

Tribunal File No.:T1073/5405

CANADIAN HUMAN RIGHTS TRIBUNAL

BETWEEN:

RICHARD WARMAN

Complainant

- and -

CANADIAN HUMAN RIGHTS COMMISSION

Commission

-and-

MARC LEMIRE

Respondent

-and-

ATTORNEY GENERAL OF CANADA
CANADIAN ASSOCIATION FOR FREE EXPRESSION
CANADIAN FREE SPEECH LEAGUE
B'NAI BRITH GROUP
SIMON WIESENTHAL CENTRE
CANADIAN JEWISH CONGRESS

Interveners

REPLY & RESPONSE TO COUNTER-MOTION

INTRODUCTION

1. The Commission will reply and respond to the counter-motion with one unified written submissions since both are inter-related. We will deal with the Reply to the Response and respond to the Counter-Motion in a concurrent manner.

PART I - REPLY AND RESPONSE TO COUNTER-CLAIM

2. This is a complaint in which it is alleged that Mr. Marc Lemire communicated or caused to be communicated messages on his website which he administers that would likely expose persons to hatred and/or contempt on the basis of religion, race, colour, and national or ethnic origin, contrary to subsection 13(1) of the *Canadian Human Rights Act* (hereinafter referred to as "the CHRA")
3. The Commission contends that the entire website and its contents constitutes a violation of section 13 of the *Canadian Human Rights Act*. Though some aspects of the website are more blatantly a violation than others, it is respectfully submitted that the contents of the entire website can not be dissected in parcels to be adjudicated in a vacuum. It is only by assessing each aspect/element of the website juxtaposed with other aspects that the Tribunal can get the full picture and ultimately make a proper, full and relevant determination.
4. The continuous obligations of disclosure of the parties are not conditional on whether the FreedomSite is freely available to the Commission. It must be reminded that this website, since the time of the complaint and for a period ongoing, has been and is being continuously updated by the Respondent. The Commission can not continuously be aware and on the look out on whether the Respondent has added other material, such as for example the information regarding the anticipated witnesses. The Respondent continues to have such obligations of disclosure independent of 'availability' and being best placed to know what it adds on its website should be ordered to respect the long established principles of continuous obligation of disclosure.
5. For further clarity, when we stated : '*The Commission requests all materials, transcripts, statements, speeches from other hearings or from elsewhere that the Respondent has in his possession*', we are simply arguing that if the Respondent has this material because it considers it arguably relevant, it must be disclosed. Above-all, if this material is not disclosed and is sprung on the parties at the hearing in defense to the complaint, there will be strong objections to it being used in evidence or used to cross-examine.
6. The Commission is not seeking that the Respondent create documents which do not exist, it is simply requesting that all relevant documents/materials and

advertised literature sold on its website be disclosed. We respectfully submit that advertising books on the website makes them part of the website, even if the hard copy is not on the website. Making reference from the website to reading material such as literature, books, magazine, etc that offends section 13 of the CHRA it is respectfully respected makes it subject to section 13 and therefore disclosure. However, conscientious that though relevant, this may involve some costs and extensive work, at the very minimum, the Respondent should make the material it advertises available for the Commission to view as well as obtaining the crux of the said material.

7. The titles in themselves of the literature announced in the website, it is respectfully submitted, indicate *prima facie*, that the literature announced and found can be considered to be a violation of section 13. Here are a series of but some examples from the said website :

See schedule "A" annexed hereto

8. Also, all the material found on the section/portion of the website dealing with books, audio-cassettes and materials being sold.
9. The Commission wishes to respond to paragraph 7, simply the following. The entire website should be considered problematic as far as conformity to section 13 of the CHRA. The Commission at the hearing for purposes of efficiency will focus more on certain aspects of the website which are more blatant and which have been outlined in the complaint, the investigation report and the letter of particulars. However, the hearing having for function to undertake a full and complete inquiry of the website which the Commission contends must be assessed in its entirety, should not be impeded for being able to fully review the website and its contents in its entirety. The Respondent's contention to limit to the particulars to only certain aspects of the website and the eventual evidence at the hearing to those aspects would defeat the purpose of a full, meaningful and relevant hearing which could assess the website content and its conformity to section 13. The Respondent has been fully put on notice of this, will not be subject to any surprise and being the author/administrator of the website is fully knowledgeable of the entire content of his website. Consequently, he is well placed to present any defense to an allegation of section 13 of violation of the said material.
10. It is respectfully submitted that the disclosure request may be voluminous but it is not broad, vague and irrelevant. The extent of the website content is what the

