

**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**

**CANADIAN HERITAGE ALLIANCE  
MELISSA GUILLE**

**Respondents**

**les intimées**

**BEFORE/DEVANT:**

**PIERRE DESCHAMPS**

**CHAIRPERSON/  
PRÉSIDENT**

**LINDA BARBER**

**REGISTRY OFFICER/  
L'AGENTE DU GREFFE**

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

**T1089/7005 & T1090/7105**

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**StenoTran**

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

HEARING HELD AT THE JPR ARBITRATION CENTRE, 390 BAY STREET,  
FOURTH FLOOR, TORONTO, ONTARIO ON THURSDAY, NOVEMBER 23, 2006,  
AT 9:30 A.M. LOCAL TIME

CASE FOR HEARING/CAUSE DEVANT ÊTRE ENTENDUE

IN THE MATTER of the complaints filed under section 13.1 of the Canadian Human Rights Act by Richard Warman dated August 11, 2004, against Melissa Guille and the Canadian Heritage Alliance. The complainant alleges that the respondents have engaged in a discriminatory practice on the grounds of sexual orientation, religion, race, colour and national or ethnic origin in a matter related to the usage of a telecommunication undertaking.

APPEARANCES/COMPARUTIONS

Richard Warman	On his own behalf
Karen Ceilidh Snider Don Hawkins	For the Commission
Alexan Kulbashian	For Melissa Guille
Paul Fromm	For Canadian Heritage Alliance

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1 Toronto, Ontario

2 --- Upon commencing on Thursday, November 23, 2006

3 at 9:30 a.m.

4 REGISTRY OFFICER: Order, please.

5 Please be seated.

6 THE CHAIRPERSON: Good morning,

7 everyone.

8 MR. WARMAN: Good morning.

9 REGISTRY OFFICER: Please be seated.

10 THE CHAIRPERSON: Do you have,

11 Mr. Kulbashian, an opening statement, or Mr. Fromm?

12 MR. KULBASHIAN: I'm dressed for a  
13 funeral today for a very close friend, it's actually  
14 more of a mass funeral for a group of close friends for  
15 democracy, for equal opportunity, for equal  
16 representation before the law.

17 Basically the Canadian Human Rights  
18 process is inherently a fair process, the complainant's  
19 position is almost guaranteed legal representation,  
20 meanwhile the respondents are left to fend for  
21 themselves.

22 It is a process by which individuals  
23 have preferential access to the law, individuals who  
24 maybe have close relationships with ex-colleagues at  
25 the Canadian Human Rights Commission, individuals whose

1 complaints can be justified to show a general progress  
2 in the field of anti-terrorism, but those individuals  
3 don't include individuals who belong to what people  
4 refer to as the majority.

5 The Human Rights process seems to me  
6 to be more of a, not self-serving but more like an  
7 opportunity for certain individuals to abuse the law  
8 for their own particular reasons, for their agenda.

9 The Canadian Human Rights Commission  
10 has campaigned, in essence, brought individuals agendas  
11 as opposed to upholding the actual law of having equal  
12 access for everyone, having equal access for everyone  
13 before the Act.

14 When a champion of anti-racism  
15 involves himself with violence or terrorist groups, I  
16 can ask myself, where is the world actually coming to?  
17 Is the Canadian Human Rights Act in some way unbalanced  
18 in the system basically by saying certain individuals  
19 who believe are discriminated, therefore, we have to  
20 tip the scale the other way, but the extreme other way.

21 Free speech is one of the fundamental  
22 rights of a free individual, an individual should have  
23 the right to state what he wants, what he wants without  
24 crossing certain boundaries, and I'm not here to state  
25 that messages that threaten or in any way impede

1       peoples' ability to live properly should be qualified  
2       as free speech, however, what I'm saying is messages  
3       that are inherently part of the process of regular  
4       expression of freedom of expression should not be  
5       restricted.

6                    What kind of issues you run into when  
7       upholding an Act that amounts to persecution and how it  
8       is persecution. Everyone is guaranteed equal  
9       representation in front of the law. In a criminal  
10      court individuals who have charges filed against them  
11      have a right to access a lawyer, get Legal Aid or  
12      access to duty counsel or pay for their own lawyer.  
13      Though paying for somebody's own lawyer can be quite  
14      expensive, that is one of the options they have, only  
15      one.

16                   Over here there is no other option,  
17      it's either self-representation or second rate  
18      representation, or paying hopelessly amounts of money  
19      for a lawyer who in general might not have any kind of  
20      experience with the Tribunal to have a defence put  
21      forward.

22                   How ironic is it that someone who  
23      looks to erase racism on the Internet, posts overtly  
24      racist content on line, when the individual claims to  
25      stand for public safety and decency is involved with

1 violent street gangs, thugs and other groups.

2 Machiavelli said that the end  
3 justifies the means. A system by which the complainant  
4 lives by under the impression that the law does not  
5 apply to him. He's a vigilante with the protection of  
6 his ex-colleagues at the Commission and ex-employees  
7 within the government, employers of the government.

8 But, as I say, sometimes there is a  
9 silver lining in a tragedy, there is one in this case,  
10 but not for the respondents. It's the birth of  
11 hypocrisy and preferential treatment. A system that  
12 accelerates complaints for certain complainants and  
13 delays the process for others, it cannot be said to be  
14 an equal system. The hypocrisy here is that the  
15 Canadian Human Rights Act is supposed to uphold human  
16 rights and equality for everyone. With preferential  
17 access, I don't see how that can happen.

18 So, today we are going to have  
19 testimony from a complainant who has a selective  
20 memory, whose shown to have a selective memory, whose  
21 shown to have -- will be shown in fact to have somewhat  
22 disregard for the law and what its purpose is. The law  
23 is not -- the court is not to be used to forward a  
24 personal agenda, to get more media attention, to get  
25 more money from groups as sponsorship. The Act and any

1 law is made to actually help victims. This law is  
2 being abused before the Tribunal today.

3 The complainant stated what is the  
4 power of words. What I ask, what are the power of  
5 actions? Actions speak louder than words. Actions  
6 that on the one hand the complainant states that he's  
7 up for public decency, for safety in order to create  
8 safe society for all, but involves himself with groups  
9 that attack violently individuals that they don't agree  
10 with and in some cases those individuals might be  
11 mistargeted, they might not be individuals that they  
12 think they are, however, they act as judge and jury of  
13 their own and they're afforded some sort of freedom to  
14 act in such a way.

15 The Canadian Human Rights Act is not  
16 a travesty to law, what the travesty is is the way it's  
17 upheld. The organization that is put in charge of  
18 upholding that Act is not, however, the Tribunal, the  
19 Tribunal is only here to hear the facts. The  
20 Commission, however, has a mandate to ensure equality  
21 for everyone, to do their best to allow complaints to  
22 be expeditiously reviewed, analyzed and forwarded to  
23 the Tribunal if need be.

24 However, complaints of a devious  
25 nature should not be forwarded to the Tribunal. Now,

1 we find ourselves here with a complaint of a devious  
2 nature persecuting an individual who does not have a  
3 cent to contribute towards a lawyer. However,  
4 regardless of that fact, we are here today out of  
5 respect for the law, out of a certain level of respect  
6 for the Tribunal and its process. Though we are not  
7 represented by any form of legal counsel, we do however  
8 believe that in our hearts what we're doing is right.  
9 We believe that we have the right to answer to any kind  
10 of criticism, any kind of allegations against the  
11 respondent. We are here in sort of a selfless manner  
12 to defend yet another respondent who has fallen through  
13 the cracks of the system that is designed to maintain  
14 equality.

15 I don't think any reasonable person  
16 can state that the Human Rights Act as pertains to  
17 section 13 is in fact a fair Act. I don't think an  
18 individual can state that this is a fair process in any  
19 reasonable way. This is not a fair process.

20 On the other side there are two  
21 lawyers to defend the complainants to -- sorry, to  
22 bring the complainant's case to the hearing. On this  
23 side we are effectively civilians. Where people can be  
24 pulled off the street, people with no legal background  
25 whatsoever and put in front of a hearing and forced to

1 defend themselves on many intricate legal issues, has  
2 justice failed, has equality failed?

3 I submit to the court that it has and  
4 our position is that it has.

5 What is section 13.3 of the Act?  
6 Section 13.3 of the Act states:

7 "For the purposes of this  
8 section no owner or operator of  
9 a telecommunication undertaking  
10 communicates or causes to be  
11 communicated any matter  
12 described in subsection 1 by  
13 reason only that the facilities  
14 of that telecommunication  
15 undertaking owned or operated by  
16 that person are used by other  
17 persons for the transmission of  
18 this matter." (As read)

19 I submit to you that even though the  
20 Commission made no efforts to investigate, to do their  
21 duty and fully investigate this complaint and forward  
22 it to the Tribunal it will still be shown at its face  
23 that the complainant himself is an opportunistic, in  
24 effect, complainant where he uses the Act and he has  
25 stated he uses the Act to disrupt individuals

1 activities, to cause a hassle for them, to keep them  
2 busy defending themselves instead of continuing their  
3 activities, whether or not their activities are legal,  
4 the Canadian Criminal Code can address that issue.

5 The Canadian Criminal Code in many  
6 cases has looked at issues and in one specific case has  
7 decided that it cannot deal with the issue, therefore,  
8 the Canadian Human Rights Act is being used as a second  
9 recourse for double jeopardy to prosecute individuals  
10 twice. If it doesn't work the first time, let's see  
11 what else we can do.

12 Though the Canadian Human Rights  
13 Tribunal has a mandate to uphold the Act, the Tribunal  
14 has to in the image of fairness or at least an attempt  
15 to maintain some kind of fairness understand the  
16 situation that the respondents are in before you today.

17 The situation is as follows: The  
18 respondents will in no way be able to give full legal  
19 representations, full proper legal defense to these  
20 allegations.

21 In a civil court individuals who want  
22 to file complaints, who want to file lawsuits have to  
23 retain their own lawyers. The complainants have the  
24 burden of proof to a certain extent, though it's on a  
25 balance of probabilities, they don't get the luxurious

1 treatment of being given a lawyer who is not only part  
2 of, in a way, who is not a lawyer that they retained,  
3 however a lawyer that is given to them by the  
4 government, a lawyer that is mandated by the government  
5 to uphold the public interests, however, sometimes the  
6 public interest isn't what it serves.

7 As an ex-employee of the Commission,  
8 Mr. Warman has been afforded a lot of latitude with  
9 filing this complaint. Though the complaint -- though  
10 there was some protest against the complaint, the  
11 Commission made no effort to investigate whether or not  
12 the complaint was valid, yet speedily forwarded it to  
13 the Tribunal without any kind of resolution, without  
14 any attempt to resolve the matter.

15 For this reason, I submit that this  
16 hearing is not in fact a hearing that upholds the  
17 Canadian Human Rights Act, however, it is the hearing  
18 that upholds the personal agenda of an activist. An  
19 activist that has many inconsistencies, an activist  
20 that preys on individuals instead of -- I'm sorry, an  
21 activist that preys on individuals instead of acting in  
22 the best interests of his cause, an activist that has  
23 supported and been involved with violent action.

24 Though he may not have in some cases  
25 taken violent acts himself, the complainant himself has

1 admitted to being present where violent acts and death  
2 threats were uttered.

3 I submit that this complaint should  
4 be dismissed at the very end of the day for multiple  
5 reasons. The Commission has made no effort to bring a  
6 proper case forward, they are effectively getting lazy,  
7 they made no effort to bring an expert witness as they  
8 have in many previous cases, and at one point maybe  
9 they have the comfort that they can say that we don't  
10 have to do our job because the system is designed to  
11 help us and, in some way, keep the respondents at a  
12 lower level, keep the respondents at a disadvantaged  
13 position and the respondents they believe and they know  
14 in their hearts has no chance in this system.

15 For that reason the respondents are  
16 here to fight this case by all means within the law  
17 without resorting to outside measures, without going to  
18 the media and slandering the opposing parties.

19 I wish that could be said for the  
20 complainant and the Commission.

21 Thank you very much.

22 THE CHAIRPERSON: Thank you,  
23 Mr. Kulbashian.

24 Mr. Fromm?

25 MR. FROMM: When I was approached by

1 Ms Guille to assist and to represent the Canadian  
2 Heritage Alliance I ran this situation past a lawyer  
3 here in Toronto whose knowledgeable of these cases and  
4 has observed the progress of the last number of years  
5 under section 13.1, and I was advised, tell your friend  
6 not to show up, don't waste the time, don't take time  
7 off work, the process is so completely skewed against  
8 you, you have no chance.

9 It's too bad that the lawyer was not  
10 prepared to back up that advice with some pro bono work  
11 but, nonetheless, granted it's hearsay, you may take it  
12 for what it's worth, but I have been involved in a  
13 number of these cases and this side, it's only a show  
14 trial, it's hard to see a process more hopeless for the  
15 respondent.

16 I told Ms Guille that she has as much  
17 chance of winning this as I have of pitching a no-  
18 hitter for the Blue Jays, not because she doesn't have  
19 a good case, in my opinion, my estimation, we are going  
20 to make submissions that I think should be persuasive,  
21 but that the entire process is utterly biased against  
22 the respondents.

23 And at the risk of repeating some of  
24 the points Mr. Kulbashian made very eloquently, I'm  
25 going to do it anyway.

1                   The lack of any provision for  
2 representation. Mr. Kulbashian and the I are not here  
3 because we wish to grand stand, there's no audience,  
4 there's no press, we're here because speaking on my own  
5 behalf, I'm here because I truly believe in freedom of  
6 speech and I see that value -- but my father fought in  
7 the Second World War, slipping him away in this  
8 country. Freedom of speech is seriously under attack  
9 in this great Dominion.

10                   I also told Ms Guille having reviewed  
11 all the section 13.1 cases going back to John Ross  
12 Taylor, that this must stand outside of the Soviet law  
13 of block as the strangest law that ever was. No person  
14 has ever -- no victim has ever won.

15                   People are regularly acquitted of  
16 murder, regularly acquitted of rape, or today it's  
17 called sexual assault, regularly acquitted of armed  
18 robbery, but no one has ever won, no victim has ever  
19 won a section 13.1 case. Every single respondent has  
20 lost.

21                   Now, is that because the Commission  
22 is -- their lawyers are so good, or is it because the  
23 process is so skewed that you can't win.

24                   I have repeatedly publicly and at  
25 processes like this dared the Commission to take on the

1 big boys, not undefended single mothers. If you really  
2 want to deal with expressions on the Internet that  
3 likely expose groups to hatred or contempt, why not  
4 take on one of the major record companies that pumps  
5 out rock -- gangster rap lyrics that regularly abuse  
6 and denigrate women and call them bitches and ho's and  
7 urge that irrelevant people be beaten and so on.

8 Why not take on the sort of people  
9 who come in here with a battery of lawyers, some of the  
10 best attorneys in the City of Toronto, learned people.  
11 I won't get personal, but I suspect you see where I'm  
12 going, sir. That might be an equal fight.

13 Our Prime Minister may well have  
14 skewed a trade deal with communist China recently  
15 because he raised the case of a person, a uiggar,  
16 u-i-g-g-a-r I think it's spelled, a person who's now a  
17 Canadian resident or maybe a Canadian citizen who has  
18 been put in jail in China and our country went abroad,  
19 stands up for individual's rights, and likely so,  
20 freedom of expression.

21 Unfortunately, we are a little less  
22 diligent right here. Now, I know, sir, you may well  
23 say well I'm not here to fight the larger political  
24 battles, I'm here to administer the Act, I'm here to  
25 adjudicate a complaint, and I certainly understand your

1 position and I heard your ruling in another matter  
2 yesterday and I'm not going to revisit the matter, but  
3 I certainly understand that as a position, but I am  
4 going to be-- or we are going to asking, in fact we  
5 are going to be challenging you to take what the  
6 Supreme Court has said ought to be the view in human  
7 rights cases and that is a broad and liberal  
8 interpretation.

9 As I said, I'm not going to revisit  
10 your ruling of yesterday, but in the issues that will  
11 be before you and particularly the issue that  
12 Mr. Kulbashian introduced yesterday and I addressed as  
13 well, and that is the way of exactly of the words and  
14 we have not had put into evidence exactly what it is  
15 the complainant and Commission will be relying on in  
16 terms of the communications, but I invite you to take a  
17 broad and liberal look at the words that will be  
18 introduced to you and ask yourself, given the entire  
19 picture, whether in a serious mature country, that is  
20 indeed what we are, those words truly do -- are likely  
21 to expose various groups to hatred or contempt.

22 We'll be adducing evidence and  
23 argument on that point, but that is one area I'd invite  
24 you to think about. Having been involved in a number  
25 of these Tribunals, I sometimes think we're back in

1 elementary school, where little Jean or Johnny has  
2 discovered a knew word, he's in grade 3 and the word in  
3 English might be s-h-i-t, or en francais, m-e-r-t, and  
4 he's really excited because he knows the word upsets  
5 people and he goes around saying it, and then his older  
6 sister hears him, is able to denounce him, look at what  
7 he's saying, he said the bad word.

8 That's the world of children. Did  
9 that bad word influence or hurt anybody? No, he's just  
10 being a kid.

11 Now, we are going to hear the  
12 equivalent, I'm sure, at least from what we have seen  
13 in the disclosure of some bad words, some words that  
14 are upsetting.

15 I think we have -- it will be your  
16 decision at the end of the day, you know, in a mature,  
17 educated -- relatively educated country, do those  
18 words, are they really likely to expose anybody to  
19 hatred or contempt or to the opposite.

20 Have we become so constipated as a  
21 nation that we can't utter certain words. I would like  
22 to think that the nation my father fought for in the  
23 Second World War is a nation that would encourage  
24 discussion, that we are a democracy and for a democracy  
25 we have to discuss, we have to be able to throw ideas

1           around, we have to have a variety of opinions.

2                           It's interesting that the apostles  
3           diversity believe in diversity right up until the time  
4           it comes to an opinion that diverges from their own.

5                           I'm going to invite you to conclude  
6           at the end of the day, looking at particularly the area  
7           that I have been asked to assist in, and that's the  
8           Canadian Heritage Alliance or its website, or  
9           essentially its forum, is that what you will see is  
10          nothing more than discussion, perhaps discussion  
11          tending toward one point of view, perhaps discussion  
12          that may be uttered in at times in harsh language, but  
13          discussion nonetheless.

