct subsequent to the complaint having been
3 filed, and so I don't agree with your assessment that a
4 willingness to enter into mediation goes to the
5 willfulness component in that provision of the Act, and
6 so I am not going to vary my ruling.

7 Okay, so -- oh, there were two
8 things, I am sorry.

9 MR. FROMM: Yes, a second matter. I
10 would like to call a witness in rebuttal to Officer
11 Camp's testimony.

12 Now, I must explain, this witness had
13 indicated earlier that she would be prepared to testify
14 and earlier this week was very apprehensive and very
15 reluctant and I have a letter I gave to Mr. Vigna this
16 afternoon after lunch. It is actually dated May the
17 30th. I had hoped that we would be able to call her
18 and she indicated she didn't want to, she was
19 reluctant.

20 However, she has changed her mind.
21 She is waiting out in the hall and I seek your leave to
22 call her as a rebuttal witness to the testimony of
23 Officer Camp.

24 THE CHAIRPERSON: The Tribunal rules,
25 of course, are very clear that the disclosure of

1 witnesses is something that -- it is incumbent on the
2 respondent to do before the hearing, so what are your
3 responses to that?

4 MR. FROMM: My submission is that we
5 did not know the nature of Officer Camp's testimony in
6 a general way. Very late in the game we did have his
7 reports. I got -- if I recall correctly, I got the
8 reports, as we established this morning, on Wednesday
9 or the week before the Tribunal. I got other material
10 by fax that Friday.

11 There is a crucial point in his
12 testimony that was not at all clear in what I received
13 and that is -- that is essentially the point that our
14 witness would -- can rebut.

15 THE CHAIRPERSON: What is the point?

16 MR. FROMM: The point is in what
17 order were the, I will call them threats, made against
18 Ms Bundschuh's child. Were the threats made prior to
19 Mr. Bahr saying, "I take the entire responsibility, it
20 is all my doing?" Or did he say, "I take all the
21 responsibility, it is all my doing," and as Officer
22 Camp seemed to suggest, only after that did Officer
23 Camp tell him that, I will have to tell you I am
24 calling Children's Services and seeking to have them do
25 an inquiry into the safety of the child here.

1 THE CHAIRPERSON: So it is
2 Ms Bundschuh that is here?

3 MR. FROMM: That is correct, yes. I
4 wish I could have announced it earlier, but I was about
5 to do so yesterday and she was very apprehensive and
6 did not want to testify. She has had a change of
7 heart.

8 MR. VIGNA: Madam Chair, I have
9 several bases for my objecting to this witness.

10 Firstly, there is no relevance to the
11 complaint, the facts of the complaint. What Sergeant
12 Camp talked about in relation to Ms Bundschuh, I don't
13 know how to pronounce her name, was disclosed that May
14 17th when the information was provided last week. We
15 are today, Wednesday a week later, we started the
16 hearing and for the first time a few minutes before
17 reconvening the hearing this afternoon I got a letter
18 saying basically that she wants to talk about the
19 circumstances surrounding the execution of the warrant.

20 Just that in itself is not
21 sufficient, but even there the circumstances
22 surrounding the execution of the warrant are not really
23 relevant to the determination of this Tribunal.

24 The testimony of Ms Bundschuh would
25 be totally irrelevant. It is not a criminal matter

1 where we have to decide on the admissibility of the
2 search warrants and even there they have to raise that
3 fairly early in the process.

4 And also I have to point to your
5 attention that I noticed that Ms Bundschuh was in the
6 room this morning and there is an exclusion order and
7 now she would be basically testifying against -- while
8 the exclusion order was ordered.

9 So for all these reasons I think it
10 is totally inadmissible that her testimony be allowed,
11 and Mr. Warman may want to add something else.

12 THE CHAIRPERSON: Mr. Warman?

13 MR. WARMAN: Madam Chair, when I
14 returned to this room five minutes ago there was a
15 letter sitting on this table from Mr. Fromm announcing
16 this for the first time.

17 I would like to make a number of
18 points. I would echo the fact that, to the best of my
19 knowledge, Ms Bundschuh was in the room this morning.
20 There is no indication that she has not discussed the
21 testimony of previous witnesses and that therefore may
22 tailor her evidence in light of that previous
23 testimony.

24 Sergeant Camp was in no way a
25 surprise witness for these proceedings. There is no

1 surprise whatsoever that he would be likely to testify
2 to the execution of the search warrant on Mr. Bahr's
3 residence slash Ms Bundschuh's residence.

4 Mr. Fromm, on behalf of Mr. Bahr, has
5 been making consistent representations and allegations
6 regarding the conduct of Sergeant Camp since at least
7 the filing of their amended Statement of Particulars.

8 I realize that Mr. Fromm is not
9 subject to professional regulation or discipline and
10 that he is not, unfortunately, by the rules of this
11 Tribunal, subject to costs awards, whether against the
12 respondents or himself personally, but I would
13 respectfully submit that there is a limit to how far
14 the respondents may go towards turning the hearing into
15 a circus and making their defence up as they go.

16 Those are my submissions.

17 THE CHAIRPERSON: Thank you.

18 Mr. Fromm, I am not going to allow this witness to give
19 testimony. It is clear from my review of the
20 particulars some time ago that the issue of the
21 execution of the warrant is something that concerned
22 your client right from the start, and you certainly
23 have had notice since -- you know, you have had the
24 formal disclosure since the 17th of May. We are now
25 well into the second week of this hearing and it is too

1 late. We haven't brought the matter forward.

2 I am also concerned to hear that this
3 witness was in the courtroom this morning and that is
4 another element that concerns me.

5 In the circumstances, I believe that
6 it is not appropriate for that witness to give
7 testimony. Thank you.

8 Mr. Warman, would you get started,
9 please?

10 MR. WARMAN: May I have ten seconds
11 just to finish my notes? Thank you.

12 Madam Chair, for reasons that I
13 believe are self-evident, I will be reserving a small
14 portion of my closing arguments until tomorrow --

15 THE CHAIRPERSON: Yes.

16 MR. WARMAN: -- subsequent to the
17 testimony of Mr. Klatt.

18 The first issue that I would like to
19 deal with in my closing is the question of the links
20 that Sergeant Camp testified were available on the WCFU
21 website.

22 Sorry, Madam Chair, I should note as
23 well that myself and Mr. Vigna, on behalf of the
24 Commission, have essentially divided various subject
25 matters so that --

1 THE CHAIRPERSON: Thank you.

2 MR. WARMAN: -- anything that is not
3 covered will be covered by Mr. Vigna tomorrow.

4 The testimony of Sergeant Camp was
5 that the WCFU website had links to the groups the Ku
6 Klux Klan or KKK and the Aryan Nations.

7 I would ask the Tribunal to take
8 notice of the previous decisions of the Tribunal
9 upholding findings that each of these groups have
10 violated Section 13 of the Canadian Human Rights Act
11 and, Madam Chair, I am sorry, just to interrupt you
12 again, I will provide you with a copy of my full
13 submissions tomorrow, if that is acceptable.

14 THE CHAIRPERSON: Yes.

15 MR. WARMAN: Including the relevant
16 citations.

17 The first case is Manitoba Coalition
18 Against Racism and Apartheid v. Marcus, then Nealy et
19 at v. Johnston et al. The first case is a 1992
20 decision and the second is a 1989 decision.

21 With regard to the question of
22 liability under Section 13 for the presence of links,
23 Member Hadjis, in the Warman v. Kulbashian -- sorry,
24 just for the stenographer, I will go back and spell
25 Nealy. Nealy is N-E-A-L-Y. Marcus is H-A-R-C-U-S.

1 Kulbashian, K-U-L-B-A-S-H-I-A-N. That is a 2006
2 decision of the Tribunal.

3 Member Hadjis stated at paragraph 49,
4 quote:

5 "The website manages to
6 encourage the visitor to feel
7 contempt against these groups
8 even through its links to other
9 websites. It invites visitors
10 to travel, with one click of a
11 mouse button, to the site of the
12 Canadian Ethnic Cleansing Team.
13 Taking into account the opinions
14 expressed in the Pierce
15 articles..."

16 These are other articles that
17 appeared on the website.

18 "...it is quite easy to draw the
19 connection between this group's
20 name and a call for the forceful
21 exclusion from Canadian society
22 of non-Caucasians. Another of
23 the linked websites is named
24 whitesonly.net, which has a logo
25 that unabashedly harks back to

1 the lynching of black persons."
2 In addition, on the 8th of July,
3 2005, Canada became the first non-European signatory to
4 the Council of Europes -- and it is a very long
5 title -- Additional Protocol to the Convention on Cyber
6 Crime Concerning the Criminalization of Acts of a
7 Racist and Xenophobic Nature Committed Through Computer
8 Systems.

9 Article 3 of the protocol requires
10 signatories to criminalize the "distribution or
11 otherwise making available of racist and xenophobic
12 material through computer systems." The explanatory
13 report for Article 3 of the protocol is explicit, that
14 the making available of racist and xenophobic material
15 through computer systems is also intended to extend to
16 the creation of publicly posted hyperlinks to such
17 material elsewhere on the internet.

18 Interpretations consistent with this
19 would ensure that individuals would not be able to, in
20 effect, subcontract their hate to jurisdictions where
21 such material may not be illegal.

22 It is my respectful submission that
23 the above should help inform the member's understanding
24 and interpretation of the question of liability for the
25 links to other white supremacists and neo-Nazi groups.

StenoTran

1 The second issue that I will address
2 is did Western Canada For Us constitute a group of
3 persons acting in concert to communicate hate messages
4 in violation of Section 13(1) of the act. And I would
5 submit that the question as to whether WCFU constituted
6 a group of persons acting together in relation to the
7 internet content of the WCFU website is no longer truly
8 at issue.

