

**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^o CAUSE:

T1089/7005 & T1090/7105

VOLUME:

4

LOCATION/ENDROIT:

TORONTO, ONTARIO

DATE:

2006/11/23

PAGES:

608 - 744

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

TABLE OF CONTENTS / TABLES DES MATIÈRES

	PAGE
AFFIRMED: RICHARD WARMAN	632
Examination by Ms Ceilidh Snider	635

LIST OF EXHIBITS / PIÉCES JUSTICATIVES

NO.	DESCRIPTION	PAGE
HR-1	CHRC Book of Documents	633
HR-1 Tab A	Complaint form dated August 11, 2004 with the file number 2004-1421, Richard Warman as the complainant, Melissa Guille as the respondent	637
HR-1 Tab B	Three-page complaint form by Richard Warman dated August 11th, 2004, respondent Canadian Heritage Alliance	664
HR-1 Tab D	The resume of Melissa Guille downloaded from the website www.e-guille.com/melissa/resume/experience.html with the date of 25/05/02	677
HR-1 Tab F	Document entitled Whois search results for Canadian Heritage Alliance consisting of three pages with the date of 11/08/04	683
HR-1 Tab G	Four-page document, Whois search results from networksolutions dated 11/14/2006 for canadianheritagealliance.com	690
HR-1 Tab H	Page from the Canadian Heritage Alliance entitled Frequently Asked Questions	692
HR-1 Tab I	Document entitled: Become A Canadian Heritage Alliance member from the Canadian Heritage Alliance website printed out on 11/08/04	698
HR-1 Tab K	E-mail received at e-mail address davidmclean3@yahoo.com on the 13th of October, 2003 from e-mail address cha@canadianheritagealliance.com	705
HR-1 Tab M	Copy of letter received from the Canadian Heritage Alliance with a mailing day of February 4, 2003	711
HR-1 Tab N	Document entitled Membership Guide from the Canadian Heritage Alliance	716
HR-1 Tab O	Document: Canadian Heritage Alliance supporter card, member name, Dave McLean, activation date 3/12/2003	726

LIST OF EXHIBITS / PIÉCES JUSTICATIVES

NO.	DESCRIPTION	PAGE
HR-1 Tab P	Photocopy of Canadian Heritage Alliance business card	730
HR-1 Tab Q	Photocopy of Canadian Heritage Alliance sticker	733

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.

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

21

22


23

24

25

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

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.