

March 19, 2008

**By Fax**

Canadian Human Rights Tribunal  
11<sup>th</sup> Floor  
160 Elgin Street  
Ottawa ON K1A 1J4

Attention: Ms. Carol Ann Hartung, Registry Officer

To the Tribunal:

Re: **Warman v. Lemire (Tribunal File No. T1073/5405)**

This letter is in response to Mr. Fromm's letter of March 10, 2008, Ms Kulaszka's letter of March 16, 2008, and to a motion filed on March 17, 2008 on behalf of Rogers Publishing Limited with respect to access by the public to the hearing date schedule for March 25, 2008.

On March 3, 2008, the Tribunal ruled that the respondent may recall Mr. Steacy and Ms. Rizk to testify, solely with respect to the questions in which the Commission had made objections under section 37 of the *Canada Evidence Act* as well as follow up questions that related directly to the answers provided in reply to the previously objected-to questions. That hearing is scheduled to take place on March 25, 2008.

In its earlier Ruling dated May 7, 2007, the Tribunal acknowledged the Commission's security concerns and ordered that these witnesses' evidence be taken in presence of the parties, the intervenors and their counsel only. The Tribunal's ruling remains in effect because it was made with specific regard to the security of the two witnesses scheduled to be heard on March 25. The Tribunal has received several requests to set aside that order.

The Commission acknowledges the importance of public access to hearings before the Canadian Human Rights Tribunal, and will consent to a variance to the terms of the Tribunal's May 7, 2007 Ruling in order that public access to the March 25 hearing be enhanced. The Commission maintains, however, that special measures remain necessary in order to safeguard the witnesses – in this case two witnesses who will be testifying in their respective capacities as Commission investigators (though it should be noted that Ms Rysk is no longer employed by the Commission).

The Commission does not claim that special measures are required to ensure the witnesses' security while they are giving evidence, as a result of the measures customarily taken by the Tribunal in section 13 cases. The Commission also has the opportunity to supplement those measures.

At the present time, the Commission is concerned that reasonable measures be taken in these particular circumstances to ensure their security afterwards within the community.

The Commission has an ongoing serious concern to ensuring that the witnesses' privacy is protected. In its Ruling of May 7, 2007, the Tribunal has acknowledged that there is a basis for the Commission's security concerns (see paragraphs 7 & 20). It has restricted the use of recording devices of various types in and around the hearing room. However, the Commission is concerned that the witnesses be recognizable in the community by members of the public who attended the hearing, and/or that their physical descriptions might be distributed.

The Commission is increasingly concerned with the personal security of the witnesses, for the following reasons:

After the May hearings, some information about the witnesses was distributed. This included the following:

- The fact that one witness is visually impaired was noted in the transcript (for example, at page 4594, line 6).
- The accommodation measures available to this witness at the hearing were also discussed on record, in such a way as to indicate the extent of the impairment (see pages 4603-4).
- The witness' name, the fact of the witness' visual impairment and other attributes by which this witness may be identifiable were posted on the internet – see attached printouts (marked as appendices A & B).

The Commission seeks to prevent the distribution of further information allowing the identification of this witness. This is of particular importance in view of current circumstances. In January, Dean Steacy and the Commission acknowledged that he used the pseudonym "Jadewarr" on various websites to which the public has access. Since January, this information has been widely diffused on the internet and elsewhere. A great deal of anger has been expressed on various websites, particularly against Mr. Steacy. This has included postings which have been threatening in tone and of which samples are attached. The most troubling of which the Commission is aware occur on a website called "Free Dominion" in a discussion forum on the topic: "Mr. Steacy, are you investigating Free Dominion AGAIN?". Printouts of that forum are attached (marked as Appendices C & D). The following postings made throughout the day on March 9<sup>th</sup> by an account called "Edward Kennedy" are of particular concern. The first of these makes it clear that this poster is referring specifically to Mr. Steacy:

*... and further, whoever posted this topic has made an unforgiveable error, and inaccuracy. They used the word "Mr." before his name, should have used an appropriate word like scumball, coward, sneak, tyrant, etc*

Further postings by this poster include:

*... There are some places in Canada that a HRC droid could not walk in safety.*

*...*

*Would love to personally question and especially meet this whole steacy in person.*

*...*

*I want the tainted blood of these sub human HRC bigots to spill freely for the illegal persecution of many innocent people. I want the damned apparatus crushed and lawsuits filed against the inquisitors. Track every damned one of these criminals down and subject them to lawsuits, imprisonment and pay compensation to ALL the persecuted people these scumbag criminals persecuted.*

*Then deport the scum to places like Africa to serve in the governments of fellow scum like mugabe.*

Over the recent days and weeks, there has been significant interest expressed on the internet and elsewhere with respect to the public's access to the March 25, 2008 proceeding and it is therefore anticipated that many members of the public may wish to attend. Internet excerpts are attached which demonstrate this (marked as Appendices E & F).

It is obvious that there is public interest in the hearing, and the Commission does not suggest that this should be ignored. The Commission continues to support the principle that the public should have as much access as is possible to Tribunal proceedings. In this case, the Commission submits that there are measures which could be put in place which might better accommodate the members of the public who wish to attend the hearing, while also acknowledging the serious concerns expressed by the Commission with respect to the witnesses' security.

Therefore,

1. The Commission proposes a variation of the Tribunal's Ruling of May 7, 2007 in order to allow a "live" broadcast of the hearing to members of the public in a separate room. In addition, the Commission would not object to a video link from the hearing room into a separate room, insofar as the witness cannot be observed via that link.
2. The Commission proposes that cameras not be permitted in this "observation" room.

3. The Commission proposes that there be a prohibition against photographs in the hearing room and, to the extent possible, on all Tribunal premises.
4. Finally, in light of the additional material filed, and in order to best accommodate the witnesses' privacy and personal security, the Commission respectfully renews its request that the Tribunal restrict the publication of information about the witnesses' physical attributes.

It is respectfully submitted that the measures proposed herein are reasonable, take account of the competing interests in the particular circumstances of this case, and are well within the Tribunal's remedial authority under section 52(1)(c) and (d) of the *Canadian Human Rights Act*. I trust you will find this satisfactory.

Yours truly,



S. Margot Blight

c.c. (by email): Richard Warman  
(by fax): CHRC  
Simon Fothergill  
Marvin Kurz  
Steven Skurka

Joel Richler/Ryder Gilliland  
Paul Fromm  
Barbara Kulaszka  
Douglas Christie  
Julian Porter