

**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

TERRY TREMAINE

Respondent

l'intimé

BEFORE/DEVANT:

MICHEL DOUCET

CHAIRPERSON/
PRÉSIDENT

NICOLE BACON

REGISTRY OFFICER/
L'AGENTE DU GREFFE

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

HEARING HELD IN HEARING ROOM NO. 1 OF THE CANADIAN HUMAN RIGHTS
TRIBUNAL, 11TH FLOOR, 160 ELGIN STREET, OTTAWA, ONTARIO, ON
TUESDAY, AUGUST 8, 2006, AT 9:50 A.M. LOCAL TIME

APPEARANCES/COMPARUTIONS

Richard Warman	on behalf of the Complainant
Ikram Warsame/ Giacoma Vigna, Esq.	Counsel for the Canadian Human Rights Commission
Terry Tremaine/ Paul Fromm	on behalf of the Respondent

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Ottawa, Ontario

--- Upon commencing on Tuesday, August 8, 2006
at 9:50 a.m.

THE REGISTRAR: All rise, please.

THE CHAIRPERSON: Good morning.

THE REGISTRAR: Please be seated.

Good morning. The case for
hearing today is in the matter of a complaint filed
under section 13.1 of the Canadian Human Rights Act
by Richard Warman dated October 13, 2004, against
Terry Tremaine.

The complainant alleges that the
respondent has engaged in a discriminatory practice on
the ground of religion, national or ethnic origin, race
and colour, in a matter related to the usage of a
telecommunication undertaking.

The Presiding Member of this inquiry
is Michel Doucet.

The Tribunal now calls for
appearances, please.

MS WARSAME: Good morning, Mr. Chair.
Ikram Warsame, the Canadian Human Rights Commission.

MR. WARMAN: Good morning, Mr. Chair.
My name is Richard Warman. The last name is
W-A-R-M-A-N.

1 THE CHAIRPERSON: Thank you.

2 And for Mr. Tremaine?

3 MR. TREMAINE: Terry Tremaine.

4 MR. FROMM: Paul Fromm, F-R-O-M-M,
5 for Mr. Tremaine.

6 THE CHAIRPERSON: Thank you.

7 So I believe the first issue we have
8 before us is a motion which was submitted by the
9 Commission.

10 MS WARSAME: That's correct,
11 Mr. Chairman.

12 THE CHAIRPERSON: Now, is there an
13 issue, Mr. Tremaine, about you just receiving this
14 motion this morning?

15 Are you ready to proceed on
16 the motion?

17 MR. TREMAINE: No.

18 THE CHAIRPERSON: You would want time
19 to be able to look over the material?

20 MR. TREMAINE: Yes.

21 MS WARSAME: Mr. Chair, the
22 Commission is ready to proceed.

23 THE CHAIRPERSON: Could I ask you,
24 because of the noise in the background here, just to
25 speak a little louder, please?

1 MS WARSAME: Mr. Chair, I understand
2 Mr. Tremaine only received the motion this morning, so
3 we are ready to accept an adjournment.

4 THE CHAIRPERSON: All right.

5 Yes, Mr. Warman?

6 MR. WARMAN: I'm sorry. Just in the
7 interest of ensuring that the hearing completes before
8 the end of the week, that it would be a short
9 adjournment.

10 THE CHAIRPERSON: I understand that.
11 I also only received the written submissions this
12 morning because there was a problem, I believe, with
13 the internet when the Registry tried to send the
14 documentation to Mr. Tremaine and to myself. So I only
15 received that this morning.

16 So what I will do is, I will agree to
17 an adjournment until this afternoon at 2:30 to give the
18 opportunity to Mr. Tremaine and Mr. Fromm to look over
19 the documents. The parties can come back at that time
20 and present their arguments on the motion.

21 We will deal with the motion to
22 prohibit Paul Fromm to act as Agent at 2:30.

23 Would that be sufficient?

24 MR. FROMM: Mr. Chairman,
25 Mr. Tremaine asked me to assist him. While I'm not a

1 lawyer, I have had some experience at other Tribunals,
2 the Micka case, for instance, the Zundel case and
3 several others.

4 But this motion is a bit of an ambush
5 and I really am going to need to do some research.

6 I was wondering if we could resume
7 tomorrow morning.

8 MS WARSAME: Mr. Chair, if I might
9 add, just to advise the Tribunal, the party, the
10 respondent Mr. Tremaine, was advised actually on
11 July 18th of the Commission's intention to file this
12 motion. So this is not a surprise or an ambush.

13 Again, the Commission also filed a
14 motion on August 3rd. I understand there were some
15 difficulties providing the document.

16 THE CHAIRPERSON: I understand
17 what you are saying, but I believe what we are
18 referring to is that there are pretty important written
19 submissions that have been presented to the parties
20 this morning. I understand what Mr. Fromm is saying,
21 that he would need time to research those documents, to
22 look them over.

23 I will let you speak, Mr. Warman, but
24 I think the matter is pretty much straightforward,
25 though, and I'm not sure that adjourning this matter

1 until tomorrow morning would serve any purpose. We
2 could address that.

3 What I would like to do is to be able
4 to address the issue shortly this afternoon and then I
5 would have the opportunity during the evening to render
6 my decision on the motion.

7 I understand that four days have
8 been set aside for this hearing. For all parties
9 concerned there is an issue also of resources and costs
10 and we certainly wouldn't want to have to go beyond
11 those four days.

12 I tend to believe that if we
13 adjourn until 2:30 this afternoon and deal with the
14 matter in the afternoon, I would be able to have a
15 decision tomorrow morning, first thing tomorrow
16 morning, on that. I still believe that it's a pretty
17 straightforward issue that can be dealt with pretty
18 much quickly by the Tribunal.

19 Mr. Warman...?

20 MR. WARMAN: Mr. Chairman, just for
21 the record, the vast majority of the documents within
22 this are in fact simply postings by Mr. Fromm himself,
23 so I believe that should be of assistance.

24 THE CHAIRPERSON: That's what I saw.
25 Just looking through it quickly this morning, it was

1 your affidavit and maybe one or two decisions that you
2 referred to.

3 So what we will do is, I will adjourn
4 until 2:30 this afternoon and deal with the issue of
5 this submission. I will then hear the Commission's
6 point of view and Mr. Warman's arguments on the issue,
7 also Mr. Tremaine's position on the motion brought
8 forward by the Commission. Then, at that time this
9 afternoon, I will adjourn until tomorrow morning where
10 I will render my decision on the motion.

11 So we will adjourn until 2:30
12 this afternoon.

13 THE REGISTRAR: Order, please.

14 --- Upon recessing at 9:55 a.m.

15 --- Upon resuming at 2:30 p.m.

16 THE REGISTRAR: All rise, please.

17 THE CHAIRPERSON: Good afternoon.

18 THE REGISTRAR: Please be seated.

19 THE CHAIRPERSON: This afternoon
20 we will be dealing with the motion submitted by
21 the Commission.

22 Ms Warsame...?

23 MS WARSAME: That's correct,
24 Mr. Chair.

25 THE CHAIRPERSON: You can go ahead.

1 MS WARSAME: Mr. Chair, before we
2 start this afternoon, I will call Mr. Warman to
3 testify, to actually identify under oath a very recent
4 document that was disclosed to the parties on
5 August 1st.

6 I believe you have a copy. It is a
7 posting by Mr. Paul Fromm dated August 1st.

8 --- Pause

9 THE CHAIRPERSON: Yes. You want to
10 call the witness just to put into evidence
11 that posting?

12 MS WARSAME: That's correct.

13 MR. TREMAINE: We didn't receive
14 such a thing.

15 --- Pause

16 THE CHAIRPERSON: Was that sent
17 to -- yes?

18 --- Pause

19 THE CHAIRPERSON: You can go ahead.

20 MS WARSAME: Mr. Chair, the
21 reason why we need to put this into evidence now is
22 because it was not included in the affidavit in support
23 of our motion.

24 So I will call Mr. Warman to
25 the stand.

1 THE CHAIRPERSON: Only on that issue.

2 MS WARSAME: Only on that issue, yes.

3 THE CHAIRPERSON: All right.

4 AFFIRMED: RICHARD WARMAN

5 THE REGISTRAR: Thank you. Please
6 be seated.

7 EXAMINATION

8 MS WARSAME: Good afternoon,
9 Mr. Warman.

10 MR. WARMAN: Good afternoon.

11 MS WARSAME: I understand you have a
12 copy of the posting by Paul Fromm dated August 1st.

13 Can you please identify the document?

14 MR. WARMAN: Yes. This is a thread
15 on the U.S. website stormfront.org.

16 What it is, is it is a thread that
17 began by the person "Beer Runner123" on the first page
18 and then continues onto the fifth page.

19 On the bottom half of that fifth page
20 Mr. Fromm makes a post in response to a post made by
21 someone else named "WeveComeForWar".

22 Basically what it is, is it talks
23 about the history of hate cases, including criminal
24 things like the promotion of genocide.

25 MR. TREMAINE: Wait a minute.

1 Doesn't that bias the proceedings, to
2 call it "hate"?

3 THE CHAIRPERSON: Well, that's
4 the witness' --

5 MR. TREMAINE: Let's not go there.

6 THE CHAIRPERSON: That's the witness'
7 opinion, it is not the Tribunal's opinion at this
8 point. So the witness --

9 Again, Mr. Warman --

10 MR. TREMAINE: I just want it entered
11 in the record that that is a biased comment.

12 THE CHAIRPERSON: It is entered into
13 the record but, Mr. Warman, at this point if we could
14 just go straight to the --

15 MR. TREMAINE: Confine yourself to
16 objective facts.

17 THE CHAIRPERSON: I'm sorry,
18 Mr. Tremaine. Please do not interrupt me while I'm
19 speaking to the witness.

20 MR. TREMAINE: Okay.

21 THE CHAIRPERSON: So if we could go
22 directly to the posting, what you want to put in, and
23 let's leave aside all the other threads that are there.

24 I guess the only issue you want to
25 put in is that last posting of Mr. Fromm?

1 Is that it?

2 MS WARSAME: That is correct, yes.

3 THE CHAIRPERSON: Go directly to
4 that posting.

5 MR. WARMAN: Mr. Fromm's
6 posting reads:

7 "There's never been an acquittal
8 in a free speech (Sec. 13.1)
9 case. It shows how biased the
10 tribunals are. Members -- the
11 judges, so to speak -- have to
12 be part of the human rights
13 mafia; in other words, true
14 believers. A patriotic Canada
15 First government would repeal
16 the Human Rights law and send
17 these censors packing."