Respondent has placed on it. The Commission has been ordered to disclose voluminous materials as part of the constitutional question but it was nevertheless ordered disclosed because it was deemed to be arguably relevant by the Tribunal. The present request from the Commission regarding the website content could not be any less arguably relevant. The Respondent can easily capture the up-to-date website at the very least on a CD rom and is best placed to provide all additions it will place on its website which has one basic theme, from here until the day the complaint will be heard.

11. For further clarity, in response to paragraphs 1 (3) , 9, 10 of the Response of the Respondent, the Commission is seeking any materials obtained in preparation for its defense of this complaint in other forums and which it considers arguably relevant in its defense, especially, but not exclusively if it intends to rely upon such materials and/or evidence. Essentially, what is being sought is disclosure of all arguable material to the Respondent's defense since the parties should not be subjected to any surprise at the hearing. For example, if the Respondent intends to rely on transcripts of the Complainant's testimony in other hearings of other complaints on section 13, the Respondent should disclose such material. If this request was not clearly formulated in the initial Motion, we hope this explanation can better help appreciate this request.
12. In response to paragraphs 11-12-13 of the Respondent's Motion the Commission contends that what the Commission is seeking is being sought in a particular context. That is, the Respondent has been adding, since the filing of the complaint on the basis of the contents on the website, at the time of the gathering of the evidence for filing the complaint with the Commission, periodically additional content to the website, such as the announced expert witness in anticipation of the hearing, and other material every so often. Therefore, what is being asked to be disclosed is all the material added since the filing of the Complaint up to the date of the hearing which has not been yet disclosed.
13. The Commission has mentioned and reiterates that each message found on each of the disclosed pages constitutes a hate message and is clearly indicating this anew explicitly. Mr. Lemire is forewarned of this and should prepare his defense accordingly. At the limit, even certain single messages which if taken in total isolation, may give the impression that they are innocuous, they are not, when considered with the globality of the contents the website, the other related messages and the general theme and message stated publicly on the internet for the entire world to view, it violates Section 13.

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14. In response to paragraph 9, the Commission contends that it would be odd that the Commission must disclose the Respondent's own website which he administers and possess.

PART II - THE ISSUES

15. Is the material being requested by the Respondents arguably relevant because it relates to a fact, issue, or form of relief sought in the case, including those facts, issues and forms of relief identified by other parties subject matter of the upcoming hearing pursuant to the complaint under section 13 of the *CHRA* in the present case?
16. Does the Respondent's Motion to dismiss have any legal basis to be granted and avoid a hearing on a violation of section 13 ?

PART III - LAW AND ARGUMENT

17. The Tribunal has the express authority under the Act to deal with all questions of fact and law necessary to determining a matter, including the power to order disclosure of all arguably relevant disclosure for the full hearing and consideration of the complaint.

Canadian Human Rights Act, R.S., 1985, c. H-6, Sections 50 (2 and 3).

18. The party requesting an order for production of documents must meet the relatively low threshold test of arguable relevance.
19. The Letter of Particulars, the Complaint, the Investigation Report provide sufficient basis as to the case to meet. The Commission must not make its case prior to the hearing. The Statement of Claim in a civil hearing must be considered with the nuance that the human rights hearings are meant to be in the spirit of the *CHRA* administrative hearings which are by nature less formalistic. See section 48.9 (1) of the Act.