14                          I think a healthy country has to ask  
15          itself is the response to an idea that some of us don't  
16          like, is that response to say you shut up or else or we  
17          are going to fine you, or at the ultimate, as  
18          Mr. Winnicki has found out, we'll put you in jail.

19                          And then I ask myself, Mr. Harper,  
20          why are you over there in Peking talking to the Chinese  
21          about putting dissidents in jail, get yourself back to  
22          Ottawa, we have got them in jail in Canada too.

23                          Or would a better approach be, when  
24          we hear something that we think is off the mark,  
25          outrageous, silly, misguided, detestable, maybe even

1           hateful is to say, sir, you're an ass or you're wrong  
2           for these and these and these reasons.

3                         Now, I know, or I ought not to put  
4           words in their mouths I'm sure, but I can anticipate  
5           that Mr. Warman and Ms Snider will tell you that you  
6           are here to enforce the Act, and indeed you are, but  
7           it's going to come down to an interpretation, an  
8           interpretation of perhaps -- that will centre on the  
9           word likely.

10                        And that's why Mr. Kulbashian and I  
11           spent a fair deal of time yesterday, and I know terms  
12           were used, I think the term wasted was heard at one  
13           point, I know sir you didn't agree with that term, but  
14           we spent a lot of time on a belief that if you are  
15           going to make a decision like that, you have to be, you  
16           have to have evidence and that evidence is not just the  
17           say-so of one party or the other but it's expert  
18           evidence.

19                        And it is certainly my submission on  
20           behalf the Canadian Heritage Alliance that your  
21           decision is being taken for granted by the Commission  
22           and by Mr. Warman in that they're not intending to call  
23           any expert witnesses. It's assumed it's a done deal.  
24           We were told yesterday witnesses are costly, it's a  
25           complicated affair and I suggested, and I think I was

1 told that I misinterpreted, but I suggested in other  
2 words it's too much trouble.

3 But perhaps it's not too much trouble  
4 if it's already in the bag, why bother. Why send your  
5 best hitter to the plate if you're already leading the  
6 game 20-0 and it's the 9th inning.

7 I think back to a healthier country,  
8 in a time of John Diefenbaker, not that there wasn't  
9 dissent and differences of opinion.

10 But there is really a famous story  
11 told of Prime Minister Diefenbaker that he was  
12 campaigning somewhere in rural Saskatchewan, so  
13 isolated there wasn't even a town hall or grange hall  
14 to call together meetings, so his party organizers went  
15 around and called together the local farmers and they  
16 gathered together at four corners, and there was no  
17 platform or anything for Mr. Diefenbaker to stand on,  
18 so there was a flat bed, a manure spread, so he got up  
19 on top of that and he gave a speech to the assembled  
20 dozen or so farmers and one old socialist at the back  
21 of crowd, and partway through Mr. Diefenbaker's speech  
22 he shouted out, John that the old manure spreader sure  
23 is carrying a load tonight.

24 And I think that was a healthier  
25 country, a healthier country where there could be

1       dissent, where there could be spirited disagreement and  
2       the farmer was not beaten up for his temerity and he  
3       wasn't tossed in jail the next day because he insulted  
4       the Prime Minister of the country or because he uttered  
5       a dissenting thought. And I think that was a healthier  
6       country.

7                       Now, I know that you do have to  
8       enforce the law and I would particularly direct you to  
9       the word likely. And at the end of the day, is it  
10      likely that emotions as strong as hatred and contempt  
11      will have been spread -- sorry, will be engendered by  
12      the messages that will be brought to your attention.

13                      Now, I would invite you to conclude  
14      that it is not and I invite you, if you are so inclined  
15      to make history, and make this the first time a victim  
16      has ever won a section 13.1 case.

17                      Mr. Kulbashian drew to your attention  
18      section 13.3. In the history of this Act there's been  
19      a lot -- there was a lot of debate prior to 2001 over  
20      the meaning of telecommunications and telephonic, this  
21      was a key issue in both the Schnell v. Micka case in  
22      British Columbia and in the Sabina Citron and Toronto  
23      Mayor's Committee on Community and Race Relations v.  
24      Ernst Zundel case.

25                      In a sense the changes in the Act in

1           2001 answered that question in terms of whether the  
2           Internet was telephonic was not, prior to that it was  
3           debatable, now there is no debate, it is telephonic  
4           communication, but I still suggest that the word  
5           telecommunication is problematic. Not for us, but  
6           problematic for the Commission and for Mr. Warman.

7                           And speaking on behalf of the  
8           Canadian Heritage Alliance and its website, or the  
9           website actually because that's what we contend it is,  
10          that website is a telecommunications undertaking and  
11          really according to section 13.3 is exempt from the  
12          Act -- I'm sorry, is exempt from this sort of  
13          complaint.

14                           Here of course we are only  
15          anticipating, but of the postings that the Canadian  
16          Heritage Alliance has been advised of, to our knowledge  
17          not a single one was authored by Ms Guille who has  
18          actually asked me to correct Ms Snider, her full name  
19          is not Dean but is Deanne.

20                           It is our further submission on  
21          behalf of the Canadian Heritage Alliance that what is  
22          impugned here is a website and as a website it's  
23          actually only an address, that we are not even properly  
24          before you, we are -- the Canadian Heritage Alliance  
25          website is not a legal entity, it's not a person, it is

1 really no more of a legal entity than 390 Bay Street,  
2 it's only an address. So, we'll be making that  
3 submission as well.

4 And going back to Taylor, and we'll  
5 be arguing this in more detail at the end of the day,  
6 but going back to Taylor we'll be arguing that the  
7 messages on the Canadian heritage Alliance website were  
8 not communications that were repeated, according to the  
9 Oxford Dictionary as again and again. Somebody posted  
10 them once. Various people posted them once.

11 These messages apparently were posted  
12 by a variety of people. So, they were posted up there  
13 once and any repeated communication could only have  
14 been caused by people who visited the website,  
15 presumably Mr. Warman, I guess we'll have to hear about  
16 that. A repeated communication, if any, was not caused  
17 by Ms Guille and certainly was not caused by the  
18 physical address of the Canadian Heritage Alliance.

19 In Mr. Warman's submission or opening  
20 statement yesterday you heard highly charged political  
21 terms, neo-Nazis and so on, comments about White  
22 Supremacists and neo-Nazis. Seems though those people,  
23 whoever they might be, seem to be his target.

24 Whatever we think about those views,  
25 they were political views and it's dangerous for a

1 country to try to outlaw political views which brings  
2 us back to the reason the Prime Minister seemed to  
3 annoy the Chinese in China because he complained that a  
4 Canadian, I don't know if he's a citizen or Canadian  
5 landed immigrant, is in a red Chinese jail because of  
6 expressing his political views.

7 So, I invite you, sir, to be very  
8 cautious of what you're going to be urged to do by the  
9 Commission and by Mr. Warman, that is define views,  
10 political views so offensive that those that utter them  
11 must be punished, fined and more dangerously a lifetime  
12 cease and desist order which means basically a lifetime  
13 gag.

14 We're very reluctant in this country  
15 to impose anything for life. Don't kill a person you  
16 might get life in prison, but it doesn't really mean  
17 life it means, well considerably less than that,  
18 because we are very reluctant to impose such a harsh  
19 penalty on people that anything will be for life. But  
20 that's a penalty that will be open to you and, that's  
21 according to their submissions what the Commission is  
22 asking for, a cease and desist order which would mean a  
23 lifetime restriction on what Ms Guille is able to write  
24 or say on the Internet.

25 I won't say the Canadian Heritage

1 Alliance because it's our submission that it's only an  
2 address and you can't very well pass a prohibition  
3 against an address.

4 I'm going to conclude, if I might,  
5 with another story and I invite you to take perhaps a  
6 moral from it.

7 I understand that, of course, there  
8 are various political views and people hold their views  
9 very passionately and are very offended when they hear  
10 views contrary to theirs, and a healthy country I think  
11 would be governed by -- well, I would like to think  
12 with the intentions of Pierre Trudeau's Charter and  
13 particularly the freedom of speech and freedom of  
14 expression provisions, and that you would take a very  
15 cautious interpretation of likely, taking into account  
16 all the factors.

17 But back to the story. The story has  
18 to -- deals with how narrow minded people react when  
19 their universe is challenged. This was during the  
20 so-called monkey trial in 1926 in Dayton Tennessee, and  
21 the man who was the lawyer for the teacher John Scopes,  
22 Clarence Darrow, the very gifted corporate lawyer, but  
23 also a very gifted defender of individual, of civil  
24 liberties.

25 When he first came to town John

1           Scopes said, you know, I was teacher in this town for I  
2           guess about a year and people generally liked me, but  
3           after I was charged people looked upon me with hate.  
4           He said a few months ago there was a man accused of  
5           killing his wife and he was caught in Tennessee, he was  
6           extradited back to Ohio and he came through town on the  
7           train and he said -- John Scopes said the towns people  
8           all came out to see this accused murderer and he said  
9           there was no look of hatred in their eyes, they were  
10          looking at him with something of a curiosity but they  
11          look upon me with hate.

12                           And Clarence Darrow said, there's  
13          nothing unusual about killing your wife but you killed  
14          their sacred cow.

15                           Thank you.

16                           THE CHAIRPERSON: Thank you,  
17          Mr. Fromm.

18                           So, is Mr. Warman ready to take the  
19          stand?

20                           MS CEILIDH SNIDER: Yes. I have a  
21          case I'd just like to distribute before he does.

22                           THE CHAIRPERSON: Thank you.

23                           MS CEILIDH SNIDER: All right.

24          --- Document handed

25                           MS CEILIDH SNIDER: This is the

1 recently released decision of Warman -- this decision  
2 was released by the Canadian Human Rights Tribunal  
3 yesterday I believe, it's a decision of Ms Karen  
4 Jensen.

5 MR. FROMM: Is this to be added to  
6 the book of authorities?

7 MS CEILIDH SNIDER: Yes, it will be.  
8 Thank you.

9 THE CHAIRPERSON: So, it would be  
10 added as tab 23.

11 MS CEILIDH SNIDER: Yes, thank you.

12 THE CHAIRPERSON: And I gather that  
13 you will be examining Mr. Warman.

14 MS CEILIDH SNIDER: Yes, I will.

15 THE CHAIRPERSON: Okay. So, that is  
16 how it is going to work.

17 MS CEILIDH SNIDER: Yes. I'd like to  
18 have Mr. Warman sworn.

19 AFFIRMED: RICHARD WARMAN

20 MS CEILIDH SNIDER: I'd like to turn  
21 the Tribunal and the parties to the Commission's book  
22 of documents. This book of documents consists of 64  
23 documents and five photographs under a total of 70  
24 tabs.

25 And just for your reference, tab L

1 contains five sub-tabs, 1 to 5, and tab C contains 37  
2 sub-tabs, Nos. 1 to 37.

3 THE CHAIRPERSON: So, we will be  
4 marking these exhibits as complainant or Commission  
5 or...

6 MS CEILIDH SNIDER: Commission.

7 THE CHAIRPERSON: Commission  
8 exhibits.

9 MS CEILIDH SNIDER: Yes, please.

10 REGISTRY OFFICER: The CHRC book of  
11 documents will be filed as Commission Exhibit HR-1.

12 EXHIBIT NO. HR-1: CHRC Book of  
13 Documents

14 MS CEILIDH SNIDER: If we could just  
15 go off the record for one second.

16 THE CHAIRPERSON: Yes.

17 MS CEILIDH SNIDER: Thank you.

18 --- Discussion off the record

19 MR. FROMM: Can I ask Ms Snider just  
20 to --

21 MS CEILIDH SNIDER: Are we on the  
22 record?

23 THE CHAIRPERSON: Yes, we are on the  
24 record.

25 MR. FROMM: -- tell us again what she

1           said about the book of documents.

2                           MS CEILIDH SNIDER:  Yes, this will be  
3           the Commission's -- this is the Commission's book of  
4           documents and just for a bit of a road map through the  
5           book of documents, it consists of 64 documents, and  
6           five photographs.  There is a total of 70 tabs, under  
7           tab C there are a number of sub-tabs that No. 1 through  
8           37 and under tab L there are sub-tabs that number 1  
9           through 5.

10                          MR. FROMM:  Okay.  I thought I heard  
11           you say that you wanted this entire thing into  
12           evidence.

13                          MS CEILIDH SNIDER:  Well, we will and  
14           I'll take direction from Mr. Deschamps -- Member  
15           Deschamps, my understanding was that I'm filing the  
16           book and then as I enter each tab, if it's properly  
17           entered and accepted as an exhibit, it will be marked  
18           as an individual exhibit each tab.

19                          MR. FROMM:  Okay.

20                          MS CEILIDH SNIDER:  Unless I  
21           misunderstand --

22                          MR. FROMM:  You're not asking us to  
23           accept the entire thing holus-bolus right now?

24                          MS CEILIDH SNIDER:  No.

25                          MR. FROMM:  Thank you.

1 THE CHAIRPERSON: So, every document  
2 that Ms Snider wants to tender in evidence will have to  
3 be marked as an exhibit and all the documents that,  
4 say, were found to be inadmissible will be removed from  
5 the book of documents. Is it clear to you?

6 MR. FROMM: Yes.

7 THE CHAIRPERSON: It's just like --

8 MR. FROMM: I thought I heard her say  
9 something different, but I understand now.

10 THE CHAIRPERSON: Okay, fine.

11 EXAMINATION BY MS CEILIDH SNIDER

12 MS CEILIDH SNIDER: Good morning,  
13 Mr. Warman.

14 MR. WARMAN: Good morning.

15 MS CEILIDH SNIDER: Sir, I'd like to  
16 start today by turning to tab A, if you would.

17 MR. WARMAN: Yes.

18 MS CEILIDH SNIDER: Do you recognize  
19 this document?

20 MR. WARMAN: I do. This is a copy of  
21 a Human Rights complaint that I filed with the Canadian  
22 Human Rights Commission on the 11th of August, 2004.

23 MR. KULBASHIAN: I would actually  
24 like to object on the basis of the relevance because  
25 the Tribunal ruled that the complaint process is

1           irrelevant in the hearing, therefore, I don't see why  
2           they're introducing the complaint document itself.

3                         THE CHAIRPERSON: Well, the reason  
4           why, I presume, I know they are introducing the  
5           complaint because the complaint is the document or  
6           there are two complaints in fact that were referred to  
7           the Tribunal which forms the basis of this hearing.

8                         And if the complaints are not  
9           introduced as part of the evidence then, you know, we  
10          don't have the proper basis.

11                        MR. KULBASHIAN: I understand. In  
12          that case, does that open the door for me to question  
13          the complaint since officially the document has been  
14          introduced?

15                        THE CHAIRPERSON: Well, you can when  
16          your turn comes to cross-examine --

17                        MR. KULBASHIAN: That's what I was  
18          saying.

19                        THE CHAIRPERSON: -- Mr. Warman, you  
20          can cross-examine him on any documents that will have  
21          been properly filed.

22                        MR. KULBASHIAN: Okay, thank you.

23                        MS CEILIDH SNIDER: Thank you.

24                        If we could return please to tab A.

25          You were in the midst of your testimony about the

1 filing of your complaint, sir.

2 Actually we have to mark this. I'd  
3 like you to identify the document, first of all, I  
4 don't think it's been marked as an exhibit yet.

5 THE CHAIRPERSON: So...

6 REGISTRY OFFICER: The complaint form  
7 dated August 11, 2004 with the file number 2004-1421,  
8 Richard Warman as the complainant, Melissa Guille as  
9 the respondent will be filed as Commission Exhibit  
10 HR-1, Tab A.

11 EXHIBIT NO. HR-1, Tab A:  
12 Complaint form dated August 11,  
13 2004 with the file number  
14 2004-1421, Richard Warman as the  
15 complainant, Melissa Guille as  
16 the respondent

17 MR. WARMAN: I should specify  
18 perhaps, just so that there's absolute clarity, that  
19 the first page is a Commission document, it's a summary  
20 and that it is the following three pages that are in  
21 fact the complaint that I filed with the Commission.

22 MS CEILIDH SNIDER: Thank you.

23 Would you like to take us through  
24 this complaint formal at all or would you like to --  
25 are there are any particular aspects that you would

1           like to take us to or...

2                           MR. WARMAN:  No, I think that the  
3           material will be reflected during the rest of the  
4           exhibits.

5                           MS CEILIDH SNIDER:  Okay.  Would you  
6           turn now please to tab B.

7                           MR. WARMAN:  Yes.

8                           MS CEILIDH SNIDER:  And are you  
9           familiar with this document under tab B?

10                          MR. WARMAN:  Yes.  Just for clarity  
11           sake, essentially what I did was I filed one complaint  
12           that listed both parties, and you can see that on the  
13           first page of the Exhibit 1A, you can see that there is  
14           black sort of marking out of what on the first exhibit  
15           would be the Canadian Heritage Alliance and the address  
16           for service, and then as you go through you see that  
17           the references to the Canadian Heritage Alliance were  
18           blacked out.

19                          And that was the Commission's doing.  
20           Essentially what they did was, because they were  
21           serving two separate parties they blocked out, I can  
22           only presume for reasons of privacy, the information  
23           about the other party when they were initially serving  
24           the documents.

25                          So, this second page is simply a copy

1 of the original complaint that I filed which is already  
2 tab 1A.

3 MS CEILIDH SNIDER: If I may, before  
4 we leave tab 1A , could I have you turn to the first  
5 page of that and review for me the name and address of  
6 the respondent on the complaint summary form?

7 MR. KULBASHIAN: I'm sorry, I'm  
8 having some trouble hearing.

9 MS CEILIDH SNIDER: Oh dear.

10 THE CHAIRPERSON: Yes, do I.  
11 I don't know why.

12 MS CEILIDH SNIDER: I'll try again.  
13 If you would -- I'd like you to just highlight for me  
14 the name and address of the respondent on the complaint  
15 summary under tab A.

16 MR. WARMAN: The name was Melissa  
17 Guille and the address was a given street in London,  
18 Ontario.

19 MS CEILIDH SNIDER: And that's  
20 Sanford Street.

21 MR. WARMAN: I'm not sure.

22 MS CEILIDH SNIDER: Okay.

23 MR. WARMAN: But I'm not sure, but  
24 it's just for the interest of privacy, I'm not sure  
25 they entered the exact location.

