

Canadian Human
Rights Tribunal



Tribunal canadien
des droits de la personne

BETWEEN:

CENTER FOR RESEARCH-ACTION ON RACE RELATIONS

Complainant

- and -

CANADIAN HUMAN RIGHTS COMMISSION

Commission

- and -

WWW.BCWHITEPRIDE.COM

- and -

JOHN BECK

Respondents

DECISION

MEMBER: Athanasios D. Hadjis

2008 CHRT 1
2008/01/09

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[1] The Center for Research-Action on Race Relations (CRARR) has filed the present complaint alleging a breach of s. 13 of the *Canadian Human Rights Act*. The complaint was filed against the “person or persons directly responsible for the website www.members/odinrage.com/bcwhitepride.com/immigration.htm, also known as BCWhitePride.com”. CRARR claims in the complaint that the website incited discrimination, hate and other violations of the right to equality and dignity of persons because of their race, ethnic or national origin, religion, disability and immigrant status, “among others”.

I. PRELIMINARY ISSUES

[2] On January 24, 2006, the Canadian Human Rights Commission (Commission) referred the complaint to the Tribunal. Prior to the commencement of the hearing, the Commission moved to amend the style of cause of the complaint to add as respondent parties John Beck, www.bcwhitepride.org, as well as two groups known respectively as “BC White Pride” and “White Renegade”.

[3] On May 18, 2007, Tribunal Member Pierre Deschamps issued a preliminary ruling on the Commission’s motion, allowing John Beck to be added as a party to the proceedings (*Center for Research-Action on Race Relations v. www.bcwhitepride.com*, 2007 CHRT 20). However, Member Deschamps denied the request to add the White Renegade group as a party. With respect to the BC White Pride group and www.bcwhitepride.org, he ordered that they be served with the ruling so that they could, in due course, make submissions on the Commission’s motion to add them as parties. At the opening of the hearing into the complaint, I found that the Commission had not served the ruling on these two potential “parties”. Consequently, I ruled that the complaint would not be amended to include them.

[4] As a result, the hearing on the merits of the complaint proceeded solely against www.bcwhitepride.com and John Beck. The Commission was the only party represented by legal counsel at the hearing. CRARR’s Executive Director, Fo Niemi, appeared on behalf of the Complainant. Mr. Beck was present at the hearing assisted by Paul Fromm, who is not a lawyer.

Mr. Fromm acted as Mr. Beck's agent. He made an opening statement, posed questions to witnesses, and led final arguments on behalf of Mr. Beck. No one appeared on behalf of www.bcwhitepride.com.

II. DECISION

[5] For the reasons set out below, I have determined that the complaint regarding Mr. Beck is substantiated. With respect to www.whitepride.com, however, I have concluded that this is merely the Internet address of a website and not a person or group of persons within the meaning of s. 13 of the *Act*. Consequently, the complaint as against www.whitepride.com has not been substantiated.

III. SECTION 13 OF THE ACT

[6] In order for a complaint under s. 13(1) to be substantiated, it must be established that matter:

- that is likely to expose a person or persons to hatred or contempt by reason of the fact that that person or those persons are identifiable on the basis of a prohibited ground of discrimination,
- was communicated telephonically or caused to be so communicated, repeatedly, in whole or in part by means of the facilities of a telecommunication undertaking within the legislative authority of Parliament,
- by a person or group of persons acting in concert.

[7] Prohibited grounds of discrimination include race, national or ethnic origin, colour, religion, and disability (s. 3).

IV. WHAT ARE THE IMPUGNED MESSAGES IN THIS CASE?

[8] Mr. Niemi testified that CRARR is an independent, non-profit organization based in Montreal, having as its mandate the promotion of racial harmony and equality within Canadian society. Its activities include conducting research, organizing conferences and seminars, and providing training regarding diversity management or dealing with discrimination. CRARR also provides individual assistance and representation to persons who believe they have been discriminated against because of their race, religion, ethnicity or other related grounds.

[9] CRARR regularly receives correspondence from members of the public bringing to its attention matters of interest. In May 2003, an email was sent to CRARR suggesting that it look into a website called “bcwhitepride.com”. Mr. Niemi and his colleagues at CRARR viewed the site and came to the opinion that it violated s. 13 of the *Act*. They therefore took steps to advise the Commission of the website’s existence and file the present human rights complaint.

[10] Mr. Niemi testified that at the time when the complaint was filed (March 23, 2004), the material was viewed on a website the home page of which had a rather complex address: <http://members.odinrage.com/bcwhitepride>. Mr. Niemi referred to this website as “bcwhitepride.com”. By September 2004, several months after the complaint had been filed, the material that was found at this web address had been transferred to a website located at <http://www.bcwhitepride.org>. The text from the pages that Mr. Niemi had viewed on the original site had been carried forward unchanged to the new site, but a few slight modifications had been made to the appearance of the pages (such as text fonts and table formatting). The Commission and CRARR contend that the .com website was merely transformed to the .org website and that Mr. Beck communicated the impugned messages through the use initially of the bcwhitepride.com website and subsequently via bcwhitepride.org.

[11] The website (at both Internet addresses) had a home page with a greeting welcoming visitors to the site. It set out some of the themes that were addressed within the site's other pages, by stating the following (all the excerpts from the website that I have included in this decision are reproduced without any corrections to typographical, grammatical and other errors):

Welcome to BC White Pride!

There's a bold new movement being championed in British Columbia focused specifically on educating White people regarding issues of concern such as immigration, media control, demographics, higher education and cultural degradation. The proud men and women of BC White Pride have made an informed and deliberate decision to join together to combat the premeditated decline of our people.

We are men and women of European descent that stand for the preservation of our race, heritage and culture for future generations. We are deeply concerned with the current trend of immigration from non-White countries into both Canada and our beloved European homelands.

We aim to expose the obvious monopoly of our media by the Jews who foment an agenda of liberalism, political correctness, multiculturalism and race mixing culminating in the breakdown of morality and family values in our proud culture. Moreover, we are frustrated with governmental policies that no longer serve the best interests of White people, the erstwhile founders of this great nation and so many others around the world.

We hope to educate you to the facts that the Jewsmidia is not telling you, and to request assistance from you to help secure the existence of our people and a future for White children.

This opening text was then followed up by the following passage:

Did you know?

- People of unmixed European descent now consist of only 8% of the world's population!
- Only 2% of the world's population are white females within child bearing age or younger!

- Abortion rates and the elevated use of birth control among Whites combined with the fact that less White families are having children has put the white birthrate below replacement levels worldwide!
- Miscegenation (race-mixing) is at all time high in all White cultures and is being aggressively promoted by the Jewsmidia like there's no tomorrow, literally!
- Third world immigration, if left unchecked, will render North America, Europe and Australia with a non-White majority by the turn of the next century!

Listen to the call of your once proud people! Help us make the country a better place for White families...

[12] On the left side of the page was a column listing a number of topics, which are in fact links to the other pages of the website. By clicking on the topic, the related page opened for the reader. The column remained visible on each of the website's pages, enabling the visitor to access the other pages by clicking on the link at any time, without having to return to the home page. The column contained the following links:

Immigration
 The Media
 The Jews
 Canadian Politics
 The Struggle at a Glance
 Racial Health
 Solutions

(i) The "Immigration" link

[13] The Immigration link brought the reader to a page containing a commentary entitled "Canada's Failed Immigration Policy". The main premise of the commentary is that while Canada's immigration policy traditionally favoured "hard-working people of European stock", the 1960's saw the rise of a "tumultuous generation hellbent on undermining the traditional values" of Canada.