18 I saw this on the internet and I
19 forwarded an electronic copy to the Commission. This
20 is a print-off of the thread that I witnessed on the
21 Stormfront website.

22 MS WARSAME: Thank you.

23 MR. TREMAINE: May I ask a question
24 at this point?

25 THE CHAIRPERSON: Well, not at this

1 point. Wait until the Commission has finished and then
2 I will let you ask your question.

3 MS WARSAME: I have just one
4 last question.

5 When did you provide this? Can you
6 tell us the date on the posting by Paul Fromm?

7 MR. WARMAN: The date is
8 August 1, 2006.

9 MS WARSAME: Do you recall when the
10 posting was provided to the Commission?

11 MR. WARMAN: Subsequent to that. It
12 would have been a day or two subsequent to that. I
13 can't remember the exact date.

14 But this is the thread that I
15 witnessed on Stormfront.

16 MS WARSAME: Thank you.

17 THE CHAIRPERSON: That's it?

18 MS WARSAME: Yes.

19 THE CHAIRPERSON: Now, only on this
20 issue of putting this into evidence, this posting. It
21 is in regards to the motion put forward by the
22 Commission, Mr. Tremaine, if you have any questions for
23 the witness.

24 EXAMINATION

25 MR. TREMAINE: In what way is

1 that relevant to my selection of Mr. Fromm as
2 my representative?

3 It bears no relevance whatsoever.

4 MS WARSAME: Objection.

5 THE CHAIRPERSON: The issue of
6 relevance, I will decide that issue.

7 MR. TREMAINE: All right.

8 THE CHAIRPERSON: You can raise that
9 in your argument certainly that it is not relevant.

10 MR. TREMAINE: But I would like
11 Mr. Warman to answer that: What relevance does he
12 think this has?

13 THE CHAIRPERSON: Mr. Warman,
14 can you...?

15 MR. WARMAN: I believe that it is
16 relevant to the affidavit that I swore out in that it
17 represents the continuing, what I believe to be a
18 contemptuous attitude shown by Mr. Fromm --

19 MR. TREMAINE: It's an opinion.

20 MR. WARMAN: -- towards --

21 MR. TREMAINE: It's an opinion.

22 THE CHAIRPERSON: Sorry. Let's
23 not --

24 MR. TREMAINE: Sorry.

25 THE CHAIRPERSON: Let the witness

1 finish and then you will be able to continue with your
2 questioning of the witness.

3 MR. WARMAN: -- towards the Canadian
4 Human Rights Tribunal, its Members and the Canadian
5 judicial system as a whole.

6 MR. TREMAINE: May I now ask
7 a question?

8 THE CHAIRPERSON: Yes.

9 MR. TREMAINE: Suppose I have the
10 same opinion, which I do. Does that make me ineligible
11 to represent myself?

12 THE CHAIRPERSON: I can answer
13 that: No.

14 MR. TREMAINE: No. So then it should
15 not make Mr. Fromm ineligible either.

16 THE CHAIRPERSON: You will be able
17 to put that in your argument when you make your
18 closing arguments.

19 MS WARSAME: Mr. Chair, I would
20 like just to remind -- I understand Mr. Tremaine is not
21 a lawyer, but I would like to remind him that the
22 purpose of why the witness is on the stand is just to
23 identify the document.

24 THE CHAIRPERSON: Yes, I know. The
25 document has been identified and you can sit down now.

1 I will let Mr. Tremaine continue with
2 his cross-examination of the witness, if he so wishes
3 to continue, and then we will go to the legal arguments
4 on the issue of whether Mr. Fromm should be allowed to
5 represent you in this hearing.

6 MR. TREMAINE: Okay.

7 I don't have any further questions
8 at the moment.

9 THE CHAIRPERSON: Thank you
10 very much.

11 Are there any other questions
12 in redirect?

13 MS WARSAME: No.

14 THE CHAIRPERSON: Thank you,
15 Mr. Warman.

16 So we will move ahead to the
17 arguments of both parties on the issue of the motion
18 that was put forward by the Commission.

19 MR. TREMAINE: Mr. Chairman...?

20 THE CHAIRPERSON: Yes...?

21 MR. TREMAINE: Am I able to make
22 comments on the motion itself?

23 THE CHAIRPERSON: Yes, you will be
24 able to make comments.

25 The way we proceed is, since it

1 is the Commission that has submitted the motion, the
2 Commission will make its arguments now, Mr. Warman will
3 also, and you will be able to answer those arguments
4 and make whatever submissions you want to on the
5 motion itself.

6 MR. TREMAINE: Okay.

7 THE CHAIRPERSON: All right?

8 MS WARSAME: Mr. Chair, before we
9 proceed I would like to just ask that the document be
10 admitted as an exhibit.

11 THE CHAIRPERSON: All right. We will
12 put it in as an exhibit, yes.

13 THE REGISTRAR: The internet posting
14 from Paul Fromm regarding "Now I'm going to jail.",
15 posted on August 1, 2006 will be filed as a preliminary
16 exhibit, PM-1.

17 EXHIBIT NO. PM-1:
18 Stormfront.org thread entitled
19 "Now I'm going to jail." by Paul
20 Fromm, posted on August 1, 2006
21 and sent to the Commission by
22 Richard Warman

23 THE CHAIRPERSON: Yes, go ahead.

24 ARGUMENT

25 MS WARSAME: Mr. Chair, the reasons

1 in support of the Commission motion are clearly
2 outlined in our motion record.

3 With the permission of the Tribunal,
4 I will briefly summarize the raison d'être of the
5 motion and why the Tribunal in this case should issue
6 an order prohibiting Mr. Fromm from acting as an agent
7 for Mr. Tremaine before this Tribunal.

8 It is our submission, Mr. Chair,
9 that Mr. Fromm should not be permitted to participate
10 as an agent for Mr. Tremaine because it is clear
11 from comments made by Mr. Fromm that he views the
12 Tribunal, and the whole Canadian judicial system,
13 with contempt.

14 His presence, Mr. Chair, before
15 the Tribunal would compromise the integrity, fairness
16 and efficiency of the hearing. And there is no doubt
17 that his participation will hinder rather than
18 facilitate the process.

19 Mr. Chair, let me highlight for the
20 Tribunal some of the comments made by Fromm which can
21 be found in Mr. Warman's Affidavit.

22 Mr. Fromm's prolific internet
23 postings contain derisive commentary directed at the
24 Canadian judicial system, the Canadian Human Rights
25 Tribunal, the Canadian judges, the Canadian Human

1 Rights Tribunal Members and the Commission.

2 Mr. Fromm has described the
3 Canadian Human Rights Tribunal as "a Soviet style
4 kangaroo court."

5 Mr. Fromm has referred to decisions
6 of the Tribunal as "Stalinist lunacy".

7 That can be found in Exhibits "F"
8 and "K" of Mr. Warman's affidavit.

9 Mr. Fromm accused the Canadian courts
10 and the Canadian Human Rights Tribunal of being
11 "increasingly corrupt".

12 That can be found in Exhibit "H" of
13 Mr. Warman's affidavit.

14 Mr. Fromm feels that Canadian
15 Human Rights Tribunal decisions in hate speech
16 cases are leading Canada to become a "Third World
17 banana republic".

18 MR. TREMAINE: "Hate speech"? Can
19 you revise that?

20 THE CHAIRPERSON: I'm sorry. I will
21 let her continue and you will be able to answer during
22 your arguments, Mr. Tremaine.

23 MS WARSAME: That can be found in
24 Exhibit "G" of Mr. Warman's affidavit.

25 Mr. Fromm has referred to Tribunal

1 Member Dr. Groarke as a "government appointed censor".

2 That can be found in Exhibit "K" of
3 Mr. Warman's affidavit.

4 In a recent Tribunal inquiry which
5 involved Mr. Warman and Glenn Bahr and the Western
6 Canada for Us, Mr. Fromm participated as an agent in
7 that case. He filed a motion requesting Tribunal
8 member Julie Lloyd to recuse herself for bias.
9 Mr. Fromm alleged that Ms Lloyd has a "sinister
10 background". He stated that Ms Lloyd was bias because
11 she is a radical lesbian and an advocate for the
12 homosexual agenda.

13 That can be found in Exhibit "L" of
14 Mr. Warman's affidavit.

15 Mr. Fromm described Justice Blais, in
16 a case involving Mr. Zundel and the Security Service,
17 as a judicial thug and a bully. He stated that:

18 "Blais is a judicial assassin
19 ... [to] murder the leading
20 opponents of Zionism".

21 That can be found in Exhibit "M" of
22 Mr. Warman's affidavit.

23 As recent as July 27th Mr. Fromm
24 described the Commission as responsible for Soviet
25 anti-freedom tyranny, with whom the Canadian courts are

1 complicit, "here in North Cuba".

2 That can be found in Exhibit "I" of
3 Mr. Warman's affidavit.

4 As recent as August 1st Mr. Fromm
5 wrote the following -- in Exhibit PM-1 he is talking
6 about the section 13 cases and he stated the following:

7 "There's never been an acquittal
8 in a free speech (Sec. 13.1)
9 case. It shows how biased the
10 tribunals are. Members -- the
11 judges, so to speak -- have to
12 be part of the human rights
13 mafia..."

14 Mr. Chair, in this case there are
15 three issues that need to be decided by the Tribunal.

16 The number one issue is: Does
17 this Tribunal have the power to prohibit a person such
18 as Mr. Fromm from appearing before it as an agent for
19 a party?

20 The second issue is: Should the
21 Tribunal exercise its discretion to prohibit Mr. Fromm
22 from appearing before it in this particular case?

23 Finally, the third issue is: Should
24 the Tribunal exercise its discretion to issue a general
25 order of prohibition against the participation of

1 Mr. Fromm in Tribunal hearings?

2 Mr. Chair, the first question: Does
3 the Tribunal have the power to bar a person from
4 appearing before it as an agent for a party?

5 The answer for that question
6 is: Yes.

7 The general rule is that parties
8 appearing before administrative tribunals are entitled
9 to representation from an agent of their choosing.
10 But the right is not absolute, Mr. Chair. The Tribunal
11 has the discretion to limit participation to those
12 persons that they believe will facilitate, rather than
13 hinder, the process.

14 It is because the Tribunal is master
15 of its own proceeding and has an obligation to ensure
16 the integrity, the fairness and efficiency of the
17 hearing process.

18 This general rule has been confirmed
19 recently by the Canadian Human Rights Tribunal in the
20 case called Filgueira.