9 Mr. Fromm tells us on more than one
10 occasion that he does not represent WCFU. For his
11 part, Mr. Bahr in his particulars faxed to the Tribunal
12 on the 21st of April, 2006, repeatedly describes WCFU
13 as a "group" and a "group of people who formed WCFU."
14 I would draw your attention to paragraphs 6, 9 and 29
15 of that document.

16 The uncontradicted evidence before
17 the Tribunal makes it clear that the website was the
18 on-line incarnation and discussion place of this group
19 of people.

20 In an abundance of caution, I will
21 draw your attention briefly to the jurisprudence on
22 this issue and its relation to the facts in this case.

23 In the Tribunal decision of Nealy V.
24 Johnston, again, 1989, the Tribunal at paragraph 45640
25 states:

1 "Based on the evidence led
2 before the tribunal pointing to
3 the existence of a group of
4 individuals in Alberta led by
5 Terry Long who subscribe to the
6 values and views of that section
7 of the 'identification church
8 movement' which operates under
9 the name of the Church of Jesus
10 Christ Christian - Aryan
11 Nations, the members of the
12 tribunal are satisfied that the
13 Church in Alberta was correctly
14 named as a respondent in this
15 hearing. Although Terry Long is
16 clearly the driving force in the
17 organization it is not limited
18 to and synonymous with him.
19 Despite the absence of evidence
20 that it has a formal legal
21 status, it does represent a
22 group of people accepting a
23 common religious, political and
24 social agenda who see themselves
25 as part of an institution or

1 movement. Moreover, by its own
2 admission it subscribes to basic
3 organizational procedures in its
4 decision making."

5 Tribunal continued:

6 "In the one other decision of a
7 tribunal set up under the
8 Canadian Human Rights Act to
9 consider a complaint under
10 section 13(1), Canadian Human
11 Rights Commission et al. V. The
12 Western Guard Party and John
13 Ross Taylor..."

14 This was a three-member panel of the
15 Tribunal.

16 "...despite the fact that the
17 Western Guard Party was not
18 incorporated, the tribunal had
19 no trouble concluding on the
20 evidence that it constituted 'a
21 group of people acting in
22 concert' under the section."

23 I quote from that decision:

24 "There is no question that it
25 [the Western Guard Party]

1 constitutes a group of people
2 who have organized themselves
3 under this name. They have a
4 symbol. They have a letter
5 head. They have a post office
6 box number. They have telephone
7 lines in their name. They are
8 listed in the telephone book.
9 They have a bank account and
10 infrastructure with officers and
11 leaders. They hold themselves
12 out as a unit."

13 Member Hadjis in Warman v. Kulbashian
14 discusses the issue of group activity and group
15 notification at paragraphs 120 to 124 of his decision.
16 He states:

17 "I am satisfied on the evidence
18 presented that an organization
19 existed at the time of
20 Mr. Warman's complaint called
21 the Canadian Ethnic Cleansing
22 Team."

23 And I emphasize that Member Hadjis
24 found that the appropriate determining time was at the
25 time of the complaint and not the current date.

1 "The wpcect.com and
2 vinlandvoice.com web pages
3 alluded to the existence of the
4 group. Mr. Kulbashian
5 acknowledged during his police
6 interview that he was involved
7 with the group, as did
8 Mr. Richardson in the chat relay
9 logs.

10 Just as in the case of Affordable Space.com, there
11 is no evidence before me that this group of persons has
12 any formal legal existence. But, as the Tribunal
13 pointed out in Nealy, supra, this changes little. A
14 group of people accepting a common political and social
15 agenda who see themselves as part of an institution or
16 movement may constitute a 'group of persons working in
17 concert', for the purposes of s. 13. I find this
18 definition applicable to the Canadian Ethnic Cleansing
19 Team.

20 Although the Canadian Ethnic Cleansing Team did
21 not formally appear at the hearing, did it have
22 sufficient notice of these proceedings? Mr. Kulbashian
23 and Mr. Richardson were primary members of the Canadian
24 Ethnic Cleansing Team, as the police interview, the
25 chat log discussions, and the business cards seized

1 during their arrests would bear out. As correspondents
2 to the complaint, Mr. Kulbashian and Mr. Richardson
3 were, of course, personally aware of the complaint
4 against the Canadian ethnic cleansing team and
5 therefore satisfied that the Canadian Ethnic Cleansing
6 Team was given sufficient notice of these proceedings.

7 A substantial portion of the Hate Messages was
8 posted on the Canadian Ethnic Cleansing Team's websites
9 (wpcect.com and vinlandvoice.com). Consequently, I
10 find that the Canadian Ethnic Cleansing Team engaged in
11 a discriminatory practice by communicating or causing
12 these messages to be communicated repeatedly over the
13 Internet. The complaint against the Canadian Ethnic
14 Cleansing Team has been substantiated."

15 With regard to the question of notice
16 to WCFU, in Nealy v. Johnston, the Tribunal found that
17 Terry Long was the leader of the Aryan Nations group
18 and had indicated publicly his intention to boycott the
19 hearing.

20 The Tribunal found that, as personal
21 service is not required under what was then Section
22 40(1) of the Act, adequate notice had been given to the
23 respondents, including the Aryan Nations as a group,
24 based on service to Long and his knowledge of the
25 hearing.

1 In this case, Mr. Bahr has received
2 all of the materials from the Commission on behalf of
3 WCFU and the evidence overwhelmingly demonstrates that
4 he is the group's leader. He has attended these
5 proceedings throughout. It is respectfully submitted
6 that WCFU has had adequate notice of this hearing.

7 In terms of the group indicia
8 established in Taylor, in this case, the evidence led
9 before you has demonstrated that the respondent,
10 Western Canada For Us, has a symbol. I draw your
11 attention to HR-40 and elsewhere, a stylized Maple Leaf
12 and wheat sheath; a P.O. Box. I draw your attention to
13 HR-7, the posters; infrastructure with officers and
14 leaders, I draw your attention to HR-45, Glenn Bahr as
15 founder/leader, and HR-48 and 49 showing James Murphy
16 as head of the Manitoba Chapter, et cetera.

17 I would also draw your attention to
18 the fact that they hold themselves out as a unit
19 throughout the evidence submitted. In that regard, I
20 would refer you to HR-40, specifically, but I believe
21 that the rest of the testimony substantiates that as
22 well.

23 In addition, as the indicia in Taylor
24 and Nealy were set out in 1979 and 1989, respectively,
25 the internet was not the phenomenon it is today.

1 Weight should be given a modern-day context to the fact
2 that WCFU had a website and e-mail addresses, as well
3 as having held numerous meetings and protests as a
4 group.

5 It is submitted that the evidence
6 substantiates the fact that Western Canada For Us
7 constituted a group of persons acting in concert in
8 violation of Section 13 of the Act by communicating
9 repeated hate messages through the WCFU website.

10 Although it has not been pressed at
11 this hearing in a Statement of Particulars, there is
12 some question as to whether hate speech constitutes
13 free speech. The Supreme Court's reasons in Taylor
14 display an ample awareness of the need to balance the
15 competing interests of freedom of expression versus the
16 consensus within the international community that hate
17 propaganda should be suppressed, given the apparently
18 self-evident risk of harm to the targeted communities.

19 To the extent that the respondent
20 seeks to frame some positive right to engage in hate
21 speech, a similar argument was raised in the case of
22 Payzant, P-A-Y-Z-A-N-T, v. McAleer, M-C-A-L-E-E-R, and
23 Canadian Liberty Net. This is a 1994 decision of the
24 Tribunal, where the respondent initially attacked
25 pedophilia, associated homosexuality with pedophilia

1 and then suggested that homosexuals should be stomped
2 with bogs.

3 The three-member panel Tribunal
4 stated:

5 "Counsel for the Respondent
6 McAleer based part of his
7 argument on fair comment and
8 free speech. The fact that the
9 Respondent does not approve of
10 homosexuality is certainly a
11 view he is free to communicate
12 telephonically as long as he
13 does not do so in such a manner
14 as to offend s.13(1) of CHRA."

15 Similarly, in the most recent hate
16 messaging -- excuse me, the second most recent hate
17 case of Warman v. Kulbashian et al., Tribunal Member
18 Hadjis dismissed the ability of a respondent to
19 disseminate hate messages under the cloak of free
20 speech.

21 In addressing the respondent's
22 arguments that the impugned material constituted
23 political discourse and was not intended to expose any
24 designated groups to hatred or contempt, Member Hadjis
25 stated:

1 "Intent to discriminate,
2 however, is not a precondition
3 for a finding of
4 discrimination."

5 He sites Ontario Human Rights
6 Commission and O'Malley v. Simpson Sears Limited, 1985
7 Supreme Court, and Canada (Human Rights Commission) v.
8 Taylor, a 1990 decision of the Supreme Court as well:
9 Member Hadjis continued:

10 "Moreover, the language of
11 Section 13 is clear in that it
12 is the effect of the messages
13 that has attracted to attention
14 of Parliament. The question to
15 be asked is not whether the
16 conveyor of the message intended
17 to communicate hate or contempt,
18 but whether the message itself
19 is likely to expose persons
20 belonging to the identifiable
21 groups to hatred or contempt.

22 If indeed the newsletter's content was intended to
23 express a supposed political opinion, the message could
24 have been communicated without resort to the extremist
25 and denigrating language that pervades editions of the

1 newsletter that were entered into evidence."

2 Member Hadjis then again sites see
3 Canada Human Rights Commission v. Canadian Liberty Net.

4 Madam Chair, the call for the
5 extermination of homosexuals and the mentally disabled,
6 as well as attacks on others based on their religion,
7 colour, national and/or ethnic origin, using bigoted
8 slurs and degrading stereotypes does not constitute
9 legitimate political discourse. It promotes hatred and
10 contempt.