[14] The text relies upon figures released by Statistics Canada to support its conclusions. For instance, it is put forward that Canadian immigration policy now favours Asians over immigrants from all places of birth combined, based on the Statistics Canada figure that the origin of 53.2% of all persons immigrating to Canada in 2000 was identified as “Asia and Pacific”. The commentary goes on to posit that the reason for this “calamity” is that family class immigrants constitute 60% of all immigrants, arguing that “Asians are displacing the founding race of this country at an alarming pace, specifically when we allow them to bring in family members from Third World nations”. On the other hand, “highly qualified European workers” are forced to proceed through the “rigours of the points system”, which assesses official language proficiency and compares an applicant’s occupational history with the list of underrepresented occupations in Canada.

[15] Elsewhere in the commentary, figures are cited, which purportedly demonstrate that almost 22% of immigrants to British Columbia between 1961 and 1996 came from either the People’s Republic of China, Taiwan or Hong Kong. This statistic prompts the text’s author to state, “Perhaps it’s time to rename the province Chinese Columbia”. The article then goes on to recount the efforts made in British Columbia at the start of the 20th century to prevent the entry of Asian immigrants. The article includes the following lyrics to a song that was supposedly sung in 1907 by opponents to the entry of Asians:

Then let us stand united and tall, and show our fathers might that won the home we
call our own, for the white man’s land we fight! To the Oriental grasp and greed
we’ll never surrender, no never! White Canada forever!

The article follows this excerpt with the comment, “If only we possessed the collective courage of our founding forefathers”.

[16] The article concludes with the assertion that the “premeditated extinction of Europeans in our great land is under way” and that the immigrants who have come to Canada “will continue to reap the fruits of our labour until our people are rendered a minority in our own land”. The final sentence on this web page states, “We must secure the existence of our people and a future for white children!”

(ii) The “Media” link

[17] Mr. Niemi testified that when he initially visited the bcwhitepride.com website in 2003, clicking on this link did not result in his being redirected to another webpage. However, when he visited the website after its content had been moved to the new address (bcwhitepride.org), he was redirected to a page entitled “Media Control in North America” when he clicked on the “Media” link.

[18] The article on this web page asserts that the television, filmmaking and other mass media industries in North America, are “in reality [...] absolutely dominated by one group of people that clearly have an agenda that is not representative of the best interests of the majority White population”. The commentary goes on to explain that “these all-powerful masters of the media” are Jews “to a very large extent”, and that “the preponderance of the Jews in the media is so overwhelming” that “we are obliged to assume that it is due to more than mere happenstance”.

[19] The article then proceeds to set out the media outlets owned by the Asper family in Canada as well as to provide a list setting out the names of dozens of “Jewish US Media Moguls”. It takes the view that “Jewish media control determines the foreign policy of the United States and permits Jewish interests rather than American interests to decide questions of war and peace. The article concludes as follows:

It would be intolerable for such power to be in the hands of any alien minority, with values and interests different from our own, but to permit the Jews, who have historically held us with such contempt, to hold such power over us is tantamount to race suicide. Indeed, the fact so many White People today are so filled with a sense of racial guilt and self-hatred that they actively seek the death of their own race is a deliberate consequence of Jewish media control. Once we have absorbed and understood the fact of Jewish media control, it is our inescapable responsibility to do whatever is necessary to break that control. We must shrink from nothing in our quest to overthrow this insipid power that we have subconsciously allowed to enslave our minds. If we fail to destroy this loathsome beast, it will erode at the very foundations of our race and destroy us from within.

(iii) The “Jews” link

[20] As in the case of the “Media” page, Mr. Niemi was unable to view this web page in 2003, but when the website moved to the bcwhitepride.org internet address, the link became functional. The internet address of the actual page that Mr. Niemi was redirected to when he clicked on “The Jews” was “<http://bcwhitepride.org/juden.htm>”. The title of the article found thereon was “A Brief History of the Jews”.

[21] The text challenges the “general consensus of the public” that “centuries of persecution directed against the Jews should earn them ‘victim’ status”, and proposes that “to really understand why the Jews have been persecuted, we must briefly look at their history in a nutshell”. The article then proceeds to document in detail statements made and actions taken regarding Jews, throughout history. There is discussion in the article of the role Jews have played with regard to “the ‘art’ of usury”, the foundation of communism, and in the establishment of “international financial control” run by “ultrawealthy” Jewish families that bought out “Gentile” companies and banks through “legal, if unethical practices”.

[22] In its conclusions, the article expresses concern about how Jews are “employing their vast power and their unchallenged control of almost every walk of life”. It is stated that “white nations are being manipulated and controlled by the Jews”, and that it is in the Jews’ “best interest to protect themselves from those that understand their role in history and contemporary society by introducing the notion of White guilt” for their persecution, “through the controlled media and educational institutions”. In the end, it is argued, “it comes down to the destruction of White identity and nationalism”.

(iv) The “Canadian Politics” link

[23] This web page consists of a commentary regarding the Liberal Party of Canada and the Canadian Alliance/Reform Party. The article described the Liberal Party’s “bending over backward to pander to racial minorities at the expense of the White majority” as a “disturbing trend”, which was reflected in the appointment of Adrienne Clarkson (“an immigrant from Hong

Kong”) as Governor General. Her husband, John Ralston Saul, is referred to as a “race traitor”. Prime Minister Jean Chretien is criticized for having appointed Rey Pagtakhan (“a recent Filipino immigrant”) and Hedy Fry (“a non-white immigrant from Trinidad”) as ministers. Efforts by the Liberal government of the time to stiffen sentences on hate crimes, launch national youth programs to fight racism and establish a national strategy to fight hate and bias activities, are criticized as constituting a Liberal “campaign to undermine White society”.

[24] The efforts by the Canadian Alliance Party to become “more politically inclusive” are also criticized. The party is accused of having been “infiltrated by multiculturalists at the upper echelon”. It is highlighted that the son of the party’s former leader, Stockwell Day, “married a Filipino woman”. Mr. Day is criticized for having “even used his multiracial grandchildren in his campaign advertisements”. The article concludes that the Alliance Party’s liberal stances on many issues have “attracted many South Asian, East Asian and Jewish representatives”. Consequently, “race conscious White Canadian voters have no real alternatives at the voting booth”, and they must therefore take a “revolutionary third position and look beyond the conventional political system” to solve their problems.

(v) The “Struggle at a Glance” link

[25] This web page purports to contain a list with short descriptions of the “largest and most influential factions” that have emerged since the “ideological overthrow of traditional racist organizations” like the American Nazi Party and the Ku Klux Klan (KKK). The article explains that these factions began after the “golden age of the Ku Klux Klan”. The reader is put on notice that the “men and women of BC White Pride have elected not to affiliate with any groups” listed and that these groups “do not necessarily represent the interests or objectives of BC White Pride”.

[26] The list includes references to websites operated by these groups, referring to one such site as “useful...for newcomers to the movement who wish to network and who seek education relating to prominent Canadians involved in the racist struggle”. Another of these websites is described as a “great electronic meeting place for race conscious White people from all corners of the globe”.

