

Canadian Human
Rights Tribunal



Tribunal canadien
des droits de la personne

Between:

Richard Warman

Complainant

- and -

Canadian Human Rights Commission

Commission

- and -

Jessica Beaumont

Respondent

Decision

Member: Athanasios D. Hadjis

Date: October 26, 2007

Citation: 2007 CHRT 49

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I. Introduction

[1] The Complainant, Richard Warman, has filed a complaint, dated January 6, 2005, alleging that the Respondent, Jessica Beaumont, discriminated against persons or groups of persons on the basis of religion, sexual orientation, race, colour, national or ethnic origin, and disability, by repeatedly communicating messages through an Internet website. He alleges that the messages would likely expose “Rastafarians, Jews, gays and lesbians, Chinese, Hispanics, blacks, Aboriginals, and other non-whites to hatred and/or contempt”, contrary to s. 13 of the *Canadian Human Rights Act*.

[2] The Canadian Human Rights Commission participated at the hearing and was represented by legal counsel. Mr. Warman and Ms. Beaumont appeared and testified at the hearing. They were not represented by legal counsel, but Ms. Beaumont was assisted by an agent, Paul Fromm, who is not a lawyer. Mr. Fromm indicated at the opening of the hearing that he was offering her “some assistance”, having been involved as an intervenor in a number of cases regarding s. 13 of the *Act*. Mr. Fromm emphasized that he was not in a position to provide Ms. Beaumont with “proper legal counsel”. As her agent, he made an opening statement, examined and cross-examined witnesses, and presented final arguments on her behalf.

II. Analysis

A. Section 13 of the *Act*

[3] In order to substantiate a complaint of discrimination under s. 13(1) of the *Act*, it must be established that a person or group of persons acting in concert 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, any 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.

[4] Section 13(2) specifies that s. 13(1) applies to matter that is communicated by means of the Internet.

B. What are the impugned messages that Ms. Beaumont allegedly communicated?

[5] Mr. Warman testified that he viewed the alleged hate messages starting in January 2004, principally on a website based in the United States called “Stormfront.org”. This website consists mainly of a forum where individuals post messages that can be viewed by anyone on the Internet. The forum is divided up into a number of sections, which are themselves divided up into numerous levels of sub-sections (also known alternatively as sub-forums, topics, threads or discussions). One of the sections of the Stormfront.org forum is dedicated to Canadian issues, and is entitled “Stormfront Canada”.

[6] Persons who wish to post messages on the Stormfront.org forum must first register themselves as members. They may then post messages on any of the existing sub-forums. They may even create new sub-forums on which they post the initial message that then can be viewed by others on the Internet. Other Stormfront.org forum members may then post their own messages on the sub-forum.

[7] Members have the choice of displaying their true identities next to the postings, or using pseudonyms instead. Ms. Beaumont readily acknowledged in her evidence that she posted messages on the Stormfront.org forum under the pseudonym “Jessy Destruction”. The margin notes next to postings usually indicate the date when the member joined the forum and the number of posts the person had made to date. Ms. Beaumont’s “join date” is shown as October 2003. One of the postings entered into evidence was posted on May 5, 2006. Its margin notes indicate that she had by this point made 1,023 postings on the Stormfront.org forum.

[8] The margin notes also typically show the member’s declared location. In many of her postings, Ms. Beaumont gives her location as being “in the land of brainwashed whites”. In her other postings, the location is simply “Coquitlam, BC, Canada”.

[9] During his testimony, Mr. Warman led into evidence printouts of the impugned messages, posted by “Jessy Destruction”, most of which I have summarized below. In her testimony, Ms. Beaumont acknowledged having posted almost all of these messages, but for two that she does not recall posting. Many of the impugned messages contained the occasional spelling mistake or typographical error. Rather than repeatedly identifying the errors, I have simply reproduced the texts as they appeared on the printouts filed in evidence.

Message 1 – January 24, 2004

[10] This message was posted on a sub-forum entitled “Gangs and Double Standards”. The initiator of this discussion argued that the term “racist” is usually ascribed to “gangs” composed of “white people”, but not to those made up of “non-whites”. Another contributor to the discussion referred to an incident where he and his “crew” had been thrown out of a bar because they were wearing “boots and flight jackets with swastikas on them”. Ms. Beaumont was apparently there during the incident because in the message that she posted, she complained that “if we were nigs, then we’d just be ‘blacks hanging out and eating’”.

Message 2 – January 25, 2004

[11] This is one of the messages that Ms. Beaumont does not recall posting. It was posted in a sub-forum entitled “Blacks in Western Canada?”. The discussion centred on a comparison between the “concentrations” of Blacks in Western Canada relative to Ontario. The margin note shows that the message was posted by Jessy Destruction. The message states, “It could get worse, lets just cross our fingers and hope they all die off from AIDS”.

Message 3 - January 28, 2004

[12] This is another message that Ms. Beaumont does not recall posting. It was posted on a sub-forum regarding inter-racial dating. A contributor to the sub-forum had asked other forum members how they would react if a close relative began dating a “non-white”. A message in

reply, which was posted by Jessy Destruction, states “I told my sister already that I would kill him and then beat her up, she knows I would too...but she says ‘blacks look funny so I don’t have to worry””.

Message 4 - May 29, 2004

[13] This message was posted on a sub-forum entitled “Re: Calgary Alberta”. It states:

Oooh Marcus, the only nigger who went to punk shows. Now I see where you got the name Darkus from...yeah I met him like...4 or 5 years ago at a show, at the multi. I don’t go to shows anymore unless its either a) a REALLY REALLY good band or b) Cheap beer.

The context of the message is not clear given that the messages that preceded Ms. Beaumont’s posting were not produced. Ms. Beaumont testified, however, that she grew up in Calgary. She moved to British Columbia for a couple of years before taking up residence in Calgary again, in 2006.

Message 5 - June 10, 2004

[14] On a sub-forum entitled “Britkids website”, there was a discussion about a website dealing with young people in Britain. The initiator of the sub-forum commented that of the nine youths shown on the website, only one is of “White European descent”. Ms. Beaumont posted a message with a reference to an excerpt from this website in which one of these British youths professes to be a Rastafarian. Ms. Beaumont adds the following comment:

That’s about the little nignog’s religion. This site is disgusting, it really worries me even more so about what my sisters are being forced in school.