11 Madam Chair, if I may, I would like
12 to, in essence, finish the first part of my closing
13 submissions and I will make the rest of my closing
14 submissions at the end of the entry of evidence
15 tomorrow, if I may.

16 THE CHAIRPERSON: Yes.

17 MR. WARMAN: Barring any questions,
18 those are my submissions.

19 THE CHAIRPERSON: Thank you,
20 Mr. Warman.

21 MR. WARMAN: Thank you.

22 THE CHAIRPERSON: Mr. Fromm?

23 MR. FROMM: Before I get into
24 specific answer to the complaint, I would like to go on
25 the record as, once again, reiterating our very strong

1 objections to a number of things that have occurred.

2 First of all, the fact that this
3 hearing has gone ahead, despite the fact that the
4 Section 319 case is outstanding, despite the fact that
5 in that case there is a publication ban and it is our
6 submission much of that ban has been breached,
7 particularly through Officer Camp's testimony.

8 Furthermore, the inability to have
9 my -- Mr. Bahr to testify, on the orders of his
10 solicitor, Mr. Christie, in regards to protecting his
11 right not to incriminate himself under the Section 319
12 case.

13 Furthermore, although it is breezily
14 dismissed, certainly by Mr. Warman, I can understand
15 that, if I had my week's expenses here paid as a
16 witness, there is the financial problem and that at the
17 end of the day, this problem completely stands in the
18 way of a fair hearing for the respondent, certainly for
19 this respondent, and I would submit for many of the
20 other respondents in the Section 13(1) cases.

21 These hearings have gone on probably
22 for nine days. The preparation time, without putting a
23 number on it, I think is very expensive. If we take as
24 a dollar figure \$1,000 a day for a lawyer, I don't
25 think that is excessive. Proper representation in a

1 hearing like this would probably begin at \$15,000.

2 We have been told we couldn't present
3 evidence if we didn't have seven copies and it didn't
4 much matter whether Mr. Bahr had the money or not, that
5 was the rule. We were told those are the rules.

6 So the rules basically are if you are
7 poor, you cannot have justice, and I leave that as a
8 thought for the member, and it is easy to say, those
9 are the rules, but I think we have come a long way in
10 this country from the days that a poor person, who is
11 either not represented at all or the Judge did the best
12 he or she could for them or they got a lawyer who might
13 work for pro bono. I think we have come a long way and
14 I think we have come to the view that everybody has a
15 right to a fair hearing.

16 Now, a fair hearing just is not
17 possible if the person does not have the money to hire
18 a lawyer. I would be the first to admit I am very
19 distant second best for Mr. Bahr. I think that this is
20 one of the very fundamental charter rights and one of
21 the rights that Mr. Bahr has, and I would submit has
22 been grossly violated, and I don't think it can be
23 evaded simply by some of the comments that have been
24 made, particularly by Mr. Warman. So that is the
25 second objection I have to the proceedings.

1 The third is already on the record in
2 the motion we made, the reasonable apprehension of
3 bias. I have tried with, I think, only limited success
4 in leading evidence and in cross-examination to advance
5 our theory, but I am going to state it now in broad
6 form.

7 Mr. Bahr and Western Canada For Us
8 are the targets and the victims of a plan -- I won't
9 say conspire -- but a plan by a number of individuals,
10 including Mr. Warman and including Sergeant Camp of the
11 Edmonton Police Service, to destroy a political group.

12 Evidence was elicited that Mr. Bahr
13 was told that he should shut down the group, take down
14 the website and leave Edmonton. He had already been
15 misinformed by an officer who has to enforce two laws,
16 Section 319 and Section 13(1). Those are the laws in
17 Canada that deal with the so-called hate. The officer
18 said, well, he just wasn't aware that the maximum
19 penalty for violation of Section 319 was two years in
20 jail. He told Mr. Bahr that he could face ten years in
21 jail.

22 He told Mr. Bahr and he subsequently
23 told Ms Bundschuh that he would call Children's
24 Services and he did call Children's Services with a
25 view to having her child taken away from her.

1 This resulted in what I think was a
2 very damaging admission by Mr. Bahr, an admission I
3 think we have challenged on the basis of the evidence
4 presented by both Mr. Warman and the Commission that
5 Mr. Bahr was solely responsible for Western Canada For
6 Us and the website. Mr. Bahr did make that statement,
7 that he was -- "this is all my responsibility, I take
8 responsibility for it."

9 This was in the context, and of
10 course, we are not allowed to lead this evidence this
11 afternoon, but I think we did establish it in our
12 Statement of Particulars, and I think also in the
13 questioning of Sergeant Camp, that Mr. Bahr was
14 responding to a threat and he was responding in the
15 hopes that he might be able to save Ms Bundschuh's
16 child from being taken from her. And I think it's
17 interesting that subsequently a visit was paid by
18 Children's Services, although I can't give the
19 testimony as to what they said, clearly the fact that
20 she still has her child suggests that they did not go
21 along with Sergeant Camp's suggestion that because
22 Mr. Bahr lived in the same apartment and had views that
23 might be dissident or not mainstream in society that
24 somehow that constituted a poison environment, enough
25 to take a person's child.

1 I suggest it is not too extreme to
2 call those bully boy tactics. I hope you saw that. In
3 the CBC news clip that we showed, which verified what
4 Mr. Bahr had claimed in his -- in the Statement of
5 Particulars that he would been told by Officer Camp
6 certain things. One of the things Officer Camp said
7 was that people like Mr. Bahr should be oppressed,
8 those were his words, and thrown in jail.

9 I think the facial features and what
10 seem to be a coherent piece of film indicated a very
11 high level of animosity, a personal level, and I must
12 say I was not able to elicit from Sergeant Camp what it
13 was that -- why the bee in his bonnet in this
14 particular case, but he had a visceral dislike of
15 Mr. Bahr, and I think it has coloured the entire police
16 investigation.

17 You will recall that I had asked
18 Sergeant Camp when he saw the e-mail that indicated --
19 from Mr. Bahr that his e-mail was being hacked and
20 messages were going out that purporting to be him and
21 other members of the group were also having the same
22 problems and there was a good deal of confusion and
23 consternation being caused, I asked him, did he
24 investigate that? And I got some rather dismissive
25 answer that that was happening in Red Deer and it was

1 up to Mr. Bahr to pursue matters with the R.C.M.P. or
2 pursue other -- pursue his concerns in another way.

3 And I asked him and, again, I got no
4 answer I found satisfactory, did this not concern? You
5 had been dogging this fellow since sometime in the fall
6 of 2003, you identified him as a person of interest,
7 you were reading his postings on Stormfront and later
8 on the WCFU website. Was the fact that somebody seemed
9 to be interfering or impersonating him, does this not
10 seem to be of interest, because you are now being
11 advised that some of the communications going out under
12 his name might not, in fact, be from him.

13 And the answer I got was, in so much
14 of Officer Camp's testimony, highly evasive and highly
15 condescending, but at the end of the day, no answer at
16 all. He wasn't interested because, I submit, he
17 already had his victim. He wasn't interested in who
18 else might be doing this.

19 I will come back to this in my final
20 submissions after Mr. Klatt has testified. It is our
21 strong submission to you that some of the posts, but
22 particularly the post calling for the euthanizing of
23 homosexuals were not done by Mr. Bahr.

24 I asked Mr. Warman yesterday and he,
25 too, had testified that he monitored Western Canada For

1 Us, monitored Mr. Bahr's postings, both on Stormfront
2 and the WCFU website, and I asked him could he find any
3 other posting where Mr. Bahr used that type of
4 language, or SS-88 used this sort of language calling
5 for the killing of a group or the extermination of a
6 group.

7 And he answered that Mr. Bahr said he
8 was a follower of Adolf Hitler and Mr. Warman launched
9 into a lecture about national socialism and Jews being
10 killed and gypsies being killed and so on, and I tried
11 bringing him back to the question, which was were there
12 any other posts where SS-88 or Glenn on either the
13 Stormfront or the WCFU site used that type of language
14 about any other group or, again, about homosexuals.

15 I asked the question several times,
16 got several more free lectures about Hitler and, at the
17 end of the day, I had no answer at all. In fact, and I
18 think you, Madam Chairman, have seen the postings that
19 have been submitted in evidence, we have seen the
20 website reviewed for us and the loving attention to
21 every post by SS-88 or Glenn, as the case might be, and
22 I think you will conclude that that posting of March
23 the 10th is singular -- singularly different.

24 In fact, Officer Camp said, and I
25 thought at point in times was actually complaining,

1 that all Mr. Bahr or SS-88 seemed to do was start off a
2 thread, start off a thread with a reproduction in toto
3 of a newspaper article from a mainline newspaper, the
4 Globe & Mail, the Edmonton Journal, the National Post,
5 on a particular topic and what typically happened is
6 other people could come on board and make comments and,
7 on occasion, Mr. Bahr, too, later on in the thread
8 would make a comment about the news story or about
9 something that has been posted up above.

10 That seemed to be his modus operandi,
11 for the most part, in getting the site going, in the
12 sense -- and said, given the day's news, selecting the
13 news item or two, starting the thread and getting
14 people discussing.

15 And this seemed to annoy Sergeant
16 Camp, who suggested that, well, these were inflammatory
17 topics. Well, other people said inflammatory topics
18 about it. I would submit, as with any group of
19 interested Canadians, when you throw out a topic of
20 current importance, you are going to get a number of
21 different reactions and takes, and that seemed to be
22 Mr. Bahr's approach on the website that we Western
23 Canada For Us. Throw out -- present a topic from the
24 mainline source and then let folks react to it.

25 I do not recall, nor did either

1 Mr. Warman or the Commission suggest that Mr. Bahr had
2 started the thread about homosexuals. He came in -- or
3 SS-88, with the very inflammatory and over-the-top
4 comments of March the 10th came in well into the forum.
5 No other -- no evidence was presented of Mr. Bahr
6 starting other threads where -- he did not seem to have
7 homosexuals on the brain. This did not seem to be a
8 big issue with him. SS-88 came in partway through that
9 thread.