(vi) The “Racial Health” link

[27] The objective of this web page, according to its introductory paragraph, is to “outline important issues relating to the tragic demise of White racial health on a global scale”. The article is divided into three segments entitled respectively “IQ and Race”, “Abortion and Race”, and “Euthanasia and Race”.

[28] The first section, IQ and Race, argues that many “social evils”, such as chronic unemployment, long term welfare dependency, crime, single motherhood, and poverty, would be reduced if the intelligence of the population could be increased. This is unlikely to occur, it is claimed, because “the genetic component of intelligence” is allegedly deteriorating through a process called “dysgenesis”, which results from the “tendency of the most intelligent classes to have fewer children” and through the “large scale immigration of those with low intelligence”.

[29] This process is said to be accelerated in multiethnic societies, where certain minority groups with a “lower level of intelligence” have higher “fertility” rates than Whites. Blacks, it is asserted, have a “significantly lower level of intelligence than Whites and Asians” and this “contributes to the over-representation of Blacks with respect to the social pathologies of poor educational attainment, single motherhood, crime, etc.” Thus, concludes this section of the article, as the “cognitive underclass” continues to “outbreed the intellectual elite in White nations across the globe, the average IQ of White societies will continue to fall”. This will precipitate the decline of the “great civilizations” that “our ancestors fought so hard to build”. Only a society that aggressively controls immigration and encourages the adoption of “fertility policies conducive to the improvement of its genetic stock” can reverse dysgenesis.

[30] The Abortion and Race section of the article takes issue with policies that allow abortion on demand. It holds out that, more often than not, it is a “potentially healthy, productive White baby” that is aborted. As a result, the text goes on to say, “abortion on demand is counterproductive in White nations specifically because our birth rate has fallen below replacement levels”. Thus, White nations are unable to maintain a “stable” population base.

[31] The article does not, however, argue for the prohibition of abortion in all cases. The criteria for aborting a foetus should depend “primarily on considerations relating to the potential net gain or profit that the resulting individual will have on our society as a whole”. It suggests that abortion be available with respect to non-White foetuses, given the “well-documented differential IQ levels between races” and that, “on the whole”, non-White foetuses have a “negative aggregate genetic impact on our society”. The article also supports abortion in situations where the foetus is “deformed” and will be born with a severe mental and/or physical disability.

[32] This leads to the thesis of the article’s third segment, Euthanasia and Race, which asserts that “severely retarded and brain damaged” do not qualify as “net contributors to society, but [are] a tragic drain” on their families and society as a whole. Advocates for the disabled are criticized for equating rights of “even the most severely retarded person with those of the cognitive elite”. Such disabled persons should be euthanized, it is argued, and this in turn will have an impact on the “racial issue” because white couples who are “enslaved” by severely disabled children are less likely to have more white children. The article condemns the fact that “contemporary abortion laws allow the premeditated murder [of] a potentially healthy productive White foetus”, while it is illegal and punishable by life sentence “to kill a severely retarded or brain damaged person who needs constant care at taxpayers’ expense for the duration of their pointless lives”. In addition, the article posits that if the funds currently “misappropriated” to care for the severely disabled were spent providing “tax breaks to large families”, White people would be encouraged to have more, healthy children. In making its points on this issue, the article refers to the “severely” disabled as “parasites”, “incognizant primates”, and “genetic throwbacks”.

[33] In short, the article concludes, policies aimed at reducing the natural inequalities between individuals and peoples are not only counterproductive, but wasteful considering the “bell curve of attributes naturally occurring in any biological population”. Equality, it is argued, is a “myth propounded by those who would seek to dissuade us from our instinctual prerogative to cull the lesser beasts from the herd”.

(vii) The “Solutions” link

[34] This article purports to offer some answers to readers who may be wondering what they can do to “help” their “struggling race”. One of the suggestions is to cease relying on television and the print media for information. Instead, doing one’s own research on the Internet is recommended. It is claimed that more truth can be found through an independent investigation on the worldwide web than on television or in “your daily Jewspaper”.

[35] Another proposed solution is to spread “our message of hope and assist us in re-educating Whites who have succumbed to the ideologies propageated by the controlled media”. This can be achieved, it is suggested, by approaching friends “whose frame of mind might be compatible with the objectives of our cause”. The reader is also encouraged to print out several flyers, which were available and could be viewed on the website, for “legal” distribution in “libraries, educational institutions and parking lots”.

[36] The Commission entered into evidence two of these flyers. The first is in the form of a missing person bulletin. It contains a photo of a young, white girl. The caption accompanying the photo states the following:

MISSING**A Future For White Children!**

Description: Blonde, red or brown hair, fair skin, innocent, inquisitive, intelligent, trusting personality. Ultraliberal politicians and minority special interest groups have abducted her future. There will be no future for her in the Multicultural Canada that our government has planned. Lets take back our country and make it great, clean, decent and beautiful again for our children’s sake. The Men and Women of BC White Pride want you to join in this great and patriotic effort.

Join BC White Pride Today!

Help us make this country a better place for White families.

www.bcwhitepride.com

[37] The second flyer contains a photo of a white mother with three white children. The title at the top of the page states “BC WHITE PRIDE”. A caption around the photo reads, “We must

secure the existence of our people and a future for white children”. At the bottom of the flyer, appears the following text:

Don't you think our heritage and way of life are worth preserving?

Join BC White Pride Today!
Help us make this country a better place for White families
www.bcwhitepride.com

[38] In the left and right margins of the flyer, one can view eight short messages. Only a portion of these messages is visible on the printout that was entered into evidence. One of the messages appears to say, “White birthrates are well below replacement level, while non-white birthrates are at an all time high”. Another states, “At the turn of the next century, most White countries will have a White minority”, while another says, “Our media is virtually controlled by a small group of people that do not have the best interests of the White population in mind.”

V. ANALYSIS

A. **Is the material likely to expose members of the targeted groups to hatred or contempt by reason of the fact that the person or persons are identifiable on the basis of a prohibited ground of discrimination, within the meaning of s. 13(1)?**

[39] In *Nealy v. Johnston* (1989), 10 C.H.R.R. D/6450, the Canadian Human Rights Tribunal found that the term "hatred" involves feelings of extreme ill will towards another person or group of persons. To say that one hates another means that one finds no redeeming qualities in the latter. The Tribunal added that "contempt" suggests looking down upon or treating as inferior the objects of one's feelings. The two terms are not necessarily co-extensive. In some instances, hatred may be the result of envy of superior qualities such as intelligence, wealth and power, which contempt, by definition, cannot be.

[40] The *Nealy* Tribunal went on to say that the use of the word "likely" in s. 13(1) means that it is not necessary to prove that the effect of the communication will be that those who hear the messages will direct hatred or contempt against others. Nor is it necessary to show that, in fact, anyone was so victimized.

[41] These findings were later endorsed by the Supreme Court of Canada in *Canada (Human Rights Commission) v. Taylor*, [1990] 3 S.C.C. 892. The Court added that the terms "hatred or contempt" in s. 13(1) refer to unusually strong and deep-felt emotions of detestation, calumny and vilification.

[42] I find that the articles posted on the bcwhitepride.com and bcwhitepride.org websites contain matter that is likely to expose members of the targeted groups to hatred or contempt, within the meaning of s. 13(1), as interpreted in the jurisprudence.