Message 6 - June 24, 2004

[15] This message was posted on a sub-forum entitled "My Rant About Pride Week in TO". The initiator of the discussion criticized the holding of Gay Pride Week in Toronto. In her subsequent posting on this sub-forum, Ms. Beaumont stated:

I think we all know where your coming from with this rant, we had a week in Calgary, I stayed in the whole week. But about a week after I went downtown and still saw some of the fag banners hanging around town.

Message 7 - August 14, 2004

[16] This message was posted on a sub-forum entitled "Let Muslim women keep hijabs on". The discussion related to a news report that then Prime Minister Paul Martin believed that the practice at Montreal's airport of requiring Muslim women to remove headscarves as they pass through security screening should be stopped. Ms. Beaumont posted the following comment in this regard:

That drives me nuts, I take photos for the citizenship, passports, pr (permanent residence), visa cards etc. and as I have been told from human resourses that the ears MUST be visable, which means, if your hair covers your ears, it has to be tucked back.

I don't care if it's a religious thing or not, if you don't want to follow our rules, even if it is taking off your scarf thing for one lousy picture, then stay out of my effing country!

Message 8 - August 14, 2004

[17] This message was posted on a sub-forum called “Some semi-drunken ramblings from the new member”. The person who initiated the discussion complained that as a “fourth generation Torontonian”, it broke his heart to see the city “slip quietly into the hands of filthy thirdworlders”. Ms. Beaumont was the fifth person to reply to these comments. She wrote:

It’s good to see a new member on this board, welcome.

Just think, all the mindless pawns of the juden who believe in race-mixing and all that such, will be screwed over in the end.

Message 9 - October 15, 2004

[18] This message was posted on a sub-forum entitled “The Most Sick Thing I Have Ever Witnessed”. The initiator of the discussion complained that he saw a white man in his early twenties “with a veiled muslim that looked fresh off the boat, with the mud baby in the stroller!” Ms. Beaumont was the first forum member to reply to this comment. She wrote:

Ever seen a tar black negriod and a chink? That’s a pretty sick/funny site.

Message 10 - October 22, 2004

[19] This message was posted on a sub-forum entitled “Homosexual pornography is art!?” The initiator of the discussion was apparently a university student. He complained that the works displayed by a visiting artist to his university included photos of the artist performing oral sex on another male. Another forum member, with the username “Der Totenkopf”, posted a subsequent message stating that this was not art but rather “some sick mental defect fag getting off on the fact that you guys having to watch it”.

[20] Ms. Beaumont posted her own comment in reply, but it is noteworthy that on this occasion, she opted to quote the other member’s remark before adding her own. Users of

Stormfront.org's forum typically have two options available to them if they want to post a message to an existing discussion. They may either click on a "Reply" icon that enables them to simply post their own comments, or they may choose to click on the "Quote" icon, in which case the member can select an excerpt from one of the previously posted messages and incorporate it in the new message. The excerpt is placed in a separate bordered text box and is preceded with the word "Quote".

In this case, after excerpting Der Totenkopf's remarks, Ms. Beaumont added, "AGREED! f'ing perverts."

Message 11 - November 1, 2004

[21] This message was posted on a sub-forum entitled "New \$20 bill". The initiator of the discussion disagreed with the decision to feature a First Nations traditional carving of a Haida canoe on the new \$20 note. Ms. Beaumont made the following comment in this regard:

I haven't seen the new \$50 bills, but the \$20's and \$100's I have seen. I have talked with a few people about them (who aren't WN) but they don't like the fact that there is native stuff on the bills. I mean, who wants to pay for something and be reminded of a chug? Not me!

Mr. Warman testified that "WN" stands for "White Nationalists".

Message 12 - November 12, 2004

[22] This message was posted on a sub-forum entitled "No Need to Feel Threatened". One of the participants in this discussion suggested that there was nothing wrong with having "non-white" friends. Ms. Beaumont replied to this suggestion as follows:

I just don't feel the need to be-friend non-whites, as they can do nothing for me, nor would I like to associate with them. I am fine with my own kind, and always will/have been. Theres my f*cking answer. Good enough? If not, PM [private message] me, well debate this some more.

[23] Private messaging was an available feature on the forum, which enabled participants to communicate directly with one another without their discussions appearing on the forum. No one other than the communicating individuals would be able to view their messages exchanged in this fashion.

Message 13 - November 19, 2004

[24] Ms. Beaumont posted the following message on a sub-forum to welcome a new member, who apparently was moving to Calgary:

Welcome, I am living in Calgary... until Sunday. But you can always PM me, or other Calgaryans. It's a nice city, if you get past all the ARA threats (which are just that... empty threats) and homo loving retards. And, if you can, stay the f*ck away from the North East and North West, filled with non-whites, best place is the good old south, still white.

[25] The term "ARA" mentioned in Ms. Beaumont's message is a reference to a group known as "Anti-Racist Action".

Message 14 - December 2, 2004

[26] This message was posted on a sub-forum dealing with the American artist, Norman Rockwell, entitled "Norman Rockwell is 'racially insensitive'". Ms. Beaumont wrote:

I love Norman Rockwell, he is one of my favorite artists of live. I have a collection of his works, in one he has a little black girl on her way to school, the wall behind her says "Nigger", as well as a tomatoe has just been thrown. She has 3 black men escorting her towards school; the painting is titled "What we all Have to Live With".

Messages 15 and 16 - December 2 and 3, 2004

[27] These messages both appear in a sub-forum that Ms. Beaumont initiated entitled "16 Facts". The first message reads as follows:

I got this off a US site, but I feel it applies to Canada as well.

CRITICAL FACTS THAT YOUR KIDS WILL NOT LEARN IN SCHOOL.