10 I call your attention to the date of
11 it. It was March the 10th. This morning we had
12 evidence that Mr. Bahr had gone to the R.C.M.P. in Red
13 Deer on the 19th. And when he was questioned by
14 Constable Dahl as to when his e-mail had been hacked or
15 how long this -- these problems had been going on, he
16 said, about two weeks. So that backs us up
17 considerably before March the 10th.

18 It is our submission that the
19 inflammatory posting calling for euthanizing of
20 homosexuals was not Mr. Bahr's, and the textural
21 evidence, and that term we are always hearing, in
22 context, the textural evidence is it didn't seem
23 typical of Mr. Bahr's opinions.

24 We are also drawn to a post where
25 Mr. Bahr had said he had removed the term "kill" from

1 postings on WCFU where it seemed to mean -- seemed to
2 be a threat, and this, in fact, was one of the few
3 times that there was something specific as to the
4 nature of Mr. Bahr's activities as chief administrator.

5 He indicated he removed the word
6 "kill." Well, the word "kill" appears in that impugned
7 posting of March 10th and suggests that, given the
8 rather loose monitoring Mr. Bahr seems to have
9 exercised on the WCFU site, that it may well have
10 slipped through the cracks. It certainly didn't seem
11 consistent with somebody who said, I have gone through
12 the site and where I could, removed the word "kill," if
13 it suggested a threat.

14 Well, in that posting, it certainly,
15 in my opinion, suggested a threat. It was pretty
16 explicit -- explicitly calling for the killing of
17 homosexuals. Now, whether or not that might be
18 defended in another context, I am not sure. It is our
19 submission that this was not Mr. Bahr's posting.

20 We have heard a lot about the fact
21 that, well, the title -- the home page of WCFU states
22 that it has a couple of objectives and one of those
23 objectives was immigration reform, the other was
24 freedom of speech. And when I queried Mr. -- I mean,
25 Sergeant Camp about it, he suggested, well, that is the

1 language white supremacists use. They don't really
2 mean it. They say they are one thing, but they are
3 actually something else, and Mr. Bahr was that way and
4 apparently Mr. Kouba was that way, because we canvassed
5 comments made by both Mr. Bahr and Mr. Kouba of that
6 nature.

7 Other comments were about Mr. Bahr
8 and Mr. Kouba were quite clear they did not want WCFU
9 meetings having -- there were people with Nazi regalia.
10 Mr. Bahr said he would not be wearing any such things.
11 Mr. Kouba was quite clear that was not the way to go.

12 And when I queried Sergeant Camp
13 about that, well, that was further proof of how just
14 devious and clever these people are. And when I
15 revisited the same type of information yesterday with
16 Mr. Warman and I said, well, here's Stormfront and
17 people like Mr. Bahr are -- or SS-88 are still saying
18 that, displaying Nazi regalia is not the way to go.
19 And I was told, oh, well, that is the way neo-Nazis
20 talk because they are trying to improve their public
21 relations.

22 I suggested, and I didn't get any
23 meaningful response, that according to his testimony,
24 which I disagree with, but that this was a neo-Nazi
25 white supremacist site -- website, and my question was

1 well, why would a neo-Nazi -- supposed neo-Nazi have to
2 con another neo-Nazi, which really brings me to the
3 rhetorical overkill and utter nonsense that has
4 dominated this hearing.

5 We have heard neo-Nazi and
6 supremacist more often, I think, in this hearing, than
7 the most common word in the English language, the
8 article "the." It has become a mantra, political
9 sloganeering. Change the place and change the venue,
10 we would be hearing about Nazi toungfaut(ph).

11 We have had no expert or meaningful
12 testimony about neo-Naziism and white supremacism. In
13 fact, the clear public actions of Western Canada For
14 Us, which was denounced by both Mr. Warman and Sergeant
15 Camp as neo-Nazi and white supremacist, the clear
16 public record of that group was that of a responsible,
17 perhaps right-of-centre protest group.

18 I asked and Officer -- Sergeant Camp
19 agreed that the actions of that group were lawful, that
20 the two public protests they held were peaceful. In
21 fact, he apparently had been surveilling at least one
22 of those and taking pictures. They were peaceful.
23 These people had gone out in front of Anne McLellan's
24 office and displayed signs and walked up and down and
25 handed out literature and it was peaceful and nobody

1 had been assaulted and no threats were made. There was
2 the sort of thing concerned citizens of all political
3 stripes do very often across this dominion.

4 That has happened twice and that
5 there had been a public meeting as well, planned
6 originally for a place just outside of Red Deer and
7 that Mr. Bahr had gone to the local R.C.M.P., had told
8 them about the meeting. He had said, this is what when
9 he had planned, that there was chatter on Stormfront
10 that that was not a thing to do.

11 There was a lot of people, I think,
12 with very good reason who don't trust the police in
13 this country. They don't trust them because they see
14 increasingly our police, or some elements in our police
15 act as political police force, where it is your
16 political opinion, not your behaviour that matters.

17 But anyway, Mr. Bahr went to the
18 R.C.M.P. in Red Deer and told them what he was about to
19 do and subsequently moved the meeting to Edmonton, and
20 Sergeant Camp confirmed that that, too, had been a
21 peaceful event. Those were the three things the group
22 did.

23 They had also, according to Sergeant
24 Camp's system, handed out business cards and in several
25 places, including Leduc, handed out flyers. These came

1 to the attention of the Hate Squad in Edmonton and they
2 had to agree that these flyers were lawful. They
3 didn't violate the hate law.

4 So those were the activities in the
5 little less than five months of the group's existence.
6 If we date it from very late in 2003, and I am not sure
7 if that actually started then, but there was talk about
8 it in late 2003. It was officially disbanded by
9 Mr. Bahr early in May of 2004. So in those five months
10 of existence, the group had behaved peacefully and
11 lawfully.

12 Well, what had it done in promoting?
13 Its website said it was in favour of immigration reform
14 and freedom of speech. The two protests were for then
15 jailed Ernst Zündel, calling for his release, so those
16 would be in the area of freedom of speech.

17 The meeting, we have had no testimony
18 as to what the meeting was about, so I guess I can't
19 very well give testimony, only to say that we don't
20 know where -- or at least this Tribunal doesn't know
21 what transpired at the meeting, and as far as the
22 flyering went, there was one that was just a business
23 card. I suppose that is just promoting the group, not
24 taking an ideological position of any sort. The other
25 flyer, the one about the two children holding hands,

1 might, in a general sense, be directed at immigration.
2 So the group said, we are an immigration reform group
3 and a free speech group. Their public activities back
4 that up.

5 And yet we are supposed to believe
6 that they were led by such devious people, particularly
7 Mr. Bahr or perhaps Mr. Kouba as well, these people
8 were so clever that they didn't mean what they said but
9 they were actually pursuing some other agenda.

10 I would only say so clever that a
11 Constable with the Edmonton police was able to identify
12 who Glenn Bahr was. There never was any attempt at
13 subterfuge. The group was what it claimed to be and it
14 did things publicly that were consistent with its
15 mission statement.

16 It was not neo-Nazi. It was not
17 white supremacist in any meaningful understanding of
18 the term. If white supremacist means only Whites have
19 any privileges or throw out anybody who isn't a white,
20 the term becomes meaningless.

21 I would say it is an easy political
22 smear to toss at people. It is a great way in this
23 country to shot up a debate on immigration or Indian
24 Affairs. Just use the word "racist" and even brave men
25 run for cover.

1 There is no credible evidence that
2 that group was anything other than what it was, and I
3 think, Madam Chairman, you are sufficiently
4 sophisticated to be able to see through the complexity
5 of human behaviour. Mr. Bahr may well, on a personal
6 basis -- personal level admire Adolf Hitler, but he was
7 also explicit that this group was not going to be
8 running around with swastikas, it was not going to have
9 arm bands and it was not going to do the things
10 Mr. Warman seems to think anybody who admired Adolf
11 Hitler would want to do, attack Jews or desecrate
12 synagogues or anything like that.

13 Mr. Bahr was quite clear, he may have
14 personal views but this was what the group was going to
15 do and, in fact, that is what the group did do until,
16 with virtually a gun to his head or the threat that his
17 girlfriend's child will be taken away he said -- he
18 said, we are gone, we are out of here, website down,
19 group disbanded and I am off to British Columbia.

20 I suggest that ought to concern you
21 in a free and democratic country, that lawful political
22 activity is subject to police bullying. I was not
23 allowed to lead evidence of what the United States
24 State Department thinks of the Edmonton Police, so I
25 will leave it at that, that I was not allowed to lead

1 that evidence, but I think it is pretty trite knowledge
2 that the Edmonton Police, on many levels, and not just
3 this one, is a troubled institution, and that the
4 behaviour -- you saw it yourself. You saw the CBC
5 coverage was that of a bully, a person who felt very
6 highly of himself and almost a throwback to the days of
7 Dodge City where the sheriff comes up to the bad guy
8 and says, you be out of Dodge by 6:00 or else. Makes
9 great television and movie entertainment, but I submit
10 that is not really the way Canadians should want to
11 live.

12 I am going to go through the
13 statements that are made, but you are going to be asked
14 to conclude that these statements fall under Section
15 13(1). They are likely to expose to hatred or contempt
16 a list of groups that are privileged under that Act. I
17 believe the complaint refers to race, religion,
18 handicap and sexual orientation, particularly blacks,
19 native people, Jews, homosexuals and lesbians. I may
20 have left somebody out, but those are the main groups
21 mentioned in the complaint.