1 MS CEILIDH SNIDER: And could you  
2 just indicate whether or not that's the same address on  
3 the respondent listed at tab B?

4 MR. WARMAN: No, it's not, the second  
5 respondent is listed as the Canadian Heritage Alliance  
6 and then it lists a P.O. Box on Wellington Street,  
7 London, Ontario.

8 MS CEILIDH SNIDER: All right, thank  
9 you.

10 I'd like you to turn now, please,  
11 Mr. Warman to tab D.

12 THE CHAIRPERSON: We should mark --  
13 just a second.

14 Mr. Fromm?

15 MR. FROMM: I object to marking that  
16 document in this forum. Mr. Warman's address does not  
17 appear there. It seems unfair that the mailing address  
18 of the Canadian Heritage Alliance should appear there  
19 too. If there is going to be equality, let there be  
20 equality.

21 If this is accepted as an exhibit it  
22 will be part of the public record and it will be open  
23 to freedom of information inquiries and that address  
24 will be obtainable.

25 MR. WARMAN: It's a P.O. Box that is

1 listed on their website though.

2 THE CHAIRPERSON: Just --

3 MR. FROMM: I don't care if it's in  
4 Mongolia, it's available. Mr. Warman is constantly  
5 protected and sheltered by his former friends at the  
6 Human Rights Commission, his address is not there, I  
7 have no interest in his address, but fair is fair.  
8 That address should not be there.

9 MS CEILIDH SNIDER: Mr. Fromm, just  
10 to respond, the address of either respondent has not  
11 been entered on the record, there has been no mention  
12 of the addresses on the record.

13 MR. KULBASHIAN: The documents were  
14 just introduced.

15 THE CHAIRPERSON: But --

16 MR. FROMM: With respect in HR-1,  
17 Ms Guille's address is there, it's on the first page.

18 THE CHAIRPERSON: Why --

19 MR. FROMM: Her address is there.  
20 It's a peculiar letter that doesn't have a return  
21 address, peculiar document or complaint that doesn't  
22 have the address of the complainant and there is no  
23 address for Mr. Warman there.

24 MS CEILIDH SNIDER: Well, I mean, I'm  
25 in an unfortunate position, I can't testify on behalf

1 of the Commission as to the Commission's form of  
2 documents.

3 MR. FROMM: Well, you're a Commission  
4 lawyer.

5 MS CEILIDH SNIDER: Yes, but I can't  
6 testify in this hearing.

7 THE CHAIRPERSON: But, Ms Snider,  
8 Mr. Warman has just testified that the complaint starts  
9 at page 2.

10 MS CEILIDH SNIDER: We can simply  
11 omit the complaint summary and the --

12 MR. KULBASHIAN: Page 2 also has it  
13 on.

14 MS CEILIDH SNIDER: That's true.

15 THE CHAIRPERSON: Because what  
16 usually we do file is the formal complaint.

17 MS CEILIDH SNIDER: And this is -- in  
18 this instance the formal complaint, as the Chair is  
19 probably aware, the Commission has moved to a process  
20 now where complainants file their own complaints  
21 written in their own handwriting and in their own  
22 format, as long as they file the essential format of  
23 the Commission complaint form it's not required that  
24 they file a complaint in any particular format, and  
25 this is the format that -- well, Mr. Warman can testify

1 to that, but...

2 THE CHAIRPERSON: No, but I'm  
3 referring to the first page which is a document -- a  
4 Commission document.

5 MS CEILIDH SNIDER: Yes, it's not  
6 intended to be -- this is a form that is not intended  
7 to be mailed out, it's simply an internal document that  
8 is for the purposes of being able to contact parties  
9 and so forth.

10 THE CHAIRPERSON: But do we need that  
11 document?

12 MS CEILIDH SNIDER: No, that's what  
13 I'm saying, we can remove it. That's what I said at  
14 the beginning, it can be removed or it can be  
15 redacted -- that address can be redacted out, as can  
16 the address if it's necessary be redacted out for the  
17 purposes of this hearing.

18 THE CHAIRPERSON: But maybe if what  
19 is before the Tribunal is the complaint as written by  
20 Mr. Warman.

21 MS CEILIDH SNIDER: Mm-hmm.

22 THE CHAIRPERSON: Then that complaint  
23 starts at page 2.

24 MS CEILIDH SNIDER: Yes.

25 THE CHAIRPERSON: And we could

1 remove --

2 MS CEILIDH SNIDER: But as Mr. Warman  
3 has pointed out, the address -- or Mr. Fromm has  
4 pointed out, the address is on both the formal  
5 Commission document and page 2 of tab A.

6 THE CHAIRPERSON: Yes, and I  
7 understand but we'll deal with one issue at a time.

8 MS CEILIDH SNIDER: Okay.

9 THE CHAIRPERSON: So, we could remove  
10 page 1.

11 MS CEILIDH SNIDER: Yeah, I have no  
12 problem with that, that was my first suggestion.

13 THE CHAIRPERSON: So, that the  
14 complaint that was filed by Mr. Warman is a three-page  
15 document bearing the date August 11, 2004.

16 So, do we all agree with that?

17 MR. WARMAN: Yes.

18 THE CHAIRPERSON: Now, that was the  
19 first -- I think first part of the objection.

20 Now, the second objection that is  
21 made by Mr. Fromm is in fact he's saying why is there a  
22 double standard, why is Mr. Warman's address redacted  
23 out while Ms Guille's address is on the complaint.

24 You're saying that this --

25 MS CEILIDH SNIDER: The complaint --

1 MR. WARMAN: It's not in fact  
2 redacted, it's just not on the document. I didn't put  
3 it on the document.

4 THE CHAIRPERSON: So, why is the name  
5 and address of --

6 MS CEILIDH SNIDER: I did not say  
7 that the complainant's address was redacted out, I said  
8 that the address --

9 THE CHAIRPERSON: For the first  
10 complaint it's the Canadian Heritage that's been  
11 redacted out.

12 MR. WARMAN: And I can only speak to  
13 my understanding of what the Commission did. The  
14 Commission, because it was serving two separate parties  
15 the same complaint.

16 THE CHAIRPERSON: Yes, that I  
17 understand.

18 MR. WARMAN: Okay.

19 THE CHAIRPERSON: But what Mr. Fromm  
20 is raising is why should Ms Guille's address be part of  
21 the file if Mr. Warman's address is not.

22 MR. WARMAN: If it's of any  
23 assistance, I see no problem with blacking it out. I  
24 mean, the CHA address seems a bit silly because it's on  
25 their website and publicly advertised by them, but I

1 don't think it makes any difference to the complaint  
2 whatsoever, so...

3 THE CHAIRPERSON: It's just that  
4 Mr. Fromm is raising --

5 MS CEILIDH SNIDER: As I said, my  
6 suggestion originally was to redact out the  
7 respondent's address, but I think it is notable that  
8 they are two separate addresses and that we needn't go  
9 into what those addresses are.

10 Mr. Warman has already testified to  
11 those.

12 MR. KULBASHIAN: If the addresses are  
13 blacked out then they're officially not on the -- in  
14 the evidence, so then that point can't be made.

15 I guess he can just testify to that,  
16 but I don't see how --

17 MS CEILIDH SNIDER: Well, that's what  
18 he's just done.

19 MR. KULBASHIAN: Well, as in  
20 testified to it from his own knowledge as to actually  
21 having the address on the record with the form.

22 MR. WARMAN: No, that would simply be  
23 for the purposes of removing it from, or you can issue  
24 some sort of confidentiality order that the addresses  
25 not be disclosed through this process.

1 I mean, the addresses were on the  
2 forms that were filed and they have just been entered  
3 as evidence, so...

4 THE CHAIRPERSON: Yes, but if --

5 MR. WARMAN: It can't just be -- the  
6 addresses can't be removed from, I mean, otherwise I  
7 will read them into the record, the exact addresses in  
8 order to ensure that they are on the record as the  
9 addresses at which the parties were served at, so...

10 MS CEILIDH SNIDER: The way that this  
11 is often dealt with is to put this information in a  
12 closed file that is only for -- can only be seen by the  
13 Tribunal Member himself and necessary registry officers  
14 and that it not form in any way part of the -- the  
15 address itself not form any part of the official  
16 record.

17 THE CHAIRPERSON: Mr. Fromm?

18 MR. FROMM: I think, given the way  
19 things have a habit of slipping through the cracks, I  
20 would ask that this document at least officially on the  
21 record, copy that will be kept that will be yours at  
22 the end of the day have the address of the Canadian  
23 Heritage Alliance and I guess, yeah, the Canadian  
24 Heritage Alliance and Ms Guille's blacked out.

25 MS CEILIDH SNIDER: Actually, no, I

1 take Mr. Warman's point. This is the document, this is  
2 the document as he provided it. I appreciate the  
3 respondents' concerns. I think there is a viable way  
4 of protecting the privacy concerns that have been  
5 expressed.

6 The Tribunal is obviously a very  
7 reputable organization and I trust that, as they have  
8 in the past, they will be able quite properly to  
9 protect the privacy of both Ms Guille and the Canadian  
10 Heritage Alliance in terms of their addresses.

11 And the fact is that they are  
12 respondents and this is part of the evidence, the fact  
13 of two different addresses.

14 And, so, in blacking out or removing,  
15 excising from the record the fact of a different  
16 addresses would be to improperly reflect the record and  
17 reflect the document, it's completely unnecessary.  
18 There are proper ways of dealing with this concern that  
19 would not require the destruction of documents, which  
20 is essentially what this would be.

21 MR. FROMM: Well --

22 THE CHAIRPERSON: Altering them.

23 MS CEILIDH SNIDER: Altering, yeah.

24 MR. FROMM: I don't want to get into  
25 characterizations. You said the Canadian Human Rights

1 Commission is obviously --

2 MS CEILIDH SNIDER: I said the  
3 Tribunal.

4 MR. FROMM: Is obviously a reputable  
5 organization.

6 MS CEILIDH SNIDER: I said the  
7 Tribunal, sir.

8 MR. FROMM: Okay, the Tribunal. I  
9 don't want to go there at this point.

10 Mr. Warman will know that in the  
11 Warman v. Lemire case there was a document sent out  
12 that had Mr. Warman's home address and caused him  
13 considerable consternation and there was considerable  
14 discussion about that and how that happened and the  
15 parties were advised to -- well, not spread it about,  
16 et cetera, et cetera.

17 Mistakes happen, and without  
18 suggesting anybody is disreputable, if it's not there  
19 it can't accidentally be leaked.

20 MR. KULBASHIAN: Mr. Chair, I'd like  
21 to make some submissions, since this is beginning to  
22 get a little bit heated, actually, if you would  
23 entertain it, I would like to file a motion in order to  
24 keep this private information out and this motion will  
25 be filing documents in essence evidence to show that

1 Mr. Warman has on many occasions passed private  
2 information of individuals onto valid members of  
3 violent gangs, and if this request is not granted for  
4 Mr. Fromm, we will be filing a motion in order to keep  
5 private information out of this hearing because we do  
6 have evidence that to some extent Mr. Warman has  
7 communicated private information from other civil  
8 hearings to both the media or individuals involved in  
9 violent organizations.

10 So, regardless of whether or not  
11 there is an order to keep it secret, we don't believe  
12 that Mr. Warman in his position, in his capacity as an  
13 activist to keep it secret.

14 MR. WARMAN: This is obviously  
15 irrelevant because what we're dealing with here is the  
16 Tribunal's record of it. I already have a record of  
17 it, I've had a record of it for several years ever  
18 since filing the complaint myself.

19 I mean, this just deals strictly with  
20 what the Tribunal does with those addresses. I mean,  
21 they're going to get entered as evidence, it's just a  
22 question of how the Tribunal then seeks to protect --

23 THE CHAIRPERSON: The complaint was  
24 sent the way it was sent with Mr. -- complainant  
25 Mr. Richard Warman, and for the first complaint the

1 reference to Canadian Heritage Alliance was redacted  
2 out for purposes of serving --

3 MS CEILIDH SNIDER: That's correct.

4 THE CHAIRPERSON: -- these  
5 complaints, but we have two complaints, one which is  
6 addressed to Ms Guille and the other one to Canadian  
7 Heritage Alliance.

8 Now, what we could do in order to  
9 protect the private information is to have the  
10 complaint with the name of Ms Guille and her address in  
11 a sealed envelope so that the only the parties to --  
12 well, for the official record this would be in a sealed  
13 envelope and only the parties and Tribunal and the  
14 Tribunal Officer could have assess to the complaint and  
15 if other parties, or not other parties, but other  
16 individuals want to access this sealed envelope, they  
17 would have to seek the Tribunal's authorization.

18 MR. KULBASHIAN: My major issue is  
19 that the reason why I was offering to file this as a  
20 motion is because I do have other documents that show  
21 that Mr. Warman under the guise of things being put on  
22 the public record at a hearing or at a civil hearing in  
23 fact has passed on the private financial information of  
24 the individual that he brought the case against to the  
25 media.

1 THE CHAIRPERSON: This is something  
2 you will --

3 MR. KULBASHIAN: Present in a motion,  
4 if we can't have these addresses blacked out on the  
5 evidence, we don't believe that Mr. Warman himself will  
6 actually keep these addresses secret.

7 The major concern I have is whether  
8 or not -- actually I was just wondering if I could just  
9 direct a question toward the Commission.

10 Were these the forms that Mr. Warman  
11 was given or are these the forms that came straight  
12 from the Commission?

13 MS CEILIDH SNIDER: No, Mr. Warman --

14 THE CHAIRPERSON: Mr. Warman could  
15 testify to that.

16 MS CEILIDH SNIDER: I'm sorry, yes.

17 MR. WARMAN: These are the exact  
18 documents, well, minus the blacking out. This is a  
19 copy of the single complaint that I filed against both  
20 respondents.

21 MR. KULBASHIAN: So, basically like  
22 typed up by you?

23 MR. WARMAN: Yes.

24 MR. KULBASHIAN: I just want to  
25 clarify because I'm not -- typed up by you.

1 MR. WARMAN: Yes.

2 MR. KULBASHIAN: Okay. See, the  
3 issue that lies here is, the Commission in the  
4 complaint process, their duty in effect was to keep the  
5 addresses of both parties away from each other. So, I  
6 understand that Mr. Warman might have actually filed  
7 this document himself, however, ultimately when the  
8 documents was turned into a complaint summary and  
9 served upon the parties Mr. Warman should not have had  
10 access to the addresses even if he entered them  
11 initially.

12 MR. WARMAN: I'm the one that  
13 provided them to the Commission.

14 MR. KULBASHIAN: I understand but,  
15 however, in the complaint process that I filed even  
16 though I filed the complainant's and address with the  
17 documents, when I received the documents back in  
18 relation to the complaint, all the addresses were still  
19 blacked out. That was supposed to be part of the  
20 proper procedure.

21 MS CEILIDH SNIDER: In certain  
22 instances, sir, where there is a concern expressed by  
23 either party about privacy matters, the Commission  
24 takes it under advisement.

25 For example, in instances where an

1 individual has filed a complaint alleging sexual  
2 harassment against another individual, the  
3 complainant's address is very often removed for  
4 obvious -- for what should be obvious reasons, and I  
5 would suggest that this may well fall into the same  
6 category.

7 And I believe that Mr. Warman  
8 probably can testify as to whether -- Mr. Warman, did  
9 you make a request that your address not be conveyed to  
10 the respondents?

11 MR. WARMAN: I've made that request  
12 repeatedly to the Commission in any of my cases.

13 MR. FROMM: With respect, I mean,  
14 this is preposterous. There is a huge difference  
15 between a woman, a vulnerable woman complaining of  
16 sexual harassment and an activist going after people  
17 whose views he disagrees with.

18 The woman in question presumably has  
19 suffered a personal injury or perhaps even a personal  
20 assault.

21 Mr. Warman's a player, he doesn't  
22 deserve that sort of protection.

23 MS CEILIDH SNIDER: I think --

24 THE CHAIRPERSON: I think what --

25 MR. KULBASHIAN: My issue is just on

1 the face we have an officer sitting in the hearing, we  
2 have an officer that's probably sitting outside, we  
3 have security guards here.

4 I don't think the Commission was  
5 under any illusion that this would have been, in their  
6 hearts, like deep down inside they would have felt any  
7 comfort as to the possibility that there would be,  
8 like, no targeting from one party to the other.

9 So, what I'm asking is why this  
10 address is actually being included in the first place?  
11 The fact of the matter is these forms whether or not  
12 they get put in a red envelope with the Tribunal, they  
13 will not be put in the red envelope with the  
14 complainant and this is the reason why I'm asking to  
15 file a motion in order to show that information has  
16 been previously passed on from hearings.

17 THE CHAIRPERSON: Well, but this is  
18 something you can do in your cross-examination of  
19 Mr. Warman.

20 MR. KULBASHIAN: Well, the whole  
21 issue is this will be motion to actually have private  
22 information excluded from this hearing.

23 THE CHAIRPERSON: But the way I can  
24 protect, and I think the issue here is how can we  
25 protect private information pertaining to Ms Guille.

1                   Now, what I have before me is a  
2                   three-page complaint form, and this is the document  
3                   that was sent to the Commission and that the Commission  
4                   referred to the Tribunal.

5                   MS CEILIDH SNIDER: Yes, that's  
6                   correct.

7                   THE CHAIRPERSON: So, given that at  
8                   this stage of the proceedings, if you have a concern  
9                   about the privacy of some information with respect to  
10                  Ms Guille, the Tribunal can order that the complaint as  
11                  it was referred to the Tribunal be put in a sealed  
12                  envelope so that only the Tribunal and the Tribunal  
13                  Officer could access that complaint, it would not be  
14                  part of the public domain, if you want, and if someone  
15                  was to come to the Tribunal and say I want to see a  
16                  copy of the complaint, as I said earlier on, only the  
17                  parties would have access to the complaint which would  
18                  have been put in a sealed envelope but the general  
19                  public would not have access to that information unless  
20                  the Tribunal ordered otherwise.