1. The White race made America what it is today.
2. American heritage is White heritage.
3. American law is based upon White concepts from White European thought.
4. The American all-White neighborhoods of the past were demonstrably safer, and freer of crime of all sorts than integrated neighborhoods of today.
5. The American all-White schools of the past were clearly superior to any integrated school of today.
6. All great societies of the past which were White as they rose to power, when they changed from being dominantly White, to a dominantly mixed race society, they fell permanently into decay. (e.g. Egypt, Greece, Rome, Spain, Portugal.)
7. Racial integration of our neighborhoods and our schools has forced them into decay, just like the racial integration of the societies of the great White nations of the past caused them to fall into decay. History, both ancient and recent American, has consistently taught the very same lesson. It is clear beyond any debate, that modifying the racial composition of America away from the dominantly White society that it was as it rose to power, towards a mixed, racially diverse society, will be catastrophic. It will plunge the great American nation into the same depths that the other great White nations of the past have fallen in.
8. Based upon the extensive history of the Black race it is clear that it is not capable of creating or maintaining an advanced society. It has never created one advanced society in Africa. In every case (such as Haiti) where it has been given a thriving society, it has killed it, driving it into the same primitive state that its people have always lived in, in their native Africa. (For any who is foolish enough to doubt history, we have the sad spectacle of South Africa playing out before us, which should erase all doubts.)
9. History has shown us that the Black race cannot create or maintain an advanced society on its own. Its members therefore, as a people, cannot well fit into an advanced society, as equals, living and working beside those who not only are capable of building one advanced society, but have built numerous such societies in all climates and in all types of land.
10. History has shown us that the Hispanic peoples are also deficient in creating advanced societies like the White race has repeatedly created. While they have sown ability that is superior to the Black race, by creating their own written

language and some moderately advanced societies they have not been able to take the superior natural resources of the South American continent and do much with them.

11. Spain and Portugal sent soldiers to the lands south of the Rio Grande to conquer and take the wealth of the land. Instead of sending families to colonize, the Spanish men took native wives. The racial makeup of the lands south of the Rio Grande is composed of American Indian, Black, mixed-race and a small percentage of Whites thrown in. Their lands have never thrived like the nations to the north where Whites colonized and kept their race intact, seldom mixing their race with others.
12. By “celebrating diversity” we are bringing in the Hispanic and Asian peoples into White America and we will cause the North American continent to become like the South American continent. The great wealth and stable society of the White United States will be traded for the poverty and instability of the revolution torn countries south of our border.
13. Even if all races were exactly the same, if there were no differences whatsoever, the fact that Whites created the nation of the United States of America, means that we are completely within our honorable rights to restrict entrance into our country. We may honorably allow only White immigrants, or no immigrants at all.
14. The number of Whites, as a percentage of world population, is now down into the single digits and falling fast.
15. Nearly all of the White nations on earth are now accepting large numbers of Nonwhite immigrants. The only one of the three major races of earth, that is in real danger of falling into a minority status in its own racial home, is the White race. This could easily lead to extermination of the White race.
16. Those who support American diversity, Nonwhite immigration, miscegenation, integration, and/or Affirmative Action, are either: 1) ignorant of the above critical facts; or 2) blatant haters of the White race and seeking to end its existence on planet Earth.

[28] In Ms. Beaumont’s second message, posted the following day on the same sub-forum, she states that she “also likes this one” and then sets out the following text, together with a link to a page on the Internet where she presumably found it:

BILL OF RACIAL RIGHTS

1. White People have a right to exist as a distinct and separate people.
2. White people have the right to retain, and defend their own lands, free from immigration, or habitation by members of other races; which includes the right to live in all-White neighborhoods, and to send their children to all-White schools.

3. White people have the right to be proud of their history.
4. White people have the right to be proud of their own culture, and to reject entirely within their lands all non-White cultures.
5. White people have the right to educate their own children in any way they wish, free from government interference.
6. White people have the right to place their own interests above the interests of any other race or people.
7. White people have the right to reap the benefits of having a low birth rate.
8. White people have the right to require that all people within their borders speak the language of the White people who created the country.
9. White people have the right to prohibit all forms of miscegenation within their lands.
10. White people have the right to produce, and to consume, entertainment and advertising that is free from mention or depiction of members of other races.

If you are not willing to fight for your rights, you don't have any!

Message 17 - December 6, 2004

[29] This message is found on a sub-forum that asked participants what they considered were five things that concerned them as “white Canadian Citizens”. Ms. Beaumont answered the question as follows:

1. Immigration
2. Freedom Of Speech (and everything else)
3. People need to wake up, and grab a sense of morality.
4. People who support “gay marriages” although are not gay, even if they are.... IT'S SICK!
5. Basis of/for Deportation for illegal immigrants (this needs to be followed through with A LOT faster, and more watched)

Message 18 - December 7, 2004

[30] This message was posted on a sub-forum started by someone who was seeking advice on whether to attend a family gathering. The initiator of the sub-forum did not want to go because it would mean that he would have to see his sister who had borne two children with a black man. Ms. Beaumont provided the following opinion in reply:

I would stay away from the get together as well, my sisters know how addimient I am about race-mixing. And would never bring home a nig if they wanted to ever see me again. Your sister will understand when you aren't at the reunion, and if she doesn't realize it's her fault; then I am truely sorry to hear that.

Messages 19 and 20 - December 8 and 9, 2004

[31] These messages were posted on a sub-forum entitled "Giant Menorah on Queen's Park", regarding the installation of a Menorah in front of Ontario's Provincial Legislature's building. Ms. Beaumont posted two comments on this sub-forum. In the first, she wrote, "That's sick, I'm sure something like this will happen in Van. Sick, sick, sick!!" In her follow-up remarks, she stated, "I saw in the newspaper on the 8th, they had a quarter page spread of some rabbi lighting BC's largest menorah in Van, sick sick sick."

Messages 20 and 21 - December 9 and 10, 2004

[32] These messages were posted on a sub-forum that dealt with same-sex marriage. In her first message, Ms. Beaumont wrote:

I was proud before, to say that [Alberta] was the only provinces to not allow Save sex "marriages" but now, its all the same AIDS peddling sh*t.

The next day, Ms. Beaumont followed up with this message:

I don't know about anyone else her, but even if I put my religion aside, I still think fags are wrong, vile, and disease ridden, as well as frigging perverts.

Message 22 - December 13, 2004

[33] This message was posted on a sub-forum in which one of the participants mentioned that to his understanding, it is legal in Canada for an adult to marry a child. Ms. Beaumont replied to this remark by stating, "If this is true, it's the jews who made that law. I'll try and find out if it is true or not".

Message 23 - December 22, 2004

[34] This message was posted in a sub-forum about whether same-sex marriage would be recognized in Alberta. Ms. Beaumont's commentary in this respect was, "I hope Alta never lets those degenerates marry, it's just vile!"

Message 24 - May 16, 2005

[35] This message was posted on a sub-forum entitled "Silencing Christians in Saskatchewan: You Can't Criticize Homosexuals". The discussion related to a finding by the Saskatchewan Human Rights Tribunal that an individual had been distributing literature that promoted hatred against homosexuals.