21 I would like to refer you, Mr. Chair,
22 to Tab 3B of the Commission motion record. There was a
23 case called Thomas v. Assn. of New Brunswick Registered
24 Nursing Assistants. Paragraph 10.

25 --- Pause

1 THE CHAIRPERSON: Yes.

2 MS WARSAME: This confirms the rule
3 that allows a Tribunal to limit the participation of
4 agents appearing before them.

5 --- Pause

6 MS WARSAME: I would also like to
7 refer you to Tab C, the case called Filgueira v.
8 Garfield Container Transport Inc., Canadian Human
9 Rights Tribunal [2005], paragraphs 15 and 17, which
10 basically confirm the general rule.

11 --- Pause

12 MS WARSAME: Now that we have
13 answered the first question with respect to the power
14 of the Tribunal to limit the participation of agents
15 before them, let's go to the second question: Should
16 the Tribunal in this case bar Mr. Fromm from appearing
17 before it as an agent for Mr. Tremaine?

18 The answer to that question is: Yes.

19 The Commission submits that the
20 Tribunal should prohibit Mr. Fromm from appearing
21 before it as an agent because of the following reasons:

22 Mr. Chair, the participation in
23 administrative tribunals is not a right, but a
24 privilege. It is settled law that administrative
25 tribunals may prohibit the participation of persons

1 that they believe will hinder rather than facilitate
2 the adjudication, which we believe this is the case in
3 this present case.

4 I would like to refer you to Tab 3B,
5 again the case of Thomas v. Assn. of New Brunswick
6 Registered Nurses Assistants, paragraph 25.

7 --- Pause

8 THE CHAIRPERSON: Yes...?

9 MS WARSAME: In Filgueira the
10 Canadian Human Rights Tribunal held, as I explained a
11 few minutes ago, that the party who wishes to be
12 represented by an agent has the obligation to satisfy
13 the Tribunal, if the Tribunal deems it necessary, that
14 the agent who represents him or her is in a position to
15 facilitate rather than hinder the process.

16 The Tribunal held in Filgueira that
17 an agent will be allow to participate if his or her
18 presence will protect the fairness, integrity and
19 efficiency of the hearing.

20 That again can be found at Tab 3C,
21 paragraphs 15 and 17, the Canadian Human Rights
22 Tribunal, Filgueira v. Garfield.

23 --- Pause

24 MS WARSAME: Let me remind the
25 Tribunal that in Filgueira Dr. Groarke has looked at

1 some factors in deciding whether a person should be
2 prohibited from appearing as an agent.

3 In that case, Dr. Groarke noted that
4 the agent spoke the language of the party she was
5 representing and had some knowledge of the law and a
6 detailed knowledge of the case.

7 The Filgueira case involved an
8 individual who has some difficulties expressing himself
9 in English and the Tribunal allowed the agent to
10 participate because she was able to assist the
11 complainant in communicating with the Tribunal.

12 The Tribunal, Dr. Groarke in that
13 case, held the agent was able to assist the party in
14 communicating with the Tribunal and would therefore
15 facilitate the process.

16 Mr. Chair, we believe that is not the
17 case here. The respondent, Mr. Tremaine, has no
18 difficulties in putting forward his case.

19 Mr. Fromm was not involved in this
20 case during the Commission's process, as was the case
21 in Filgueira.

22 Mr. Fromm, as he confirmed this
23 morning, has no knowledge of the law and has no
24 detailed knowledge of the case. Let me remind the
25 Tribunal that Mr. Fromm did not participate in any way

1 or form in this proceeding prior the hearing.

2 Mr. Fromm has unnecessarily delayed
3 another proceeding -- which involved another section 13
4 case -- by making unfounded allegations of bias.

5 THE CHAIRPERSON: Well, I don't have
6 any evidence.

7 MS WARSAME: There is some evidence
8 we include. It's at tab -- it's a case involving the
9 Member Mrs. Julie Lloyd. That can be found at
10 Exhibit "L".

11 THE CHAIRPERSON: Exhibit L?

12 MS WARSAME: Yes.

13 --- Pause

14 THE CHAIRPERSON: The only thing I
15 have there is a posting in Stormfront.

16 MS WARSAME: It's a posting --
17 pardon me?

18 THE CHAIRPERSON: It's a posting
19 in Stormfront.

20 Is that what you are referring to?

21 MS WARSAME: Yes. But in that
22 posting he is discussing the fact that he filed a
23 motion in which he alleged allegation of bias because
24 of the fact that he alleged the Member was a radical
25 lesbian and was an advocate for the homosexual agenda.

1 We therefore submit that the Tribunal
2 should not allow Mr. Fromm to act as agent for
3 Mr. Tremaine because his presence will not assist this
4 Tribunal. We therefore believe the Tribunal process
5 would be compromised and would be a deterrent -- to the
6 efficiency of the hearing if Mr. Fromm is allowed to
7 participate in this case.

8 Another reason for not allowing
9 Mr. Fromm to participate is the fact that Mr. Fromm
10 expressed a blatant disrespect for the law.

11 Mr. Chair, let me highlight the fact
12 that the case law recognizes that a Tribunal may
13 prohibit a person from appearing before the Tribunal if
14 the person in question has a background of blatant
15 disrespect for the law.

16 That can be found in Tab 3D,
17 R. v. Romanowicz.

18 --- Pause

19 MS WARSAME: Precisely at
20 paragraph 74.

21 In that case Court provided reasons
22 why agents should not be allowed, and among those
23 reasons, as you will see in the middle of the
24 paragraph, they say an agent whose background
25 demonstrated dishonesty or a blatant disrespect for the

1 law. And they provide also other examples.

2 In Romanowicz, the Ontario Court of
3 Appeal wrote that persons with a demonstrated lack of
4 good character can only bring the administration of
5 justice into disrepute in the eyes of reasonable
6 members of the public.

7 It is our submission, Mr. Chair, that
8 Mr. Fromm has clearly manifested a blatant disrespect
9 for the law. He has described the Tribunal as a
10 "kangaroo court". He make disparaging personal and
11 professional remarks about Tribunal Members.

12 Mr. Fromm has described decisions of
13 the Tribunal as "Stalinist lunacy."

14 The Commission, therefore, submits
15 that it is clear from comments made by Mr. Fromm that
16 he views the Tribunal and the judicial system as a
17 whole with contempt.

18 Finally, another reason why Mr. Fromm
19 should not be allowed to act as an agent for
20 Mr. Tremaine, is the fact that Mr. Fromm is a defendant
21 in a civil suit for libel initiated by the complainant,
22 Mr. Warman. The Commission submits that Mr. Fromm may
23 be acting against Mr. Warman in hostility rather than
24 as a spokesperson for Mr. Tremaine.

25 We submit, Mr. Chair, that

1 Mr. Fromm's unharmonious relationship with
2 Mr. Warman creates a conflict of interest that will
3 hinder this process.

4 The final issue that needs to be
5 decided by the Tribunal is: Should the Tribunal in
6 this case issue a general order of prohibition against
7 the participation of Mr. Fromm in Tribunal hearings?

8 Administrative tribunals normally
9 may prohibit a person from appearing before them as
10 an agent on a general basis, rather than on a
11 case-by-case determination.

12 A decision to issue a general
13 prohibition might be made if the Tribunal believes that
14 it is necessary to protect the integrity of the process
15 and the cumulative weight of the evidence supports such
16 a decision.

17 Mr. Chair, I would like to refer you
18 to the case of Rezaei v. Canada (Minister of
19 Citizenship and Immigration) at Tab 3E.

20 --- Pause

21 THE CHAIRPERSON: Yes.

22 MS WARSAME: In that case, the
23 Immigration Board prohibited an immigration consultant
24 agent to appear as an agent before the Board, and the
25 Federal Court confirmed the decision and stated that an

1 administrative tribunal has the power to issue a
2 general prohibition.

3 In that case, the agent was not
4 allowed to appear before the IRB, Immigration and
5 Refugee Board, for three years.

6 Justice Beaudry of the Federal
7 Court stated that an order prohibiting a person
8 from appearing as an agent before a Tribunal -- let me
9 go back.

10 In that case, in Rezaei, Justice
11 Beaudry confirmed the order prohibiting a person
12 from appearing as an agent before the Tribunal for
13 three years. He noted that a case-by-case prohibition
14 could cause --

15 THE CHAIRPERSON: You are referring
16 to where? Which paragraph?

17 MS WARSAME: Paragraphs 71 and 73
18 of Tab 3.

19 THE CHAIRPERSON: Go ahead.

20 MS WARSAME: Justice Beaudry of the
21 Federal Court noted that case-by-case prohibition
22 could cause frequent procedural delays and
23 adjournments. In addition, as masters of their own
24 procedure, the Tribunal had the power to issue a
25 general prohibition in this case.

1 So this confirmed that in addition to
2 prohibiting an agent to participate in a particular
3 case, the Tribunal has the power to issue a general
4 order which will prohibit that person from appearing
5 before the Tribunal as a general rule.

6 The Commission submits that the
7 participation of Mr. Fromm in this proceeding will
8 hinder the efficiency of the Tribunal process.
9 Taken as a whole, the Commission's evidence shows
10 a history --

11 THE CHAIRPERSON: I just wanted to go
12 back to that Rezaei decision.

13 MS WARSAME: The Rezaei decision,
14 yes?

15 THE CHAIRPERSON: The factual
16 situation in that was certainly more than what we
17 have here, if we look at paragraph 7 of that decision
18 for example.

19 MS WARSAME: That's correct. In that
20 case, they --

21 THE CHAIRPERSON: There were criminal
22 charges for attempting to organize coming into Canada
23 of illegal immigrants.

24 MS WARSAME: No, that was a different
25 issue. That case was resolved through -- the person

1 was charged, the agent was charged -- there was a
2 criminal offence, but that was overturned on appeal.
3 But that was another case.

4 THE CHAIRPERSON: There was also an
5 inquiry done by the IRB in that case to look into the
6 conduct of the --

7 MS WARSAME: That's correct.
8 That's correct.

9 But what this case is confirming is
10 that it is not only possible to prohibit someone in a
11 particular case, but also the Tribunal has the power --

12 THE CHAIRPERSON: I would agree that
13 the Tribunal has the power to do that, but for the
14 Tribunal to do that the factual situation needs to be
15 before the Tribunal.

16 MS WARSAME: That's correct.

17 But as you will see in the affidavit
18 of Mr. Warman, there is a clear -- the postings by
19 Mr. Fromm are very clear and speak on their own. We
20 don't need to explain the details of the thought
21 behind the posting.