21                  And I think that this is a measure  
22                  that would, in fact, protect the privacy of personal  
23                  information pertaining to Ms Guille.

24                  MR. KULBASHIAN: In that case there  
25                  is another issue that I can bring up. Mr. Warman

1 testified that this document he had typed up and the  
2 Commission had modified by blacking certain sections  
3 out and --

4 THE CHAIRPERSON: And we know why.

5 MR. KULBASHIAN: Well, that part I  
6 understand, this is not about the issue of blacking out  
7 because different parties, it's not the main issue.

8 THE CHAIRPERSON: All right.

9 MR. KULBASHIAN: So, effectively this  
10 isn't the complaint that he filed that he's testifying  
11 to, this is actually a modified version of the  
12 complaint that he filed and I don't know what position  
13 he is in to actually identify these documents or  
14 whether the Commission should be the one -- the  
15 Commission was the only one that saw these document,  
16 so...

17 THE CHAIRPERSON: But this is the  
18 complaint, this is the form in which the complaint was  
19 referred to the Tribunal.

20 MR. KULBASHIAN: However, it was  
21 modified after it was referred, so it was --

22 THE CHAIRPERSON: No, no, no.

23 MR. KULBASHIAN: So, it's not the one  
24 that --

25 THE CHAIRPERSON: I don't think the

1 complaint was modified after it was referred.

2 MS CEILIDH SNIDER: No, it was not.

3 MR. KULBASHIAN: But it was modified  
4 after it was filed, which means Mr. Warman can't claim  
5 that this was the form he actually filed, because it  
6 was modified after he filed it.

7 MS CEILIDH SNIDER: I think he  
8 explained that in his testimony.

9 Mr. Deschamps, I understand that you  
10 have made your ruling. May we move on?

11 MR. KULBASHIAN: It's just if there  
12 could be some kind of blanket restriction on private  
13 information being --

14 THE CHAIRPERSON: I know, but I think  
15 blanket -- if you have a concern about protecting the  
16 privacy of any form of private -- with respect to any  
17 form of private information, feel free to do so, but it  
18 is important for everyone to understand that what was  
19 referred to the Tribunal is the three-page complaint  
20 that is Exhibit HR-1, and when the Tribunal received  
21 that complaint, the name and address of one of the  
22 respondent in HR-1 had already been redacted out and I  
23 think it's important for everyone to understand that  
24 and why it was -- why was this done, it was for  
25 technical purpose which is that the complaint had to be

1 served on two different respondents and the Commission  
2 said, well, we'll have complaint No. 1 and which  
3 specifically deals with Ms Guille, and we'll have  
4 complaint No. 2 which deals with the Canadian Heritage  
5 Alliance.

6 So, what is now before the Tribunal  
7 is the complaint as we see it in HR-1.

8 But Mr. Fromm said that he wanted, or  
9 you want to protect Ms Guille's private information  
10 with respect to her address, and what I am saying is  
11 that the way the Tribunal will deal with that specific  
12 issue is that I will order, or I order that the  
13 complaint form as presented to the Tribunal be put in a  
14 sealed envelope and that only the parties, the Tribunal  
15 and the Tribunal Officers will be able to access that  
16 complaint which contains private information pertaining  
17 to Ms Guille's address and that if any other person  
18 wants to access that exhibit, they will have to seek  
19 the authorization of the Tribunal.

20 Is this clearly understood?

21 MS CEILIDH SNIDER: Yes, sir.

22 THE CHAIRPERSON: And does it -- I  
23 think this protects Ms Guille's concern or your concern  
24 Mr. Fromm and Mr. Kulbashian about protecting  
25 Ms Guille's personal or private information.

1 MR. KULBASHIAN: Are the parties  
2 ordered not to disclose information outside the hearing  
3 as well, basically meaning if I see this here, am I  
4 ordered not to take this information and disclose it to  
5 a third party basically?

6 THE CHAIRPERSON: Well, if you are  
7 seeking such an order, you can make that request.

8 MR. KULBASHIAN: Yeah, can we make a  
9 request for an order that none of the parties disclose  
10 the information, well the private information from  
11 these two documents to any other third party.

12 THE CHAIRPERSON: Do you have any  
13 objection?

14 MS CEILIDH SNIDER: None.

15 MR. WARMAN: Sir, I'm just concerned  
16 that you don't actually have the ability to make such  
17 an order, that there is no legal basis for you to be  
18 able to order parties not to disclose information that  
19 they already possessed prior to the Tribunal  
20 proceeding, or that they may have obtained in other  
21 ways subsequent to the proceedings.

22 So, you can say any knowledge that  
23 was gained from the past five minutes is not to be  
24 disclosed, but if that knowledge already existed, you  
25 obviously can't order someone not to do something with

1 information that they already had or that they may  
2 subsequently obtain.

3 MR. KULBASHIAN: Well, if you want to  
4 issue an order to not --

5 THE CHAIRPERSON: Well, what I can do  
6 is --

7 MR. KULBASHIAN: -- not disclose this  
8 document in its original form without the addresses  
9 blocked out to a third party.

10 MR. WARMAN: Well, you can't do that  
11 either. I mean, if I want to submit this to a police  
12 investigation, if I want to submit this to any other  
13 party, it's my complaint for, I'm the one who  
14 originated it.

15 The Tribunal had no involvement in  
16 its origination, the Tribunal has no ability to control  
17 what I do with a document that I created.

18 I'm just concerned that you have no  
19 power to issue any such order.

20 MS CEILIDH SNIDER: And I'm just  
21 thinking of another context. If, for example, at some  
22 point in the future there 's a ruling and a party  
23 disagrees -- or, sorry, a decision and a party  
24 disagrees with the decision, this document would likely  
25 form part of the record going before the Federal Court

1 on a judicial review application.

2 THE CHAIRPERSON: It does form part  
3 of the record.

4 MS CEILIDH SNIDER: Exactly.

5 THE CHAIRPERSON: This document does  
6 form part of the record.

7 MS CEILIDH SNIDER: Absolutely.

8 THE CHAIRPERSON: It's only that  
9 if --

10 MS CEILIDH SNIDER: I'm just that --

11 THE CHAIRPERSON: -- a Federal Court  
12 judge eventually has to -- is seized of this case --

13 MS CEILIDH SNIDER: Right.

14 THE CHAIRPERSON: -- he has the  
15 authority to open up the envelope and --

16 MS CEILIDH SNIDER: I recognize that.  
17 I'm just not entirely sure if the respondents do.

18 MR. KULBASHIAN: I guess I'll drop it  
19 for now, I'll see what happens down the line. I'll  
20 have to look up the Canada Evidence Act and see how --

21 Mr. FROMM: Mr. Chairman, you have  
22 issued an order. Is there any penalty attached to an  
23 individual who would violate your order?

24 THE CHAIRPERSON: Well, the person  
25 would be in contempt and --

1                   MR. FROMM: So, in other words, if an  
2 employee of the Tribunal or the Commission were not to  
3 follow your order, they would -- there would be  
4 penalties attached to ignoring your order?

5                   THE CHAIRPERSON: Well, if somebody  
6 from the Tribunal ignored the Tribunal order, I think  
7 that person would face administrative consequences  
8 which would maybe jeopardize her job, but I don't think  
9 that this will in any event happen.

10                  MR. FROMM: Okay. I just want to  
11 know if your orders had consequences. Thank you.

12                  THE CHAIRPERSON: So, we're done with  
13 HR-1.

14                  MS CEILIDH SNIDER: Yes, I believe  
15 so. Thank you.

16                  And it would be my suggestion that we  
17 might -- I think that we could deal with the second  
18 complaint --

19                  THE CHAIRPERSON: In the same way?

20                  MS CEILIDH SNIDER: -- in the same  
21 way.

22                  THE CHAIRPERSON: So, we would remove  
23 page one of tab B.

24                  MS CEILIDH SNIDER: Yes, thank you,  
25 and also place this complaint in a sealed envelope as

1 provided by --

2 THE CHAIRPERSON: To be accessed only  
3 by the Tribunal, the Tribunal officers and the parties  
4 and for any other --

5 MS CEILIDH SNIDER: And the Registry  
6 Officer where necessary, yes.

7 THE CHAIRPERSON: Yes. And for any  
8 other person who would want to have access to the  
9 complaint, it would need to seek the Tribunal's  
10 authorization.

11 MS CEILIDH SNIDER: Yes, that would  
12 be acceptable.

13 REGISTRY OFFICER: The three-page  
14 complaint form by Richard Warman dated August 11th,  
15 2004, respondent Canadian Heritage Alliance will be  
16 filed as Commission Exhibit HR-1, Tab B.

17 EXHIBIT NO. HR-1, Tab B:  
18 Three-page complaint form by  
19 Richard Warman dated August  
20 11th, 2004, respondent Canadian  
21 Heritage Alliance

22 THE CHAIRPERSON: I see that it is 11  
23 o'clock. Do you want to take the morning break now,  
24 15-minute break.

25 MS CEILIDH SNIDER: Certainly if

1           that's fine with you.

2                         THE CHAIRPERSON:   So, we will  
3           re-convene at 11:15.

4                         MS CEILIDH SNIDER:   Thank you.

5                         REGISTRY OFFICER:   Order, please.

6           --- Upon recessing at 11:00 a.m.

7           --- Upon resuming at 11:25 a.m.

8                         REGISTRY OFFICER:   Order, please.

9                         Please be seated.

10                        THE CHAIRPERSON:   Given the fact that  
11           we have removed the cover page of the two complaints,  
12           maybe if the parties could give them to Ms Barber so  
13           that they could be shredded.

14                        And Ms Snider will undertake that  
15           they will not be sent to a farmer's...

16                        MS CEILIDH SNIDER:   Some unnamed  
17           farmer's...

18                        On a housekeeping note, or I guess  
19           more directly in relation to many of these documents  
20           that we will be coming to, the same issue will arise,  
21           there will be addresses contained in documents as we go  
22           forward and it would be appropriate, in my submission,  
23           to deal with all documents that contain addresses by  
24           the same method, just to get that out of the way.

25                        MR. KULBASHIAN:   There is actually

1 another issue since there is an open matter still.

2 THE CHAIRPERSON: Do you agree with  
3 Ms Snider's way --

4 MR. KULBASHIAN: I agree with you,  
5 your suggestion that we deal with it on a document by  
6 document basis.

7 THE CHAIRPERSON: But whenever that  
8 same issue arises, we couldn't --

9 MR. KULBASHIAN: We don't have to  
10 argue about it any more, okay, this document has  
11 private information, therefore, it will be put in with  
12 the sealed documents.

13 The other issue I want to bring up  
14 actually since there is an open issue still before the  
15 Tribunal, which was the issue of the membership list.

16 One thing, I talked to the respondent  
17 Ms Guille and one thing that she told me that might  
18 remind the Commission that she had actually stated that  
19 she didn't have membership lists was when -- during the  
20 conference call apparently, which I wasn't actually  
21 available at, she -- when she stated that she did not  
22 have a membership list the Commission and complainant  
23 asked for her hard drive, a request which Ms Jensen  
24 denied when she was chairing the conference call.

25 That might refresh their memory about

1 her denying that she actually had a membership list or  
2 there is one available, because it's an open issue.

3 So, I want to make a submission on  
4 it.

5 THE CHAIRPERSON: Okay. Well, we'll  
6 see if this issue arises in the course of the  
7 examination-in-chief of Mr. Warman.

8 MR. KULBASHIAN: All right, thank you  
9 very much.

10 THE CHAIRPERSON: Ms Snider.

11 MS CEILIDH SNIDER: Yes, thank you.

12 I'd like to, now that we're back, to  
13 direct the attention of Mr. Warman to tab D in the book  
14 of documents. So we're skipping ahead a bit. Okay.

15 MR. FROMM: D?

16 MS CEILIDH SNIDER: Yes, tab D.

17 There's quite a number of numbered tabs in between,  
18 so, it's the first tab after tab 37.

19 Are you with me, Mr. Fromm?

20 MR. FROMM: Yes, I am.

21 MS CEILIDH SNIDER: Thank you.

22 Mr. Warman, are you familiar with  
23 this document?

24 MR. WARMAN: Yes, I am. It's a  
25 document that was printed off by me on the 25th of May,

1           2002 from the website e-guille.com and provided to the  
2           Commission pursuant to my complaint.

3                           REGISTRY OFFICER:   Would you like  
4           that filed?

5                           MS CEILIDH SNIDER:   Yes, please.

6                           THE CHAIRPERSON:   Any objection on  
7           the part of the respondents?

8                           MS CEILIDH SNIDER:   I would just note  
9           that there is a phone number on that document at the  
10          top, and so perhaps this could also be dealt with in  
11          the same way as we had agreed to deal with other  
12          documents containing addresses.

13                          MR. FROMM:   I object to the inclusion  
14          of this unless there is some arguable relevance to  
15          these proceedings to be shown by what appears to be  
16          Ms Guille's personal resume.

17                          This really is intrusive and at a  
18          quick glance has nothing to do with anything or could  
19          go to any advocacy or anything to do with this  
20          complaint.

21                          It's like presenting Ms Guille's  
22          grade 6 report card.  It's a complete violation of her  
23          privacy and has nothing at all to do with this case.

24                          MS CEILIDH SNIDER:   I'll respond to  
25          that.  The purpose for tendering this document to be an

1 exhibit is that it directly pertains to a matter at  
2 hand, and that is section 13 -- sorry, section 13 sub 2  
3 of the Act discusses communications of hate messaging  
4 via the Internet.

5 And, as you will hear, Ms Guille has  
6 substantial connection to the  
7 canadianheritagealliance.com. This CV contains  
8 information pertaining to skills associated with  
9 computing and for that reason I submit it's directly  
10 relevant to the matter at hand.

11 MR. FROMM: In response though to the  
12 request for the membership of the Canadian Heritage  
13 Alliance the other day, Ms Guille indicated she was the  
14 one responsible for the Canadian Heritage Alliance, I  
15 don't think that's in dispute.

16 I don't think she's suggesting that  
17 she has no knowledge, no computer skills, is a  
18 technical peasant, I don't think that's in dispute.

19 This is really a violation.

20 THE CHAIRPERSON: But this document  
21 is being tendered to prove that Ms Guille has --

22 MS CEILIDH SNIDER: Has certain --

23 THE CHAIRPERSON: -- has computer  
24 skills.

25 MS CEILIDH SNIDER: Has certain

1 technical skills related to computing and the design of  
2 websites and the maintenance of websites.

3 MR. KULBASHIAN: That's not actually  
4 being argued, we are not arguing that she didn't even  
5 make websites for that matter.

6 The whole -- when we disclosed the  
7 list of Canadian Heritage Alliance, I guess members, if  
8 you want to call it that, it did state that she was in  
9 fact the web master, domain owner.

10 MS CEILIDH SNIDER: Well --

11 MR. KULBASHIAN: I don't understand  
12 how that would --

13 THE CHAIRPERSON: Well, I haven't  
14 heard -- Ms Guille hasn't been called as a witness yet,  
15 so, but if this is to be tendered to --

16 MR. KULBASHIAN: Basically, we're not  
17 arguing that she has no computer skills or that she  
18 wasn't involved, so it's kind of -- it's kind of like a  
19 matter of, basically it's not an issue that's up for  
20 argument per se.

21 MS CEILIDH SNIDER: Sorry, it's a  
22 central feature that has to be proven by the  
23 complainant and the Commission that she communicated or  
24 caused to be communicated hate messages. This document  
25 is for the purposes of demonstrating that Ms Guille has

1 the ability to cause to be communicated hate messages  
2 and she has the skills and abilities to set up  
3 websites, to run websites, to design websites --

4 MR. KULBASHIAN: And our position --

5 MS CEILIDH SNIDER: -- and has some  
6 considerable degree of sophistication around that  
7 issue. For these reasons this document is directly  
8 relevant to the matter at hand.

9 MR. FROMM: Activists are frequently  
10 subjected to intimidation at their place of employment,  
11 calls are made to their employers, in fact the group  
12 that Mr. Warman addressed two summers ago went to the  
13 place of employment of several activists in Toronto and  
14 had protests and caused a lot of trouble.

15 Here we have a list of -- this is an  
16 employment resume, we have a list of some of  
17 Ms Guille's recent employers. This document has no  
18 relevance to this case whatsoever and is an outrageous  
19 intrusion into her privacy and, as far as I'm  
20 concerned, if Mr. Warman tendered such a document it  
21 would be up there with being a peeping Tom.

22 THE CHAIRPERSON: No, but this is  
23 something that was obtained by Mr. Warman, he stated  
24 that he downloaded that document from a website, so if  
25 it is on the web, I don't see how you can claim that

1           this is private information.

2                           MR. KULBASHIAN: Well, aside from the  
3 private information situation, the respondent's  
4 position even in personal particulars is that she did  
5 create the website.

6                           Like, basically if there was an issue  
7 that she was arguing that she didn't, this would be  
8 admissible but she's agreeing that she did create the  
9 website. If they are just trying to show that she did,  
10 then she's stating that she already did.

11                          THE CHAIRPERSON: No, but that  
12 doesn't in any way affect the fact that this is a  
13 document that was found by Mr. Warman on the web and  
14 that, you know, you are not disputing the fact that  
15 Ms Guille has computer skills.

16                          Now, if you are admitting that and if  
17 this document shows that she has computer skills and if  
18 Ms Snider wants to in fact tender it in evidence, I  
19 think --

20                          MR. KULBASHIAN: We would just like  
21 to briefly object to something. I would like to object  
22 to the witness getting up and talking to the Commission  
23 without permission of the Tribunal especially  
24 considering he's still under oath and he's still  
25 testifying.

1 MS CEILIDH SNIDER: Unfortunately  
2 Mr. Warman is in a somewhat peculiar situation in that  
3 he is both a witness and his own counsel, and in the  
4 capacity of counsel --

5 THE CHAIRPERSON: But then it's going  
6 to be hard to --

7 MR. KULBASHIAN: Well --

8 MS CEILIDH SNIDER: I'll take  
9 Mr. Deschamps direction on this or ruling on this.

10 MR. FROMM: I presume that he wasn't  
11 consulting himself, he was consulting you.

12 MR. KULBASHIAN: And the least -- I  
13 just ask that the least he would do is actually let the  
14 Tribunal know what his intent is and why he is going to  
15 talk to Ms Snider, because he's still under oath, he's  
16 still a witness right now and like walking up and  
17 down...