[36] In providing her views on the issue, Ms. Beaumont first inserted the phrase, "You can't criticize homosexuals", which is a quote from a previous forum participant. She then wrote the following:

Oh yes I can!

This type of sh*t just boils my blood. They are allowed freedom of "sexuality" but I can't speak my mind being freedom of speech AND religion? It says right in the bible that homosexual relations are punishable by death.

Quote: Do not lie with a man as one lies with a woman; that is detestable.

Leviticus 18:22

Quote: If a man lies with man as one lies with a woman, both of them have done what is detestable. They must be put to death; their blood will be on their own heads.

Leviticus 20:13

So wouldn't that be infringing on MY religious beliefs? On MY freedom of speech?

Hell, they can be fags till the day they die, and I'll be with God for my life. But my thoughts should not allow them to get money for their "suffering". They should be getting a lot of money in hell then, they will be doing A LOT of suffering there.

I know my post should be in the theology section, but I think it should stay here, it is relevant.

Message 25 - November 27, 2005

[37] This message was posted on a sub-forum begun by Mr. Fromm entitled "Help Us Fight Warman & the Human Rights Censors". His initial posting discussed a number of other cases regarding s. 13 of the *Act* with which he was involved, and included excerpts from some of the material filed in those proceedings. Ms. Beaumont was the first person to post a reply:

Seems to me like Warman won't stop anytime soon. If it's up to him, everyone on [Stormfront] Canada will be facing the same retarded charges that few of us are facing right now. I guess Warman doesn't realize that we know how to play this stupid game to; but the best part is, we DON'T give up. We MUST keep fighting unless you all want every single one of your freedoms stripped away. I mean, he wants to charge people with a hate crime... for writing on the internet. How assinine is that?

We need all the help we can, either help, or sit on the side lines and watch canada crumble farther than it already has into multicultural, anti-freedom, faggot loving, white hating hell.

[38] This text was followed by what is commonly referred to as a “signature block”. Forum participants are able to set up their accounts so that at the end of each of their postings, a text of their choice appears automatically. In Ms. Beaumont’s previous postings, she had only included the following text in her signature block: “My beliefs and opinions have been shaped by my family, my friends, my upbringing, what I see, hear and read, and my experiences of life.”

[39] However, in Message 25, two additional statements were found in the signature block. The first said, “Fight for your race, because failure is not an option!” The second text read as follows:

‘Many Jews are fond of referring to anti-Semitism as a disease. I agree, Anti-Semitism *is* a disease – *you catch it from Jews.*’ - Page 102, Defensive Racism;

Edgar J. Steele

The Commission filed in evidence five additional postings made by Ms. Beaumont on the Stormfront.org forum, subsequent to this posting. The identical signature block appears in each of these subsequent postings on Stormfront.org, the last of which was made on February 5, 2006.

Message 26 - December 2, 2005

[40] This message was posted on the sub-forum referred to earlier, “Help Us Fight Warman & the Human Rights Censors”. The message is made up principally of two quotes from prior postings made by two other participants in the forum. Ms. Beaumont apparently inserted these excerpts by clicking the “quote” icon referred to earlier. Her entire message reads as follows:

Quote:

Originally posted by **renegade**

*You would think so, wouldn't you. The truth is that Canada helped save the **Jews from Hitler**. How do these Jew bastards thank us? By undrmining our society.*

Conquering our nation from within. Then while these Jews are in the process of destroying our nation and systematicly driving White Canadians into extinction, they pass hate speech laws making it illegal to just talk about it.

A perfect alalogy would be you saving a man's life by pulling him out of deep water as he's about to drown. After you save him, he pays you back by sleeping with your wife, defrauding you of your life savings, and charging YOU with assault when you punch him in the face for all the greif he's caused you.

Quote:

Originally posted by **Coldstar**

I knew very little about Jews until I moved to Canada. It is here where my eyes were opened in both shock and amazement. The libraries across the country are a fountain of jewish literature that could make a peace dove turn into an attack dog. Then add what they state on radio and TV and consider the weird sound or pitch that comes through so many jewish voices, it makes me shudder. I often think that they are a representation of the Devil. In fact these days when somebody says Devil or Satan I only think of Jews. I do not believe in some mythical spirit called Devil anymore, like Santa Claus, that tale of for kids.

Cheers to both posts. And Coldstar, I'm with you on the Devil subject; except I believe that Jews are literally spawn of Satan himself.

Message 27 - January 3, 2006

[41] This message was posted on a sub-forum entitled "Jews stage their own hate crime". The discussion related to a news report of a Jewish family in Pennsylvania that had allegedly vandalized their own property with anti-Semitic graffiti in an attempt to garner sympathy from the community and divert attention from complaints that had been made against the family about the dog kennel that they were operating. The family had not only claimed that their property had been defaced but also that attempts had been made to attack their dogs. Ms. Beaumont posted the following message regarding the matter:

I understand why no-one believes them, I wouldn't either after learning this. But see, if it was racial hatred; I don't understand why someone would attack helpless dogs [as] opposed to going after those dirty Jewish animals directly.

Message 28 - February 5, 2006

[42] This message was posted on a sub-forum that apparently related to a s. 13 complaint filed by Mr. Warman against another individual. Ms. Beaumont posted the following message:

Glad to hear that you are doing better. Hopefully this b*ll**** will stop before everyone knows what we've experienced. People have lost their family, jobs, and websites. (Among many other things) And all because of that retarded jew warman. We all know he does this because he is a very low and disgraceful animal. He does this for his own personal gain (be it monetary or mentally). Regardless, I WILL NOT LET HIM DEFEAT ME!

Messages 29 and 30 – July 13, 2006

[43] These messages were posted on a different forum than Stormfront.org, which was entitled BloodandHonour.com. Ms. Beaumont testified that she was a member of this forum and that she had posted messages on it. The “Jessy Destruction” who was posting on BloodandHonour.com listed as her “location” the same place that Ms. Beaumont had given on Stormfront.org, i.e. Coquitlam, B.C.

[44] These particular messages were posted on a sub-forum entitled “Winnicki Gets 9 Months”. Tomasz Winnicki had been named as a respondent in another s. 13 complaint that Mr. Warman had filed. The Commission had obtained a Federal Court order that he stop posting messages on the Internet pending the Tribunal’s final decision regarding the complaint. Mr. Winnicki violated that order and the Court found him in contempt. Ms. Beaumont’s first message on this sub-forum dealing with the finding of contempt stated the following:

Shitty deal for Tom. It’s retarded how they (CHRC) can even contemplate giving him jail time for speaking his mind (in a so-called “free” country)

“The sentence should serve as a warning to other white supremacists using the Net to spread hate, Warman said.”