[43] The material purports to represent the views of those who are "championing" the cause of the "proud men and women" who have come together to "combat the premeditated decline" of people of "European descent". But in advancing these views, non-Whites and the disabled are treated as persons whose value and contributions to society is less than white peoples'. Jews, meanwhile, are represented as a powerful menace to society, responsible for many of its evils. In short, anyone other than the "we" whose interests the website purports to defend is treated with extreme hatred or contempt.

(i) How does the material expose non-white persons to hatred or contempt?

[44] As the Commission persuasively argued at the hearing, the comments that expose non-Whites to hatred or contempt within the material were both specific and generalized. It is specifically asserted in the Racial Health article that Blacks have a "significantly lower level of intelligence than Whites or Asians" and that this "contributes to the over-representation of Blacks with respect to social pathologies of poor educational attainment, single motherhood, crime, etc." Blacks are referred to as the "cognitive underclass". These statements look down upon Blacks and treat them as inferior. Furthermore, the comments link Blacks' supposed lack of intelligence

with “social pathologies” like crime. As the Tribunal in *Warman v. Kouba*, 2006 CHRT 50 (“*Kouba*”), noted at paragraphs 45-6, blaming current societal problems on a targeted group is a hallmark of hate messages.

[45] In a more general way, Whites are presented as superior to, and more valuable than, other “races”. Thus, abortion of white foetuses is viewed as undesirable whereas it is acceptable with respect to others. Non-white foetuses are said to have a “negative aggregate genetic impact on our society” and therefore efforts should be made to encourage their abortion. This assessment strongly suggests that the lives of black persons are essentially valueless and thereby treats them with extreme contempt.

[46] This matter of the inferiority of non-Whites is reiterated in the material’s repeated references to immigration in Canada. Non-Whites are portrayed as undesirables whose entry into the country is a “calamity” that must be restricted. The Immigration article reminisces fondly back to an era in Canada when Asian immigrants were treated as second-class and when there were calls to fight for the “white man’s land” to free it from the “Oriental grasp and greed”. This theme of a racial fight or war against the onslaught of non-Whites is reinforced with allusions to white people being “under siege”, fearful for the “extinction” of Europeans. Those who encourage the progress of non-white immigrants within Canadian society are criticized. Those who associate closely with non-white immigrants are vilified and called “race traitors”. Statements calling for the “once proud people” to rise up and, as the flyer entitled “Missing” asserts, “take back our country”, resemble a call to arms. As the Tribunal in *Kouba, supra*, noted, at paragraphs 76-7, appeals for violent action to be taken against a targeted group is another hallmark of hate messages.

[47] The message in the “Missing” flyer is that a society that is accepting of multiculturalism ceases to be “great, clean, decent and beautiful”, and becomes a society in which the future of white children is threatened. This preoccupation with the future of white children reinforces the notion that the presence of non-Whites puts the well-being of white children in jeopardy. The suggestion being conveyed is that Whites should develop deep-felt emotions of detestation to those who will supposedly undermine and attack the well-being of white Children, i.e. non-

Whites. The portrayal of a targeted group as preying upon children or other vulnerable persons has been identified in s. 13 related jurisprudence as another telltale sign of hate messages (see *Kouba, supra* at paras. 40-1).

(ii) How does the material expose Jews to hatred or contempt?

[48] The Tribunal in *Kouba, supra*, at paras. 24-5, pointed out that one of the hallmarks of hate messages, as developed in the growing body of s. 13 jurisprudence, is the portrayal of a targeted group as a powerful menace that is taking control of society's major institutions and depriving others of their livelihoods, safety, freedom of speech and general well-being. This is precisely the way that Jews are presented throughout the website.

[49] The "Jews" article, for instance, argues that Jews use their "vast power and their unchallenged control of almost every walk of life" to manipulate and control "White nations", as a result of which "White identity and nationalism" is being destroyed. There are numerous references to the purported Jewish control of mass media throughout the material, including the use of fabricated words like "Jewsmedia" and "Jewspaper". To "permit" Jews to "hold such power over us", states the "Media" article, "is tantamount to race suicide". Jews are thus portrayed as a real and dangerous threat to Whites. What is particularly disconcerting is that the material appears to call for concrete, or even violent action, to "overthrow this insipid power" and "destroy this loathsome beast", which is eroding at the "very foundations of our race" and will "destroy us from within".

[50] These statements clearly impart unusually strong emotions of detestation and vilification towards Jews. They create conditions in which hatred and contempt toward Jewish people can flourish by encouraging the public to resent Jews for being manipulative and menacing to the interests of others, and generally for failing to possess any redeeming qualities (see *Smith v. Western Guard Party*, 1979 CanLII 1 (C.H.R.T.); *Citron v. Zundel* (2002), 41 CHRR D/27 at paras. 139-40).

[51] One also finds in the impugned material the use of ostensibly true stories and facts, such as those allegedly linking Jews with the development of objectionable activities like usury and communism, in order to make negative generalizations, a practice which has been found likely to expose members of the targeted group to hatred or contempt (see *Kouba, supra*, at paras. 30-2).

[52] In addition, contempt towards Jews is demonstrated in the dehumanizing manner with which their persecution is portrayed. Jews are presented as having brought anti-Semitism upon themselves. The victims are effectively blamed for the discrimination that they have experienced and in so doing, the effect of the discrimination is downplayed. It has been held that the trivialization of past persecution or tragedy creates a climate of derision and contempt that is likely to expose members of the targeted group to these emotions (see *Kouba, supra*, at paras. 72-5).

(iii) How does the material expose the disabled to hatred or contempt?

[53] The material found in the Euthanasia and Race article unquestionably exposes disabled people to hatred or contempt. To begin with, people with severe mental or physical disabilities are treated with extreme contempt through the use of highly inflammatory and derogatory language, which portrays them as greatly inferior to the “cognitive elite” (see *Kouba, supra*, at para. 67). They are branded as “parasites”, “incognizant primates”, “genetic throwbacks”, “genetically inferior”, and “lesser beasts” that must be “culled from the herd”.

[54] The article takes the position that “the severely disabled and brain damaged” are not “net contributors to society”, but rather a “tragic drain” on their families and societies. Criticism is laid on abortion laws that allow for “healthy productive White fetuses” to be aborted while it remains a crime to kill a “severely retarded or brain damaged person” that needs constant care for the duration of his or her “pointless” life. The obvious message underlying these remarks is that disabled persons are less worthy than able White persons and are therefore not entitled to the same basic rights, including the right to live. The disabled, by their very existence, are presented as harming the rest of society, a “parasitic” drain. It is hard to imagine any comments being more likely to expose disabled persons to hatred or contempt.

(iv) Conclusion: The material is likely to expose the targeted groups to hatred or contempt

[55] In sum, therefore, I find that there is matter found on the bcwhitepride.com and bcwhitepride.org websites that is likely to expose persons identifiable on the basis of a prohibited ground of discrimination (namely race, colour, religion, national or ethnic origin and disability) to hatred or contempt.