18 THE CHAIRPERSON: Mr. Warman, if you  
19 are testifying as a witness I think in order to --

20 MR. WARMAN: But I retain my role as  
21 a full party and in order to expedite this hearing and  
22 to ensure that we can try and enter evidence as  
23 efficiently as possible, I'm entitled as a party to  
24 consult with another party.

25 THE CHAIRPERSON: Yes, but at this

1 point in time you're acting as the Commission witness.

2 MR. WARMAN: And a party.

3 THE CHAIRPERSON: Yes, I can  
4 understand a party, but if every time a question is put  
5 to you you go, you leave the witness stand...

6 MR. WARMAN: That's clearly not what  
7 I'm going to do, and I understand that.

8 THE CHAIRPERSON: But I think that if  
9 you are here, you're testifying as a witness for the  
10 Commission, I think that is your status at this point  
11 in time, and I can understand the respondents if they  
12 see you, and I don't know how frequent that could be  
13 where you leave the stand and you go and speak to the  
14 Commission's lawyer, that this might baffle them and  
15 they might start wondering what is going on.

16 So, I think in order to have no  
17 misunderstanding as to what is going on, I think that  
18 if you are testifying as a witness you are testifying  
19 as a witness.

20 If at the break or if at lunch time,  
21 you know, you need to exchange things with Ms Snider as  
22 a lawyer or as a complainant, that's one thing, but I  
23 think it's going to be in the best interest of these  
24 proceedings if, when you are testifying you are  
25 testifying and you are not leaving the witness stand to

1           consult in another capacity, because this then -- it's  
2           not clear to the Tribunal and I'm not privy to what you  
3           could speak or discuss with Ms Snider, and I think it's  
4           just a question of appearances.

5                         MR. WARMAN:  If the need arises  
6           perhaps I will simply ask...

7                         THE CHAIRPERSON:  Maybe that would be  
8           the best way to go about it.

9                         But given what I have heard, I'll  
10          admit this document in evidence.

11                        MS CEILIDH SNIDER:  Thank you.

12                        THE CHAIRPERSON:  You raised the  
13          question about a phone number appearing --

14                        MS CEILIDH SNIDER:  Yes.

15                        THE CHAIRPERSON:  So, should we apply  
16          the same principle --

17                        MS CEILIDH SNIDER:  I would suggest  
18          that.

19                        THE CHAIRPERSON:  That this be kept  
20          in a closed envelope.

21                        MS CEILIDH SNIDER:  Yes, that would  
22          be my suggestion.  Thank you.

23                        THE CHAIRPERSON:  Mr. Fromm and  
24          Mr. --

25                        MR. FROMM:  Well, I would request

1           that the entire document be kept under that ban, at  
2           least the first two items, her previous employers. The  
3           part there about her Internet experience, I have no  
4           problem with that, we don't contest that, but her trail  
5           of employment as part of a public record document, to  
6           us, seems intrusive and has nothing to do with the  
7           case.

8                            If there's anything that arguably has  
9           to do with the case, it's her computer experience,  
10          which we don't deny.

11                           THE CHAIRPERSON: For these  
12          proceedings let's do it that way, so we won't in a  
13          way --

14                           MS CEILIDH SNIDER: I'm not  
15          suggesting that we piecemeal out aspects of what would  
16          be the exhibit, my request would be that the entire  
17          exhibit which will be HR...

18                           REGISTRY OFFICER: HR-1, tab D.

19                           MR. FROMM: I want to go on the --

20                           MS CEILIDH SNIDER: Thank you.

21                           MR. FROMM: I want to go on the  
22          record and formally object to this being included.

23                           MR. KULBASHIAN: The major issue  
24          is -- the issues before the court are issues being  
25          contested by both sides, so if the issue is not being

1           contested then this just amounts to repetition and a  
2           waste of time.

3                        So, if it's not actual issue in the  
4           statement of particulars because, as Ms Guille stated,  
5           she does maintain and run a website.

6                        THE CHAIRPERSON: Yes, but I don't  
7           know what question will be put to Mr. Warman, but I  
8           ruled that this document is admissible, given that it  
9           was taken from a website and it has to do with  
10          Ms Guille that it's relevant, so we will mark it as  
11          HR-1, D.

12                       Can you describe it, please.

13                       REGISTRY OFFICER: Okay. The resume  
14          of Melissa Guille downloaded from the website  
15          www.e-guille.com/melissa/resume/experience.html with  
16          the date of 25/05/02 will be filed as Commission  
17          Exhibit HR-1, Tab D.

18                       EXHIBIT NO. HR-1, Tab D: The  
19          resume of Melissa Guille  
20          downloaded from the website  
21          www.e-guille.com/melissa/resume/  
22          experience.html with the date of  
23          25/05/02

24                       MS CEILIDH SNIDER: Thank you.

25                       Mr. Warman, on this document, are

1           there any particular aspects you would like to draw to  
2           the Tribunal's attention?

3                           MR. WARMAN: I think the issues that  
4           I would wish to raise is under the first heading there  
5           is a dot that says desk top publishing, advertisement,  
6           invitations, et cetera.

7                           Under the second it repeats desk top  
8           publishing.

9                           Under the third it talks about the  
10          ability to engage in web page design and computer  
11          training, and that several web pages have been  
12          developed for various companies. Training clients on  
13          the Internet, computer and software applications, and  
14          again desk top publishing.

15                          The next listing talks about  
16          technical support representative and computer training,  
17          including configuring Internet and e-mail applications,  
18          variety of things, and training clients on Internet and  
19          software applications.

20                          The third page of this exhibit lists  
21          a wide variety of computer programs that Ms Guille  
22          indicates she is proficient with.

23                          The next page talks about again  
24          website design. The next page lists a variety of  
25          websites that she indicates she has been involved in

1 the design of and at the bottom lists a wide variety, a  
2 variety of flyers and pamphlets that she indicates she  
3 was involved in and that there are more to be uploaded  
4 soon.

5 MS CEILIDH SNIDER: Thank you.  
6 Mr. Warman, if you would turn now to tab E in the  
7 Commission book of documents.

8 MR. KULBASHIAN: I would like to  
9 object primarily only because of the fact, because I  
10 can't read anything on it.

11 MR. FROMM: No.

12 MR. KULBASHIAN: It is not only other  
13 ground other than the fact that nothing is really  
14 legible on this document, I don't understand.

15 MS CEILIDH SNIDER: I apologize for  
16 the poor quality of the copy. Mr. Warman, would you  
17 happen to have --

18 THE CHAIRPERSON: A better copy.

19 MS CEILIDH SNIDER: -- a better  
20 quality copy.

21 MR. WARMAN: I do. It would be in my  
22 file that is at my desk.

23 MS CEILIDH SNIDER: Could I undertake  
24 to have a better copy of it filed at the break. I  
25 think it likely is legible enough in the Tribunal's

1 view to be able to make out.

2 THE CHAIRPERSON: It depends on --

3 MS CEILIDH SNIDER: There are certain  
4 aspects that I will be drawing Mr. Warman's attention  
5 to and those pieces I believe likely will be legible,  
6 but if there is a problem --

7 MR. KULBASHIAN: That doesn't give us  
8 the full document to look at in order to make  
9 objections or possibly review while he's reading it.

10 I think it would be prudent to  
11 actually disclose legible copies of documents rather  
12 than just -- it is pretty fuzzy, to be fair.

13 MS CEILIDH SNIDER: No, I agree with  
14 you, it is quite fuzzy.

15 MR. KULBASHIAN: I'm not objecting to  
16 the actual document itself at the moment, I'm just  
17 saying --

18 THE CHAIRPERSON: No, I understand  
19 why you are making this comment because I for one might  
20 not be able to decipher what is on that page.

21 MS CEILIDH SNIDER: How would you  
22 like us to deal with this. We can try and make better  
23 copies right now. I didn't realize it was quite as  
24 fuzzy as it is.

25 MR. WARMAN: If I may assist, as a

1 party it may be easiest to skip over this document and  
2 we'll come back to it after lunch.

3 MR. KULBASHIAN: That would probably  
4 be better.

5 MS CEILIDH SNIDER: Okay, thank you.  
6 If you could turn to tab F.

7 MR. WARMAN: This is a document that  
8 I printed off from the website called  
9 networksolutions.com on the 11th of August, 2004. It  
10 is a Whois search that provides the registration  
11 information for the website  
12 canadianheritagealliance.com and I provided it to the  
13 Commission pursuant to my complaint.

14 MS CEILIDH SNIDER: I'd like to have  
15 this document marked as an exhibit, please.

16 THE CHAIRPERSON: Any objection on  
17 the part of Mr. Fromm Mr. Kulbashian?

18 MR. KULBASHIAN: There may be an  
19 objection to any testimony in relation to this  
20 document, however, this document actually, again we  
21 come down to the issue of where actual technical  
22 information is illegible in this document on the second  
23 page and it seems to be information that is specific to  
24 this request and some are illegible.

25 MS CEILIDH SNIDER: Where?

1 MR. KULBASHIAN: Right down where it  
2 says IP address, DEMOZ Y directory.

3 MR. WARMAN: The IP address listed  
4 appears to be 216.67.236.134, the DEMOZ lists one  
5 listing in the Y directory, it says see listings.

6 MR. KULBASHIAN: Sorry, 21667...

7 MR. WARMAN: 216.67.

8 MR. KULBASHIAN: Yeah.

9 MR. WARMAN: .236.134.

10 MR. KULBASHIAN: Thank you.

11 MR. FROMM: There is the issue though  
12 of the respondent's address in here.

13 MS CEILIDH SNIDER: Yes, and I would  
14 suggest that we deal with this as we discussed earlier,  
15 that the Tribunal would put it in an envelope.

16 THE CHAIRPERSON: Okay. So, we will  
17 do that according to my first ruling on that.

18 MS CEILIDH SNIDER: Yes, thank you.

19 THE CHAIRPERSON: So, we can enter  
20 this as an exhibit.

21 REGISTRY OFFICER: The document  
22 entitled Whois search results for Canadian Heritage  
23 Alliance consisting of three pages with the date of  
24 11/08/04 will be filed as Commission Exhibit HR-1,  
25 tab F.

1 MR. FROMM: Tab...?

2 REGISTRY OFFICER: F.

3 EXHIBIT NO. HR-1, Tab F:

4 Document entitled Whois search

5 results for Canadian Heritage

6 Alliance consisting of three

7 pages with the date of 11/08/04

8 MS CEILIDH SNIDER: Mr. Warman, could  
9 you please explain for the Tribunal what this document  
10 is.

11 MR. WARMAN: Yes. What this is is  
12 that you can go to the website networksolutions or any  
13 other --

14 MR. KULBASHIAN: I object here. The  
15 one thing that I believe is that this document is of a  
16 technical nature and Mr. Warman has not been entered as  
17 an expert in any technical matter, being computers or  
18 Internet or anything.

19 THE CHAIRPERSON: No, but I think  
20 Mr. Warman is entitled to make his own view as to what  
21 he gathers from that document.

22 If you want to challenge him later on  
23 you can, but he said that he downloaded this on August  
24 11, 2004 and he wants to say what he thinks this  
25 document is.

1                   Now, you can challenge him on this,  
2                   but I think he has the right to express his views as  
3                   to -- because he downloaded the document, so there must  
4                   have been a reason.

5                   MR. KULBASHIAN: I understand. Just  
6                   my objection basically is on the fact that if he tries  
7                   to characterize document it may be in some way stepping  
8                   into the waters of expert testimony. If he could just  
9                   state what he did to obtain this document as opposed to  
10                  try to characterize the actual content of the document,  
11                  because it comes down to whether or not he can give his  
12                  opinion on an issue that might need expert evidence.

13                  THE CHAIRPERSON: But I'm not sure  
14                  that there is a need for expert evidence, as long as he  
15                  says I downloaded this document and this is what I  
16                  think it is by looking at the document.

17                  MR. KULBASHIAN: He can testify to  
18                  what it is and I guess how he got the document.

19                  The major issue that we have problems  
20                  is whether or not he tries to testify, this is like an  
21                  earlier objection I guess in the sense that he tries to  
22                  testify in any way to what the significance of this  
23                  document is and what it means from a technical  
24                  standpoint because this would be giving technical  
25                  testimony in a field that he's not qualified as an

1 expert in.

2 THE CHAIRPERSON: Do you mean that  
3 the Tribunal is not able by just looking at a web page  
4 where you have got the information on registrant  
5 contact, administrative contact, technical contract,  
6 billing contact is not able to understand what this  
7 document means without having the assistance of an  
8 expert witness?

9 MR. KULBASHIAN: What I'm stating is  
10 that the Commission -- the Tribunal can look at the  
11 documents and see just that information, however  
12 when -- there is basically what I'm trying to state is  
13 that anything outside of what the document states would  
14 be commentary or opinion in the sense that, okay, this  
15 document states -- there are specific passages on there  
16 that state database and public information, however, if  
17 he tries to testify to say, oh, what, who is this or  
18 how it works because there is no terms included here to  
19 define what an actual Whois search result is, so if he  
20 tries to testify to say what it does or how it works,  
21 then that would be expert testimony in my submission.

22 THE CHAIRPERSON: Well, maybe you  
23 have a very broad understanding of expert testimony,  
24 especially when we're looking something that has come  
25 out from the web --

1                   MR. KULBASHIAN:  Actually I withdraw  
2 my objection.  Thank you very much.

3                   THE CHAIRPERSON:  Okay.

4                   MS CEILIDH SNIDER:  Thank you.

5                   So I will go back to my original  
6 question, which is, what is this document?

7                   MR. WARMAN:  Essentially I was  
8 interested in determining who it was that was  
9 responsible for the creation or the registration of the  
10 canadianheritagealliance.com website, so as I have done  
11 many times in the past, I went to the website  
12 networksolutions.com, they have a box that you can  
13 click on which permits you to conduct a Whois search on  
14 domain names.

15                   I entered the domain name  
16 canadianheritagealliance.com.  This was the result that  
17 came up for it.

18                   As you can see at the top it states  
19 domain name canadianheritagealliance.com, it then gives  
20 the registrant contact as Canadian Heritage Alliance,  
21 Ms Guille's name including an e-mail address and a  
22 telephone number as well as what I understand to be a  
23 P.O. Box in Waterloo, Ontario, and that same  
24 information is repeated under administrative contact,  
25 technical contact and billing contact.

1                   On the next page it states towards  
2                   sort of two thirds, three quarters towards the bottom  
3                   it states:

4                   "When you register a domain name  
5                   current policies require that  
6                   the contact information for your  
7                   domain name registration be  
8                   included in a public database  
9                   known as Whois."

10                   MS CEILIDH SNIDER: Thank you. If I  
11                   may ask you now to turn to tab G.

12                   MR. WARMAN: Yes.

13                   MS CEILIDH SNIDER: And do you  
14                   recognize this document?

15                   MR. WARMAN: I do. This is a  
16                   document that I printed off on the 14th of November,  
17                   2006 and it is simply an updated search on the same  
18                   website.

19                   MS CEILIDH SNIDER: And I'd like to  
20                   have this document marked as an exhibit, please, with  
21                   the same restrictions in terms of putting it in a  
22                   sealed envelope.

23                   THE CHAIRPERSON: You said it's an  
24                   update of a search that you did on the same website  
25                   which is...

1 MR. WARMAN: Excuse me, well, the  
2 same two websites. The search itself was conducted on  
3 the website networksolutions.com, and you can see that  
4 at the bottom left of each page.

5 THE CHAIRPERSON: Just a second.  
6 Yes?

7 MR. WARMAN: And the search that I  
8 conducted was for the URL address  
9 www.canadianheritagealliance.com.

10 THE CHAIRPERSON: And you are  
11 tendering it because...?

12 MR. WARMAN: To show that the  
13 information, the identity of the individual responsible  
14 remains the same.

15 MS CEILIDH SNIDER: And that is a  
16 document, as Mr. Warman noted, is dated November 14th,  
17 2006.

18 THE CHAIRPERSON: And do we know who  
19 the people are on this picture?

20 MS CEILIDH SNIDER: Mr. Warman, would  
21 probably --

22 THE CHAIRPERSON: Just before he does  
23 that, do you have any objection --

24 MR. WARMAN: I believe you may be at  
25 the wrong tab, I'm afraid, sir.

1 MR. KULBASHIAN: Which document is  
2 it?

3 THE CHAIRPERSON: It's tab G.

4 MR. KULBASHIAN: Tab G. It's the  
5 same document, so the same objection I would have.

6 THE CHAIRPERSON: I was looking at  
7 the wrong document, sorry.

8 MR. WARMAN: It's okay.

9 THE CHAIRPERSON: So, you are looking  
10 at tab G.

11 MS CEILIDH SNIDER: Yes.

12 MR. WARMAN: Yeah.

13 THE CHAIRPERSON: Okay, fine. Any  
14 objection?

15 MR. KULBASHIAN: Same objection as  
16 before.

17 THE CHAIRPERSON: Okay. So, we will  
18 mark it.

19 MS CEILIDH SNIDER: Yes, thank you.

20 REGISTRY OFFICER: The four-page  
21 document which is the Whois search results from  
22 networksolutions with the date at the bottom of the  
23 page of 11/14/2006, oh and it's the Whois record for  
24 canadianheritagealliance.com will be filed as  
25 Commission Exhibit HR-1, Tab G.

1 EXHIBIT NO. HR-1, Tab G:  
2 Four-page document, Whois search  
3 results from networksolutions  
4 dated 11/14/2006 for  
5 canadianheritagealliance.com

6 MS CEILIDH SNIDER: Thank you.

7 Mr. Warman, could I direct your  
8 attention to the content and the Whois record.

9 MR. WARMAN: Yes. The domain name is  
10 the same, the registrant contact remains Canadian  
11 Heritage Alliance, Ms Guille, lists a different e-mail  
12 address, I believe it may be the same telephone number,  
13 it appears to be the same telephone number, and then a  
14 different P.O. Box address now in Cambridge, Ontario as  
15 the contact address and that same information is  
16 repeated for the registrant, administrative contact,  
17 technical contact.