Nope, doesn't stop me. This bastard isn't going to collect one red cent from me. Lock me up, big deal, just futhers my feelings towards this BS. I don't understand how they think locking Tom up for 9 months will make him 'change his mind' and start loving niggers and jews.

[45] Another forum member replied to Ms. Beaumont's message, following which she posted this message:

Ha ha. And boy would I appreciated 3 meals and a nice warm bed (without having to hearing Ciaran snore) lol. I can't stop posting my hate filled messages, I think it is what I was born to do.

Quote:

Originally posted by Canadian Hate Machine

Jessy...We've been 'Warned' !! You'd better stop posting your vile, disgusting "HATE" on the internet!. Unless you want 3 squares and a cot for 9 months.... I "HATE" you Warman I can only hope that I live long enough to piss on your useless grave, you kyke.

[46] The quotation in her second message is the text from the message that the other member had posted prior to hers. As I explained earlier, she automatically generated this quotation within her message by clicking on the "Quote" button rather than the "Reply" button to post her reply.

C. Did Ms. Beaumont communicate the impugned messages, or cause them to be communicated, by means of the Internet, within the meaning of s. 13?

[47] As I stated earlier in this decision, Ms. Beaumont acknowledged in her evidence that she posted messages under the pseudonym "Jessy Destruction". She even admitted having made practically all of the impugned postings in this case with the exception of Message 2 and Message 3, which she did not "recall" posting.

[48] These two messages are among the earliest of her postings on the Stormfront.org forum. She joined in October 2003 and the two messages were posted in January 2004. Ms. Beaumont

was a prodigious contributor to the forum, having posted over 1,000 messages as of May 2006. In the circumstances, it is not surprising that she is unable to recall every one of her entries.

[49] The margin notes and signature blocks of Messages 2 and 3 are identical to those in the messages that Ms. Beaumont concedes having posted. Furthermore, the views expressed in Messages 2 and 3, regarding Blacks and inter-racial relationships, are consistent with those expressed in her other messages. If, as suggested by Ms. Beaumont, someone else had entered her account and posted the two messages in question without her knowledge, she could have removed them subsequently. She acknowledged in her evidence, however, that she did not make any attempt to delete these messages. I infer from all of the circumstances, therefore, that on the balance of probabilities, Ms. Beaumont posted Messages 2 and 3 as well.

[50] I am thus satisfied that Ms. Beaumont posted all of the impugned messages and that she therefore communicated this matter or caused it to be communicated by means of the Internet, within the meaning of s. 13 of the *Act*.

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

[51] 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. 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. Warman testified that anyone could access the Stormfront.org forum and view the messages that members had posted. No passwords, codes or pre-registration were required.

[52] Mr. Fromm argued that Ms. Beaumont's communications were not repeated communications in that each of her postings consisted of a separate communication. She was, in effect, engaging in a conversation with other "like-minded" individuals, who were also participating in the forum. Mr. Fromm directed the Tribunal to the Supreme Court's decision in

Canada (Human Rights Commission) v. Taylor, [1990] 3 S.C.R. 892 at 938, where the Court stated:

Section 13(1) is worded so as to diminish phone use of the type I have just described, for in the context of s. 13(1) the term "repeated" must comport a requirement for something in the way of a series of messages. **Moreover, because the Tribunal must be satisfied that the messages are likely to expose persons to hatred or contempt, it may be that even a series of personal calls (by which I mean communications with friends and acquaintances) espousing hate propaganda will not constitute a discriminatory practice within the definition of the section.** I thus think it misleading to conflate the discussion to the point where all one sees is the telephone's position as an apparatus oft-used for private communications, and hence mistakenly to conclude that s. 13(1) suppresses messages which do little to promote the harms caused by hate propaganda.

(emphasis added)

Of course, the *Taylor* case dealt with telephone messages that had been recorded on an automated answering machine. The judgment was rendered at a time when the Internet had yet to gain widespread global usage.

[53] I do not agree with Mr. Fromm's submission that the messages posted by Ms. Beaumont on the Stormfront.org forum can be equated with "personal" telephone calls amongst "friends and acquaintances". As the Tribunal in *Tremaine, supra*, noted, at paragraph 119, "One of the purposes sought by posting messages on a website is that it will be available for transmission and display by a user who requests it". *Tremaine* is a case that also dealt with matter that had been posted on the Stormfront.org forum. Users of message boards like this forum know that anything they post on the board can be viewed by others with access to the Internet, not just "friends and acquaintances". The Internet when thus used becomes an "inexpensive means of mass distribution" of information (*Tremaine, ibid*).

[54] Ms. Beaumont was, in my view, keenly aware of this fact. In Message 12, she expressed her disagreement with the opinion of a previous contributor regarding the merits of having "non-white" friends. She invited this other individual to further debate the question by way of private

messaging (PM). In Message 13, Ms. Beaumont invited another forum member to contact her by PM if he wanted talk further about Calgary.

[55] Ms. Beaumont thus demonstrated that she knew the distinction between the public nature of posting on the forum and the confidential nature of private messaging. Indeed, when asked during cross examination why she had opted to post on the forum the passages entitled “Critical Facts that Your Kids Will Not Learn in School” and the “Bill of Racial Rights” (Messages 15 and 16), she explained that she posted them “for other people to read”. She added that she thought the material was “interesting”, and that “someone else might enjoy reading it”. She pointed out that she “didn’t really care” if the material would have an impact on certain individuals or not, adding that she did not see why such individuals would be visiting a website like Stormfront.org in the first place.

[56] However, irrespective of Ms. Beaumont’s intentions or whether an individual from any particular group actually viewed her messages, the fact is that the communication of her messages over the Stormfront.org forum resulted in their gaining a wider, public circulation, rather than being a mere private communication (see *Warman v. Bahr*, 2006 CHRT 15 at paras. 25-6). The analogy to a telephone conversation amongst friends and acquaintances does not apply.

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

E. 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)?

[58] In *Nealy v. Johnson* (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.

[59] 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.

[60] These findings were later endorsed by the Supreme Court of Canada in *Taylor, supra*. 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.