22 What we are asking, and what we
23 would like to highlight for the Tribunal, is the
24 power exists. So if after reading the evidence put
25 forward by the Commission, in this case if the Tribunal

1 thinks it is necessary in order to protect the
2 integrity of the process to issue that type of order,
3 we just would like to highlight that it is possible and
4 it has been done.

5 THE CHAIRPERSON: All right.

6 --- Pause

7 MS WARSAME: Finally, in conclusion,
8 the Commission submits that as a whole the comments
9 made by Mr. Fromm establish an attitude of disrespect
10 and contempt for the Tribunal and its Members.

11 To allow Mr. Fromm to appear as an
12 agent before the Tribunal in this case will hinder the
13 integrity of the Tribunal process.

14 We are not in a case, Mr. Chair,
15 which maybe will allow Mr. Fromm to assist the
16 respondent. This is not a case where Mr. Fromm
17 can provide an inside knowledge that Mr. Tremaine
18 does not have.

19 THE CHAIRPERSON: Both parties have
20 been using the word "agent" in this case and
21 "representative". Nobody has made reference to
22 section 50 of the Act itself, which says that:

23 "... parties to whom notice has
24 been given a full and ample
25 opportunity, in person or

1 through counsel, to appear at
2 the inquiry, present evidence
3 and make representations."

4 So there is no issue that the
5 complainant himself -- and that is the answer to the
6 question that Mr. Tremaine was raising a while ago,
7 that the complainant himself can certainly make
8 presentations in person to the Tribunal.

9 Then there is the word "counsel". In
10 French they are using the word "avocat", "lawyer", but
11 in English the word that is being used is "counsel", or
12 he can make them through "counsel".

13 There is no issue also, I guess
14 nobody would object, that if we are talking about an
15 agent as somebody sitting at the table and assisting
16 the complainant, or any other party, or the respondent,
17 but not participating actively in the proceedings, that
18 there are no problems with that.

19 I'm just wondering, none of the
20 parties, neither the Commission or Mr. Warman -- I
21 haven't heard Mr. Tremaine yet -- made reference to
22 section 50 and the fact of what does "counsel" mean?

23 MS WARSAME: If I can answer that
24 question, Mr. Chair, I would like to refer you to
25 the case of --

1 THE CHAIRPERSON: Filgueira.

2 MS WARSAME: Yes.

3 In that one the Tribunal,
4 Dr. Groarke, actually answered that question. It
5 was his opinion, I believe, if you look at Tab C,
6 paragraph 5, the meaning of the word "counsel". He
7 is referring to the meaning of the term "avocat"
8 in French.

9 THE CHAIRPERSON: Yes.

10 MS WARSAME: It is my
11 understanding that the conclusion of the Tribunal in
12 that case is, the meaning of the term "counsel" will
13 be "avocat", meaning --

14 THE CHAIRPERSON: A legal counsel.

15 MS WARSAME: A lawyer. A legal
16 counsel, not an agent.

17 THE CHAIRPERSON: But there have been
18 other circumstances or other cases where the Tribunal
19 has allowed -- and the Commission has participated in
20 those cases where the Tribunal has allowed people who
21 are not legal counsel to --

22 MS WARSAME: That's correct.

23 THE CHAIRPERSON: Yes. We agree.

24 MS WARSAME: Yes.

25 We even recognize in this case, as I

1 stated at the beginning, that the general law will
2 allow the participation of agent. The question is: In
3 order to protect, in some cases, the integrity of the
4 process, the Tribunal should bar some people from
5 participating in the process.

6 So this is settled law and
7 the Commission recognized that agents can
8 participate normally.

9 THE CHAIRPERSON: All right.

10 MS WARSAME: But we believe in
11 this case that the participation will not assist
12 the process.

13 THE CHAIRPERSON: Is that all?

14 MS WARSAME: Finally, just to
15 highlight the remedies. The remedies can be found in
16 our motion record.

17 As stated in our motion record -- the
18 last page, the paragraph under Part IV -- in terms of
19 remedy the Commission is asking for an order
20 prohibiting Mr. Paul Fromm from appearing before the
21 Canadian Human Rights Tribunal as an agent for at
22 least three years, as was the case in Rezaei v.
23 Minister of Immigration.

24 In the alternative, the Commission is
25 asking for an order prohibiting Mr. Fromm from

1 appearing before this Tribunal as an agent in this
2 particular case.

3 Thank you.

4 THE CHAIRPERSON: Mr. Warman...?

5 MR. TREMAINE: Excuse me. Can I
6 respond to her thing first and then respond to
7 Mr. Warman's?

8 THE CHAIRPERSON: No. The usual way
9 to do it would be that you respond to both of them.
10 You will have all the opportunity to respond.

11 MR. TREMAINE: Because there is a
12 lot there.

13 THE CHAIRPERSON: I understand that.

14 MR. TREMAINE: There is a lot of
15 material there.

16 THE CHAIRPERSON: I understand that,
17 Mr. Tremaine, but the procedure usually is that the
18 Commission and the complainant put their motion forward
19 and then I will give you the opportunity to respond to
20 both of them.

21 I understand that there is a lot of
22 information that you need to note down and go back, but
23 I will give you the opportunity, and full opportunity,
24 to respond to those allegations.

25 MR. TREMAINE: Okay.

1 THE CHAIRPERSON: Mr. Warman...?

2 ARGUMENT

3 MR. WARMAN: Mr. Chair, in order to
4 avoid duplication of the submissions of my colleague, I
5 will simply adopt the submissions of the Canadian Human
6 Rights Commission.

7 I would note that the postings in
8 this case are not a single incident. They are not a
9 flippant remark made off-the-cuff in a moment of anger
10 or in a moment of callousness. These are a succession
11 of postings that span a two-year period, beginning with
12 Exhibit "A" dating from October 13, 2004.

13 I would submit respectfully to the
14 Tribunal that this in fact makes it all the
15 more egregious, that this is not a single incident,
16 that this is a recurring pattern of conduct on the
17 part of Mr. Fromm, and that that should in fact be
18 taken into consideration by you as the Chair in
19 rendering your decision.

20 I would emphasize as well, as my
21 colleague has noted, that the appearance of a
22 non-member of the Bar before the Canadian Human Rights
23 Tribunal is a privilege. Mr. Fromm, through his
24 postings, has repeatedly demonstrated his disrespectful
25 and contemptuous attitude towards not just the Canadian

1 Human Rights Tribunal as an entity, as a body, but he
2 has gone much further than that, in my submission. He
3 has attacked specific Members of the Tribunal by name
4 with the most heinous and ludicrous of allegations.

5 In fact, my colleague for the
6 Commission neglected to mention that in fact there is
7 a decision by the Tribunal before you that you may take
8 into consideration. Unfortunately, it wasn't included
9 in the authorities, but it is the decision by Member
10 Lloyd rejecting the allegation of bias that was
11 submitted by Mr. Fromm in the hearing of Warman v. Bahr
12 in Edmonton.

13 So there is in fact jurisprudence
14 before you that you may consider in considering the
15 merits of the ability of Mr. Fromm to make submissions.

16 Further then just attacking the
17 Canadian Human Rights Tribunal and individual Members,
18 these same kinds of attacks have been levelled against
19 the Federal Court of Canada.

20 And not just, again, the Federal
21 Court of Canada, but also individual judges. In this
22 case, my colleague, Ms Warsame, listed specific attacks
23 on Justice Pierre Blais of the Federal Court. And
24 again, the same kind of vicious rhetoric that has been
25 levelled against Members of the Canadian Human Rights

1 Tribunal by name.

2 And not just the Canadian Human
3 Rights Tribunal, not just the Federal Court of
4 Canada, but also against the justice system of
5 Canada as a whole.

6 Mr. Tremaine, in his previous
7 submissions before the Canadian Human Rights Tribunal
8 in the sort of precursor leading up to this hearing,
9 has suggested that he wishes Mr. Fromm to play a
10 supplementary role to his own conduct of his defence.

11 It would be my respectful submission
12 to the Tribunal that such a role may be played by
13 Mr. Fromm while sitting in the audience and consulting
14 with Mr. Tremaine from time to time during pauses in
15 the hearing itself.

16 Mr. Chair, the final submission that
17 I would make is that it is my respectful submission
18 that to permit Mr. Fromm the privilege of audience
19 before the Tribunal in this case, given his history,
20 would be such as to bring the administration of justice
21 into disrepute.

22 Those are my submissions, barring any
23 questions you may have.

24 THE CHAIRPERSON: Thank you very
25 much, Mr. Warman.

1 MR. WARMAN: Thank you.

2 THE CHAIRPERSON: Mr. Tremaine, are
3 you ready to go ahead right now?

4 ARGUMENT

5 MR. TREMAINE: Well, I don't know
6 where to begin.

7 Let's begin with the issue
8 of hostility.

9 There is plenty of hostility to go
10 around. Mr. Warman is hostile towards me. He got me
11 fired from my job at U of S. I have the letter from
12 the University of Saskatchewan on University of
13 Saskatchewan letterhead.

14 He is hostile to Mr. Fromm. If
15 Mr. Fromm is hostile in return -- I don't see how the
16 issue of hostility enters in. To me it's irrelevant.
17 Process.

18 Well, it's true, I did want to defend
19 myself without any assistance. I have taken the good
20 advice of friends that I can think logically, but I
21 don't know the process here very well. I need an
22 advisor to help with the process and to help me out
23 with issues of a strictly legal matter.

24 THE CHAIRPERSON: I don't want to
25 interrupt you, but can I just ask you a question on

1 that point?

2 MR. TREMAINE: Yes. Yes.

3 THE CHAIRPERSON: When you are
4 saying you need somebody to advise you, in your
5 written particulars you said that you requested that
6 Mr. Paul Fromm appear with you. Are you requesting
7 that he be here --

8 MR. TREMAINE: I would like to have
9 him represent me, but I would also like the opportunity
10 to cross-examine witnesses myself, because I have
11 questions I want to ask.

12 THE CHAIRPERSON: You see, that might
13 be the problem I just wanted to raise with you.

14 MR. TREMAINE: But if he acts as my
15 advisor, to me it is absurd to have him sit in the
16 audience and I have to wait for a pause to go and ask
17 him a question.

18 But anyway, let me -- can I return
19 to that?

20 THE CHAIRPERSON: Sure. Sure.

21 Go ahead.

22 MR. TREMAINE: Madam Warsame, I wish
23 I had counted the number of times she said
24 "efficiently" or "efficiency".

25 I had thought that fairness was a

1 factor as well. She didn't mention "fairness" once.

