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Comments/Commentaires:

Warman v. Northern Alliance and Jason Ouwendyk.

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Direct Line: (613) 947-6399  
Facsimile: (613) 993-3089  
daniel.poulin@chrc-ccdp.ca

**BY FACSIMILE**

August 12, 2008

Nicole Bacon  
Registry Officer  
Canadian Human Rights Tribunal  
160 Elgin Street  
11th floor  
Ottawa, ON  
K1A 1J4

Dear Ms. Bacon:

**Re: Richard Warman v. Northern Alliance and  
Jason Ouwendyk  
Tribunal Files nos.: T1216/2807 & T1217/2907**

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The present is pursuant to your request for more information following my letter informing the Tribunal that the Commission had decided to no longer participate at the hearing.

As appears from previous correspondence with the Tribunal (mainly my emails to Mrs. Julien dated August 6, 2008 and August 11, 2008), the material at issue is no longer on the Internet. Moreover, we were only recently advised that the financial claims (both the claim for pain and suffering and the penalty) against Mr. Ouwendyk are stayed. In all of the circumstances, there is no longer a public interest justifying the Commission's participation in this matter.

As additional information, and to act as further disclosure, you will find attached hereto my letter to the Trustee (dated August 1, 2007) and the Trustee's reply (dated August 5, 2006 but read on August 6, 2008). I apologize for the poor quality of the latter document.

Yours truly,

Daniel Poulin  
Counsel

encl.

c.c. Jason Ouwendyk (via Tribunal)  
Alexan Kulbashian (via Tribunal)  
Richard Warman (via Tribunal)



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**BY FACSIMILE**

August 1<sup>st</sup>, 2008

David Gowling  
Herpers Chagani Gowling Inc.  
300 - 4 Hughson Street South  
Hamilton, ON  
L8N 3Z1

Dear Sir:

**Re: Richard Warman v. Northern Alliance and  
Jason Ouwendyk  
Tribunal Files nos.: T1216/2807 & T1217/2907**

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We represent the Canadian Human Rights Commission in the matter of Warman v Ouwendyk (Tribunal files: T1216/2807 and T1217/2907). This matter is to proceed to hearing on August 18, 2008 in Hamilton, ON before the Canadian Human Rights Tribunal. The Commission is a party in this proceeding but it does not represent Mr. Warman.

It is alleged that Mr. Ouwendyk contravened s.13 of the *Canadian Human Rights Act* in that he posted or allowed to be posted material on the Internet "(...) 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." It is important to note that at this stage, this is still an allegation and the matter has not been proven before the Human Rights Tribunal. If the Tribunal finds that the individual did contravene s. 13 of the *Canadian Human Rights Act*, it may impose a "cease and desist" order (akin to an injunction), and/or a financial award for the pain and suffering of the complainant (Mr. Warman) and/or a financial penalty. There has been a request for such a financial compensation.

We were informed early this week that Mr. Ouwendyk is an undischarged bankrupt. Upon closer examination, we learned that while Mr. Ouwendyk is not an undischarged bankrupt, he did file a consumer proposal in (we believe) October 2004 which was subsequently approved. It is our understanding that the filing of the consumer proposal and subsequent approval results in a stay of proceeding for financial claims against the insolvent person.

The facts at issue concern a series of posts on an internet forum and an internet website (which is no longer in operation) all of which date from 2003. It is possible that the facts at issue date both before and after the 2004 filing of the proposal (in other words, the postings would have started before 2004 and would not have been taken down in 2004).

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We seek your assistance in determining if the financial portion of the claim against Mr. Ouwendyk is stayed. If this is the case, the Commission would so inform the Tribunal and proceed accordingly. Your assistance would be greatly appreciated.

Yours truly,



Daniel Poulin  
Counsel



August 5, 2008

VIA FACSIMILE (613) 993 3089

Canadian Human Rights Commission  
314 Slater Street  
Ottawa, ON K1A 1E1

Attention: Daniel Poulin

Dear Sir:

SUBJECT: THE CONSUMER PROPOSAL OF JASON ARIE OUVINDYK

We are responding to your letter dated August 1, 2008. We confirm we have been appointed as Administrator of the Consumer Proposal of the above individual. We have attached a copy of our Certificate of Appointment for your reference. The proposal was approved by the statutory majority of creditors and remains in effect. Section 69.2 of the Bankruptcy and Insolvency Act provides for the stay of any actions against the consumer debtor.

We further confirm that Mr. Richard Warman has filed a claim in the proposal and is receiving dividends from the proposal. As such, it would be our position the financial claim of Mr. Warman is stayed by the Consumer Proposal and will be discharged upon completion of the obligations under the Consumer Proposal. We cannot comment whether the stay of proceedings would extend to the non-financial matters.

Yours truly,

Herpers Chagani Gowling Inc.  
Administrator of the Consumer Proposal of  
Jason Arie Oувиндык

David Cowling, CA, CRRP  
Senior Vice-President

cdg



Office of the Superintendent of Bankruptcy Canada

Bureau du surintendant des faillites Canada

An Agency of Industry Canada

Un organisme d'Industrie Canada

District of ONTARIO  
Division No. 05-London  
Court No. 35-116063  
Estate No. 35-116063

In the Matter of the Proposal of:  
**JASON ARIE QUWENDYK**  
Debtor

**HERPERS CHAGANI GOWLING INC**  
Administrator

Date of Proposal: December 10, 2004  
Date of Initial Bankruptcy Event: December 10, 2004  
Meeting of Creditors:

Chairman:

CERTIFICATE OF FILING OF A CONSUMER PROPOSAL - Section 66.13

I, the undersigned, Official Receiver in and for this bankruptcy district, do hereby certify, that:

- the aforementioned debtor filed a consumer proposal under section 66.13 of the Bankruptcy and Insolvency Act

The aforementioned administrator is required:

- to file with the Official Receiver, a report on the results of the administrator's investigation, the administrator's opinion on the reasonableness and fairness of the proposal, a condensed statement of affairs and a list of creditors
- to send to every known creditor, a copy of the proposal, a copy of the aforementioned report and a proof of claim and
- where applicable, to call in the prescribed manner, a meeting of creditors, to be held at the aforementioned time and place or at such other time and place as may be later requested by the Official Receiver

Date: December 13, 2004

WILLIAM FREDERICK SHEELER

Official Receiver

Federal Bldg., 451 Talbot St., Rm 303, London, ONTARIO, N6A 5C9, 519/645-4034