18 If you look over on the next page it  
19 states that, about halfway down it states that the  
20 website's creation date was 12, December, 2000 and that  
21 the expiration date for the registration --

22 MR. KULBASHIAN: I'm sorry, I would  
23 like to object here. The major issue is it doesn't  
24 stated the website's creation date is 12, December,  
25 2000, it states that the record's creation date is 12,

1 December, 2000, so it doesn't state the word website  
2 there, and again it comes down to, the thing is a  
3 domain search and not a website search so it wouldn't  
4 tell you when the website was created it would tell you  
5 when the domain was registered.

6 MR. WARMAN: The domain name was  
7 registered or created on the 12th of December, 2000 and  
8 the domain name expiration date is listed as 12,  
9 December, 2007.

10 MS CEILIDH SNIDER: Thank you.

11 MR. WARMAN: The domain name being  
12 canadianheritagealliance.com.

13 THE CHAIRPERSON: And the creation  
14 date refers to the creation date of...?

15 MR. WARMAN: That URL address or that  
16 website address was actually registered.

17 MS CEILIDH SNIDER: And if at page 2  
18 I could just direct your attention to the status listed  
19 therein.

20 MR. WARMAN: It's listed as active.

21 MS CEILIDH SNIDER: Thank you. I'd  
22 like to take you now to tab H in the Commission's book  
23 of documents.

24 Mr. Warman, do you recognize this  
25 document?

1                   MR. WARMAN: I do. It's a page from  
2 the Canadian Heritage Alliance entitled Frequently  
3 Asked Questions that was printed off on the 10th of  
4 November, 2006 by me and submitted to the Commission.

5                   MS CEILIDH SNIDER: I'd like to have  
6 this document marked as an exhibit, please.

7                   THE CHAIRPERSON: Any objection,  
8 Mr. Kulbashian, Mr. Fromm?

9                   MR. KULBASHIAN: Not really.

10                  THE CHAIRPERSON: Okay. So, we can  
11 mark it as the next exhibit.

12                  REGISTRY OFFICER: The document as  
13 described will be filed as Commission Exhibit HR-1,  
14 Tab H.

15                               EXHIBIT NO. HR-1, Tab H: Page  
16                               from the Canadian Heritage  
17                               Alliance entitled Frequently  
18                               Asked Questions

19                  MS CEILIDH SNIDER: Mr. Warman, could  
20 you please tell me the significance of this document?

21                  MR. WARMAN: Yes. At the top it  
22 states: Who is the Canadian Heritage Alliance, and it  
23 responds: We are -- it's in the form of a question and  
24 answer that was available on the website and the  
25 response is:

1 "We are the collection of  
2 dissident writers and concerned  
3 Canadians who seek to revive the  
4 civil liberties of the Canadian  
5 citizen that have been smothered  
6 by the voice of special interest  
7 groups. We are centred in  
8 southern Ontario but have  
9 members all across Canada and in  
10 the U.S.A."

11 It goes on to explain why the  
12 Canadian Heritage Alliance supports Nationalism, with a  
13 capital N, states in response to What is the Canadian  
14 Heritage Alliance:

15 "The Canadian Heritage Alliance  
16 is a Canadian political lobby  
17 group formed in August 2000 to  
18 give political expression to  
19 Canadian citizens."

20 Then states:

21 "Is any on the staff with CHA  
22 affiliated with any law  
23 enforcement agency here in  
24 Canada or elsewhere?"

25 States:

1 "There is no one in the Canadian  
2 Heritage Alliance administration  
3 who works in a political or  
4 media field outside of the  
5 political activity associated  
6 with the CHA and our goals."

7 States:

8 "Why have you been accused of  
9 spreading hate mongering against  
10 ethnic groups?

11 We have been accused of  
12 spreading hate mongering,  
13 however the accusers are often  
14 people who have quickly made  
15 judgment before reading any of  
16 the Canadian Heritage Alliance  
17 material or they have an  
18 ulterior motive. Certain  
19 multiculturalists find it easier  
20 to discredit us than discuss  
21 facts and debate the issues."

22 The next question:

23 "Do you believe it is morally  
24 correct to legislate homosexual  
25 marriage?"

StenoTran

1 Answer:

2 "The participation and  
3 acceptance of homosexual  
4 marriages and relationships is a  
5 symbolic attack against society  
6 and should be considered  
7 anti-procreation which is the  
8 foundation of family and social  
9 life. Children are the greatest  
10 victims when exposed to  
11 homosexual relationships,  
12 especially at an early age.  
13 Exposure to this union leads a  
14 child into having a distorted  
15 understanding of relationships,  
16 family and of their own  
17 sexuality and person."

18 In response to the question about,  
19 can I make a tax deductible contribution to the group,  
20 the answer is:

21 "Canadian Heritage Alliance  
22 depends on donations from  
23 individuals and foundations. We  
24 accept no government funding and  
25 are entirely dependent on the

1 good will of our supporters. We  
2 are not a registered charity and  
3 cannot give charitable  
4 receipts."

5 Then states:

6 "Weren't your ancestors  
7 immigrants as well?"

8 The answer is:

9 "Canadian society was based on  
10 European law and Government.  
11 Our ancestors shaped the  
12 Canadian nation and it is their  
13 labour that formed the basic  
14 foundation that has kept this  
15 country strong during its  
16 greatest years. Canada is  
17 deteriorating and our stability  
18 is threatened as new laws and  
19 regulations are imposed on the  
20 citizens to uphold a corrupt  
21 re-writing of Canadian history  
22 to allow for the embracement of  
23 a multicultural society that  
24 elevates the status of  
25 "minorities" while advocating

1 the containment of the  
2 majority."

3 Those are the passages that I feel  
4 are relevant to the complaint.

5 MS CEILIDH SNIDER: Under Frequently  
6 Asked Questions at top of page 1, and it is a little on  
7 the blurry side, could you tell me what it says under  
8 there.

9 MR. WARMAN: Yes. It states:  
10 "Written by administrator."  
11 And the date is Sunday 8 January,  
12 2006.

13 MS CEILIDH SNIDER: Thank you.  
14 Turning now to tab I, Mr. Warman, do  
15 you recognize this document?

16 MR. WARMAN: I do. It was printed  
17 off by me on the 11th of August, 2004 from the Canadian  
18 Heritage Alliance website and submitted to the  
19 Commission.

20 MS CEILIDH SNIDER: Ms Barber, I  
21 would like to have this document marked as an exhibit,  
22 please, with the same restrictions.

23 THE CHAIRPERSON: Any objection,  
24 Mr. Kulbashian, Mr. --

25 MR. KULBASHIAN: No.

1 THE CHAIRPERSON: No. So, we can  
2 proceed to mark it.

3 MR. FROMM: This is the document  
4 Frequently Asked Questions?

5 MS CEILIDH SNIDER: No, this is the  
6 next document, sir, under tab I. Frequently Asked  
7 Questions has already been marked.

8 THE CHAIRPERSON: So, we can proceed  
9 and mark it as next exhibit.

10 REGISTRY OFFICER: The document  
11 entitled: Become A Canadian Heritage Alliance member  
12 from the Canadian Heritage Alliance website printed out  
13 on 11/08/04 will be filed as Commission Exhibit HR-1,  
14 Tab I.

15 EXHIBIT NO. HR-1, Tab I:  
16 Document entitled: Become A  
17 Canadian Heritage Alliance  
18 member from the Canadian  
19 Heritage Alliance website  
20 printed out on 11/08/04

21 MS CEILIDH SNIDER: Thank you.

22 Mr. Warman, can you tell the Tribunal  
23 why you printed off this particular document?

24 MR. WARMAN: Yes. You can see both  
25 at the very top left it gives sort of where it came

1 from on the website, so it says Canadian Heritage  
2 Alliance and then it says, membership to CHA, and if  
3 you look down at the bottom left you will see that the  
4 website address is  
5 [canadianheritagealliance.com/about/membership.html](http://canadianheritagealliance.com/about/membership.html).

6 So, to me this demonstrated that  
7 there was a possibility of becoming a member. I take  
8 that from the headline that says, become a Canadian  
9 Heritage Alliance member. Then states that:

10 "Your membership is crucial to  
11 our ability to continue  
12 educating the public and policy  
13 makers...",

14 et cetera. Then offers people the opportunity to  
15 become a "active member" that for a one-year term is  
16 listed as requiring a donation of \$25 and the benefits  
17 are listed as invitations to meetings and events if  
18 applicable, voting privileges when applicable, an  
19 individualized laminated membership card (photo cards  
20 available upon request) a subscription to the Canadian  
21 Heritage News published quarterly, 20 Canadian Heritage  
22 Alliance business cards, 10 of their stickers and  
23 flyers and/or leaflets.

24 Then provided a button on which you  
25 could click to make a Visa or Master card donation and

1           underneath that it stated you could print off the  
2           membership form and underneath that it stated that  
3           payment:

4                                 "Please make cheques/money  
5                                 orders payable to the Canadian  
6                                 Heritage Alliance",  
7           and then it lists a P.O. Box address in London,  
8           Ontario.

9                                 MS CEILIDH SNIDER: Thank you. I'd  
10           like you to turn now, please, to tab J, Mr. Warman.

11                                MR. WARMAN: Yes.

12                                MS CEILIDH SNIDER: Could you  
13           please -- first of all, do you recognize this document?

14                                MR. WARMAN: I do. This is a  
15           print-off of a series of e-mails between myself and  
16           Ms Guille. This copy of it was printed off on the 18th  
17           of February, 2003.

18                                MR. KULBASHIAN: I'm sorry, I'm going  
19           to object to the introduction of this document. If he  
20           states that it's an e-mail between himself and Guille,  
21           I understand blacking out the e-mail address, however,  
22           the actual name at the very bottom of the e-mail seems  
23           to be blacked out as well and I'm just wondering why  
24           this information would be blacked out.

25                                MR. WARMAN: If it's any difference

1           it becomes self-evident in the next exhibit, so I'm  
2           quite happy to testify as to what e-mail address is  
3           used.

4                         MR. KULBASHIAN:   Okay.

5                         MR. WARMAN:    So --

6                         MS CEILIDH SNIDER:  I would like  
7           therefore to have this --

8                         THE CHAIRPERSON:  No, but you were  
9           done with your description of the document, a print-out  
10          of e-mails between yourself and Ms Guille.

11                        MR. WARMAN:    Yes.

12                        THE CHAIRPERSON:  And the print-out  
13          is dated the 13th of February, 2003?

14                        MR. WARMAN:    The actual print off is  
15          the 18th of February, 2003 and the e-mail exchanges  
16          took place between late January and the first part of  
17          February, 2003.

18                        REGISTRY OFFICER:  The document as  
19          described --

20                        MR. FROMM:    I object.  This is an  
21          incomplete and defective document.  The blacked out  
22          parts ought not to be blacked out.

23                        THE CHAIRPERSON:  Well, who blacked  
24          it out?

25                        MR. WARMAN:    I did before I provided

1           it to the Commission on the basis that it provided the  
2           information that I had submitted in order to obtain the  
3           membership mailing, if you will. So, the personal  
4           information that I provided in order to get the  
5           material, such as the address, the date and time which  
6           don't really seem to be all that relevant to have been  
7           blacked out, and from, and I've already indicated that  
8           I'm quite happy to testify as to what e-mail address I  
9           used to obtain it.

10                           THE CHAIRPERSON: But for the  
11           completeness of this document, given that you blacked  
12           it out, shouldn't you provide that information with  
13           respect to this document.

14                           MR. WARMAN: It hasn't been a problem  
15           in previous cases. I've engaged in the removal of  
16           similar sort of private information that was used to  
17           obtain materials from this type of group and it's never  
18           been raised as an issue in the past.

19                           MR. FROMM: Well, in some previous  
20           cases the respondent --

21                           THE CHAIRPERSON: Mr. Warman, it's  
22           being raised in this case by Mr. Fromm.

23                           MR. WARMAN: It is.

24                           MS CEILIDH SNIDER: Perhaps it would  
25           be of assistance --

1 THE CHAIRPERSON: Just a second.

2 MS CEILIDH SNIDER: Perhaps it would  
3 be of assistance if we first deal with the document  
4 under tab K and then come back to tab J, that might  
5 facilitate matters.

6 MR. KULBASHIAN: My objection will  
7 still be the same.

8 THE CHAIRPERSON: Well --

9 MR. KULBASHIAN: I understand it's a  
10 document -- well, this comes down to the actual  
11 objection against this document specifically.

12 The objection will not change. The  
13 document was modified before being submitted to the  
14 Commission, so the document is effectively in some way  
15 defaced before being provided to the Commission.

16 This is not the Commission blacking  
17 it out in order to protect his information from the  
18 respondent, it's Mr. Warman blacking it out in order  
19 to, I don't know, protect it from the Commission. I  
20 don't understand.

21 THE CHAIRPERSON: No, but what I  
22 understand from Ms Snider, she's suspending her  
23 tendering tab J as evidence, she wants us to look at  
24 tab K.

25 MS CEILIDH SNIDER: Yes, please.

1 THE CHAIRPERSON: Before we get back  
2 to J, and if you want to raise the objection then you  
3 can do so.

4 MR. KULBASHIAN: Right.

5 MS CEILIDH SNIDER: Thank you.

6 So, Mr. Warman could you turn please  
7 to tab K in the Commission's book of documents.

8 MR. WARMAN: Yes.

9 MS CEILIDH SNIDER: And could you  
10 identify this document, please.

11 MR. WARMAN: Yes, this is an e-mail  
12 that I received at the e-mail address  
13 davidmclean3@yahoo.com on the 13th of October, 2003  
14 from the e-mail address  
15 cha@canadianheritagealliance.com and that was provided  
16 to the Commission pursuant to my complaint.

17 MS CEILIDH SNIDER: Thank you. If  
18 there are no objections, I'd like to have this document  
19 marked as an exhibit.

20 THE CHAIRPERSON: Any objection,  
21 Mr. Kulbashian, Mr. Fromm?

22 MR. KULBASHIAN: No.

23 THE CHAIRPERSON: No. So, we can  
24 mark it.

25 MS CEILIDH SNIDER: I would note at

1 page 2 of this document there is also an address, so  
2 the same ruling.

3 THE CHAIRPERSON: Under the same  
4 ruling.

5 MS CEILIDH SNIDER: Yes, please.

6 REGISTRY OFFICER: The document as  
7 described will be filed as Commission Exhibit HR-1,  
8 Tab K.

9 EXHIBIT NO. HR-1, Tab K: E-mail  
10 received at e-mail address  
11 davidmclean3@yahoo.com on the  
12 13th of October, 2003 from  
13 e-mail address  
14 cha@canadianheritagealliance.com

15 MS CEILIDH SNIDER: Thank you.

16 Mr. Warman, could you please explain  
17 your purpose in printing out this particular document?

18 MR. WARMAN: Yes. It shows two  
19 things. The first one is if you flip to the last --  
20 the second, page 2 of 2, approximately halfway down it  
21 lists the Canadian Heritage Alliance, it then lists an  
22 e-mail address, a website -- excuse me, an e-mail  
23 address for the administrator, the website and then it  
24 lists their old post office box and then at the top of  
25 the page and the bottom half of the first page it

1 indicates that it's the Canadian Heritage Alliance  
2 e-news and it's an announcement on October 13th, 2003  
3 that they've been required to rent a new P.O. Box, that  
4 they're changing all of their literature, have changed  
5 the address on the website and please update your  
6 records and then gives a new P.O. Box in Waterloo,  
7 Ontario.

8 MS CEILIDH SNIDER: May I direct your  
9 attention to page 2, about midway down that seems to be  
10 addressed to the recipient of this e-mail.

11 MR. WARMAN: Sorry, that you are  
12 currently subscribe --

13 MS CEILIDH SNIDER: Yes.

14 MR. WARMAN: Yes. I subscribed to  
15 the Canadian Heritage Alliance's e-mail newsletter  
16 listing using that e-mail address, so they would e-mail  
17 me materials from time to time to that e-mail address.

18 MS CEILIDH SNIDER: And the e-mail  
19 address at the beginning of it, is there a name?

20 MR. WARMAN: Yes, that is the  
21 davidmclean3@yahoo.com e-mail address.

22 THE CHAIRPERSON: That's the e-mail  
23 address you used yourself?

24 MR. WARMAN: Yes, it is, yeah.

25 MS CEILIDH SNIDER: Thank you. Are

1           there any other items that you'd like to bring to the  
2           Tribunal's attention on this?

3                         MR. WARMAN:  No, thank you.

4                         MS CEILIDH SNIDER:  Thank you.

5                         If I may, I'd like to return to tab  
6           J, please.

7                         MR. KULBASHIAN:  I would like to  
8           renew my objection -- well, keep my objection.  The  
9           document is still incomplete regardless of whether or  
10          not he did use another name in another e-mail which he  
11          received instead of sent, the document is still  
12          incomplete.

13                        So, if he could I guess provide the  
14          full document it would probably be better.

15                        MR. WARMAN:  Mr. Chair, if it's of  
16          any assistance, I'm quite happy to provide a full copy  
17          of it after lunch.

18                        MR. KULBASHIAN:  In that case, can we  
19          reserve this document's identification until he  
20          provides the whole document after lunch.

21                        MR. WARMAN:  Sure.

22                        THE CHAIRPERSON:  Okay.

23                        MS CEILIDH SNIDER:  Okay, thank you.

24                        Okay.  Could you refresh my memory  
25          please, Mr. Warman, the name of the individual that you

1 had used in the e-mail address under tab K?

2 MR. WARMAN: Yes, it's  
3 davidmclean3@yahoo.com.

4 MS CEILIDH SNIDER: Okay, thank you.  
5 I'd like you to turn now to tab M in  
6 the Commission's book of documents.

7 THE CHAIRPERSON: To what?

8 MS CEILIDH SNIDER: Tab M.

9 MR. WARMAN: Yes.

10 MS CEILIDH SNIDER: Do you recognize  
11 this document, sir?

12 MR. WARMAN: I do. It is copy of a  
13 letter that I received from the Canadian Heritage  
14 Alliance, the mailing date on the letter was the 4th of  
15 February, 2003 and I received it shortly thereafter and  
16 submitted this copy, or a copy to the Commission  
17 pursuant to my complaint.