2 I don't know much about the law
3 pertaining to this Commission, but I do know a little
4 bit about natural justice. Fairness ought to include
5 the right to choose your own counsel.

6 "Hinder". She mentioned "hinder" I
7 don't know how many times.

8 What is hindering? Does that mean,
9 again, if we stand up and try to secure some fairness,
10 is that hindering the process?

11 I want to mention about Blais.

12 Blais had been the Minister in charge
13 of CSIS prior to hearing the Zundel case. If that
14 isn't bias -- in a just system he wouldn't have been
15 appointed to the case, and any man with integrity ought
16 to have recused himself.

17 THE CHAIRPERSON: I can't go there.
18 That is the Federal Court. I have no jurisdiction on
19 the Federal Court.

20 MR. TREMAINE: Okay. But I just
21 wanted to address the question how Madam Warsame said
22 that Paul Fromm accused the system of being biased,
23 corrupt, et cetera.

24 Well, to have a man who is the former
25 Minister of CSIS, in charge of CSIS, ruling on the

1 Zundel case, if that isn't corrupt and biased...

2 MR. WARMAN: Mr. Chairman...?

3 THE CHAIRPERSON: Again, I'm not
4 going to go there.

5 MR. TREMAINE: Okay.

6 THE CHAIRPERSON: Yes, I
7 understand that.

8 MR. TREMAINE: I have made my
9 statement.

10 THE CHAIRPERSON: I'm not going to
11 touch that issue.

12 MR. TREMAINE: Okay.

13 "Integrity". Integrity includes --
14 she mentioned "integrity" numerous times.

15 Well, integrity includes the idea of
16 fairness. Fairness includes the idea I should have the
17 right to choose my own counsel.

18 I want to mention -- I already said
19 that Warman got me fired from my job and left me in
20 very dire financial straits, unable to afford a lawyer,
21 and now they want to prohibit me from having the person
22 I want to have here to represent me, at least in part.

23 Mr. Fromm does have inside knowledge.

24 Madam Warsame mentioned he doesn't
25 have any inside knowledge about this case. And then

1 she contradicted herself by quoting all these different
2 places where Paul Fromm had actually acted as an agent
3 for other people.

4 So which is it, he has no inside
5 knowledge or he acted as an agent for other people? I
6 mean, she can't have it both ways.

7 And he is very familiar with my
8 writings on Stormfront. Paul Fromm and I, we often
9 respond to each other's posts and threads on
10 Stormfront. He is familiar with my writings, he has
11 seen my writings.

12 As for his attitude to these
13 Tribunals, I don't want to impugn his originality, but
14 he has borrowed some of that language from me I think.

15 I think I was the first one to
16 compare these to "Soviet show trials". I have
17 called them "kangaroo courts". I have called these
18 Tribunals similar to the "Court of the Red Queen" in
19 "Alice in Wonderland" where the sentence comes first,
20 then the verdict, and then, for the sake of appearance,
21 a bit of evidence.

22 So if he is prohibited, because of
23 his attitude towards these Tribunals, then I should be
24 prohibited as well from defending myself because I
25 share his attitudes. In fact, some of his language I

1 believe he has borrowed from me.

2 He has been part of this process
3 informally going back a long way. We have conferred
4 back and forth.

5 The most recent conference call, I
6 believe it was -- when was it, June 26th, June 28th?

7 THE REGISTRAR: July 18th.

8 MR. TREMAINE: July 18th?

9 THE REGISTRAR: Yes.

10 MR. TREMAINE: I informed him that I
11 wanted Paul Fromm as my representative, but I made it
12 clear I too want to ask questions.

13 I don't see why it has to be an
14 either/or; either I sit here like a dummy and he does
15 everything or I do everything and I get to have him sit
16 in the audience.

17 I mean, it's like two extremes. Why
18 can't we have a happy middle ground?

19 Mr. Warman said that a while
20 back I wanted Mr. Fromm as my advisor, but not
21 my representative.

22 Why shouldn't I have the right to
23 change my mind, especially since many people, with
24 my interest at heart, have been advising me I shouldn't
25 go this alone, even though I felt like I was capable.

1 But I think it's always good to have a second opinion
2 on anything.

3 I believe it was the Glenn Bahr
4 case in Edmonton where Paul Fromm talked about how
5 there was bias there.

6 Well, if having a militant lesbian as
7 the Chairperson on a case where one of the things Glenn
8 Bahr was charged with was making negative comments --

9 MR. WARMAN: Mr. Chair, objection.

10 MS WARSAME: Objection.

11 THE CHAIRPERSON: Yes.

12 MR. TREMAINE: -- about homosexuals,
13 if that isn't bias what is?

14 THE CHAIRPERSON: Again, those issues
15 were dealt with and this Tribunal cannot deal with
16 those issues at this point.

17 What I am dealing with today is the
18 motion and the situation concerning Mr. Fromm, if he
19 should be allowed to act as your representative.

20 MR. TREMAINE: Okay.

21 And blatant disrespect for the law.

22 The man has no criminal record. He
23 has never been charged with a crime. Is that true of
24 everyone here?

25 Could I put Mr. Warman on the

1 stand, please?

2 THE CHAIRPERSON: No.

3 MR. TREMAINE: I can't?

4 THE CHAIRPERSON: No. He was on the
5 stand a while ago on the issue. You had the
6 opportunity to cross-examine him as a witness.

7 MR. TREMAINE: But the issue of
8 blatant disrespect for the law had not come up at
9 that point.

10 THE CHAIRPERSON: Well, I'm sorry,
11 but we can't call him back.

12 MR. TREMAINE: Because I want to ask
13 him if he has a criminal record or if he has ever been
14 charged with a crime or investigated for a crime.

15 THE CHAIRPERSON: Well, I don't think
16 it's relevant at this point.

17 MR. TREMAINE: Well, it goes to
18 blatant disrespect for the law, which is one of the
19 issues they raised against Mr. Fromm.

20 THE CHAIRPERSON: Your point has been
21 made and I will take notice of your point.

22 Is there any other issue?

23 MR. TREMAINE: Do you want to
24 say anything?

25 MR. FROMM: Yes, I do.

1 MR. TREMAINE: Since you still
2 haven't ruled on the motion, can Mr. Fromm say --

3 THE CHAIRPERSON: I will allow --

4 MR. TREMAINE: Since you haven't
5 ruled, he should be able to say something.

6 THE CHAIRPERSON: I will allow
7 Mr. Fromm to say something, since one of the orders
8 which is being sought by the Commission would certainly
9 directly affect Mr. Fromm. When the Commission is
10 asking for a general order that he be refrained from
11 appearing as an agent for three years, that directly
12 involves Mr. Fromm so I will allow him to make his
13 representation on this issue.

14 MR. TREMAINE: Okay.

15 THE CHAIRPERSON: again, I will
16 reserve my judgment on the motion itself until
17 tomorrow morning, but on this issue I will allow
18 Mr. Fromm to make his representation, but on the issue
19 of the motion only.

20 Mr. Fromm...?

21 MR. TREMAINE: Can I just say one
22 thing briefly?

23 THE CHAIRPERSON: Yes.

24 MR. TREMAINE: I am going to make
25 inquiries about whether any of the other counsel

1 involved have a criminal record and can I submit that
2 tomorrow? Because it goes to the issue of blatant
3 disrespect for the law?

4 THE CHAIRPERSON: I can't see how it
5 is relevant. It is not relevant in the case of --

6 MR. TREMAINE: But it goes to blatant
7 disrespect for the law.

8 THE CHAIRPERSON: Even if Mr. Warman
9 would have -- and I'm not saying he has -- a criminal
10 record, as a complainant he has a right to participate,
11 as yourself has a right.

12 MR. TREMAINE: But they have used
13 that as an argument against Mr. Fromm, that he has a
14 blatant disrespect for the law.

15 THE CHAIRPERSON: I will deal with
16 that issue.

17 MR. TREMAINE: Okay.

18 THE CHAIRPERSON: Mr. Fromm...?

19 ARGUMENT

20 MR. FROMM: Mr. Chairman, you just
21 had an object lesson in the chronic unfairness of
22 this situation should Mr. Tremaine not have somebody
23 to assist him. He did not realize that his one crack
24 at Mr. Warman was while he was on the stand. He didn't
25 know that.

1 This doesn't have anything to do with
2 the fact that Mr. Tremaine is not an intelligent man.
3 He is more intelligent than I am. He is a university
4 professor, a math and computers sort of man, but his
5 background is not in the law. He got sandbagged.

6 You wouldn't allow him to call
7 Mr. Warman up. I know it's not the proper procedure,
8 but he doesn't realize this. He cannot adequately
9 defend himself and he realizes that.

10 Actually, I can't adequately
11 defend him. Mr. Tremaine needs a lawyer and when
12 we get through all of this he is going to be making
13 a motion on that.

14 But he has pointed out that
15 because of what was done to him -- and yes, there is
16 a lot of hostility in this room. When you take a
17 man's job when he is a middle-aged man, yes, there is a
18 lot of hostility.

19 Mr. Tremaine is not able to afford a
20 lawyer. He ought to have a lawyer. I shouldn't be
21 here. I don't really want to be here. He should have
22 a lawyer. But he can't afford one, so he came to the
23 next best thing, yours truly.

24 I'm not a lawyer and I am outclassed
25 by these three people over here. I know that. But

1 perhaps I'm better than nothing. I have been through a
2 number of hearings.

3 I was involved as an intervenor,
4 interested party in the Zundel case which, as you
5 probably know, sir, dragged on from 1996 to 2002,
6 50-some-odd hearings and appeals and appearances in
7 Federal Court, and so on and so on. So I have a
8 certain knowledge --

9 THE CHAIRPERSON: You were an
10 intervenor in that case?

11 MR. FROMM: Yes, we were.

12 THE CHAIRPERSON: In the Tribunal
13 level also?

14 MR. FROMM: In the Tribunal
15 level, yes.

16 THE CHAIRPERSON: And you
17 represented yourself?

18 MR. FROMM: I represented CAFE in the
19 Zundel case.

20 THE CHAIRPERSON: Was CAFE the
21 intervenor or yourself?

22 MR. FROMM: Yes, CAFE was the
23 intervenor.

24 In the John Micka case -- and
25 these are internet cases prior to the change in the

1 legislation in 2001 as part of the security package --
2 we were an intervenor -- CAFE was an intervenor in
3 the Micka case. I sort of had a fair deal of
4 experience there.

