

**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

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

T1104/8505

**VOLUME:**

1

**LOCATION/ENDROIT:**

OTTAWA, ONTARIO

**DATE:**

2006/08/08

**PAGES:**

1 - 83

StenoTran

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

TABLE OF CONTENTS

	PAGE
MOTION	
AFFIRMED: RICHARD WARMAN	8
Examination by Ms Warsame	8
Examination by Mr. Tremaine	11
Argument by Ms Warsame	15
Argument by Mr. Warman	36
Argument by Mr. Tremaine	39
Argument by Mr. Fromm	48
Argument by Ms Warsame	70
Argument by Mr. Warman	78
Argument by Mr. Tremaine	80

LIST OF EXHIBITS

NO.	DESCRIPTION	PAGE
PM-1	Stormfront.org thread entitled "Now I'm going to jail." by Paul Fromm, posted on August 1, 2006 and sent to the Commission by Richard Warman	15

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.

19

20

21

22

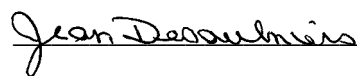
23

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, to  
the best of my skill and  
ability, accurately taken down  
and transcribed the foregoing.

\_\_\_\_\_

Jean Desaulniers  
Stenomask Reporter

**StenoTran**