18 MS CEILIDH SNIDER: Thank you.

19 THE CHAIRPERSON: You said the date  
20 was...?

21 MR. WARMAN: The mailing date on the  
22 envelope is 4, February, 2003.

23 THE CHAIRPERSON: Mr. Fromm?

24 MR. FROMM: Is this being submitted,  
25 tab M, as a complete -- is what we have in front of us

1 a copy of the complete letter? Was there no date on  
2 the letter, no inside address?

3 MR. WARMAN: No, there was not.

4 THE CHAIRPERSON: It was this letter  
5 plus an envelope.

6 MR. WARMAN: Plus an envelope plus  
7 materials that were attached to it, that once I go into  
8 the exhibit it will follow as subsequent exhibits.

9 THE CHAIRPERSON: There was an  
10 envelope, a letter and material in the envelope.

11 MR. WARMAN: Attachments, yes.

12 THE CHAIRPERSON: Okay.

13 MR. FROMM: Is there a copy of that  
14 envelope?

15 MR. WARMAN: There is actually, we  
16 can produce it.

17 THE CHAIRPERSON: Do you want the  
18 envelope to be produced, Mr. Fromm?

19 MR. FROMM: Yes.

20 MR. KULBASHIAN: Was this envelope  
21 disclosed or --

22 MS CEILIDH SNIDER: Just a minute,  
23 please.

24 MR. WARMAN: So, sorry, I just don't  
25 know how you want me to produce it.

1 THE CHAIRPERSON: Was there --

2 MR. WARMAN: I can simply produce it.

3 THE CHAIRPERSON: Was this part of  
4 the disclosure or...

5 MS CEILIDH SNIDER: I don't believe I  
6 had this particular envelope. I was given materials.

7 MR. WARMAN: I don't believe it was  
8 because it was simply the contents of the envelope as  
9 opposed to the envelope.

10 THE CHAIRPERSON: Okay. So,  
11 Mr. Fromm, you requiring to have a copy of the  
12 envelope?

13 MR. FROMM: Well, to help date this,  
14 yes.

15 MR. WARMAN: We can make a copy of it  
16 at lunch, if that's desired, but...

17 THE CHAIRPERSON: We'll make a copy  
18 at lunch, Mr. Fromm.

19 So, we'll make a copy of the envelope  
20 at lunch, because there is no date on the letter it is  
21 just --

22 MS CEILIDH SNIDER: Right.

23 MR. WARMAN: Yes, I will provide it.

24 THE CHAIRPERSON: Okay. So, can we  
25 still mark it? And if after having seen the envelope

1           you have anything to --

2                           MR. FROMM:  As long as we have the  
3           envelope.

4                           THE CHAIRPERSON:  You reserve your  
5           right to address the Tribunal on that point.

6                           MR. FROMM:  Yes.

7                           THE CHAIRPERSON:  Okay.

8                           REGISTRY OFFICER:  The document as  
9           described by the complainant will be filed as  
10          Commission Exhibit HR-1, Tab M.

11                           EXHIBIT NO. HR-1, Tab M:  Copy  
12                           of letter received from the  
13                           Canadian Heritage Alliance with  
14                           a mailing day of  
15                           February 4, 2003

16                           MS CEILIDH SNIDER:  Thank you.

17                           Mr. Warman, could you please describe  
18           this document for the Tribunal?

19                           MR. WARMAN:  Yes, it was a letter  
20           that I received in response to an inquiry that I made  
21           with the Canadian Heritage Alliance asking for more  
22           information and then subsequently providing the  
23           requested donation to become a member.

24                           The heading at the top states  
25           Canadian Heritage Alliance, it then lists an address, a

1 P.O. Box just underneath that to the left in Cambridge,  
2 Ontario, to the right it lists an e-mail address and a  
3 website and then it states:

4 "Dear Dave, Thank you for your  
5 interest in supporting Canadian  
6 Heritage Alliance. We have  
7 included in the envelope the  
8 items that are part of your  
9 membership package. You'll  
10 also be receiving our quarterly  
11 newsletter Canadian Heritage  
12 News published every January,  
13 April, July and October. If you  
14 have any questions, comments or  
15 suggestions please contact  
16 myself at  
17 cha@canadianheritagealliance.com  
18 @attentionChris to the subject  
19 line or at  
20 whiteknight@canadianheritage  
21 alliance.com. Thank you again  
22 for your support. Canadian  
23 Pride. Signed Chris Guille, CHA  
24 secretary."

25 MS CEILIDH SNIDER: Thank you.

1                   If you would turn now to tab N.

2           Mr. Warman, do you recognize this document?

3                   MR. WARMAN: I do. This is a  
4           membership guide booklet that I received within the  
5           envelope, that's a copy of it and I provided it to the  
6           Commission pursuant to my complaint.

7                   THE CHAIRPERSON: Any objection,  
8           Mr. Kulbashian or Mr. Fromm?

9                   MS CEILIDH SNIDER: Again I --

10                   MR. KULBASHIAN: Can the witness  
11           repeat what date he stated he got this letter?

12                   MR. WARMAN: I don't have the exact  
13           date.

14                   MR. KULBASHIAN: The envelope --

15                   MR. WARMAN: Sorry?

16                   MR. KULBASHIAN: The date on the  
17           envelope that you stated you got on a specific date,  
18           the one where it says, Thank you for your interest in  
19           supporting the CHA, what's the date on the envelope?

20                   MR. WARMAN: The date was 4 February,  
21           2003.

22                   MR. KULBASHIAN: Okay. And did you  
23           just state that this document came with this letter?

24                   MR. WARMAN: Sorry. Actually perhaps  
25           it would be best for me to say that I have three

1 envelopes from the Canadian Heritage Alliance in which  
2 I received a series of information including the  
3 membership guide, membership card, the newsletters and  
4 membership card, pamphlets, stickers and that  
5 essentially what I tried to do was reconstruct exactly  
6 what order they came in, but it's possible that they  
7 came in -- it's possible that the membership guide came  
8 in one of the other envelopes. But I'm quite happy to  
9 provide copies of all three envelopes that I have that  
10 the materials were received in.

11 MR. KULBASHIAN: Okay. I fail to  
12 understand.

13 MS CEILIDH SNIDER: I think perhaps  
14 it would be of assistance if I directed Mr. Warman's  
15 attention back to tab K, and this is the document that  
16 Mr. Warman testified to a few minutes ago in which the  
17 e-mail said that the Canadian Heritage Alliance is  
18 currently changing all our literature and something  
19 else, changed our address on the website, please update  
20 your records, and it provides here initially a web --  
21 sorry, an address which is an address listed in  
22 Waterloo and the date of this e-mail as Mr. Warman  
23 noted was Monday, October 13th, 2003 and the address to  
24 which it was directing Mr. Dave McLean to change in his  
25 records for the Canadian Heritage Alliance was --

1 MR. KULBASHIAN: Sorry, is she  
2 testifying or --

3 MS CEILIDH SNIDER: No, no, I'm just  
4 reiterating what Mr. Warman has already testified to,  
5 just providing something of a roadmap for you.

6 The address to which Mr. McLean was  
7 directed to change his contact for the Canadian  
8 Heritage Alliance was in Cambridge, Ontario. And the  
9 date of that e-mail was October 13th, 2003.

10 THE CHAIRPERSON: Can you provide  
11 copies of all of the envelopes --

12 MR. WARMAN: Yes.

13 THE CHAIRPERSON: At the lunch time.

14 MS CEILIDH SNIDER: And, Mr. Warman,  
15 if I could take your attention back please to tab M,  
16 the address that is listed there in the upper left-hand  
17 corner, is that the same address that we see in tab K?

18 MR. WARMAN: That's listed as the old  
19 address, that the address should be changed from, so  
20 it's clear that the envelope in any event was sent  
21 prior to that e-mail.

22 MS CEILIDH SNIDER: Okay.

23 THE CHAIRPERSON: But in any event  
24 you will provide the envelopes?

25 MR. WARMAN: Yes.

1 MS CEILIDH SNIDER: Okay. Moving on  
2 to tab N again, which we have had marked as HR-1 N, I  
3 believe.

4 THE CHAIRPERSON: Any objection to  
5 having this document marked as an exhibit,  
6 Mr. Kulbashian, Mr. Fromm?

7 MR. KULBASHIAN: Tab M or tab N?

8 THE CHAIRPERSON: Tab N.

9 MR. KULBASHIAN: That one is to be  
10 marked as an exhibit.

11 THE CHAIRPERSON: Yes. Do you have  
12 any objection?

13 MR. KULBASHIAN: No.

14 THE CHAIRPERSON: No. We can  
15 proceed.

16 REGISTRY OFFICER: The document  
17 entitled: Membership Guide from the Canadian Heritage  
18 Alliance will be filed as Commission Exhibit HR-1,  
19 Tab N.

20 EXHIBIT NO. HR-1, Tab N:  
21 Document entitled: Membership  
22 Guide from the Canadian Heritage  
23 Alliance

24 MS CEILIDH SNIDER: Thank you.

25 I'd simply draw the Tribunal's

1 attention to the fact that at the last page of that  
2 document there is an address.

3 MR. WARMAN: In fact, if I look on  
4 the second page I can tell you the date that it was  
5 sent on because it states March 12th, 2003 and then  
6 states: Dear Dave.

7 MR. KULBASHIAN: The reason why I  
8 asked is because he stated there was a number of  
9 documents enclosed and I think at one point in  
10 testimony he stated that this document came with that  
11 letter, and if that letter came out February 4th, 2003  
12 and this document is titled March 12, 2003 then there  
13 is a slight inconsistency there.

14 MR. WARMAN: I have stated that the  
15 material came in three separate envelopes and that I  
16 will provide copies of all those three envelopes and I  
17 attempted to the best of my recollection to establish  
18 which materials came in which envelopes, but in any  
19 event this is clearly dated, so it lists.

20 THE CHAIRPERSON: If you want to  
21 raise this in cross-examination, Mr. Kulbashian, you  
22 will be able to do that.

23 MR. KULBASHIAN: This brings me to  
24 why I asked him to...

25 THE CHAIRPERSON: Okay.

1 MS CEILIDH SNIDER: Okay.

2 THE CHAIRPERSON: So, given that  
3 there is an address at the end we'll apply the same  
4 ruling.

5 MS CEILIDH SNIDER: Yes, thank you.

6 Mr. Warman, could you please explain  
7 to the Tribunal the significance of this document?

8 MR. WARMAN: Yes, it's -- essentially  
9 what it is is a membership guide pamphlet or booklet  
10 from the Canadian Heritage Alliance that I received in  
11 response to my request for membership.

12 It indicates fighting for freedom,  
13 fighting for justice, gives the heading of Canadian  
14 Heritage Alliance and then underneath in large bold  
15 letters, all caps, says Membership Guide.

16 On the next page it states:

17 "Membership Guide, date 12  
18 March, 2003  
19 Dear Dave, Thank you for  
20 becoming a member of the  
21 Canadian Heritage Alliance."

22 Then continues:

23 "Canadian Heritage Alliance is  
24 prepared to become your vehicle  
25 for information, connections and

1 influence in removing the  
2 shackles from the citizen, the  
3 Canadian majority and restoring  
4 our rights and freedoms. If you  
5 have any questions, suggestions,  
6 comments or wish to discuss  
7 membership in CHA in further  
8 detail, e-mail us at  
9 cha@canadianheritagealliance.  
10 com. We invite you to actively  
11 participate in CHA and look  
12 forward to working with you.  
13 Canadian Pride. Signed Chris  
14 Guille, CHA Secretary."

15 Then continues providing similar  
16 information that has been previously given about who  
17 the Canadian Heritage Alliance is.

18 At the bottom of page 2 on the  
19 right-hand side it states: staff journalists, it then  
20 states:

21 "Canadian Heritage Alliance is  
22 accepting proposals for regular  
23 columnists to write for Canadian  
24 Heritage News published  
25 quarterly."

1 States that:

2 "You will be paid in copies of  
3 the Canadian Heritage News."

4 Gives details for how to submit  
5 those.

6 The next page under membership guide  
7 lists the eligibility requirements for membership, the  
8 change of address requirements, the details for the  
9 issuance of a permanent membership card that will be  
10 issued to each new member. It talks about the media.

11 On the next side of that page it  
12 talks about how you can get involved whether through  
13 the Internet or at home.

14 Then again gives information for  
15 membership and subscription. The active member is a  
16 minimum \$20 donation for new memberships and \$15  
17 thereafter it then repeats that your membership  
18 includes invitations to the meetings and events if  
19 applicable, voting if applicable. Photo cards  
20 available upon request and other paraphernalia.

21 It then gives an allied member  
22 category for \$10, that would also include a laminated  
23 membership card and states:

24 "As a member you will  
25 receive..."

1                   And it then gives the possibility of  
2                   subscribing to the Canadian Heritage News.

3                   On the next page it goes through some  
4                   of the policies of the Canadian Heritage Alliance such  
5                   as multiculturalism, language, defence, education,  
6                   laws.

7                   The next page talks about the ethics  
8                   of the Canadian Heritage Alliance. The first value is  
9                   listed:

10                   "As diverse as our ideals are we  
11                   have common value systems and  
12                   goals based on the desire to  
13                   advance and improve Canada,  
14                   combat anti-white propaganda and  
15                   inequality within our social  
16                   system, we are committed to the  
17                   following fundamental values  
18                   that underpin the mission and  
19                   objective of the Canadian  
20                   Heritage Alliance."

21                   Talks about their ethics, governance:

22                   "As a professional organization  
23                   we recognize the importance of  
24                   establishing and maintaining  
25                   able bodies that will govern the

1 internal functioning of our  
2 organization. Committed,  
3 experienced and responsible  
4 individuals are a critical  
5 ingredient for this. To this  
6 end we will..."

7 Then outlines the various steps

8 including:

9 "Ensure the organization has a  
10 clear vision, mission objectives  
11 and policy and adheres to them,  
12 specify the frequency of  
13 governance structures meetings  
14 and the role and powers of the  
15 governance structure, ensure  
16 that members of the governance  
17 structure and staff excuse  
18 themselves from decisions where  
19 they have or are perceived to  
20 have a vested interest, ensure  
21 that governance structure  
22 understands and is responsible  
23 for overall policy making and  
24 accepts ultimate responsibility  
25 for governance of all aspects of

1 the organization."

2 Then gives the management and human  
3 resources practices of the Canadian Heritage Alliance,  
4 including how they will go about employing new  
5 volunteers and discharging volunteers, how they will go  
6 about having volunteer development policies, then:

7 "Our finances shall be managed  
8 as to ensure appropriate use of  
9 funds and accountability to  
10 members and donors."

11 Then outlines what they will do to  
12 that end.

13 The next page is headed: Start a  
14 Chapter and it outlines roughly what's involved in  
15 starting a new Chapter of the Canadian Heritage  
16 Alliance. It states:

17 "With a growing network of  
18 members in Canada and abroad,  
19 you can become a part of our  
20 network by becoming a  
21 representative or starting a  
22 chapter in your community."

23 Under chapter responsibilities it  
24 states:

25 "Commit to support and work to

1                   fulfil the CHA mission in its  
2                   entirety. You will strive to  
3                   offer opportunities to the  
4                   general public through your  
5                   activities, to give and receive  
6                   support, to educate and become  
7                   educated..."

8                   Then talks about:

9                   "Being accessible, listing your  
10                  CHA e-mail address.  
11                  The need to conduct outreach,  
12                  taking an active role in finding  
13                  others who can help us fulfil  
14                  our mission of education and  
15                  advocacy. It often means being  
16                  visible in the community. To  
17                  fulfil our mission we need  
18                  friends and allies in every  
19                  community."

20                  So, in essence, a recruitment.

21                  "Become informed on relevant  
22                  issues. It is critical that we  
23                  educate ourselves."

24                  It then lists a variety of volunteer  
25                  opportunities that exist at that time and that many

1 other opportunities are available to help the Canadian  
2 Heritage Alliance by e-mailing them or writing them.

3 And then there is a request of  
4 donations of various material.

5 MS CEILIDH SNIDER: Thank you.

6 I'd like to turn now, please, to tab  
7 O.

8 MR. WARMAN: Yes.

9 MS CEILIDH SNIDER: Mr. Warman, do  
10 you recognize this document?

11 MR. WARMAN: I do. This is the  
12 membership card that I received from the Canadian  
13 Heritage Alliance dated -- the activation date is  
14 3/12/2003 and it's -- the first page is the front of  
15 that and the second page is the back of that document.

16 THE CHAIRPERSON: Any objection,  
17 Mr. Kulbashian, Mr. Fromm?

18 MR. FROMM: Not to the exhibit but to  
19 it being designated as a membership card. I don't  
20 think that's what the card actually says.

21 MS CEILIDH SNIDER: Mr. Warman,  
22 opposite the name Dave McLean, could you tell me what  
23 it says.

24 MR. WARMAN: It states member name.

25 MR. KULBASHIAN: Again, the whole

1 point is he can't characterize it as a membership card  
2 when it actually states supporter card, there is a  
3 clear definition there on the card.

4 I'm not -- in his evidence when he  
5 identifies a document saying I received this as a  
6 membership card, it's like misreading the title of the  
7 document, it actually states supporter card.

8 THE CHAIRPERSON: The document says  
9 Canadian Heritage Alliance supporter card, member name,  
10 Dave McLean, activation date 3/12/2003.

11 MS CEILIDH SNIDER: It says what it  
12 says. We will have it marked as it says.

13 THE CHAIRPERSON: Yes.

14 MS CEILIDH SNIDER: That would be  
15 fine.

16 REGISTRY OFFICER: The document as  
17 described will be filed as Commission Exhibit HR-1,  
18 Tab O.

19 EXHIBIT NO. HR-1, Tab O:  
20 Document: Canadian Heritage  
21 Alliance supporter card, member  
22 name, Dave McLean, activation  
23 date 3/12/2003

24 MS CEILIDH SNIDER: We can make  
25 argument down the road.

1 THE CHAIRPERSON: Yes.

2 MS CEILIDH SNIDER: I'd like to  
3 provide to the Tribunal, this is -- perhaps Mr. Warman  
4 can explain how this document came to be.

5 MR. WARMAN: Yes. Essentially as I  
6 stated, it was in response to a membership application  
7 that I submitted to the Canadian Heritage Alliance. I  
8 sent in the required funds and gave them an address,  
9 requested to become a member and to be kept informed of  
10 all future activities and this is what I received.