5 And we were granted -- I was a
6 representative for Glenn Bahr in the recent proceedings
7 out in Edmonton.

8 Now, I have some knowledge. I can
9 probably assist Mr. Tremaine, but I would be the very
10 first one to say "You ought to have a lawyer." The
11 problem is, he doesn't have \$20,000.

12 That issue is going to be
13 revisited later, but I know we are on this particular
14 question right now.

15 He does need assistance. He came to
16 me and I'm prepared to help, having advised him: You
17 really need a lawyer. I'm not the magic solution.

18 And I will tell you right now, you
19 know, you look at the record, it was read into the
20 record today, but the record of 28 years of the
21 Canadian Human Rights Tribunal is there has never been
22 a victim who has won a 13(1) case.

23 So I'm not superman and I told him
24 that: You need a lawyer, not me. But that is the
25 situation we find ourselves in this afternoon, sir.

1 In the motion by the Commission
2 your attention was drawn to a number of legal
3 decisions. I think those decisions make a number of
4 things fairly clear.

5 In the first one, in Thomas -- I
6 think that's Tab 3B I guess, that is Thomas v. Assn. of
7 New Brunswick Registered Nursing Assistants -- at the
8 paragraph that was called to your attention,
9 paragraph 10, the first sentence:

10 "As stated at the outset, the
11 general rule is that parties
12 appearing before adjudicative
13 tribunals are entitled to
14 representation from an agent of
15 their choosing."

16 That is certainly not a right
17 without some qualification, but I think that is the
18 primary right.

19 It was pointed out to you that
20 appearing before an administrative tribunal is a
21 privilege not a right. I agree, it is a privilege, not
22 a right. But the right is not mine. I'm not here
23 saying, "I wish to appear before the Tribunal". It is
24 Mr. Tremaine's right to have the agent of his choosing.

25 I suggest to you, sir, that the

1 choice is: My representation, as limited as it is, or
2 no representation. I think you had an object lesson
3 there in his attempt to try to question Mr. Warman.
4 And you ruled, I think quite rightly under the
5 procedure, that he couldn't get Mr. Warman back up on
6 the stand, but for a point he wanted to make he had to.

7 That is going to be the history of
8 the next few days if he doesn't have some assistance.
9 It probably won't be very much better with me, but
10 maybe a little bit better because I probably picked up
11 a few procedures along the way.

12 That is the choice you face, sir:
13 Either no representation or mine, however poor it
14 might be.

15 THE CHAIRPERSON: Could I ask you a
16 question, sir?

17 How do you see your role, should I
18 decide -- your role with Mr. Tremaine in the next
19 couple of days?

20 MR. FROMM: Well, I will admit that
21 that has been somewhat fuzzy. I think Mr. Tremaine's
22 concern is: Does he have the right to speak and does
23 he have the right to cross-examine a witness?

24 My understanding is, he is the
25 respondent, he does have the right to speak and

1 he certainly does have the right to cross-examine
2 a witness.

3 I see my role primarily as advising
4 him of, as I understand it, the legal arguments, the
5 ways that he might respond to the case presented by the
6 Commission and Mr. Warman, and suggestions and, should
7 he wish, I will do the cross-examination for him.

8 Because his background is in math
9 and in computer science, he does not have a
10 background in the law in regards to Human Rights
11 Commissions, which tends to be a somewhat narrow
12 backwater of law, and I think I may be of some
13 assistance to him in that regard.

14 But as I was saying -- this is in
15 response to the points made by Ms Warsame when she says
16 that the legal issues are: Does the Tribunal have the
17 power to control who appears before it? I think within
18 some limitations, yes, there is that power.

19 However, perhaps the more urgent
20 right is that of Mr. Tremaine to have a representative
21 of his choice.

22 Well, there isn't a whole lot of
23 choice. He doesn't have the resources to hire a
24 lawyer, as he really should do, and so he has sought
25 my assistance.

1 The authorities, particularly Thomas
2 but other authorities as well, emphasize in general the
3 right of the respondent or the accused to have an agent
4 of their choice.

5 In the second case that was brought
6 to your attention, and that is --

7 THE CHAIRPERSON: Tab 3C?

8 MR. FROMM: Yes, Tab 3C, Filgueira v.
9 Garfield Container Transport Inc.

10 Paragraph 17 was drawn to your
11 attention. The Court there ruled:

12 "In my view, Mr. Filgueira is
13 entitled to an agent. He
14 nevertheless has an obligation
15 to satisfy the Tribunal, if the
16 Tribunal deems it necessary,
17 that the agent who represents
18 him is in a position to
19 facilitate the process."

20 Now, there really is only one
21 previous case that you can go by, because there has
22 only been one previous case where I was the
23 representative of the respondent, and that was the
24 Glenn Bahr case.

25 That case was set aside for nine

1 days. The hearings were to go from the 23rd of May of
2 this year to the 2nd of June. In fact, the case ended
3 after seven and a half days.

4 So my participation, such as it was,
5 did not prolong the proceedings, did not muddy things
6 up or lead to an inefficiency. In fact, if we can look
7 at the time designated for that case, it actually ended
8 in an efficient manner a bit ahead of schedule.

9 So there is absolutely no evidence
10 that the concern that is mentioned there in the
11 Filgueira judgment would come into place here.

12 In the one case that I was involved
13 in as an agent, I was able to facilitate the process in
14 that I do know to some extent the way these cases are
15 to proceed, the way to try to lead evidence, and so on.

16 I think just on the basis of what
17 you saw this afternoon, if Mr. Tremaine has to go it
18 alone, there will be a lot of false starts, cases
19 where he is going to run into a roadblock, a legal
20 situation he does not understand, and you are going to
21 have to try to correct him and perhaps head down a
22 different direction.

23 In another case that was brought to
24 your attention, this is Regina v. Romanowicz, you were
25 directed to a number of paragraphs there. I would like

1 to direct your attention to paragraphs 74 and 75,
2 because I think this really is right on point.

3 Paragraph 74 says:

4 "It is impossible to catalogue
5 all of the circumstances in
6 which representation by a
7 particular agent would imperil
8 the administration of justice
9 and properly call for an order
10 disqualifying that agent.
11 Obviously, representation by
12 agents lacking the ability to
13 competently represent an
14 accused endangers all aspects
15 of the proper administration
16 of justice, particularly
17 the accused's right to a
18 fair trial."

19 I have some background. I would
20 hesitate to say "competence", but I do have some
21 background. So I don't think I am manifestly
22 incompetent here. I would submit that I am probably in
23 a position to assist Mr. Tremaine because he doesn't
24 have a knowledge of the procedures of these hearings.

25 Continuing in the

1 Romanowicz decision:

2 "Other examples where the
3 administration of justice would
4 suffer irreparable harm if an
5 agent were allowed to appear are
6 found in the material filed on
7 this appeal. They include
8 representation by an agent
9 facing criminal charges
10 involving interference with the
11 administration of justice and
12 representation by an agent whose
13 background demonstrates
14 pervasive dishonesty or a
15 blatant disrespect for the law."

16 Well, none of those fits. I am
17 not in any sort of -- facing any criminal charges
18 "involving interference with the administration of
19 justice", nor do I have a criminal background
20 involving "pervasive dishonesty" or "blatant disrespect
21 for the law".

22 Now, I don't propose to go through
23 the quotations that were read to you. I simply suggest
24 that some of them, if you are interested and go back to
25 the original citation from Stormfront, are not

1 necessarily entirely in context.

2 But I will make no bones about it. I
3 almost take my text from the words of
4 "Dublin in the Green":

5 "I've always hated slavery since
6 the day that I was born so I'm
7 off to join the IRA. I'm off
8 tomorrow morning." (As read)

9 Well, not really necessarily joining
10 the IRA, but I have a passionate dislike of any law or
11 any regulation or any institution that attempts to take
12 away the rights that I think were granted by the
13 Charter, the rights to freedom of speech, freedom of
14 expression, freedom of the press and freedom of
15 belief, and those freedoms are meaningless if you can't
16 express them. To say you have freedom of belief but
17 you can't open your mouth just doesn't cut it with me.

18 So yes, I don't like laws and I don't
19 like institutions that try to take away those rights.
20 And I don't like the thought of Canadians in jail for
21 the non-violent expression of their political opinions.
22 And that has happened.

23 Now, does that mean that I hold
24 these proceedings in contempt? No. I wouldn't be
25 here if I did.

1 There are people who take a similar
2 view, who don't like what the law has done, and they
3 say, "I don't recognize you." That has happened.
4 There have been several people who have been charged
5 under section 13(1) who said "I'm not coming. I don't
6 recognize this. I'm not part of it. I have so much
7 contempt for the law I'm out of here. I'm not even
8 going to come to the Tribunal".

9 My advice is that until these laws
10 can be changed we have to fight them out.

11 I am not a person who has contempt
12 for the law. I have considerable scepticism about the
13 way the law has been administered for some of the
14 reasons that may have been read to you and I make no
15 bones about it.

16 The fact that the truth is not a
17 defence in these proceedings I find outrageous. But
18 just because I disagree with the law does not mean that
19 we are going to turn these proceedings into a shambles.

20 I think the evidence is that has not
21 happened in any other situation. I believe it was
22 Member Sinclair who said at the end of the Micka case,
23 he said that all parties -- Angela Westmacott, who was
24 hired by the Canadian Human Rights Commission;
25 Mr. Micka, his friend who was also his agent; and

1 myself, were all complimented on having done a
2 reasonable and professional job.

3 Much as I disagree with the law, much
4 as I disagree with the very existence of section 13(1),
5 I think I can do, as I have done in the Bahr case,
6 carry forth as best I can the defence for Mr. Tremaine.

7 Now, much was made of the fact that I
8 had made some harsh comments about Member Lloyd. I was
9 obligated to do that, because as I saw it there was a
10 reasonable apprehension of bias. I didn't make those
11 comments to the press or in a bar room. I did what was
12 a proper and appropriate thing, I filed a motion asking
13 that she recuse herself on the basis of reasonable
14 apprehension of bias.

15 Without getting into all of the
16 issues, particularly because of comments made about a
17 piece of legislation in the Province of Alberta where a
18 back bench Conservative Member of the Legislature
19 wanted marriage commissioners in the Province of
20 Alberta exempted if their personal or religious beliefs
21 conflicted with same sex marriage. She called that
22 legislation "hate".

23 Now, I felt, rightly or wrongly, that
24 there was a reasonable apprehension of bias, but I
25 think I did the responsible thing, I drafted a motion

1 and presented that motion.

2 Now, in the end she ruled against
3 that and that may not be the last word. There may be
4 opportunities for judicial review, et cetera.