20. The Statement of Particulars is meant to be a short summary and outline of the case. It must not be a detailed presentation of all the evidence that is to be presented at the hearing. The importance of the Statement of Particulars is to know generally the case to meet and avoid potential surprises at the hearing. The Respondent is calling for an amount of detail that would require the Letter of Particulars to be a quasi-substitute for the full inquiry.
21. The Commission strongly contests that it has refused to comply with the Ruling. It will be sending next week several additional disclosure materials, it has explicitly mentioned that it will argue that the entire website, its content and its single theme throughout is a violation of section 13 and there is no element of surprise that is to be expected. The Commission will be arguing that the entire website should be shut down as it is entirely, not in part, a violation of section 13.
22. In response to paragraph 19, the Commission contends that the analogy being made is not the same, mainly because, the theme and main message and its included messages and posting are all in the same, in common and must be read conjunctively and not disjunctively for it to be appreciated fully by a Tribunal deciding on this section 13 complaint.
23. The *Pellikaan* case is not applicable in the present circumstances. If the Respondent wishes to further expand on any ambiguity in the proposed evidence, the Commission is willing to provide further details.
24. The Commission will be making a case for the shut down of the site because any order which would not be doing this, would make it difficult to be applied since the website in its entirety, is at the least, predominantly, if not exclusively, a violation of the Act.
25. Finally, but not least important, the present counter-claim has been decided and is res judicata as a result of the last Ruling in this matter.

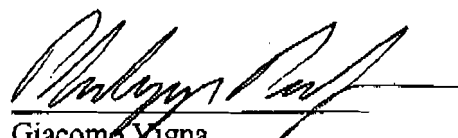
PART IV - RELIEF SOUGHT

26. An order for the production of all information within the possession of Marc Lemire related to complaint subject of the hearing to come and mentioned in the present Motion with all additions to the website.

27. In order to ensure that the hearing of this matter is able to proceed without further delay, should the Tribunal grant the order requested it is further requested that the Tribunal specify a reasonable deadline by which the order is to be fulfilled.

ALL OF WHICH IS RESPECTFULLY SUBMITTED.

DATED at Ottawa, in the Province of Ontario, this 8th day of November 2006.


per Giacomo Vigna
Legal Counsel

- TO: The Registry
Canadian Human Rights Tribunal
160 Elgin Street, 11th Floor
Ottawa Ontario K1A 1J4
- TO: Paul Fromm
Canadian Association for Free Expression
Box 332
Rexdale ON M9W 5L3
- TO: Marvin Kurz
Dale Steiman & Kurz LLP
Barristers & Solicitors
480 Main Street North
Brampton ON L6V 1P8
- TO: Joel Richler
Blake, Cassels & Graydon LLP
Marks Agents
Box 25, Commerce Court West
199 Bay Street
Toronto ON M5L 1A9
- TO: Barbara Kulaszka
Barrister & Solicitor
P.O. Box 1635
41 Kingsley Avenue
Brighton ON K0K 1H0
- TO: Douglas H. Christie
Canadian Free Speech League
P.O. Box 101, 255 Menzies Street
Victoria BC V8V 2G6
- TO: Simon Fothergill
Senior Counsel
Department of Justice
234 Wellington Street
East Tower - Room 1144
Ottawa ON K1A 0H8

TO: Steven Skurka
Skurka Spina Cugliari LLP
970 Lawrence Avenue West
Suite 205
Toronto ON M6A 3N6

SCHEDULE "A"

1. 'Revolutionary Majorities' by the great American speaker and writer Louis Beam

Getting the NAC: The real facts behind the racism and hate at the National Action Committee on the Status of Women

Electronic Iron Curtain - Louis Beam on Internet censorship

Universities are outbidding each other for their 'share' of blacks to meet government RACE QUOTAS

On the trail of a Hustler by Jack Wikoff. Jack is on the trail of U.S. Lawyer Morris 'Sleeze' Dees.

The fable of the Ducks and the Hens by George Lincoln Rockwell (1918-1967)

Immigrants in Canada get free Limosine service, from House of Commons Hansard

Complete Canadian Human Rights Act, from January, 1989

How to Receive Banned Newsgroups FAQ (11/30/94). Includes open news servers and other ways.