22 I, first of all, submit that you have
23 received absolutely no expert evidence whether the
24 statements contained in the report -- sorry, in the
25 complaint are likely to expose any of those groups to

1 hatred or contempt.

2 There has been no expert evidence.
3 There has been certainly a lot of sloganeering by
4 Mr. Warman, the use of neo-Nazi and white supremacist.
5 We got a crash course in the Third Reich. But there
6 has been no expert evidence, no evidence based on --
7 evidence from a linguist or from anybody else who could
8 comment on whether those words. I suggested to
9 Mr. Warman yesterday that one of the impugned posts,
10 which was a question and answer sheet about Native
11 people, was a joke, and I think he said it was a joke,
12 but there is no place for such jokes in this country.

13 I would suggest to you, and there is
14 no evidence of the contrary, that there is a different
15 tolerance for jokes than there would be for a statement
16 of -- for let us say a statement of political policy.
17 A joke is a good way for people to let off steam, to
18 sublimate anger, to say things that if they were said
19 seriously would be reprehensible or get them into
20 trouble.

21 Surely a society as sophisticated as
22 ours can tell the difference between a joke and a
23 serious political statement. I am not sure that those
24 comments, if they had been made seriously, would
25 violate -- would expose a group to hatred or contempt.

1 They may well be factual. I don't know, but that is
2 not the point.

3 This was a -- this was quite clearly
4 a joke, and I suggest to you that if we are going to
5 start fining people and taking away their rights to use
6 the internet because of jokes, we have gone quite far
7 down the road to totalitarianism.

8 So in terms of whether these
9 statements are -- do expose these groups to hatred or
10 contempt, you have no expert knowledge -- expert
11 testimony. It was quite -- it was made clear that
12 Officer Camp was not an expert. He certainly purported
13 to be able to tell you what was contrary to Section 319
14 and this was hate and that was hate, but I suggest that
15 those comments should be given absolutely no weight at
16 all.

17 He is in no position to testify to
18 that. I queried him about his academic training. What
19 was his background. He said he took sociology. I said
20 what else he took. He said he took a course in
21 psychology and he took some courses in the law.
22 Nowhere in that did I hear any courses in literature.
23 Nowhere did I hear any courses in linguistics. He is
24 in no position to make those blanket statements any
25 more than he is in a position to label a very eclectic

1 website like Western Canada -- like Stormfront as a
2 neo-Nazi supremacist website.

3 I have used with both Mr. Warman and
4 Officer -- Sergeant Camp, I suggested a term, and I am
5 not sure if they quite understood or were familiar with
6 it, but the importance of allowing people to
7 self-identify as to who they are. And I don't think we
8 have fair discourse if we are going to attach
9 pejorative labels to people that they may not accept
10 themselves.

11 There certainly was a time in this
12 country if you promoted medicare, there were people
13 here who called you a communist. I am sure that label
14 was many times attached to reverend T.C. Douglas, who
15 was not a communist. It is quite possible to have
16 views that others don't like and they will, in turn,
17 put very pejorative labels on you.

18 So I invited Officer Camp to look at
19 what Stormfront said it was, and it said that it was a
20 white nationalist website I asked -- invited him to
21 tell us what Western Canada For Us said it was. As I
22 have already mentioned, they said they were a group
23 dedicated to immigration reform and freedom of speech.
24 And I think, absent powerful contrary evidence, we must
25 accept people as they identify themselves. And there

1 certainly was no credible evidence that Western Canada
2 For Us was anything else than what it said it was.

3 But back to how you are going to
4 judge whether the statements expose -- are likely to
5 expose these groups to hatred or contempt. Well, first
6 of all, I suggest to you you have no evidence in front
7 of you. You have a series of statements but you have
8 no expert evidence as to what their impact might be.

9 I suggest there is another even more
10 telling piece of evidence before you. Look at the
11 audience in this Tribunal. There was not one single
12 representative of any of the groups who allegedly,
13 according to Mr. Warman's complaint, were being -- were
14 likely to be exposed to hatred or contempt. There were
15 no representatives of Jewish groups, no representatives
16 of black groups, gay and lesbian groups, Native people
17 groups.

18 The one person who might be called a
19 visible minority was standing behind Glenn Bahr. Must
20 be an odd gentleman of colour who is standing up for a
21 supposed neo-Nazi white supremacist. You know, go
22 figure. I think that is really telling.

23 Well, then, who in this community
24 complained? We were told that Western Canada For Us
25 was particularly strong or active in Alberta,

1 particularly in the Edmonton area. That was one of the
2 posts that was drawn to our attention. The public
3 activities of Western Canada For Us were all in the
4 Edmonton area, the two protests outside Anne McLellan's
5 office, the public -- the founding meeting, the leaflet
6 thing, with the exception of Leduc. So this was the
7 community which WCFU seemed to operate.

8 So -- and we know from Officer Camp's
9 testimony that the minority groups that were mentioned
10 in the complaint are all active here. In fact, he said
11 he did liaison work with the Jewish community and he
12 mentioned one of the groups, he did liaison work with
13 the aboriginal community. He did liaison work with the
14 gay and lesbian community and I think he said he did
15 liaison work with representatives of the black
16 community.

17 These groups would perhaps best know
18 if they were being exposed to hatred or contempt in
19 this community where Western Canada For Us was -- to an
20 extent, it was active and carried on its activities.

21 Well, have one of these groups or
22 their spokesman laid the complaint? No, it was laid by
23 a man far off in Ottawa who alleges to you that these
24 groups were exposed to hatred contempt -- or likely to
25 be exposed to hatred or contempt by some of the

1 postings of Mr. Bahr on Stormfront or on the WCFU
2 website.

3 I invite you to conclude that as you
4 try to form a judgment, well, what were these
5 statements likely to do? The people presumably most
6 involved in this community didn't think they were
7 likely to do much of anything. They didn't make a
8 complaint. They are not the ones that made this
9 complaint. The person making this complaint is Richard
10 Warman, who has managed to do this afternoon what I
11 have been trying to do the last couple of days, told us
12 at least a few of the over 20 complaints that he has
13 initiated.

14 He is a man with an agenda and you
15 perhaps got to see that yesterday in the movie -- in
16 the video about David Icke. Whatever you think of the
17 lizard man, one thing that did come across, and I think
18 pretty bluntly were those meetings where Mr. Warman was
19 talking to his anti-racist compatriots and how they
20 were going to mess up Mr. Icke's speaking tour, the
21 attempts to get venues cancelled on him, the radio
22 programs cancelled, the planned protest outside his
23 meeting and then finally the -- and the book signings
24 cancelled and then the throwing of the pie at Mr. Icke.

25 You also caught those remarks of

1 Mr. Warman telling the young pie throwers, I couldn't
2 possibly tell you to be at whatever the location was at
3 9:00 on Saturday morning with a pie. And while the
4 words say one thing, the body language clearly said the
5 other. This is pretty much nudge, nudge, wink, wink.

6 I was not able to ask Mr. Warman
7 this, but you know this from all the other documents in
8 this case, he is a lawyer, and I know, Madam Chairman,
9 as you are a lawyer, too, that you know you are an
10 officer of the Court and you are bound not to
11 participate or advocate the commission of a crime. I
12 leave it to your good judgment to see that video and --
13 I mean to draw the appropriate conclusions from that
14 video. That is what was being done.

15 In the pursuit of what? Preventing a
16 man from expressing his opinions. I call that
17 bullying. I call that implementing a political agenda.
18 If you don't agree with me, I will shut you down, if I
19 can. I will get my goons out to shut you down, if I
20 can. I will write to venues and try to get them to not
21 let you speak.

22 There was a time when that type of
23 behaviour used to be called fascist. This Tribunal and
24 this law is being abused for a political agenda. The
25 persons who might have a beef, and I suggest only might

1 have a beef, but the ones who were named in some of
2 these postings did not complain. They don't --
3 apparently by their lack of complaint, their absence
4 from these hearings, don't seem to feel they are in
5 imminent danger of being exposed to hatred or contempt.

6 So absent expert testimony, which you
7 don't have, I invite you to use that as your litmus
8 test as to whether the statements that are impugned
9 expose anybody to hatred or contempt. Those are very
10 strong emotions. Hatred is a very strong, destructive
11 emotion. It seems to suggest the person is so vile he
12 ought to, in some way, be destroyed, like Officer Camp
13 was suggesting ought to happen to Mr. Bahr and people
14 like him. They ought to be oppressed or thrown in
15 jail. You heard it with your own ears.

16 That, to my way of thinking, comes
17 reasonably close to hatred. What you saw on the
18 Western Canada For Us website were discussions. People
19 throwing out their opinions. This used to be a healthy
20 thing. I hope it still is considered a healthy thing
21 in Canada today, people -- Mr. Bahr would throw out a
22 topic, something that was current in the news, and
23 various people who were reading the site would weigh in
24 with their opinions.

25 As we saw even on the matter of

1 homosexuality, there was a variety of opinions. There
2 were people who suggested that there was a -- it was a
3 learned behaviour, those people who might be called in
4 the psychological debate the nurture side. Then there
5 were others who said it is genetic. They might be in
6 academic terms the nature side, and there were various
7 other opinions in between. Some of them were negative,
8 no doubt about it, as would probably happen in any
9 barroom discussion.

10 You were invited to find against this
11 site. You are invited to find against Mr. Bahr for
12 whatever his activities might have been in that site.
13 I suggest there is another way to look at that, and
14 that is -- that is that this is very healthy.

15 If we can judge from the pictures of
16 people who were posting and in many cases we did have
17 pictures, but we did in some cases, I think it might be
18 fair to say that, for the most part, these were young
19 people. We saw the sort of behaviour that we used to
20 encourage as good citizenship. We used to encourage
21 young people to take an interest. There is more to
22 life than nail polish and the Oilers games. Take an
23 interest in your society.