B. Were the communications made repeatedly, within the meaning of s. 13 of the Act?

[56] The Tribunal has held in the past that material communicated via the Internet is by that medium's innate characteristics alone, a repeated communication, particularly where no obstacles are put in place that would prevent anyone connected to the Internet from "surfing" his or her way to a website and viewing the material (see *Warman v. Beaumont*, 2007 CHRT 49 at paras. 51-7; *Warman v. Harrison* 2006 CHRT 30 at para. 44; *Warman v. Kulbashian*, 2006 CHRT 11 at para. 62; *Warman v. Tremaine*, 2007 CHRT 2 at paras. 116-9). Mr. Niemi testified that he was able to view the material just by typing in the Internet addresses of the websites. Clicking on the links found on the website enabled him to view the various articles comprising the impugned material.

[57] I therefore find that the material was communicated repeatedly.

C. Who communicated the impugned messages?

(i) Did John Beck communicate the impugned messages?

[58] Websites are identified by domain names (eg. bcwhitepride.org) that are registered with a domain name registration service (see *Kulbashian, supra* at para. 66). Information regarding the identity of these registrants is publicly available on the Internet through websites like "whois.net". The registrant for bcwhitepride.com, as of August 2004, was "NOLDC Inc.", with an address in New Orleans, Louisiana. No name of an individual appears in the information provided. With

respect to bcwhitepride.org, its registrant as of May 2005 was Domains by Proxy Inc. with an address in Scottsdale, Arizona.

[59] Evidence was introduced regarding “whois” searches, during the hearing on the preliminary motion. The parties asked me to review the transcripts from this hearing and take the evidence led into consideration during my deliberations on the merits of the complaint. There was testimony at the preliminary hearing regarding the ease with which a registrant may submit false information with respect to names and addresses when registering a website.

[60] Accordingly, the Commission contends that the registration information regarding bcwhitepride.com and bcwhitepride.org is misleading and that Mr. Beck is in fact the person who actually communicated the impugned messages via the Internet, on those websites. In order to establish this link between Mr. Beck and the messages, the Commission produced a series of emails that were exchanged in March 2004, between an individual named Shane Martinez and someone who was using “renegade1488ca@yahoo.com” as an email address. Mr. Martinez was called by the Commission as a witness at the hearing. He testified that he has been involved in the “study of human rights” and in “social justice activism” for over a decade. His work has included research into the activities of “white supremacist movements” on the Internet.

[61] Mr. Martinez stated that in early 2004, he discovered a website called whiterenegade.com during the course of his research. He wanted to learn the identity of the person(s) responsible for this website, so he sent an email to the site’s “contact email address”, pretending to be a female person named Rachel, who was claiming to be curious about the site’s content. Mr. Martinez received a reply email from someone with the email address renegade1488ca@yahoo.com, who explained that “John” was his real name. John’s email exchanges with Rachel (i.e. Mr. Martinez) were later followed up by a series of instant messaging (or chat line) discussions between the two persons. In one of the email exchanges, John wrote that he regularly posted messages under the pseudonym (or username) of “Renegade”, on a message board operated by a website called stormfront.org.

[62] At the opening of the hearing into the merits of the complaint, Mr. Fromm, speaking on behalf of Mr. Beck, admitted that Mr. Beck was indeed the person who had communicated with Mr. Martinez in these email and chat line exchanges, using the renegade1488ca@yahoo.com email address. Mr. Beck also acknowledged that Mr. Martinez's printouts of the email and chat line exchanges were genuine and had not been tampered with. These admissions are consistent with Member Deschamps's findings in his preliminary ruling in this case. Mr. Beck did not admit, however, that the statements made by him in these exchanges were actually true.

[63] The Commission contends that based on Mr. Beck's contributions to these email and chat line discussions, it is evident that he was the author and communicator of the impugned messages in this case. For instance, during an email exchange on March 8, 2004, Mr. Martinez praised the work done on the whiterenegade.com website and wondered if whiterenegade was also the name of a group. Mr. Beck replied:

This site whiterenegade.com is my own personal online manifesto. It is not a group. However I did co-found a group called BC White Pride. I helped write *much of the content* on the site at www.bcwhitepride.com.

[emphasis added].

[64] Mr. Fromm argued that little should be made of this assertion by Mr. Beck. To begin with, it is unclear what "much of the content" means. Was Mr. Beck the author of the material, and if so, of what portion? By claiming that he "helped write" the content, did Mr. Beck mean that he perfected or cleaned up the text as an editor, or perhaps that he provided the writer with research material? Mr. Beck, however, did not testify and did not lead any evidence to explain how limited his involvement may have been.

[65] On the contrary, the Commission claims that circumstantial evidence establishes that Mr. Beck was the author of the material. The Commission identified a number of fairly striking similarities and common themes between the impugned messages on the one hand and, on the other hand, Mr. Beck's email and chat line statements along with his postings on the stormfront.org message board. The Commission submits that this additional evidence renders it

more likely than not that Mr. Beck wrote and communicated the impugned messages. These alleged similarities include the following:

- In the exchanges with Mr. Martinez, Mr. Beck uses a number of uncommon terms, which also appear in the impugned messages, including the following examples:

- In one chat line exchange, Mr. Beck explains that he is upset with his church for allowing an Aboriginal mother and her children, whose father is white, to attend services. Mr. Beck considers the situation to be dangerous claiming that her presence within the church fosters an attitude of “fanatical tolerance”. The identical term is used in the impugned messages, under the “Racial Health” link, in the section devoted to euthanasia, where it is stated:

More to the point, advocates of disabled rights are well aware of the psychological impact of conditioning people to accept and subsidize their genetically inferior counterparts and integrate them into society. [...] The mindset propagated by these pathological liberals encourages a philosophy of *fanatical tolerance*.

[*emphasis added*]

- In the “Canadian Politics” portion of the impugned material, former Governor General Adrienne Clarkson is described as an immigrant from Hong Kong who married “race traitor” John Ralston Saul. Similarly, in the email exchanges with Mr. Martinez, Mr. Beck wrote, “If a White man marries a hook nosed Jewess and converts to Judaism, he a race traitor” [*sic*]. The same term was used in a 2007 posting on stormfront.org by Renegade, in which white persons seeking to adopt “trans racially” are called “would be race traitors”. As I indicated earlier, Mr. Beck had declared to Mr. Martinez that he was posting messages on the stormfront.org message board, under the pseudonym Renegade.

- The concern expressed in the “Racial Health” section of the impugned messages regarding the genetic superiority of certain “classes” and the deterioration of their “genetic stock” is a theme that is also taken up by Mr. Beck in his email messages to Mr. Martinez. Thus, Mr. Beck wrote in one exchange:

We can show the non-white races a little respect by staying away from their women, no matter how attractive the ODD ONE may be. This helps out our race by not introducing alien genetics to our [sic] gene pool, as well as being a good will gesture towards them.

Similarly, Mr. Beck wrote under the Renegade user name, in a 2007 posting on stormfront.org, that he disapproved of non-Whites marrying white persons to “improve their genetic stock”, conduct which he described as an exploitation of the white race “for their own benefit”.

- The material found on the “Solutions” link of the impugned messages focussed on the “future of our white children”. Flyers could be downloaded containing photos of white children and the message that “ultraliberals and minority special interest groups have abducted her future”. Mr. Beck, in his chat line discussions with Mr. Martinez, demonstrates that he too has a particular interest in caring for the future of white children. Mr. Beck points out that his pastor has four “perfect white” teenage children and that he (Mr. Beck) has been a “mentor” to these “white youth in the church”. He claims to have subtly given them racial understanding and guidance by showing a lot of affection to white children but no attention to the “mongrel” children of the Aboriginal mother. Mr. Beck expresses hope that the “impressionable” white teenagers have seen this favouritism and that they follow his example.