5 But I don't think that my conduct in
6 that case indicated contempt for anybody. There was
7 what seemed to me to be an injustice to Mr. Bahr and I
8 attempted to address that within the rules of the game.

9 That is what I am doing here. If I
10 can be of any assistance to Mr. Tremaine, I am playing
11 by the rules of the game.

12 I don't like the game, I think the
13 batter starts with two and a half strikes against him,
14 I don't think it's fair, but that doesn't mean that I'm
15 not going to play the game or that I am here to try to
16 make these hearings go on for eight days or 12.

17 There is no evidence in my past
18 conduct that that is what I'm about.

19 Finally, at the end of this -- and I
20 have to take this as somewhat between comical and
21 insulting -- at the end of the Commission's motion it
22 says, at paragraph 44, sir:

23 "To allow Mr. Fromm to appear
24 as an agent before the Tribunal
25 would impugn the integrity of

1 the Tribunal process.
2 Mr. Fromm is interested in
3 advancing his political views,
4 not in facilitating the
5 Tribunal process."

6 Actually, I am interested in neither.
7 I am interested in giving Mr. Tremaine whatever
8 assistance I can, inferior as it might be in terms of a
9 lawyer, to win the case for him.

10 I am not advancing my political
11 views. I am trying to live true to my beliefs in
12 freedom, but I am trying to assist Mr. Tremaine as
13 best I can.

14 However, if we are talking about
15 advancing political views, Mr. Warman, in a speech
16 given to a group a year ago called the Anti-Racist
17 Action" entitled his speech "Stopping Neo-Nazis by
18 (Almost) Any Means Necessary". And he went on to say
19 that he believed in maximum disruption and he says that
20 he likes that as a tactic.

21 He says:

22 "I strongly believe in hitting
23 the neo-Nazis on as many of
24 these fronts as possible either
25 at the same time or one after

1 the other. I say this because
2 it keeps them off-balance and
3 forces them to respond to things
4 that focus their energies on
5 defending themselves..."

6 Then he goes on to say:

7 "I've now filed about a dozen
8 complaints against individuals
9 and groups using..."

10 the Canadian Human Rights law.

11 Now, if there is a political agenda
12 being implemented --

13 THE CHAIRPERSON: I'm sorry,
14 Mr. Fromm.

15 MS WARSAME: Mr. Chairman, I have to
16 object. Mr. Fromm is trying to introduce evidence
17 without testifying.

18 THE CHAIRPERSON: The Tribunal knows
19 how to deal with whether it is evidence or not
20 evidence. I believe that Mr. Fromm was replying to the
21 submission of the Commission at paragraph 44 and I will
22 allow his comments.

23 But it is not evidence at this
24 point, I agree with that, but I see the point he wanted
25 to raise.

1 MR. FROMM: Yes.

2 The point is, sir, is that I am not
3 here to advance a political agenda. Mr. Tremaine is
4 the object of a complaint and he wants to put forth the
5 best response and defence that he can.

6 He has asked me to assist him. That
7 is the sole and the sum total of any agenda that I have
8 here. However, the matter of political agenda may very
9 well be raised in another context.

10 If I might conclude, first of all,
11 going through the list of issues that Ms Warsame
12 outlined for you: Does this Tribunal have the power to
13 control who appears before it?

14 I think the answer is a qualified
15 yes -- very qualified.

16 Second, and helping to qualify that,
17 is the fact that parties have the right to choose
18 either a lawyer or an agent of their choice. The
19 exceptions are very limited.

20 I think you will notice that the
21 exceptions outlined for you in Romanowicz have nothing
22 to do with the opinions of whoever might be counsel or
23 agent to the defendant. It is egregious misconduct,
24 for instance a lawyer who might have been dishonest or
25 is facing criminal charges. Those are very, very

1 serious circumstances.

2 The fact that one might not agree
3 with the law and may even feel that the law has been
4 implemented in a very disgraceful way, that certainly
5 should not disqualify one from being a representative.

6 If I might give you the example,
7 there may well be lawyers who strongly oppose our
8 present laws against making marijuana illegal. Just
9 because you oppose a law and feel that maybe the law is
10 an ass doesn't mean that you should not be able to
11 participate in the judicial system.

12 If I might come back to what I think
13 is really the absolute crux of this matter this
14 afternoon, sir, it is that you are faced with a
15 situation where a respondent does not have the money
16 for a lawyer, for reasons that unfortunately have to do
17 with tensions that have gone on right in this room; he
18 wishes to have me as his agent or representative, and
19 the consequence of saying no, that I may not represent
20 him, is that he will essentially be unrepresented. I
21 think that is an affront to natural law.

22 It is not just enough for the
23 Commission to serve documents and make sure notice is
24 given on the fine points of the law. Not only must the
25 legalities be done, but real justice must be done.

1 And there won't be justice if
2 Mr. Tremaine doesn't at least have some assistance.
3 Ideally, he really ought to have the assistance of
4 a lawyer.

5 Thank you.

6 THE CHAIRPERSON: Just a question
7 before we go into reply.

8 Usually in a court process or in a
9 Tribunal process every party has one person who will
10 deal with the whole process, one person who will ask
11 the question, cross-examine the witness, make legal
12 representations and legal arguments. It can happen in
13 some instances where a firm of lawyers will be retained
14 by a client and they will split the work between them.

15 But in this case, if I'm trying to
16 understand what the request of Mr. Tremaine was for
17 your participation here, I understood Mr. Tremaine's
18 request was that you be his agent, that you guide him
19 through the process -- I'm trying to understand
20 clearly -- and that at one point you raised the issue,
21 saying that, well, in some cases he might cross-examine
22 some witnesses.

23 Is that what you said?

24 MR. TREMAINE: Can I...?

25 THE CHAIRPERSON: Yes.

1 MR. TREMAINE: Yes.

2 I would like Mr. Fromm to help, you
3 know, pilot the ship through the legal waters, but in
4 terms of cross-examining witnesses where it comes down
5 to facts and logic, I would like to deal with that.

6 THE CHAIRPERSON: All right. You
7 would deal with the cross-examination.

8 MR. TREMAINE: Yes.

9 THE CHAIRPERSON: Mr. Fromm, if I
10 understand your request --

11 MR. TREMAINE: Would deal
12 with procedure.

13 THE CHAIRPERSON: -- would just guide
14 you along, give you advice.

15 MR. TREMAINE: Yes. If a
16 procedural issue comes up he would either inform me
17 or might interject, like he might make his views
18 known audibly to you.

19 THE CHAIRPERSON: All right.

20 MR. TREMAINE: But I would like to
21 handle the cross-examining of witnesses myself.

22 THE CHAIRPERSON: All right.

23 Thank you.

24 I just wanted to make that clear from
25 your request.

1 MR. FROMM: I'm sorry, if I might,
2 there is one thing I overlooked.

3 THE CHAIRPERSON: Yes...?

4 MR. FROMM: The relief being sought
5 by the Tribunal is twofold --

6 THE CHAIRPERSON: By the Commission.

7 MR. FROMM: I'm sorry?

8 THE CHAIRPERSON: By the Commission.

9 MR. FROMM: I'm sorry, by the
10 Commission is twofold, either prohibiting me from being
11 Mr. Tremaine's agent in this case or broadly
12 prohibiting me from appearing before the Tribunal as
13 anybody's agent for three years. The law that was
14 drawn to your attention was the case of Rezaei v.
15 Canada (Minister of Citizenship and Immigration).

16 But I think as you yourself noted,
17 this involved very serious allegations of criminality
18 and, as I understand it, attempts to perpetrate a fraud
19 upon the Department of Immigration. This was actually
20 criminal behaviour that resulted in the three-year ban.

21 We are talking here about anything
22 like that.

23 THE CHAIRPERSON: No.

24 MR. FROMM: We are talking about
25 the fact that my opinions may not particularly please

1 the Commission.

2 THE CHAIRPERSON: Thank you.

3 I will allow the Commission a reply
4 to this issue, because it is the Commission's motion
5 and the Commission will have a reply.

6 Again, the reply is only on the
7 issues that were raised by both parties.

8 ARGUMENT

9 MS WARSAME: It will be brief,
10 very brief.

11 I would like just to clarify one
12 point issue with respect to the case at Tab 3D, the
13 case of R. v. Romanowicz.

14 THE CHAIRPERSON: Yes. I can tell
15 the parties that I have read the cases and I will
16 reread them again tonight.

17 MS WARSAME: Sure. It is just I
18 would like to clarify for the --

19 MR. FROMM: I'm sorry, I didn't
20 hear you. You said you have read or you will read
21 the cases?

22 THE CHAIRPERSON: I will read the
23 cases tonight, but I have also received the -- I have
24 the cases already. I know those cases already.

25 MR. FROMM: Thank you.

1 MS WARSAME: Just I would like to
2 clarify for the record that the Court in Romanowicz
3 clearly stated, at the last of paragraph 74, almost the
4 last sentence:

5 "We emphasize, however, that we
6 do not suggest that a criminal
7 record ... automatically
8 disqualifies someone from
9 representing an accused."

10 That is just to clarify the point
11 that the fact that someone has a criminal record does
12 not automatically disqualify.

13 THE CHAIRPERSON: Again, I must just
14 add, on that basis of the motion of the Commission --
15 which is aimed at Mr. Fromm, it doesn't concern
16 Mr. Tremaine really in this issue -- I have a
17 problem with the procedure of putting that into that
18 motion there.

19 I believe that if that should be an
20 issue, it should be an issue that would be dealt with
21 directly with Mr. Fromm himself and a motion in that
22 regard should have been served directly on Mr. Fromm.
23 That should have been the process.

24 We are trying to enlarge something
25 which I may believe at this point concerns really only

1 the decision of Mr. Tremaine of asking Mr. Fromm to
2 participate as his agent in this proceeding.

3 MS WARSAME: That's correct.

4 THE CHAIRPERSON: The other one is
5 much larger and I believe that the Commission and
6 Mr. Fromm should have been allowed the opportunity to
7 call evidence on that point.

8 MS WARSAME: That's correct, yes.

9 You are referring to --

10 THE CHAIRPERSON: What I'm saying is
11 that I might not be --

12 MS WARSAME: Are you referring to the
13 second request?

14 THE CHAIRPERSON: Yes, the request
15 that Mr. Fromm be -- I don't know how you framed it.

16 MS WARSAME: A general
17 prohibition order.

18 THE CHAIRPERSON: Yes.

19 MS WARSAME: The reason why we asked
20 that -- and again, Mr. Chair, the Commission, if they
21 decide that it is necessary for another proceeding to
22 file another motion with respect to the same issue, the
23 Commission will decide at that time to file a similar
24 motion if they choose that it is necessary for a
25 specific case.