[61] I find that many of the messages posted by Ms. Beaumont on the Stormfront.org forum 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.

[62] To begin with, Ms. Beaumont repeatedly used highly inflammatory and derogatory language with respect to several groups, based on their religion, race, national or ethnic origin, or sexual orientation. The Tribunal in *Warman v. Kouba*, 2006 CHRT 50 at para. 67, pointed out that the use of epithets to describe a targeted group has been found, in the jurisprudence, to contribute to the likelihood that a message will expose the group to hatred or contempt. In the present case, Ms. Beaumont refers to Blacks in the messages filed in evidence by the term "nigger" or some derivation thereof ("negroid", "nignog", "nigs"). As I noted in *Warman v. Kulbashian*, 2006 CHRT 11 at para. 44, the use of this term, with its inherent connotation to slavery, segregation, and racism, in and of itself displays hatred and contempt in regard to black people. Elsewhere in the messages, Ms. Beaumont refers to homosexuals as "fags" or "faggots", to a Chinese person as a "Chink", and to aboriginal people as "chugs".

[63] Mr. Fromm submitted that it is not uncommon to hear some of these terms used in public today. Ms. Beaumont testified that she usually spoke this way amongst her peers. For instance,

in her everyday conversations, she often refers to Indians as “chugs” (a term used in Message 11) and she sees nothing wrong with that. She acknowledged that it is a derogatory term but she would only use it when speaking to her friends, and not it in the presence of an Aboriginal person.

[64] However, whether or not epithets form part of everyday parlance amongst the circle of people with whom Ms. Beaumont converses, or even more broadly within the community, is not what is at issue here. Section 13 of the *Act* addresses a particular type of exchange, one that occurs repeatedly, by telephonic means that include the Internet. In these instances, different rules apply, and messages containing matter that is likely to expose targeted groups to hatred or contempt cannot be so conveyed, irrespective of whether they are commonly used in everyday conversations.

[65] This is not to say that s. 13 is breached every time such epithets appear. For instance, the Commission attempted to argue that Message 14, regarding the Norman Rockwell painting, was likely to expose Blacks to hatred or contempt due to the mention of the word “nigger”. This interpretation is taken completely out of context. It is evident that Ms. Beaumont was taking issue with someone’s claim in an earlier posting that Rockwell was racially insensitive. Her message appears to accurately describe the painting, which the artist had produced as a social commentary on the challenges facing the civil rights movement of the 1960’s in America. Her description of the painting was not likely to expose black persons to hatred or contempt.

[66] Similarly, the Commission tried to depict Ms. Beaumont’s every use of the term “retarded” as an epithet against developmentally disabled persons. However, in messages such as Message 25, where she ranted about the “retarded charges” made against her in the human rights complaint, she did not use the term in this context, but rather as a synonym or euphemism for “absurd”, “inane” or some other similar uncomplimentary term. While her indiscriminate use of the term is insensitive to the dignity of persons with developmental disabilities, it does not expose them to hatred or contempt.

[67] But context cuts both ways. The context of most of the epithets used in Ms. Beaumont's messages is one where members of the targeted groups are subjected to ridicule and hostility, for instance:

- Ever seen a tar black negroid and a chink? That's a pretty sick/funny site.
- Fags are wrong, vile, and disease ridden, as well as frigging perverts.

[68] Beyond the mere use of epithets, Ms. Beaumont insinuates in her postings that members of the targeted groups are devoid of any redeeming qualities and demonstrates extreme ill will towards them. She describes homosexuals as "degenerates" and expresses her wish that they "all die off from AIDS". She describes Jews as "literally the spawn of Satan himself". Ms. Beaumont claimed, during her testimony, that she based this comment on her interpretation of a passage in the Bible, adding that she did not care if Jews would be offended by her ideas. However, irrespective of whether she "cares" or not, s. 13 of the *Act* dictates that the repeated communication via the Internet of matter that is likely to expose targeted groups to hatred or contempt constitutes a discriminatory practice. Whether the person communicating the matter was in fact its author is immaterial. The mere act of communicating the material or causing its communication attracts liability under the *Act*.

[69] One method by which contempt and extreme vilification of a target group can occur is through comparisons of the members of the group to animals and vermin (see *Kouba, supra* at paras. 62-3). In her message of January 3, 2006 (Message 27), Ms. Beaumont makes this kind of comparison by implying that Jewish people have less worth than dogs and by claiming she does not understand why someone would "attack helpless dogs" rather than going after "those dirty Jewish animals".

[70] Other recurring themes that the Tribunal has found, in previous decisions, to be demonstrative of communications that likely expose target groups to hatred or contempt, include the usage of so-called true stories to make negative generalizations of the targeted group, as well as the portrayal of the group as the cause of society's problems (*Kouba, supra*, at paras. 30-48).

These themes are present in some of the material posted by Ms. Beaumont on Stormfront.org, particularly in Message 15, which is the list of 16 “Critical Facts” that children will not learn in school. The list asserts, “based on ... history”, that Blacks and Hispanic peoples are not capable of creating and maintaining “advanced societies”, which the “White race has repeatedly created”. Therefore, it is argued, the members of these groups cannot “well fit” into an advanced society, as equals. Elsewhere in the list, it is suggested that American “all-White” neighbourhoods of the past were safer and freer of crime than integrated neighbourhoods of today. The implication of this statement is that the presence of non-whites is the cause of crime-related problems. The integration of non-whites is also blamed for a supposed drop in the quality of schooling.

[71] In Message 22, Ms. Beaumont, when informed that it is supposedly legal in Canada for a child to wed an adult, for some unapparent reason immediately blames “the jews” for having “made that law”. Earlier, in Message 8, Ms. Beaumont referred to the “mindless pawns of the juden” who believe in race-mixing. Juden is, of course, the German word for Jews, a term with which the world became very familiar through the images of their persecution in Nazi Germany. As was pointed out in *Kouba* at paras. 24-5, one of the recurring hallmarks of communications that have been found to offend s. 13, is the portrayal of a targeted group as a powerful menace that is taking control of the major institutions in society and depriving others of their livelihoods, safety, freedom of speech and general well-being. The suggestion in Message 8 is that Jews control the way others think and express themselves about “race-mixing”, and in Message 22, that Jews are a powerful menace that forces lawmakers to adopt laws that undermine acceptable social values.