- In the “Racial Health” section of the impugned messages, it is argued that the “severely retarded and brain damaged” should be euthanized. Similarly, Mr. Beck wrote in a posting on the stormfront.org message board under the user name Renegade that he supports the idea of mandatory euthanasia in cases where a “healthy, productive, vibrant human being” is transformed into a “severely handicapped vegetable”.

[66] The Commission submits that further identification of Mr. Beck as the author and communicator of the impugned messages can be imputed from the content of the whiterenegade.com website. As I explained earlier, Mr. Beck boasted that the whiterenegade.com was his own “personal online manifesto”. The Commission claims that the website contains material some of which is almost identical to that of the impugned messages. For instance:

- In whiterenegade.com, an article dealing with abortion and “the problem with pro-choice” states:

Study after study shows that 90% of abortions are performed for what amount to reasons of convenience. We find this repugnant because, more often than not, it is a potentially healthy, productive white baby that is being aborted. The waiting list for adopting a healthy White baby is about seven years. This is far too long a wait. This waiting time could be cut dramatically if there were more restrictions put on abortions.

The almost identical text appears in the impugned messages found on bcwhitepride.com, in the Racial Health article under the “Abortion and Race” section. I have underlined the portions of the text that are identical to those found in whiterenegade.com:

Study after study shows that most abortions are performed for what amount to reasons of convenience. More often than not it is a potentially, healthy, productive White baby that is aborted. Conversely, the waiting list for

adopting a healthy White baby is seven years. This waiting time could be cut dramatically if there were more restrictions put on abortions.

- Elsewhere in whiterenegade.com, it is argued that there is a link between racial issues and the views expressed on the website, regarding euthanasia:

How does this all tie into race? White couples that are enslaved to severely disabled child will be less likely to have more White children.

The almost identical text (see underlined portions) appears in the impugned messages found on bcwhitepride.com:

How does this all relate to the racial issue? Specifically, White couples enslaved by severely disabled children will be less likely to have more White children.

[67] These are just some examples. There are other instances where I find that virtually identical language has been used on both websites. Furthermore, there are common themes to the messages communicated on both websites. In a section called “Love and Hate” on whiterenegade.com, a list of “examples of love from a pro-White perspective” includes the love of “precious White children”, which is consistent with the fondness for white children demonstrated on bcwhitepride.com and bcwhitepride.org. Whiterenegade.com’s list of hated things includes “the fact that Jews have taken control over our news media, entertainment industry, government, and education system” and that this control is used to “undermine and destroy the White race”. Yet another hated fact is the “desecration of human life by taking brain injury victims and hooking them up to life support”, thereby transforming a “healthy, vibrant human being into a severely disabled vegetable”. These are themes that are also found in the impugned messages of bcwhitepride.com and bcwhitepride.org.

[68] The Commission also points out that throughout the email and chat line exchanges, Mr. Beck refers to himself as part of a group called BC White Pride, alluding to “those of us at bcwp” and “my friend at bcwp”. He describes himself as a co-founder of the group a number of times.

[69] In my view, the inference can in fact be drawn from Mr. Beck's admission to writing "much" of the content on bcwhitepride.com as well as from the above mentioned links to and similarities with Mr. Beck's other material, that he was the author and the person who communicated or caused to be communicated the impugned messages. Given my earlier finding that the impugned messages contain matter that constitutes hate messages within the meaning of s. 13 of the *Act*, this inference, if believed, is "complete and sufficient to justify a verdict in the complainant's favour" in the absence of an answer from Mr. Beck (*Ontario (Human Rights Commission) v. Simpsons Sears Ltd.*, [1985] 2 S.C.R. 536 at 558 (*O'Malley*)). It is incumbent upon Mr. Beck to provide a reasonable explanation demonstrating that the discrimination did not occur as alleged (for instance, that it was not he who engaged in the discriminatory practice), or that the conduct was somehow non-discriminatory.

[70] As I stated earlier, Mr. Beck opted not to testify at the hearing and he called no witnesses. There is no evidence before me of Mr. Beck denying that he posted the impugned messages or that he was not their author, nor is there any evidence specifying what possible lesser role Mr. Beck may have played in "helping write" the material, as Mr. Fromm suggested in his submissions. The latter argument would, in any event, constitute a doubtful explanation, given that even a *group of persons acting in concert* may be found in breach of s. 13 for having communicated or *caused* to be communicated a hate message.

[71] Mr. Fromm also argued that the views expressed on the whiterenegade.com site are in some way milder than the bcwhitepride.com material and would not constitute material that offends s. 13. From this, he contends, I should infer that Mr. Beck was not the author of the impugned material that is found on the bcwhitepride.com website. I reject this argument. To begin with, the question of whether the whiterenegade.com material violates s. 13 is not a matter that is before me in this case. More significantly, I see no foundation for drawing the inference that merely because a second text contains only portions of the first one, then necessarily someone else must have written the remaining portions of that first text. This is mere conjecture. There is simply no evidence to support this assertion.

[72] In addition, Mr. Fromm contends that Mr. Martinez's evidence was gathered in an unethical manner and that it is objectionable for the Commission to be relying on material derived from such a "sordid" investigation. Mr. Fromm took particular issue with the fact that Mr. Martinez assumed a false persona and that he sent Mr. Beck several images of a woman that he had downloaded from the Internet without that woman's consent. Mr. Martinez sent these photos to Mr. Beck as purportedly true pictures of the fictional Rachel in order to be more convincing in the female persona that he had adopted in his exchanges.

[73] I fail to see how the methods used by Mr. Martinez serve as an answer or reasonable explanation to the *prima facie* case that has been made against Mr. Beck. Whatever Mr. Martinez's methods may have been, the fact remains that it was Mr. Beck who wrote the messages in these email and chat line exchanges, utilizing the email address renegade1488ca@yahoo.com, and who declared having posted messages on stormfront.org, under the name "Renegade".

[74] Mr. Fromm also claims that Mr. Martinez is an unreliable witness, given his activities within "anti-racist" movements and his participation in demonstrations against certain individuals, including Mr. Fromm. However, the question of Mr. Martinez's credibility with respect to his evidence regarding the content of his email and chat line exchanges was already addressed in the preliminary ruling in this case. The Tribunal determined that the email and chat line transcripts had not been tampered with and that they were "truthful and trustworthy", a fact that Mr. Fromm, speaking for Mr. Beck, also admitted at the hearing. Given that the authenticity of the documents has been conceded, Mr. Martinez's credibility is essentially immaterial.

[75] I agree with Mr. Fromm that many of Mr. Beck's messages in these exchanges demonstrate that he genuinely believed he was conversing with a young woman who appeared to be interested in developing a personal relationship with him. Mr. Fromm argues that Mr. Beck may have embellished his comments as a result, particularly in his description of himself and his activities, just so he could impress "Rachel". However, Mr. Beck did not testify or lead any other evidence as to what these misrepresentations may have been, nor as to whether they encompass any of the passages that I have highlighted. I have no evidence to contradict Mr. Beck's explicit

admissions in his email and chat line exchanges. Besides, many of these discussions, which occurred in 2004, contain messages similar to those that Mr. Beck posted on stormfront.org in 2007, after the complaint was filed and long after his conversations with the fictional Rachel had ceased. There is nothing before me to suggest that Mr. Beck was trying to impress anyone with these recent stormfront.org postings.