24 Well, these young people did. We
25 also said, well, inform yourself. You know, don't

1 simply say, well, I don't know and I don't care. When
2 are the Oilers playing their next game? People --
3 young good citizens should be informing themselves. In
4 its own way the WCFU website did do that, not as a
5 totalitarian propagandist would do. Here is the party
6 alliance, our three-point platform for immigration.
7 You better be for it or you are out of here.

8 No, Mr. Bahr throws out a discussion
9 topic and people weigh in. And he doesn't come in and
10 say, I saw what you posted, you are gone. No. This
11 was a pretty free-for-all sort of discussion. I think
12 that is healthy, and I hope you find a way, Madam
13 Chairman, to see that that type of discussion,
14 especially among young people, is healthy. It is a
15 good sign.

16 So young people, we used to encourage
17 them in terms of citizenship, to take an interest, to
18 inform themselves, and then to speak up responsibly,
19 not to pull a Whyte Avenue after an Oilers game where
20 there is a riot, people are smashing windows and
21 getting drunk and punching each other out. No, express
22 yourselves responsibly.

23 What did the WCFU encourage? People
24 could express themselves. And as a group, what did
25 they do? Trash Whyte Avenue? Smash windows? Beat up

1 passers by? No, they held a lawful, peaceful protest
2 outside of Anne McLellan's office. They held a meeting
3 and they handed out leaflets and business cards.
4 Pretty tame stuff. That used to be what we encouraged
5 young people to do in terms of good citizenship.

6 I called Mr. Warman's attention
7 yesterday to the number of threads. They were the
8 threads of some of these young folks talking about
9 their tattoos and others were -- they were posting
10 their pictures and commenting. One girl, really pretty
11 young girl said, I've just changed my hair style, no
12 longer have a Chelsea. I have got whatever this hair
13 cut -- hair style is. Others were commenting about
14 what they thought about that, and it seemed to me
15 really sad that this should be before us.

16 We have heard that Mr. Warman lurked
17 on a website under the name Pog Mahone, which is gay
18 lick for "kiss my ass" and somebody else with the
19 Edmonton Police Service, we weren't privileged to know
20 who he might be, but he had joined up under another
21 name.

22 I thought, what are these grown men
23 doing on websites looking at kids talking about their
24 hair styles or their tattoos or showing their pictures
25 and kibitzing back and forth about how geeky or how

1 beautiful they look. You are spying on kids.

2 Pathetic.

3 I would like to get a bit personal
4 here, if I might. We heard a lot about Nazis and so
5 on. My dad, and his war records will show it, served
6 three years, served overseas with the Royal Canadian
7 Navy. My mom was five years in the Canadian army as a
8 nurse. When their country called, they fought what
9 they perceived to be the enemy of their country. They
10 fought Adolf Hitler, they fought Naziism, and I think
11 both would be surprised today at a country that's
12 spying on kids.

13 We have somebody -- we have never
14 been able to find out what Mr. Warman does. At one
15 point we do know he was an investigator for the
16 Canadian Human Rights Commission. We got shut down
17 yesterday when I tried to ask him what he did or where
18 he got his money. But he certainly, according to his
19 introduction, spends a lot of time monitoring what he
20 calls neo-Nazis and white supremacists, kids.

21 When I got one of those bundles of
22 disclosure from the Human Rights Commission, I was
23 sick. Pictures after pictures after pictures of kids
24 talking about their tattoos, talking about their hair
25 styles, talking about their body piercings in a few

1 cases. Spying on kids. Pathetic. Pathetic. I hope,
2 Madam Chairman, that you have better things to do with
3 your time. I hope you have better things to do than
4 endorse this pathetic attack on the freedom of
5 Canadians, particularly the freedom of young Canadians.

6 What are we telling them? We are
7 telling them, you shut up. If you don't agree with the
8 powers that be, you shut up. And if you don't, we will
9 show you what we do. We will pull a Glenn Bahr on you.
10 We will handcuff you. Oh, yes, to protect the
11 officers, six of them. Yeah, he was going to fight
12 that one. Six officers to handcuff a guy. He wasn't
13 arrested, ransacked the apartment, seized things, even
14 his bomber jacket.

15 Then he is told he has to get out of
16 town. Then he is told, you have to shut down the
17 group, the website. Maybe in the -- of course we don't
18 have his testimony, so I better not go there. But
19 perhaps he hoped that doing all that, the powers that
20 be would leave him alone, leave his girlfriend alone,
21 leave the child with her mother.

22 But that was not to be. Despite his
23 medical problems, he was thrown on a plane and brought
24 back to Edmonton.

25 What we are teaching young people is

1 if you speak out and your views go against the
2 politically correct, we will do a Glenn Bahr on you.
3 You want that? Mess up your life, lose your job, lose
4 your residence, face court costs, face a Human Rights
5 Tribunal where you are fighting the whole might of the
6 Canadian state with no money in your pocket.

7 So, kid, if you have got an opinion
8 different from the establishment of this country, you
9 just better shut up or we will do a Glenn Bahr on you.
10 That is the message. And a whole lot more young people
11 will go quiet.

12 I say go quiet. They may not have
13 different opinions. Because no matter what is done
14 here, you won't be able to stop the internet. You
15 won't be able to stop it. You can't. Technology has
16 outstripped all the means of oppression. Even the best
17 in the business, the Red Chinese, they can't stop it.
18 They will throw all people in jail. They may throw
19 Glenn Bahr in jail here. They are not going to stop
20 it.

21 But they are going to teach a whole
22 lot of people that maybe some of the things the
23 extremists were saying was right. I don't know. That
24 was one of the most powerful points Mr. Icke made in
25 the video yesterday. Hey, if I am such a nutter, why

1 are they trying to stop my talks. I am not saying
2 Mr. Icke was right. I am not quite at the point of
3 accepting lizards.

4 But I invite what is -- what the
5 Courts have said in a number of cases, a broad
6 interpretation. And I invite, Madam Chairman, that you
7 apply a broad, and in this case a generous
8 interpretation to the words of the Act, not broad in
9 making it expand and so-called get as many people as
10 possible, but broad in the sense of keeping in mind
11 that we are also governed by the Charter of Rights and
12 Freedoms that talking about freedom of opinion, freedom
13 of speech, freedom of press, maybe freedom of
14 publication, all of which very much apply here, very
15 much indeed apply.

16 I would like to go through the
17 impugned postings briefly, if I might, from the
18 complaint, and this is really what is before us. I
19 guess many of these postings are just for
20 identification purposes.

21 First, this will be on page 5 of 7,
22 14(a), this is the one about homosexuals ought to be
23 terminated. I think I already dealt with that. That
24 was one that was completely atypical of Glenn Bahr's
25 opinions, of his stated beliefs, of his public

1 behaviour, and even of his methodology. I invite you
2 to conclude that that one was posted by person or
3 persons hostile to Mr. Bahr, and we are not pointing
4 fingers at any particular individuals, but there
5 certainly were people that had mischief in their heart.

6 Mr. Bahr did mention a group called
7 Anti-Racist Action. He mentioned an individual.
8 Again, there was no direct proof that they did the
9 hacking, but that was certainly one group that was
10 mentioned.

11 All right. The second message (b),
12 in a message to the WCFU website dated April 23rd,
13 2004, identifying him himself as Glenn, the individual
14 responding allegedly wrote:

15 "I don't hate, but I believe we
16 have every right to be proud of
17 our white race without being
18 called racist. I also believe
19 that Europeans that settled this
20 country should come first before
21 government spending -- spends
22 billions of dollars on fighting
23 crime, unemployment, drugs and
24 welfare because of our lack..."

25 I think that means lax.

StenoTran

1 "...immigration laws. I also
2 believe in free speech and being
3 able to express one's opinions.
4 I think there is a Jewish
5 problem, and I do not believe
6 all races are equal."

7 Now, nowhere in that is anybody
8 invited to hate anybody. What he is saying is that the
9 priority ought to be given to the founding people of
10 this country who are, according to him, mostly
11 European. He calls our immigration laws lax. Well,
12 that is certainly an arguable political point. That
13 doesn't mean that one is invited to hate anybody. It
14 is an argument.

15 He believes in free speech. I hope
16 we all do. He says he thinks there is a Jewish problem
17 and "I do not believe all races are equal." It is not
18 clear what he means by he thinks there is a Jewish
19 problem. He is not suggesting that people hate or
20 dislike Jews. He at this point doesn't even spell out
21 what he is saying or what he means. He says he does
22 not believe all races are equal. That certainly does
23 not invite you to hate or have contempt for anybody.

24 Noted Canadian scholar at the
25 University of Western Ontario Phil Rushton believes

1 that, too. He does not believe that all races are
2 equal and yet he says the most intelligent race is the
3 Chinese race. So that statement in no way implies
4 hatred or contempt against anyone. It is Mr. Bahr's.

5 In Item 15, the complainant alleges
6 that the individual respondent was offering electronic
7 versions of Nazi and neo-Nazi literature, and he lists
8 there the "Silent Jew," the "International Jew" by
9 Henry Ford, the "Turner Diaries," "White Power" and
10 those books. Those were entered into evidence, the
11 texts of those. We have had no expert evidence that
12 those books expose anybody to hatred or contempt.

13 Some of them are important historical
14 documents. Their time has passed. They were at
15 another time, another place. I asked Mr. Warman
16 yesterday what he could tell us about the
17 "International Jew" and he invited us to believe that
18 it denied the Holocaust. I don't know if I can
19 testify, but it was written in the 1920s, twenty years
20 before the events in question.

21 Similarly, "Mein Kampf," I asked him
22 if he knew the date of publication, in general. I got
23 no answer. I think it is trite knowledge, though, that
24 it was written in the early 1920s when Hitler was in
25 prison. Hard for that to deny the Holocaust.