1 But the reason why we put it
2 forward is, the law allows, for example in specific
3 cases with respect to specific people -- and I refer
4 you to the case of Rezaei -- although the facts of the
5 case are different from the facts of this case, the
6 similarity that you need to draw is the fact that the
7 consultant, Mr. Rezaei, in the case involving Mr.
8 Rezaei versus the Immigration --

9 THE CHAIRPERSON: I understand that.
10 I have no problems with that.

11 I'm just saying that in this
12 case the motion itself was served, if I'm right,
13 on Mr. Tremaine.

14 Was it?

15 MS WARSAME: That's correct, yes.

16 THE CHAIRPERSON: Yes. It was not
17 served directly on Mr. Fromm personally.

18 MS WARSAME: That's correct, yes. We
19 served it to Mr. Tremaine as an agent.

20 THE CHAIRPERSON: The question of
21 Mr. Tremaine in this case being served is because he
22 had made a decision of asking Mr. Fromm to act as his
23 agent in this proceeding.

24 MS WARSAME: That's correct.

25 THE CHAIRPERSON: I have no problem

1 dealing with that one.

2 It is the other aspect which deals
3 directly not with Mr. Tremaine at all, but with
4 Mr. Fromm, where I have a little problem with the
5 procedure that was used in this case.

6 MS WARSAME: In terms of not
7 serving personally --

8 THE CHAIRPERSON: The person that is
9 being affected directly by that order that you are
10 seeking is not Mr. Tremaine, it is Mr. Fromm.

11 MS WARSAME: That's correct.

12 If, for example, the Tribunal
13 decided at the end of the day to issue, in this case
14 a general order of prohibition, it will be Mr. Fromm
15 and also Mr. Tremaine will --

16 THE CHAIRPERSON: But again, in
17 respect of the fairness and the equity of the
18 procedure, I believe in this case that the procedure
19 seeking this order should have been served directly on
20 Mr. Fromm, in this case, and they should have followed
21 the procedure of the Tribunal.

22 Because this has nothing to do, in
23 reality -- it's connected, but fairly slightly
24 connected to the issue that we have to deal with here.

25 MS WARSAME: I understand and I

1 understand your concern, Mr. Chair, but let me just
2 clarify the background of this case.

3 Mr. Tremaine, I believe there were
4 two or three conference calls and he provided his
5 letter of particulars in which he clarified that he
6 might have Mr. Fromm as an agent. However, Mr. Fromm
7 was not involved in the proceeding.

8 THE CHAIRPERSON: Well --

9 MS WARSAME: So it was unclear.

10 Until today, for example, there is
11 some other procedural -- and I will make comments for
12 example, Mr. Tremaine was supposed to provide some
13 other information with respect to this testimony,
14 provide a will-say.

15 THE CHAIRPERSON: We will deal with
16 those issues probably tomorrow if those aren't -- are
17 those issues directly related to this?

18 MS WARSAME: No, but that would
19 explain the context.

20 The reason why Mr. Fromm was not --
21 we had no information, clear information, from the
22 respondent Mr. Tremaine what role whatsoever Mr. Fromm
23 would play in this proceeding.

24 THE CHAIRPERSON: Well, on
25 May 16th -- and it's written "Particulars" -- he

1 requested permission that Paul Fromm appear as
2 his representative --

3 MS WARSAME: That's correct. But
4 Mr. Paul Fromm was not --

5 THE CHAIRPERSON: -- and we get
6 this today.

7 MS WARSAME: That's correct.

8 But Mr. Paul Fromm -- the reason why
9 I say the Commission did not serve him personally is
10 because there was no information from Mr. Paul Fromm
11 with respect to this particular proceeding.

12 THE CHAIRPERSON: Well, of this
13 particular proceeding I understand, but I'm talking
14 about the general order that you are seeking the
15 Mr. Fromm be refrained from -- anyway, I will deal with
16 that in my decision.

17 MR. TREMAINE: May I make a comment?

18 THE CHAIRPERSON: After I will let
19 you, yes.

20 MS WARSAME: The issue, Mr. Chair, in
21 this case is not the right to representation. The
22 Commission clearly recognized in our submission that
23 every person appearing before a Tribunal can have a
24 right to have an agent helping and assisting them.

25 The question before the Tribunal

1 today is whether the comments made by Mr. Fromm brings
2 the administration of justice into disrepute.

3 In addition, Mr. Chair, I
4 would like to highlight the fact that there is a
5 legal action that places Mr. Fromm in a serious
6 conflict of interest.

7 Mr. Fromm is a respondent in a civil
8 suit that was initiated by the complainant. So that
9 itself will give the Tribunal some evidence that the
10 relationship and the view of Mr. Fromm in this
11 proceeding, the fact that there is some conflict of
12 interest between him and a party in this proceeding,
13 which is totally opposed to the person where Mr. Fromm
14 is acting as an agent.

15 THE CHAIRPERSON: I wouldn't want to
16 go into all of your arguments over again.

17 MS WARSAME: No, I don't want to go
18 into that, but I would like just to clarify the fact
19 that the comments made by Mr. Fromm would be subject to
20 discipline if they were made by a lawyer.

21 So that is the reason why we would
22 like to highlight the fact that we are not opposed to
23 Mr. Tremaine having an agent, but we want the Tribunal
24 to look at the comments clearly specified in the
25 Commission's affidavit.

1 Again, I would like to also
2 highlight that in this case the evidence in the
3 affidavit is uncontradicted. The respondent did not
4 provide any evidence to contradict the evidence
5 provided by the Commission.

6 That's it.

7 THE CHAIRPERSON: Thank you.

8 MS WARSAME: Thank you.

9 Usually in a situation like this,
10 this being the motion of the Commission, the Commission
11 would be the only party that has a right to a reply,
12 but I will allow -- I know that Mr. Warman and
13 Tremaine, both of them, wanted to add something.

14 I will let you add, very shortly,
15 comments. Not new arguments of whatever, just very
16 short comments.

17 ARGUMENT

18 MR. WARMAN: Mr. Chair, I take the
19 Tribunal's statement that the Tribunal is well aware of
20 the difference between submissions in general and
21 argument and the attempted introduction of factual
22 evidence during those submissions.

23 With regard to that specific point,
24 however, I am concerned that there were suggestions
25 made that Mr. Fromm's participation had somehow or

1 in some way expedited the hearing of the Bahr matter,
2 and I would just want to extremely emphasize that
3 that should not be taken into consideration.
4 Because having attended those proceedings, without
5 giving evidence --

6 THE CHAIRPERSON: Again, I don't have
7 any evidence whatsoever from either side on that issue
8 so I don't think that will have any impact on the
9 decision I will make.

10 MR. WARMAN: So the last thing that
11 I would say is that Mr. Fromm, moments ago, clearly
12 had the opportunity to make an apology for the kinds
13 of statements that have been introduced pursuant to the
14 affidavit with regard to the disrespect and the
15 contempt that those comments show towards the Human
16 Rights Tribunal, its Members, the Federal Court and
17 members of the judiciary. I believe the fact that he
18 chose, rather than to make an apology or to somehow
19 distance himself from those comments, demonstrates
20 his unsuitability to appear as an agent before
21 this Tribunal.

22 In fact, I would just emphasize or
23 echo the comments of Ms Warsame that the danger really
24 is that Mr. Fromm is not subject to any form of
25 professional discipline and that if in fact those

1 comments had been made, as she states, he would in fact
2 be subject to disciplinary proceedings.

3 THE CHAIRPERSON: Mr. Tremaine, just
4 to clear matters up, yes?

5 ARGUMENT

6 MR. TREMAINE: The issue of conflict
7 of interest.

8 If Mr. Fromm has a conflict of
9 interest because there is an ongoing case between
10 Mr. Warman and Mr. Fromm, wouldn't Mr. Warman not also
11 have the same conflict of interest?

12 THE CHAIRPERSON: I will be honest
13 with you, I don't really see the conflict of interest
14 in the issue -- yes.

15 MR. TREMAINE: Okay. I just
16 wanted -- if it applies to one it should also apply
17 to the other.

18 THE CHAIRPERSON: I am going to
19 deal with this issue based on the evidence that is
20 before me.

21 MR. TREMAINE: Yes.

22 The other thing is, Mr. Fromm has
23 a lot more respect for these proceedings than I do.
24 As I said, I view them as something like a Soviet
25 show trial.

1 THE CHAIRPERSON: Well, we have heard
2 your comments already on that and I don't think you
3 need to repeat them. It is your opinion.

4 MR. TREMAINE: Okay. So that if
5 he is excluded -- what sense does it make to
6 exclude someone who has more respect for the
7 Tribunal than I do?

8 THE CHAIRPERSON: The only reason why
9 we would go there is because you are a party and you
10 have the right to appear and to represent yourself.

11 But again, I don't think it is
12 important to deal with that issue at this point.

13 MR. TREMAINE: All right. Okay.

14 THE CHAIRPERSON: What I will do now,
15 I will adjourn until tomorrow morning.

16 You can all sit down, please.

17 Mr. Fromm, you wanted to add
18 something?

19 Just short, short.

20 MR. FROMM: Very, very short.

21 I was wondering if you could ask or
22 direct the Commission to e-mail me their motion. We
23 have one copy to share between the two of us and I
24 could use an e-mail.

25 THE CHAIRPERSON: Is there a

1 possibility to have a copy for Mr. Fromm?

2 MR. FROMM: Just the motion.

3 MS WARSAME: We will send one.

4 THE CHAIRPERSON: You can send them
5 to Madam Bacon and she will send them off to Mr. Fromm.

6 I will adjourn until tomorrow
7 morning, 9:30. I will then render my decision on the
8 motion by the Commission.

9 I will give an oral decision and
10 then the written reasons for the decision will be given
11 to the parties either later on in the day or later on
12 in the week.

13 Thank you very much. See you
14 tomorrow morning at 9:30.

15 THE REGISTRAR: Order, please.

16 --- Whereupon the hearing adjourned at 4:00 p.m.,
17 to resume on Wednesday, August 9, 2006
18 at 9:30 a.m.

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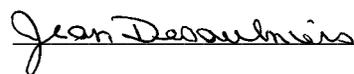
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I HEREBY CERTIFY THAT I HAVE, to
the best of my skill and
ability, accurately taken down
and transcribed the foregoing.

_____

Jean Desaulniers
Stenomask Reporter

StenoTran