[76] I also reject Mr. Fromm's submission that Mr. Beck was somehow prejudiced by the fact that the Commission had not specified prior to the hearing which portions of the bcwhitepride.com material it intended to use as evidence of s. 13 violations. I would point out that the material found on bcwhitepride.com, which was subsequently moved to bcwhitepride.org, consisted apparently of less than 30 printed pages in total, not a particularly voluminous amount of material, in my view. Mr. Beck did not assert that the Commission or CRARR had failed to disclose these pages to him prior to the hearing's opening.

[77] Furthermore, most of the material that I have referenced in this decision, which was highlighted by Mr. Niemi in his testimony, had also been excerpted or alluded to in the complaint form that CRARR filed in 2004, and in the Commission's and CRARR's Amended Statement of Particulars, dated November 14, 2006. The hearing into the merits of the complaint began on June 18, 2007. Mr. Beck can hardly claim to have been taken by surprise in this regard. Besides, given the relatively small size of the bcwhitepride.com website (as I mentioned, less than 30 pages), I do not find that Mr. Beck suffered any prejudice by the fact that Mr. Niemi also singled out a number of passages that were not specifically mentioned in the complaint form or Amended Statement of Particulars themselves but were similar in nature. Mr. Beck knew that the Commission was challenging the content of the website as a whole. I am satisfied that this knowledge was sufficient for him to understand the case he had to meet. There was no evidence of prejudice at the hearing.

[78] I therefore find that a reasonable explanation has not been provided in answer to the *prima facie* case made out against Mr. Beck. I conclude that the matter that has been found to constitute hate messages within the meaning of s. 13 of the *Act* was communicated repeatedly via the Internet by Mr. Beck. The complaint against Mr. Beck has therefore been substantiated.

(ii) Did bcwhitepride.com communicate the impugned messages?

[79] The impugned messages were initially viewed by Mr. Niemi on a website the home page of which had the following Internet address, as it appears at the bottom of the printout that was filed in evidence: <http://members.odinarage/bcwhitepride>. CRARR brought its complaint against the person(s) directly responsible for the website, although the address given on the complaint form was somewhat more elaborate (members.odinarage/bcwhitepride/immigrations.htm). CRARR indicated in the complaint that the website was “also known as BCWhitepride.com”. On a typewritten form entitled “Complaint Summary” which the Commission subsequently prepared, the “name and address of respondent” is shown as being simply “www.bcwhitepride.com”. As I mentioned earlier, no one appeared before the Tribunal on behalf of bcwhitepride.com.

[80] More importantly, I have no evidence before me that bcwhitepride.com even exists as a person or group of persons acting in concert, within the meaning of s. 13 of the *Act*. The evidence only establishes that in 2003, one was able to access a website with an Internet address (members.odinarage/bcwhitepride/immigrations.htm) within which the term “bcwhitepride” appeared. In his preliminary ruling in this case, Member Deschamps found that a group calling itself BC White Pride did exist. However, as I mentioned earlier in this decision, I denied the Commission’s motion to add the group as a party.

[81] It is evident, in my view, that the “bcwhitepride.com” referred to in the complaint was meant to identify a website, a simplified version of a fairly complex Internet address, and that CRARR sought to file the complaint against the persons responsible for it, not against the website itself. Furthermore, even if one were to rely on the Commission’s categorization in the complaint summary of www.bcwhitepride.com as the “respondent”, it has not been established that bcwhitepride.com exists as a person or group of persons, within the meaning of s. 13 of the *Act*, capable of engaging in the discriminatory conduct contemplated therein. The complaint against bcwhitepride.com has therefore not been substantiated.

[82] I would also note in passing that in its final submissions, the Commission advised the Tribunal that it was not seeking any remedy against www.bcwhitepride.com.

VI. REMEDIES

A. An order that the discriminatory practice cease (s. 54(1)(a))

[83] The Commission and CRARR seek an order that Mr. Beck cease and desist the discriminatory practice, pursuant to s. 54(1)(a) of the *Act*. Given my findings that Mr. Beck communicated hate messages within the meaning of s. 13 of the *Act*, such an order is justified.

[84] I therefore order John Beck to cease and desist from communicating, by the means described in s. 13 of the *Act*, namely the Internet, any matter of the type contained in those messages that I have identified in this decision as being likely to expose a person or persons to hatred or contempt by reason of the fact that the person or persons are identifiable on the basis of a prohibited ground of discrimination.

[85] Mr. Niemi testified that he had still been able to access the messages on the bcwhitepride.org website as recently as November 2006. If that remains the case, Mr. Beck is ordered to remove the material that has been found in breach of s. 13 from the bcwhitepride.org website or from any other location on the Internet where Mr. Beck has posted the material.

B. Penalty (s. 54(1)(c))

[86] The Tribunal may order a respondent who engaged in a discriminatory practice set out in s. 13 of the *Act*, to pay a penalty of up to \$10,000, pursuant to s. 54(1)(c). Section 54(1.1) enumerates several factors that the Tribunal must take into account when deciding whether to make such an order:

- The nature, circumstances, extent and gravity of the discriminatory practice, and
- The wilfulness or intent of the respondent, any prior discriminatory practices that he or she has engaged in, and his or her ability to pay the penalty.

The Commission submits that these factors weigh heavily in favour of “the maximum penalty available”.

[87] With regard to the first set of criteria, I find that the discriminatory practice in this case constitutes a serious and significant breach of s. 13 of the *Act*. It is evident that the impugned material discriminates against a wide range of people, and encompasses comments that are vicious and dehumanizing, especially with respect to the disabled, a particularly vulnerable group within society. Negative and destructive stereotypes are brought forth with respect to Jewish persons. The remarks regarding non-Whites undermine their dignity and self-worth and contribute to disharmonious relations among various races and cultures, which, as the Supreme Court commented in *Taylor, supra* at paragraph 42, erodes the tolerance and open-mindedness that must flourish in a multicultural society committed to the idea of equality. I would also note that the material was placed on a website that appeared to be dedicated to the communication of these very messages, in contrast to instances where the impugned material has consisted of a number of relatively short postings on message boards (see e.g., *Warman v. Beaumont, supra* at para. 98).

[88] In addition, I am persuaded that Mr. Beck intentionally placed this material on the Internet knowing that the communication of these messages was likely to expose persons of the targeted groups to hatred or contempt and would thus be in breach of the *Act*. For instance, on the whiterenegade.org site, which Mr. Beck defined as his “personal online manifesto”, he expressed a “passionate and holy hatred” of laws preventing hate speech. In his exchanges with Mr. Martinez, Mr. Beck spoke of his contempt for those who wished to stop the kind of statements found on the bcwhitepride.com and .org websites. In my view, it is reasonable to infer from these statements that he had knowledge of the *Act*’s provisions regarding hate messages but that he opted to wilfully breach them just the same.