[72] In *Nealy, supra*, at paras. 45668-45670, the Tribunal adopted the view that messages preaching the forced deportation of non-Whites or their segregation from the White population are likely to expose members of these targeted groups to hatred or contempt by encouraging violence as a “proactive means of defence against any who were seen as the enemies of racial purity”. The basic theme of Message 15’s “Critical Facts” list is that the presence and integration of non-Whites in American society is undesirable. The “Bill of Racial Rights” in Message 16 is even more explicit in its assertion that White people should have “the right to

retain, and defend their own lands, free from immigration, or habitation by members of other races”, including the right to live in all-White neighbourhoods and to send their children to all-White schools, i.e. segregation.

[73] The signature blocks of Ms. Beaumont’s more recent messages (Message 25 and onwards), contained the sentence “Anti-Semitism *is* a disease – *you catch it from Jews*”. This phrase puts forth the notion that Jews bring anti-Semitism on themselves. The implication is that those who propagate anti-Semitism are not to be blamed, for the fault lies with Jews themselves. In effect, the victims are blamed for the discrimination that they experience and in so doing, the message downplays the effect. It trivializes a past and current tragedy, which creates a climate of derision and contempt that is likely to make members of this targeted group exposed to these emotions (*Kouba, supra* at paras. 72-5).

[74] In sum, I find that in most of the impugned messages, Ms. Beaumont engaged in the communication of matter that was likely to expose persons identifiable on the basis of a prohibited ground of discrimination (namely race, religion, national or ethnic origin, and sexual orientation), to hatred or contempt. I have already determined that all the messages were communicated by her over the Internet, and therefore, repeatedly. As a result, the complaint has been substantiated.

III. Remedies

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

[75] According to Section 54(1)(a), the Tribunal may order a respondent to cease the discriminatory practice, and take measures, in consultation with the Commission on the general purposes of the measures, to redress the practice or prevent it from occurring in the future.

[76] Mr. Warman is seeking a “permanent order to have Ms. Beaumont cease the discriminatory practice of communicating hate messages through the Internet or other federal communications undertaking”. The Commission concurs with this request. Mr. Fromm argued

that the issuance of a “permanent” order would be a “penalty...for life”. He contends that Ms. Beaumont would have to be forever careful in expressing any political or religious view on the Internet for fear of breaching the order and finding herself in contempt and possibly going to jail. She would essentially be silenced from making any political or religious statement on the Internet. He therefore suggested that the scope of any such order should be limited in time, to perhaps five years.

[77] I do not share this view. A “cease and desist” order essentially puts respondents on notice that messages of the sort that they have previously communicated are in breach of the *Act* and that they should not repeat the practice. As such, the order merely reiterates what has already been articulated in the *Act*, i.e. that communicating messages falling within the meaning of s. 13 is a discriminatory practice. Mr. Fromm’s submission presupposes that the *Act* is ambiguous and that Ms. Beaumont will somehow unknowingly fall into a trap that leads to contempt charges being laid against her. These concerns are unfounded. According to the Supreme Court in *Taylor*, there is no ambiguity to be found in the language of s. 13, and the numerous decisions that have been rendered since, regarding this provision, should serve to inform Ms. Beaumont when considering what sort of material she can communicate over the Internet without offending s. 13. Moreover, she will have the “benefit” of a decision relating to her own prior Internet postings, to further inform her future communications.

[78] Furthermore, a cease and desist order would not be an overwhelming and ever-present peril for Ms. Beaumont, as Mr. Fromm suggests. To be found in contempt, it would have to be established beyond a reasonable doubt (i.e. the criminal standard of proof) that Ms. Beaumont breached the order by again communicating hate messages of a nature previously found to fall within the meaning of s. 13. The standard of proof would thus be much higher than what would be required to substantiate a human rights complaint. It would have to be established that the activity that is said to constitute contempt was clearly covered by the prohibition set out in the order (*Canada (Canadian Human Rights Commission) v. French*, [1996] F.C.J. No. 384 (F.C.T.D.)(Q.L.)).

[79] In addition, contempt does not appear to be an absolute offence, and courts are reluctant to find contempt where the individual has taken every objectively reasonable step to comply with the order (see R.W. McCauley & J.L.H. Spragg, *Practice and Procedure Before Administrative Tribunals*, looseleaf, vol. X, (Toronto: Thomson, 2004) at 29A.9(c)). On the other hand, intent to discriminate is not a pre-condition to a finding of discrimination (*Taylor, supra* at 931). As a result, were Ms. Beaumont to ever “inadvertently” communicate matter that offended s. 13, she may be more likely to find herself the subject of a new s. 13 human rights complaint and being found liable for a new remedy under s. 54, than of being found in contempt of the previous cease and desist order.

[80] I therefore see no reason to deny the order. Ms. Beaumont is ordered to cease and desist from communicating or causing to be communicated, by the means described in s. 13 of the *Act*, and particularly the Internet, any matter of the type contained in the messages at issue in this case that is 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.

B. Special Compensation (s. 54(1)(b))

[81] Section 54(1)(b) of the *Act* provides that where a victim is specifically identified in the communication that constituted the discriminatory practice, the Tribunal may order the payment of special compensation to the victim, of a sum that is not to exceed \$20,000, if the Tribunal determines that the respondent engaged in the discriminatory practice wilfully or recklessly. Mr. Warman is seeking this special compensation in the amount of \$10,000, from Ms. Beaumont.

[82] A number of communications were produced in evidence in which Ms. Beaumont made reference to Mr. Warman. They include a photograph that she had placed on her “pages”, which she had created on the EveryonesSpace.com and MySpace.com websites. These are social networking websites on which users place their personal profiles and interact with a network of friends with whom they can share music, videos, and so on. Under her EveryonesSpace.com profile’s list of interests, Ms. Beaumont included an apparently doctored image of a street-side

sign identifying a Catholic church. Three swastikas had been digitally added to the picture of the sign. In the lower portion of the sign, where the church would ordinarily post its announcements, the following text appears, exactly as written below:

CURCH OF THE DEAD

WARMAN SOCIETY

WARMAN HATERS

ALLWAYS WELCOME

The same image was posted on April 5, 2006, by Ms. Beaumont as a message on her MySpace.com page's bulletin board. Ms. Beaumont testified that this picture was meant to be a joke between herself and a friend, as a variation on the title of a motion picture from a few years ago, "The Dead Poet's Society".