1 Now, what I am suggesting to you,
2 Madam Chairman, is that much of what you have heard is
3 sloganeering, is fuzzy thinking. Mr. Warman doesn't
4 like these folks. I understand that. Many people
5 don't like them. They are not all the same. They are
6 not all the same cut. So it is easy to say they are
7 all Holocaust denial.

8 Well, if we are going to deal with
9 facts, let us deal with facts. The "International Jew"
10 predated the Holocaust. It might be many things, but
11 it is not Holocaust denial. Similarly with "Mein
12 Kampf."

13 One of the tools that you -- I invite
14 you to use, Madam Chairman, to assess this part of the
15 complaint is what might be called community standards.
16 These books, some of them are historical. They are
17 dated. There has never been a case in Canada about
18 "Mein Kampf." I tried to lead evidence that you could
19 pick up a copy in downtown Edmonton. It would clearly
20 not seem to offend community standards.

21 I will lead evidence, or at least I
22 will get a chance to lead evidence tomorrow that all or
23 most of these books are available at the University of
24 Alberta library, so how can Mr. Bahr or -- sorry, the
25 website Western Canada For Us, making a copy of these

1 texts available on-line be an offence if the same books
2 are available either at bookstores in Edmonton or at
3 the University of Alberta library?

4 And you may be given some obscure
5 legal argument that what would be legal in print is
6 illegal on the internet. I invite you to reject that
7 and I invite you to see it for the absurdity it is,
8 because it is absurd.

9 If somebody is seriously interested
10 in getting "Mein Kampf," they can go to a bookstore,
11 even here in Edmonton. Why should that be legal, but
12 it be illegal for Mr. Bahr or somebody else with a
13 website to have the text posted there?

14 And just because a book has some
15 strident or maybe even hateful comments in it doesn't
16 mean it exposes anybody to hatred or contempt. Because
17 we always have intelligent people. A book makes a
18 statement. A poster on Western Canada For Us makes a
19 statement.

20 That doesn't necessary -- and I think
21 the average person reading that doesn't necessarily
22 assume that that is true. That is an opinion. That is
23 a statement.

24 I did try to probe a little bit about
25 a book that has caused a good deal of furore. It is a

1 novel called the "Turner Diaries," and I invite you,
2 Madam Chairman, to be cautious about the novel. A
3 novel is a story. It is not a political manifesto. It
4 is not a call to arms. It is a story.

5 Now, we were told that it advocated
6 the murder of blacks and Jews. I didn't get -- I was
7 not permitted to inquire about the Bible, but again, I
8 think it is trite knowledge that the Old Testament is
9 filled with stories of apparently the Lord recommending
10 or urging on the massacre of groups that were hostile
11 to the chosen people.

12 And yet, I am sure you had the same
13 experience, Madam Chairman, you probably walked through
14 your office today and didn't find Christians running up
15 the streets of Edmonton massacring people. People that
16 you can read the story and not necessarily be moved to
17 hostile action.

18 A story is just that, a story. We
19 see all sorts of dramas on TV. I suggest the --
20 considering the old Kung Fu movies where people are
21 kicking each other mercilessly and so on, that doesn't
22 mean that people, having seen that or seeing that
23 story, that people go out and imitate that.

24 I asked Officer Camp if it was so
25 that he had seized copies of "White Power" -- sorry,

1 the "Turner Diaries" and "Mein Kampf" from Glenn Bahr
2 and he said he had and we have that in evidence. We
3 have the pictures of those books. And I did get him to
4 confirm that, as long as he has known Mr. Bahr, he has
5 not assaulted anybody or murdered anybody or committed
6 any acts of violence. He possessed those books, but
7 they did not lead him to commit acts of hateful or
8 contemptuous actions against minorities or anyone else.

9 So I invite you to take a
10 sophisticated and a broad look at these books that some
11 of them are just really historical -- part of the
12 historical record. "Mein Kampf" was the Bible of
13 another time, another place. I doubt it motivates too
14 many people today.

15 I invite you to take a sophisticated
16 look at that. It is not long ago that we in this
17 country were being urged to ban all sorts of sexual
18 literature, in some cases because people were offended
19 by it, in other cases because it was thought that if
20 people read these things, they would go out and do
21 unspeakable things. They become so amorous or so
22 lacking in sexual control, they would get so excited
23 they would go out and rape the first woman they saw.

24 I think we have gone beyond that and
25 I think we have become a little more sophisticated in

1 our understanding of literature. And I invite you to
2 reject what I would call both the simplistic and simple
3 minded submissions, particularly of the complainant,
4 and to assess the fact that literature is an art form.
5 It is not an advocacy. It is not a political platform.
6 It is an art form. In most cases it is a story. It
7 does not imply that the reader goes out and does all
8 the things that are mentioned in the story.

9 There is a matter of the -- a recent
10 decision by the Canadian Human Rights Commission in a
11 complaint launched by Marc Lemire against a number
12 of -- against a number of respondents, including the
13 Globe & Mail and the P.O. regional police, and this had
14 to do with a series of e-mails that were exchanged
15 between officers of the P.O. region.

16 In these e-mails, the officers told
17 jokes and made comments that were derogatory of Native
18 Canadians, of aboriginal Canadians. Mr. Lemire's
19 complaint, particularly one about the Globe & Mail was
20 that they had reported this, they reported the
21 derogatory comments and they reported these on-line,
22 and by his reading of the Canadian Human Rights Act,
23 this would appear to violate Section 13(1).

24 The investigator in the case,
25 Mr. Stacey, said that the complaint would be rejected

1 because the Globe & Mail was saved by Section 13(2),
2 and that, if I might draw your attention to it, Section
3 13(2) of the Canadian Human Rights Act says:

4 "Section 13(1) does not apply in
5 respect of any matter that was
6 communicated in whole or part by
7 means of the facilities of a
8 broadcasting undertaking."

9 Now, according to Mr. Stacey, the
10 Globe & Mail was a broadcasting undertaking, or at
11 least that part of it that was carried over the
12 internet.

13 I would argue in the same fashion
14 that the website, Western Canada For Us or WCFU, was
15 similarly a broadcast, just like the Globe & Mail. It
16 was updated during its short life, at least from the
17 evidence we saw, on a daily basis, which would be
18 similar to the Globe & Mail, which publishes, I
19 believe, six days a week, every day but Sunday, and
20 that it should be granted the same protection, that if,
21 in fact, the sort of site the WCFU was, in other words,
22 one that was regularly updated, if that can be seen as
23 a broadcast and similar to the Globe & Mail, which is
24 carried in a new form daily, then it, too, should be
25 considered as falling under the broadcasting facility

1 protection and this complaint should be dismissed.

2 I would like to take Mr. Stacey's
3 comments at face value and I hope they are entirely as
4 they seem. I would not like to draw the other
5 conclusion, and the other conclusion is that the
6 Canadian Human Rights Commission is not prepared to
7 take on the big boys, because the Globe & Mail, unlike
8 Glenn Bahr, would be able to walk in here with a couple
9 tablefuls of this country's best legal minds.

10 It is easy to beat up on a penniless
11 defendant. It is easy to beat up on kids. Perhaps the
12 Commission doesn't have the stomach to take on the big
13 boys. I would like to believe, though, that
14 Mr. Stacey's comments are correct and I will leave it
15 to your good judgment as to whether this is a fair
16 reading of the Act, but that was the reason for
17 rejecting the complaint against the Globe & Mail's
18 carrying the impugned comments about Native Indians in
19 a report which was also carried on their website, on
20 the Globe & Mail's website, available on-line.

21 In his submissions this morning --
22 sorry, this afternoon, Mr. Warman mentioned the links
23 that occurred on the WCFU website and he made comments
24 about other cases that had found -- made negative
25 findings about the KKK and the Aryan Nations. Those

1 cases date back to the early 1990s. Here I am not
2 testifying, but I think it is fair to say that whatever
3 the content of those groups might have been in the
4 early 1990s, it is very likely the content is different
5 today.

6 So a precedent from the early 1990s,
7 I don't think is of much assistance to you today, Madam
8 Chairman. I think you are also probably aware that
9 there is not just one clan, but many, many, many, and
10 whatever might have been impugned in the early 1990s,
11 judgment isn't necessarily applicable to whatever clan
12 might have been linked to on the WCFU site.

13 I also invite you to see a link for
14 what it is. It is giving out an address. It's like
15 giving you a phone number. You want to contact so and
16 so? Here is his or her phone number. A link is just
17 that. Here is where you can find what this group has
18 to say, if you are interested. You have to take the
19 first step. You have to click on that link, and if you
20 are not interested, well, you are not going to click on
21 it.

22 It is simply providing information.
23 This is not the material. This is not the content.
24 This is simply advising you or, with the technology
25 that is now available, not just giving you the URL or

1 the internet address, but giving you the convenience
2 that if you click on it, you probably, if your computer
3 is working right, I know sometimes mine doesn't,
4 actually will send you will in a nanosecond or two. It
5 is only that. It is information.

6 These may well be sites that
7 Mr. Warman doesn't like very much, maybe sites none of
8 us like very much. All it is, though, is the provision
9 of information and in a free and democratic society, it
10 is hard to see how that can be impugned.

11 From the very beginning, we have
12 challenged the second of these two complaints, which
13 names Western Canada For Us, and we have challenged it
14 for a very particular reason. We only have what is
15 before us. We have a complaint, and the complaint --
16 this is what Mr. Bahr had to deal with and this is what
17 when I was brought into the case what confronted me,
18 and it is on page 3 of the Canadian Human Rights
19 Commission complaint -- sorry, Mr. Warman's complaint.

20 Now, this is -- sorry, it is the
21 Canadian Human Rights Commission's complaint passed on
22 to Mr. Bahr and this is the background to the
23 complaints. It is paragraph 7 and it says:

24 "These complaints name two
25 respondents. One is an

1 individual, Mr. Glenn Bahr. The
2 second respondent is a website
3 which may be accessed on the
4 internet through either of two
5 internet addresses,
6 www.WesternCanadaForUs.com or
7 www.WCFU.com."