[89] I have no findings before me of any prior discriminatory practices by Mr. Beck. The material on bcwhiterenegade.org and stormfront.org, while helpful in determining Mr. Beck’s involvement in the bcwhitepride.com and .org websites, was not the object of CRARR’s s. 13 complaint, nor was any notice given to the responding parties that this other material was being

presented with a view to establishing the existence of additional discriminatory communications. It would be a breach of procedural fairness to Mr. Beck for me to assess whether this other material would constitute a discriminatory practice under the *Act*. Furthermore, I have no way of knowing if the bcwhiterenegade.org material was posted prior to the impugned messages in this case. Certainly the 2007 stormfront.org postings were made well afterwards.

[90] There is some evidence available regarding Mr. Beck's ability to pay the penalty. During the hearing on the preliminary motion to amend the complaint, the Commission produced copies of Mr. Beck's then most recent income tax return summaries, for the years 2004 and 2005. It is not necessary for me to reveal the exact amounts shown but suffice it to say that his declared total income was very modest. In addition, Mr. Martinez testified during that hearing that the information he had garnered in the course of his investigation showed that Mr. Beck lived in a "garage", a fact that was "fully verified" by a search on an Internet-based telephone directory, "411.ca". That being said, I have no evidence as to Mr. Beck's assets or liabilities nor what his income may be in 2007.

[91] Taking all of these factors into account, I order Mr. Beck to pay a penalty of \$6,000. Payment of the penalty shall be made by certified cheque or money order payable to the "Receiver General for Canada", and must be received by the Tribunal within 120 days of the date on which this decision is served on Mr. Beck.

C. Witness fee

[92] Mr. Beck has requested a witness fee from the Commission for his attendance, over the course of eight days in total, at the hearing on the preliminary motion to amend the complaint, which resulted in his being added as a respondent in the present case. The Commission had sought and obtained a summons from the Tribunal requiring Mr. Beck's attendance on November 27 and 28, 2006, at the hearing which was to take place in Penticton, BC. The Commission served the summons on Mr. Beck by process server together with an amount of \$50.00. Mr. Beck appeared at the hearing on the designated dates. However, the start of the

proceedings was postponed to the second day, November 28, 2006, due to bad weather that had delayed the Tribunal member's arrival.

[93] The hearing on the motion continued over a total of seven days (November 28, 29 and 30, 2006, and April 10 to 13, 2007). Mr. Beck attended on each of those hearing dates, although he was not served with any other summons. Mr. Beck was ultimately never called to testify.

[94] Mr. Beck is now seeking a witness fee with respect to his attendance at the hearings over the entire cumulative eight day period. He is also requesting reimbursement of his daily travel expenses relating to his driving by car to and from his home in Kelowna, a distance of 60 km each way, along with his daily parking fee of \$4.00. He has also claimed the cost of "lunch money".

[95] Section 50(6) of the *Act* provides that any person summoned to attend a hearing is entitled in the discretion of the member to receive the same fees and allowances as those paid to persons summoned to attend before the Federal Court. The practice in the Federal Court is governed by rules 42 and 43 of the *Federal Court Rules*, which state that a witness is entitled to the fees and travel expenses set out in *Tariff A* of the *Rules*. Section 3 of the *Tariff* states that witness fees should be paid in the amount of \$20 per day plus reasonable travel expenses, or the amount permitted in similar circumstances in the superior court of the province where the witness appears, whichever is greater.

[96] The hearing where Mr. Beck appeared was held in British Columbia. Schedule 3 of Appendix C to the *Supreme Court Rules* of British Columbia, issued pursuant to the *Court Rules Act*, R.S.B.C. 1996, c. 80, sets out the fees that are payable to witnesses in that province. Witnesses are entitled to a daily witness fee of \$20. However, a witness who is a party or a present officer, director or partner of a party to the proceeding is not entitled to the fee. At the time of the hearing on the preliminary motion, Mr. Beck was not a party to the complaint. There is no evidence before me that he was an officer, director or partner of the sole respondent party to the case at the time, bcwhitepride.com, which, in any event, I have determined is not a person or

group of persons within the meaning of s. 13. Mr. Beck only became a party pursuant to Mr. Deschamps' ruling of May 18, 2007, amending the complaint.

[97] Schedule 3 also provides that where the hearing is held within 200 km from the witness' residence, a travel allowance of 30 cents per kilometre is payable. A reasonable allowance for meal expenses is also payable.

[98] The Commission produced with its submissions, a copy of the Treasury Board of Canada Secretariat's kilometric rates for use of privately owned vehicles driven on authorized government business travel, for the period encompassing the first two days of hearing on the preliminary motion. The rate for travel in British Columbia was 47.5 cents per kilometre at that time.

[99] The Tribunal has the discretion to vary the amounts payable for witness fees in accordance with the circumstances of each case (see *Day v. Department of National Defence*, 2003 CHRT 7). I find that the Treasury Board Secretariat's travel expense rate would be reasonable in the present case. I also note that the entitlement under the rules of British Columbia's Superior Court would be lesser and, in accordance with the *Federal Court Rules*, would therefore not apply.

[100] I accept Mr. Beck's claim for a witness fee in relation to the entire eight day period. The Commission never indicated that it would not be calling him as a witness, nor did it request that the summons be withdrawn or cancelled, as Mr. Deschamps pointed out when the issue of witness fees arose on the final day of the hearing on the preliminary motion (see Transcript, April 13, 2007, at pages 925-42). I note that the Tribunal's summons form, which the Commission filled out and served on Mr. Beck, states that the person being summoned must attend to give evidence at the indicated place and time of the hearing, and do so "from day to day until the hearing is concluded or the Tribunal otherwise orders". The Tribunal never issued an order releasing Mr. Beck from his requirement to attend throughout the course of the hearing on the motion, nor did the Commission ask the Tribunal to do so.

[101] The Commission argues that Mr. Beck chose to attend over the entire period because the main question at issue was whether he should be added as a respondent in the case. Mr. Beck may very well have opted to attend even if he had not been summoned, but the fact remains that he *was* summoned to attend at the request of the Commission and that he was not released from this requirement throughout the course of the hearing on the motion.

[102] Consequently, I order the Commission to pay Mr. Beck a witness fee and reimburse his expenses, in the following amounts:

- A daily witness fee of \$20.00 x 8 days = \$160.00
- 120 km (round-trip distance from home to hearing) x 47.5 cents x 8 days of hearing = \$456.00;
- \$4.00 parking x 8 days of hearing = \$32.00;
- \$15.00/day (which I consider to be a reasonable sum for lunchtime meal expenses) x 8 days of hearing = \$120.00.

The total to be paid by the Commission to Mr. Beck is therefore:

\$768.00 - \$50.00 (the sum that I understand was already provided to Mr. Beck when he was served with the summons) = \$718.00.

“Signed by”

Athanasios D. Hadjis

OTTAWA, Ontario
January 9, 2008

CANADIAN HUMAN RIGHTS TRIBUNAL

PARTIES OF RECORD

TRIBUNAL FILE: T1120/0206

STYLE OF CAUSE: Center for Research-Action on Race Relations v.
www.bcwhitepride.com and John Beck

DATE AND PLACE OF HEARING: June 18 to 20, 2007
Penticton, British Columbia

DECISION OF THE TRIBUNAL DATED: January 9, 2008

APPEARANCES:

Fo Niemi For the Complainant

Catherine J. Boies Parker For the Canadian Human Rights Commission

No one appearing For the Respondent: www.bcwhitepride.com

Paul Fromm For the Respondent: John Beck