Press Release from Terry Long re: CSIS SUBVERSION OF RIGHT WING GROUPS IN WESTERN CANADA

Racism sponsored at the University of British Columbia, pushed by RACIST National Action Committee on the Status of Women

Diversity in America Criticized by African Americans

"FEEDING THE RED DRAGON - THE CASE AGAINST CANADA'S AID TO COMMUNIST CHINA" [Includes ordering information]

Georgia Straight article on Internet "Hate" - mentions Digital Freedom Sysop Marc Lemire and many other leaders on the

Internet

Transcript of the National Public Radio show on the proposed
UseNet Newsgroup, Rec.Music.White-Power.

English now a minority language in Vancouver from the
Vancouver Sun, November 2, 1996

Spreading Scientific Illiteracy Among Minorities: Talks about
Blacks thinking that Egypt was primarily black and other
follicies

Movie, Book and Art review guide for the conservative
thinker - From the Barnes Review

Up Front Online: Issue #17 November 1994 Articles include
"Adios, El Observador" on the Grant Bristow affair, "How
long can we go?","Liaison with the whistle-blower...Brian
McInnis comes in from the heat" and a good article on
immigration Minister Sergio Marchi

Up Front Online: Issue #1 December 1991 Articles include
"David Duke... Where no Klan has gone Before","Opting
out?... or copping out? Rural revolution or retreat from
reality"."Open door immigration INSANITY: What would our
founding fathers say?"," Anti-Racism: An exercise in
hypocrisy" also includes the usual extras like Turner's Diary--
Personal reflections of the Author!

Words that Count Women In - 2nd Edition Published by the
Women's Directorate, part of the Ontario Ministry of
Citizenship. This crap published at the expense of \$100,000's
talks about what words and phrases must be eliminated from
the English language. It gives a very revealing look at the
future agenda the government has for us.

Articles and opinions from though-provoking Canadians

1. *Matthew Lauder*

The Collins Column

Matthew Lauder is the director of the "anti-racism" program

at the Guelph and District Multicultural Centre. He posed as a person against anti-white government policies in an attempt to spy on and misdirect Racist and Nationalist groups in Canada. He failed. Below are a collection of his writings he submitted for publication on the Freedom-Site. [More on Lauder]

AK18: Police use Scare Tactics to Thwart Protestors

AK17: STRAIGHTMAN is a Straight Shooter!

AK16: The LIE of the Media: HF and media lies

AK15: Neo-Marxist Protest doing Right-wing a Favour

AK14: Survivor Lawsuits and Stowaways

AK13: Northern Alliance & London City Police

AK12: Immigration poll, Oberlander Update and WP CDs

AK11: LORD'S PRAYER is Outed

AK10: Ontario Students and Nationalism

AK9: Freedom and Dignity - The Oberlander and Bergmann Cases

AK8: Toy Gun Seizures, RCMP Intrusiveness and Big Brother

AK7: Government Intrusiveness and NWO

AK6: CSIS and RCMP

AK5: Oberlander and Police Information Series

AK4: Canadian Security Intelligence Service (CSIS) Information Series - Part 4

AK3: Canadian Security Intelligence Service (CSIS) Information Series - Part 3

AK2: Canadian Security Intelligence Service (CSIS) Information Series - Part 2

**AK1: Canadian Security Intelligence Service (CSIS)
Information Series - Part 1**

Canadian Jewish News article on Anschluss Kanada

-- 2001 Columns --

Aug 12: Here we go again! (Counting the lies)

Aug 10: Sgt. Pepper for Ever!

July 31: A Final Solution? (Mary-Woos' Woes)

July 22: The Politics of Appeasement

July 13: A Jog Around Absurdistan

July 3: Justice. Of a Sort (Indians receiving special treatment)

June 25: A Word in favour of Extremism

June 18: Aid for Aids, etc

June 10: Don't Mention the War!

June 5: When Libel Ain't Libel (Malcolm Ross)

May 29: The Creed of the Multicultists

May 15: England their England

May 6: Michael Coren: Facts and Fables

April 26: On Being Conrad Black

April 14: Never Forgive, Never Forget

April 4: Freedom is as Freedom Doesn't

March 29: Got a Light, Anyone?

March 17: On Soldierettes and Subs

March 9: On Deaths in the Media and "Anti-Semitism"

Feb 28: Afghanistan and the Wayward Press

Feb 19: No Laughs Please. This is Vancouver

Feb 9: On Rights and Blights

Jan 12: A Matter of Justice

Jan 10: Decline and Fall of the West

-- 2000 Columns --

Dec 17: Being a Christmas Carol on Caplan & Co.