8 Now, it is not I who says that the
9 complaint is against an internet address. It is the
10 Canadian Human Rights Commission in the complaint they
11 gave to Mr. Bahr. And in the run up to -- in the
12 submissions back and forth before this Tribunal when I
13 brought this up, I was told, go to Federal Court. Why
14 should we go to Federal Court? We have no problem with
15 this. Human Rights Commission's own complaint says it
16 is a website.

17 Now, in the Lemire -- in Warman v.
18 Lemire, Warman versus just about everybody, but in
19 Warman v. Lemire, there was a complaint against
20 something called the freedomsite.com, I think.
21 Submissions went back and forth, and I am sure that you
22 have read them, Madam Chairman, they are in the file.
23 Submissions went back and forth and in the end it was
24 seen that what was before the Tribunal,
25 freedomsite.com, was an address, an internet address.

1 Freedomsite.com has no legal
2 standing. It is not an organization. It is not a
3 person. It is an address. No different from whatever
4 this place is, 10222-102nd Street, or whatever. It is
5 the internet equivalent of a street address. It is an
6 address. You can't haul an address before a Tribunal,
7 and in my respectful submission, on that basis alone,
8 the second complaint ought to be dropped, that there
9 really is nobody who can answer it, according to the
10 Canadian Human Rights Commission's own report.

11 So rather than inviting me to go to
12 Federal Court to object to something I don't object to,
13 either Mr. Warman or -- well, I guess Mr. Warman ought
14 to have gone to Federal Court to try to get the
15 Canadian Human Rights Commission's complaint amended or
16 reversed.

17 So I invite you to dismiss the
18 complaint against the website. I can't say anything
19 more about it because there is no entity called Western
20 Canada For Us to give me instructions in that matter.

21 I do reserve the rights to -- right
22 to make some further comments on the law and also to
23 make some comments on the hijacking of Mr. Bahr's name,
24 of SS-88 or Glenn, I think Mr. Klatt will be able to
25 shed some considerable light on that tomorrow. So I am

1 glad there will be another opportunity.

2 I would like to just conclude,
3 though, by emphasizing that this Act has to be read in
4 terms of the Charter of Rights and Freedoms.
5 Mr. Warman drew your attention to some international
6 treaties. It is disappointing that Canada would sign
7 aboard those, but this Tribunal has to be governed by
8 the law of the land. What Canada might have signed in
9 terms of a treaty is implemented by law and I think the
10 only law that we have is what is before us.

11 Mr. Warman might have in mind further
12 repressive legislation, but that is not before us.
13 What is before us is the Canadian Human Rights Act. I
14 invite you to give it a broad interpretation that keeps
15 in mind the really important value of freedom of speech
16 and freedom of expression.

17 I think if recent political history
18 has taught us anything is that not only is repression
19 of freedom of speech an ugly thing, it usually ends up
20 with people being put in jail, lives ruined,
21 financially destroyed and so on, but it doesn't even
22 really succeed in the goals it intended to achieve. It
23 doesn't succeed in repressing the political views or
24 the religious views.

25 You need only look at the history of

1 Iran. The Shah had probably the best modern police
2 force in the Slovak, highly trained by the United
3 States and Israelis, sophisticated. They were up
4 against a man who had as his means of communication a
5 tape recorder, and he had the forces of the Iatola
6 Humani, whether you like them or not, beat the best
7 political police force, certainly in the third world,
8 in modern times. You just can't keep ideas down.

9 We could go all through religious
10 history, the sad histories of the 16th and 17th
11 centuries, of dungeon and fire and sword. If you were
12 the wrong brand of Christianity you could be tortured,
13 your literature destroyed, your life ruined, but it
14 didn't stop people. People kept the faith and in the
15 end often the persecution made them stronger.

16 I invite you to take the same view of
17 what you are being urged to do here, the suppression of
18 political expression, political views, and it will be
19 dressed up as repression always is and talk good
20 intentions and feelings of minorities and people will
21 be vulnerable and, you know, I am sure, Madam Chairman,
22 you have heard the talk far more than I have and you
23 have read the literature about vulnerable minorities.

24 Where are they? Where are they?
25 Because they don't feel vulnerable. They know that the

1 discussion of kids on Stormfront, Western Canada For
2 Us, the ideas kicked back and forth were well within
3 the bounds of what is acceptable. You don't have to
4 agree with them. You don't have to like them.

5 I am sure members of some minorities
6 might feel a bit uneasy about some of the comments that
7 were made there. I am sure I would, too, just as I
8 sometimes feel uneasy when I read comments certain
9 minorities make, but that is the price of living in a
10 free and democratic society. The right to freedom of
11 speech also implies that we are going to hear things we
12 don't like and things are going to be offensive. But
13 merely being offensive, merely being strident, merely
14 being a loud mouth, merely being a bit of a swaggerer
15 should not be enough for you to lose your freedom of
16 speech.

17 If I may also continue on the matter
18 of money, it sounds as though maybe now that I am in
19 social credit country, I am obsessed with the thing. I
20 don't mean to be condescending, but many of the posts
21 on WCFU were unsophisticated, badly spelled, not that I
22 should talk, because if I didn't have spell check, it
23 would be appalling.

24 Just because you don't have a
25 university degree, just because you don't have a law

1 degree and you are able to express yourself in
2 carefully nuanced and balanced terms, does that mean
3 that you should not have a right to speak? Do we not
4 have a right to speak according to our knowledge and
5 our education?

6 And for some people that may be a
7 little bit blunt. As the country and western song
8 says, "red necks, white socks and blue ribbon beer."
9 Does the working guy who maybe didn't have a chance to
10 get Mr. Warman's MA in law or whatever, I didn't have a
11 chance to get my MA in English literature and
12 linguistics, it is the working stiff who maybe
13 expresses himself a little bluntly, even without that
14 qualification that might save him. Does he lose his
15 right to speak?

16 I think we have to look at the
17 implications of Section 13(1). When we have a large
18 body of jurisprudence. It is not just John Ross
19 Taylor, but we have a large number of case, and as I
20 pointed out in the first one, unlike almost any other
21 area in civil or criminal law in this dominion, nobody
22 has ever won a case.

23 I told Mr. Bahr when he took me on, I
24 might not be John Ryan. I am not going to win it for
25 you. I don't think it is winnable. That is what I

1 told him. I don't think it is winnable, not at this
2 level. If you want to go in Preston, maybe things will
3 work in our favour. My judgment is that the law has
4 been so broadly interpreted, maybe it shouldn't be,
5 maybe this will be an exception. I said I don't think
6 it is winnable.

7 Nobody has ever won. People are
8 accused of murdering. A jury finds them -- that there
9 is reasonable doubt. People are accused of armed
10 robbery, and the same thing. People are accused of
11 trafficking in narcotics. People win libel suits or
12 people charged with libel win. But nobody has ever won
13 a Section 13(1) case. I told Mr. Bahr I would be lying
14 to him if I said, I can win it for you.

15 I will try to present to the very
16 best of my ability your case. I think you have got a
17 strong one. I invite you, Madam Chairman, to consider
18 that. The law the Tribunal has to judge -- or to
19 administer seems incredibly stacked against the
20 respondents or the victims.

21 So I invite you to take a broad,
22 broad look at it and I invite you particularly to
23 inquire who was ex -- who was likely to be exposed to
24 hatred or contempt? Because the only voice we have is
25 that of Mr. Warman who, quite frankly, and I tried to

1 lead that evidence, and again, struck out, but I look
2 at him and I can say, well, he is -- he seems to be
3 white. He is not obvious of any particular religious
4 organization. He doesn't appear to be disabled. I
5 can't go any farther than that on the basis of what
6 evidence we do have, but what is it to him? What is it
7 to him? What is he complaining about?

8 It isn't a Native person who is in
9 here, it is not a person who is homosexual or lesbian,
10 it is not a black, it is not a Jewish person. It is
11 Mr. Warman. I think I invite you to consider the
12 community standards are tolerant enough, and we hear
13 that word, tolerant. Diversity.

14 Well, doesn't diversity mean the
15 ability to have society to accept dissent? We have an
16 immigration policy, we have a multiculturalism policy.
17 People like Glenn Bahr dissent, to some degree, from
18 those. Do we not have the sufficient commitment to
19 diversity to have room for a Glenn Bahr or, as Officer
20 Camp said, is there another view? Is this country
21 going to be governed by the same sort of policies and
22 places like Guatemala and Cuba, Red China? You
23 dissent, brother, you go to jail. Thank you.

24 THE CHAIRPERSON: Thank you,
25 Mr. Fromm.

1 Mr. Vigna, do you want to make your
2 submissions now or do you want us to have a break and
3 then carry on after that?

4 MR. VIGNA: I understood I would do
5 them tomorrow, Madam Chair.

6 THE CHAIRPERSON: Oh, okay. That is
7 fine. I thought you were going to do some of them
8 today and some of them tomorrow, but I am content with
9 waiting until then.

10 MR. FROMM: I was trying to help you
11 out. That is why I brought a witness.

12 THE CHAIRPERSON: We will commence
13 again at 9:30 in the morning and we will be hearing
14 from the respondent's expert and then I will open the
15 floor to anyone who wants to make additional
16 submissions, you in particular. So we will see you in
17 the morning. Thanks, everyone.

18 --- Whereupon the hearing adjourned at 3:05 p.m.,
19 to resume on Thursday, June 1, 2006
20 at 9:30 a.m.

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I HEREBY CERTIFY THAT I HAVE, to
the best of my skill and
ability, accurately reported and
transcribed the foregoing.



Tiffany Vincent
C.S.R.(A), R.P.R.

StenoTran