11 MS CEILIDH SNIDER: And how was this  
12 particular document made?

13 MR. WARMAN: Oh, I'm sorry, this is a  
14 photocopy of the actual membership card or --

15 MR. KULBASHIAN: Sorry.

16 MR. WARMAN: -- supporter card that I  
17 received and I submitted to the Commission pursuant to  
18 my complaint.

19 MS CEILIDH SNIDER: Thank you. Has  
20 this document now been marked? Sorry, I think it has.

21 THE CHAIRPERSON: HR-1, I hope.

22 REGISTRY OFFICER: That's correct.

23 MS CEILIDH SNIDER: Thank you.

24 I'd like to provide the Tribunal with  
25 the original supporter card.

1 THE CHAIRPERSON: Yes.

2 MS CEILIDH SNIDER: Okay.

3 THE CHAIRPERSON: It's getting close  
4 to a quarter to one.

5 MS CEILIDH SNIDER: Yeah.

6 THE CHAIRPERSON: I don't know if you  
7 want to break now or...

8 MS CEILIDH SNIDER: I would be  
9 content to break now, or to continue. I've got just a  
10 couple of more short things.

11 Canvas the other parties.

12 THE CHAIRPERSON: Or you want to  
13 finish off the small things that you have to cover?

14 MS CEILIDH SNIDER: I have got three  
15 things that will -- two more items that will take about  
16 five minutes tops.

17 THE CHAIRPERSON: So, let's go ahead.

18 MS CEILIDH SNIDER: Okay.

19 MR. WARMAN: Just with regards to  
20 this exhibit, on the back of the card it states:

21 "A membership to the Canadian  
22 Heritage Alliance means that you  
23 Dave McLean agree not to use  
24 violence to achieve political  
25 and social change, not to act as

1 a representative Canadian  
2 Heritage Alliance, direct all  
3 questions concerning the CHA to  
4 us directly and not to  
5 distribute any personal  
6 information about members of the  
7 Canadian Heritage Alliance."

8 Then lists contact details.

9 MS CEILIDH SNIDER: Thank you. If  
10 you would turn now to tab P following. Mr. Warman, can  
11 you identify this document for me, please.

12 MR. WARMAN: Yes. These are copies  
13 of the Canadian Heritage Alliance cards, business cards  
14 that I received on the top, and on the bottom it's a  
15 copy of a sticker that I received as part of a mailing  
16 from the Canadian Heritage Alliance and that I provided  
17 to the Commission.

18 THE CHAIRPERSON: Any objection,  
19 Mr. Kulbashian or Mr. Fromm?

20 MR. KULBASHIAN: Yeah, I was just  
21 wondering what date it was, but I guess we can put it  
22 in the cross-examination.

23 THE CHAIRPERSON: So, we can proceed  
24 to mark it as an exhibit.

25 MS CEILIDH SNIDER: Yes, please.

1                   REGISTRY OFFICER: The document as  
2 described will be filed as Commission Exhibit HR-1,  
3 Tab P.

4                   EXHIBIT NO. HR-1, Tab P:  
5                   Photocopy of Canadian Heritage  
6                   Alliance business card

7                   MS CEILIDH SNIDER: Mr. Warman, if  
8 you would, could you provide some further details about  
9 this exhibit.

10                  MR. WARMAN: The card, at the top of  
11 the business cards states in all caps bold:

12                   "POLITICALLY INCORRECT AND PROUD  
13                   OF IT  
14                   Canadian Heritage Alliance,  
15                   patriots fighting to revive  
16                   civil liberties of the Canadian  
17                   citizen."

18                  Then provides contact details. And  
19 the sticker states, with a Canadian flag and states to  
20 the right of that:

21                   "Public information. Canada's  
22                   four point checklist for  
23                   immigration applicants."

24                  Underneath in bold, all lower case  
25 states:

1 "eeny, meeny, miney, moe."

2 And then gives the name of the  
3 Canadian Heritage Alliance and its website address.

4 MS CEILIDH SNIDER: Thank you. I  
5 have originals of these documents too for the Tribunal,  
6 please.

7 --- Documents handed

8 MS CEILIDH SNIDER: And over if you  
9 would, Mr. Warman, at tab Q, and this will be my last  
10 tab before lunch.

11 Mr. Warman, if you could identify  
12 this document for the Tribunal, please.

13 MR. WARMAN: I'm sorry, because they  
14 are exactly the same, P and Q, one of them was a  
15 sticker and one of them was a business card, so it's  
16 just because I don't have the original it's hard for me  
17 to say which one was a copy of which one.

18 So, since I've identified the first  
19 one as a business card, perhaps it's easiest just to  
20 identify the second one as the sticker, but it's  
21 pursuant to the fact that the originals are being  
22 provided to the Tribunal.

23 THE CHAIRPERSON: So, in Q --

24 MS CEILIDH SNIDER: I think --  
25 actually I have the original, and I'm just sort of

1 lining it up with the page, it looks like perhaps the  
2 stickers were on the first page, which would be Exhibit  
3 HR-1 P.

4 THE CHAIRPERSON: This would be two  
5 stickers.

6 MS CEILIDH SNIDER: Yes, there are  
7 two stickers, so both stickers formed the tab or  
8 Exhibit HR-1 P and the business card that Mr. Warman  
9 referred to earlier is over at tab Q.

10 THE CHAIRPERSON: Okay. So, that  
11 clarifies for the record the nature of these two  
12 documents.

13 Is it clear to everyone that in P  
14 these are two stickers whereas in Q it's a business  
15 card.

16 MS CEILIDH SNIDER: Yes.

17 THE CHAIRPERSON: Any objection?

18 MR. KULBASHIAN: No. We have no idea  
19 the way that's what they are, but basically it's almost  
20 identical, doesn't really make a difference which one  
21 is which, I guess.

22 THE CHAIRPERSON: So, we'll file them  
23 as the next exhibit.

24 REGISTRY OFFICER: The document as  
25 described will be filed as Commission Exhibit HR-1,

1 Tab Q.

2 EXHIBIT NO. HR-1, Tab Q:  
3 Photocopy of Canadian Heritage  
4 Alliance sticker

5 MS CEILIDH SNIDER: And again I have  
6 an original for the Tribunal.

7 --- Document handed

8 MS CEILIDH SNIDER: Thank you.

9 MR. WARMAN: So, the business card is  
10 essentially just the same material that was contained  
11 on the sticker.

12 MS CEILIDH SNIDER: Mr. Warman, can  
13 you recall approximately how many of these stickers and  
14 business cards you were provided with?

15 MR. WARMAN: Not exactly. It would  
16 have been over 15 or 20 business cards, if I recall the  
17 size of the stack of them that I got and probably at  
18 least that same number of stickers.

19 MS CEILIDH SNIDER: Okay, thank you.

20 MR. WARMAN: You know, but that's an  
21 estimate or guesstimate.

22 MS CEILIDH SNIDER: All right.

23 Is there anything else you'd like to  
24 tell the Tribunal about HR-1 Q?

25 MR. WARMAN: No, thank you.

1 MS CEILIDH SNIDER: Okay. I believe  
2 at this time it may be appropriate to break for lunch.

3 THE CHAIRPERSON: Okay. We'll break  
4 for one hour. So, we should be here by ten to two.

5 MS CEILIDH SNIDER: Thank you.

6 THE CHAIRPERSON: And I've noticed in  
7 the past that people have a tendency to come in late,  
8 so if we could start at ten to two in order to meet  
9 Mr. Warman's wishes, given the tradeoff we did  
10 yesterday.

11 MS CEILIDH SNIDER: Thank you.

12 REGISTRY OFFICER: Order, please.

13 --- Upon recessing at 12:50 p.m.

14 --- Upon resuming at 1:50 p.m.

15 REGISTRY OFFICER: Order, please.

16 Please be seated.

17 THE CHAIRPERSON: Mr. Fromm?

18 MR. FROMM: Yes, Mr. Chairman. You  
19 recall a motion I made yesterday afternoon and you  
20 rejected.

21 I'd like to ask that the individual  
22 at the far end of this room be excluded. He was one of  
23 the individuals who attacked my place on August the  
24 19th.

25 He's also an individual against whom

1 I filed a police complaint at the time during the  
2 Warman v. Winnicki hearing who followed or stalked me  
3 and Mr. Lemire at the lunch break during the hearing.

4 I have considerable concerns for  
5 peace and order at this hearing.

6 THE CHAIRPERSON: I don't know if  
7 what you have just stated to this Tribunal is true or  
8 not.

9 MR. KULBASHIAN: In that case, if we  
10 could put it in the form of a motion and put in some  
11 documents to show what we're stating, because I was  
12 also there present at the Winnicki hearing, I was also  
13 present during the attack on Mr. Fromm's house and I  
14 can attest that, in fact, the guy at the very end is in  
15 fact the individual that did intimidate, stalk or  
16 harass Mr. Fromm during the other hearing and we  
17 believe that his purpose here is not in any way of, I  
18 guess, a regular nature, it's more of the nature of  
19 intimidation or in a sense like harassment.

20 THE CHAIRPERSON: Ms Snider, do you  
21 have --

22 MS CEILIDH SNIDER: I have no  
23 knowledge of this person and the hearings are open to  
24 the public. I have no knowledge of these events.

25 Perhaps the seating arrangements

1           could be changed such that this individual of concern  
2           is seated further away from Mr. Fromm.

3                         MR. KULBASHIAN:   Our primary concern  
4           is also exiting and entering the room, crossing paths,  
5           basically.

6                         The individual is not an individual  
7           of, I would say, good character from my opinion  
8           anyways, and it becomes an issue where it is the  
9           Tribunal's ability to exclude individuals from the  
10          room.

11                        He has intimidated Mr. Fromm in  
12          another Tribunal hearing while he was acting as a  
13          witness in another hearing, therefore, we don't believe  
14          that -- based on the motion that Mr. Warman tried to  
15          put forth to have me excluded, if anyone should be  
16          excluded it's a non-party who in fact has shown some  
17          bad character in his actions during a Tribunal hearing,  
18          which he cannot show that I did, but we can show that  
19          he did in fact.

20                        MS CEILIDH SNIDER:   Just as a matter  
21          of correction, Mr. Warman did not in fact try and have  
22          you excluded from the room, he simply objected to your  
23          participation as an agent and as you are presently here  
24          we can clearly see that that objection was overruled.

25                        THE CHAIRPERSON:   Mr. Fromm, do you

1           feel uncomfortable with having people from the audience  
2           too close to where you are sitting and if we were to  
3           re-arrange --

4                         MR. FROMM:   Well, very definitely.  
5           My stuff's spread all over here.

6                         THE CHAIRPERSON:   And I'm aware of  
7           the fact that these facilities are not like the usual  
8           facilities that we could find, like in Ottawa in the  
9           Human Rights Tribunal offices.

10                        So, if you are telling me that you  
11           feel uncomfortable with the present environment, I  
12           could ask the people responsible for these facilities  
13           to maybe re-arrange the room, so that you would not --  
14           in order to deal with your concern.  Would that be to  
15           your satisfaction?

16                        MR. FROMM:   Well, I'm not sure to my  
17           satisfaction, but that might be better than nothing.

18                        THE CHAIRPERSON:   Okay.  And then  
19           with respect to leaving the room or coming into the  
20           room then we could come to some form of arrangement.

21                        I'm saying that knowing that I am not  
22           aware, personally aware of what has happened outside of  
23           this hearing room, but the only thing I can do, if this  
24           is one of your concerns, I will order the people from  
25           the JPR to re-arrange the room so that you will have

1           your privacy in dealing with the case and that your  
2           attention will focus on the proceedings and not on  
3           something else.

4                           Is this agreeable to you?

5                           MR. FROMM:   Yes, that would be  
6           helpful.  But the reason you're not aware of the facts  
7           is you didn't see my affidavit yesterday.

8                           THE CHAIRPERSON:  Yes, but  
9           Mr. Fromm --

10                          MR. KULBASHIAN:  We didn't file it  
11           formally.

12                          THE CHAIRPERSON:  Mr. Fromm, even if  
13           I had seen your affidavit, I don't know who that  
14           gentleman is and I can't make any relations between  
15           himself and you.

16                          But, in any event, you know, if  
17           that's agreeable to everyone we'll proceed that way.

18                          MS CEILIDH SNIDER:  Yes, thank you.

19                          THE CHAIRPERSON:  So, we will adjourn  
20           for a few minutes and I will ask the people from JPR to  
21           re-arrange the room so that Mr. Fromm will have more  
22           space in order to proceed more efficiently with peace  
23           of mind with the present proceeding.

24                          REGISTRY OFFICER:  Order, please.

25           --- Upon recessing at 2:10 p.m.

1 --- Upon resuming at 3:00 p.m.

2 REGISTRY OFFICER: Order, please.

3 Please be seated.

4 MR. KULBASHIAN: Mr. Chairman, I  
5 would like -- I'm going to be bringing a formal motion  
6 to have the three individuals that sit there excluded  
7 from the Tribunal hearing. The security -- well, to  
8 secure the hearing is paramount and we believe that our  
9 motion will show that the three individuals siting  
10 there, the three gentlemen should be excluded from the  
11 hearing and if you entertain that position, we can  
12 begin as soon as possible.

13 THE CHAIRPERSON: Mr. Warman, maybe  
14 if you could go back to your counsellor table.

15 MR. WARMAN: Mr. Chair, I think we  
16 come back to the exact same issue that we dealt with  
17 and disposed of yesterday, unless there is some issue  
18 directly related to this hearing now in some way  
19 affecting these proceedings that we call upon the exact  
20 same idea and that is, that this is a public hearing,  
21 the courts are open in Canada, so unless there is some  
22 evidence that these proceedings are being affected, I  
23 fear we are going to waste a lot more time yet again.

24 THE CHAIRPERSON: Mr. Warman, I would  
25 direct you to section 52.1(d).

1 MR. WARMAN: I'm sorry, I'm presuming  
2 it's the ability to close a hearing room, but...

3 THE CHAIRPERSON: And now I have a  
4 motion in front of me, from what I gather from  
5 Mr. Kulbashian's previous statement, that he is --  
6 maybe, I don't know if you are aware of section  
7 52.1(d), but I presume that...

8 MS CEILIDH SNIDER: If I may.

9 THE CHAIRPERSON: Yes, Ms Snider.

10 MS CEILIDH SNIDER: Perhaps I  
11 misunderstood before we broke, but it was my  
12 understanding that the concern was raised by  
13 Mr. Kulbashian and Mr. Fromm before we stopped for  
14 approximately an hour and had the room re-arranged and  
15 Mr. Fromm indicated that re-arranging the room and, you  
16 know, with the presence of the various police and  
17 security officers and re-arrangements of the room that  
18 that would be sufficient to satisfy him.

19 And so the Tribunal has very kindly,  
20 and the assistance of the centre has very kindly  
21 accommodated Mr. Fromm and made these re-arrangements.

22 There is now a substantial gap  
23 between the placement of various individuals in the  
24 room. So, in the Commission's view, it would appear  
25 that (a) this motion was previously dispensed with by

1 virtue of the re-arrangements and, you know, unless I  
2 have misapprehended that position beforehand.

3 MR. FROMM: Well, I had indicated  
4 that I was not entirely satisfied. I certainly want to  
5 compliment the Tribunal staff for their efforts to make  
6 accommodation and this is no reflection on them, but  
7 these are really very serious matters and in response  
8 to what Mr. Warman said, we're not resurrecting the  
9 same motion as yesterday.

10 Yesterday's motion had to do with  
11 dismissing the complaint, this has nothing to do with  
12 dismissing the complaint, that will be argued on  
13 another basis on another day.

14 This does have to do with the  
15 integrity and the security of the proceedings, sir.

16 MS CEILIDH SNIDER: And that's what I  
17 was referring to, that we had a discussion about  
18 approximately an hour ago.

19 MR. FROMM: Well, I received an  
20 anonymous phone call this morning, I suppose just to  
21 find out where I was, saying I ought to be in court, I  
22 don't know what that meant exactly.

23 I have had and a number of other  
24 people here in the room have had previous experiences  
25 with at least three of the individuals that are

1 sitting --

2 THE CHAIRPERSON: But before we go  
3 further, you are still maintaining your motion,  
4 Mr. Kulbashian?

5 MR. KULBASHIAN: Yes, I am. We have  
6 video evidence that these three individuals were  
7 involved in assault where they directly targeted  
8 Mr. Fromm and other individuals he was with at a  
9 restaurant in Mississauga. It was part of an ongoing  
10 issue.

11 And if I may make a quick submission  
12 in the relation to Mr. Warman's thing of directly  
13 affecting the hearing, I believe that a phone call,  
14 anonymous phone call that said, shouldn't you be in  
15 court, earlier on in the day and hung up continues --  
16 sorry.

17 THE CHAIRPERSON: Mr. Kulbashian, the  
18 only thing I want to know is if you are maintaining  
19 your motion.

20 MR. KULBASHIAN: I am, for sure.

21 THE CHAIRPERSON: And given the fact  
22 that a formal motion that is made has to do --

23 MS CEILIDH SNIDER: That's fine.

24 THE CHAIRPERSON: -- with the  
25 integrity or safety concern that Mr. Kulbashian or

1 Mr. Fromm have, I will hear the motion, but I will do  
2 it in camera.

3 MS CEILIDH SNIDER: Thank you.

4 THE CHAIRPERSON: That means anyone  
5 who is a member of the public will have to leave the  
6 room in order for the Tribunal to hear this specific  
7 motion.

8 No decision has been made as to what  
9 is going to be looked at in the coming minutes, it  
10 pertains only to the motion that is now being made by  
11 Mr. Kulbashian.

12 And in order to ensure that the  
13 motion is properly debated, I would ask anyone from the  
14 public to leave the room, I am not talking about the  
15 police officers or the security agents, but any other  
16 person who is not a party to this hearing, I would ask  
17 them to leave the room for the time being so that the  
18 Tribunal can rule on that motion.

19 --- Whereupon the hearing adjourned in public  
20 at 3:10 p.m. to resume immediately in camera

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I hereby certify that I have  
taken down in Stenograph and  
transcribed the foregoing to the  
best of my skill and ability.

  
Beverley Dillabough, C.S.R.