Nov 28: Election 2000 - The Beauty of Hypocrisy

Nov 10: Human Rights and the New Religion

Oct 30: Immigration and the Election

Oct 20: Betrayal and Deceit

Oct 10: Madness is as Madness does

Sept 26: God Yes, Holocaust NO! (Roger Garaudy affair)

Sept 12: On Mao, Castro, And Trudeau

Sept 1: Extremely Normal (Stockwell Day vs. Rights Maniacs)

Aug 25: The Wrong of Rights (Human Rights Commissions out of control)

Aug 20: On Herb, Preston and the Wayward Press

July 31: Kinsella's Kookpot - [Warren (The LIAR) Kinsella]

July 21: An Eye for An Eye (Jewish Revenge on Germans)

July 8: About Having a Nice Day (Preston Manning, liar)

and hypocrite)

July 2: Where Are They Now? (Zimbabwe situation)

June 7: On Prince George and Dumb George

May 26: Letter To An Unknown Soldier

May 22: Tits and Tats

May 10: Milquetoasts, Malcontents and the Zeitgeist

April 27: The Irving Trial

April 12: Thoughts on the Homintern

March 19: Canada's multicult mayhem

March 7: The Irving Holocaust Trial

March 1: Sikh Power triumphs in B.C. Race

Feb 23: Joerg Haider

Feb 16: The Hate Industry has lost one. [Ftcnet Controversy]

Feb 11: Dosanjh & his Censorship Agenda

Feb 4: When is racism not racism?

Biography of Columnist Doug Collins

Vox Populi

-- 2001 Columns --

Jan, 1: Out with the Old, In with the New

Jan, 1: Democracy? Only when it's good for the Government

Jan, 1: Ottawa is Dangerous

Jan, 1: Eat my Shorts, Ontario

Jan, 1: No Sense of Proportion

Feb 21: Various Thoughts and Ponderances!

March 3: The Law is an Ass

March 3: One Ass, Two Ass, Blue Ass, Black Ass

March 3: Taming of the Shrew

Promajority

J. Philippe Rushton

- **Mixed Agendas?**

- **The Latest In Holocaust Mania**

- **A Description And Analysis Of The Movie "American History X"**

- **A Description And Analysis Of The Movie "White Lies"**

- **The "New World Order"**

- **A Tale of Two "Genocides"**

- **Sensitivity Training for Hockey Player**

J. Philippe

Rushton is a John Simon Guggenheim Fellow and a professor of psychology at the University of Western Ontario in London.

Statement on Race as a Biological Concept - Nov 4, 1996

John Ball

Christopher Saunders

Author and Geologist.

New Evidence Shows St. John's Mount Cashel Sex-Abuse Did Not Occur!

-Former Sysop of Politically Incorrect BBS in Toronto

Electronic Money is Bogus Money!

PELO
Joe Lockhart

Controversial writer with interesting insight.

- What Do They Want?

- Who's Harrassing Whom?

- On Palestine

Former Publisher of the Trumpet of Truth magazine.

- Freedom of Religion is DEAD in Canada!

- A forest Fire Comes Your Way

- Hypocrites in the media. Is the only hate White hate?

- Why is the emotion of HATE worse than the rest?

Philip Belgrave

Samuel J. Owens

Nazi Loot (Stolen Art Issue)

What is Anti-Semitism?

Why Christians should oppose the War on Serbia.

National Post rant by Warren Kinsella on the Freedom-Site surrounding an article we posted on War in Serbia.

Kevin Alfred Strom

Gerry Lincoln

Kevin Alfred Strom was the former host of a radio show for the National Alliance called "American Dissident Voices"

AIDS SECRETS: What the Government and the Media Don't Want You to Know

- Introduction to Keepin' It Real

- The ALIEN Has Landed!

- Plastic Nationalism

- Uh! Oh! they're ba-ack! (Heritage Front)

Marc Lemire

**- The Strange case of Matt Lauder - New Spokesthingy for
"Anti-Racism" in Canada**