[83] In addition, in Message 28, which was posted on February 5, 2006, Ms. Beaumont voiced disapproval about the human rights complaints that had been filed against her and others, claiming that "people have lost their family, jobs and websites", as a result. She then added that this is "all because of that retarded jew warman" and that "we all know he does this because he is a very low and disgraceful animal".

[84] Mr. Warman is not Jewish, as he so testified in *Warman v. Kyburz*, (2003), 46 C.H.R.R. 425 at para. 90, but it is obvious that Ms. Beaumont perceived him as such. A person who is perceived to have the characteristics of someone who falls within one of the prohibited grounds of discrimination, may be the object of discrimination even though he does not actually have those characteristics (*District No. 44 (North Vancouver) v. Jubran*, 2005 BCCA 201 at para. 41, leave to appeal to S.C.C. refused; see also *Quebec (Commission des droits de la personne et des droits de la jeunesse) v. Montreal (City)*, [2000] 1 S.C.R. 665).

[85] Was Mr. Warman a “victim specifically identified in the communication that constituted a discriminatory practice”? Mr. Fromm submitted that the reference to Mr. Warman as a Jew was merely being used as a descriptive term, given Ms. Beaumont’s mistaken perception of his religion. It would be no different than had she said “that retarded *man* Warman”. Mr. Fromm added that the use of the term “retarded” was not intended to disparage developmentally disabled persons but simply to describe Mr. Warman with an uncomplimentary adjective, in the same sense that I explained earlier in this decision. In my opinion, while Ms. Beaumont’s intention in calling Mr. Warman “retarded” may have been to just insult him in a juvenile way, given the context of all her messages, including this one, her reference to him as “that...Jew” bears an entirely different connotation.

[86] First of all, the signature block of this message contains the phrase that I referenced earlier, “Anti-Semitism is a disease, *you catch it from Jews*”, which I found to be a communication that falls within the meaning of hate messages under s. 13.

[87] Furthermore, Ms. Beaumont’s comments should be taken in context with her other statements. She acknowledged in her evidence that she believes in National Socialism. She described herself in her messages as a “full time” Nazi. Members of the Stormfront.org forum were permitted to attach logos or avatars to their postings, which would appear under their names or pseudonyms in the margin notes. Ms. Beaumont selected as her avatar a cartoon image of a woman with a swastika in the background. Some of her other messages were accompanied by an avatar comprised of a swastika and a “dead-head” skull and cross-bones, symbols associated with Nazi forces in World War II (see *Warman v. Kulbashian*, 2006 CHRT 11).

[88] In addition, Mr. Warman and the Commission pointed out that in Message 30, although Ms. Beaumont did not mention Mr. Warman by name in the three lines that she typed, she opted to click on the “Quote” icon rather than the “Reply” icon and include the quotation from a previous contributor to the sub-forum. That quotation ends with the following statement: “I hate you Warman I can only hope that I live long enough to piss on your useless grave, you kyke”. This use of the pejorative term “kyke” to describe Mr. Warman, who is being perceived as

Jewish, is matter that, in accordance with the authorities I have referenced earlier in my decision, is likely to expose persons of the Jewish faith to hatred or contempt.

[89] A question arises, however, about whether Ms. Beaumont communicated this hate message. She did not compose it; she only repeated it by clicking on the “Quote” icon. In my view, this is a false distinction. She had a choice about whether to quote the earlier message or not. As is evident from her other postings in evidence, she usually just replied to prior messages, and only exceptionally quoted them. Furthermore, in some cases, only portions of the prior messages would appear in the quoted material, which indicates that Ms. Beaumont would edit portions out prior to posting them in her own messages. These facts demonstrate, in my view, that her practice was to use the quote feature of the forum whenever she intended to repeat the message. It was not inadvertent.

[90] In this context, Ms. Beaumont was clearly not merely describing Mr. Warman, in Message 28, as a Jew, but was trying to disparage him. This is especially apparent given her subsequent reference to him as a disgraceful animal, which harkens back to her earlier posted message in which she ascribed the attributes of dogs to a Jewish family.

[91] In my view, therefore, Ms. Beaumont’s references to Mr. Warman in these hate messages were intentional. She engaged in this discriminatory practice wilfully. Mr. Warman’s name was mentioned in only three instances, but these include a description of him as “dead”, which takes on particular significance given the swastikas that appear in the image and Ms. Beaumont’s perception of him as Jewish (see *Kulbashian, supra*, at para 138).

[92] This is not Mr. Warman’s first s. 13 complaint. The Tribunal has already issued final decisions on at least nine s. 13 complaints filed by Mr. Warman. The Tribunal in *Warman v. Winnicki, supra* at paras. 168-172, found that Mr. Warman has extensive experience and involvement in organized activities aimed at combating hate propaganda. The Tribunal concluded that Mr. Warman “appears to be a very resilient person who is somewhat impervious to threats and insults”. Mr. Fromm argued that given Mr. Warman’s role as a “player” with

regard to s. 13 complaints, he is not a true “victim” within the intended meaning of s. 54 of the *Act*. Consequently, he should not be entitled to any compensation.

[93] Section 54(1)(b) does not, however, make any distinction between types of victims. The elements that Mr. Fromm raises with regard to Mr. Warman could in theory constitute factors in the assessment of a victim’s pain and suffering experienced as a result of a discriminatory practice, pursuant to s. 53(2)(e), in cases involving discriminatory practices other than those described in s. 13. However, s. 54(1)(b) explicitly directs the Tribunal to s. 53(3) with regard to the compensation of the victim. Section 53(3) is aimed at providing compensation for wilful and reckless discriminatory conduct regardless of the degree to which the victim may have been affected by the conduct (see *Winnicki, supra* at para. 180).

[94] In assessing the appropriateness of such an order, the only messages in issue are those that reference Mr. Warman, and not the entirety of the material that has been found to be in breach of s. 13. Ms. Beaumont knew or should have known that the language she was using to attack and ridicule Mr. Warman was likely to expose him to hatred and contempt in conjunction with his identification as a Jew. The reference to “Dead Warman Society” accompanied by images of swastikas is particularly troubling. Words suggesting that harm should come to another cannot be taken lightly, even if they were made in jest. Others viewing this material on the Internet may not see it as such and take the message more seriously. Mr. Warman also points out that Message 30, for instance, was posted after Ms. Beaumont was served with the human rights complaint. Thus, rather than halting the hate messages, she continued them and began to include references to Mr. Warman by name.

[95] In the circumstances, I therefore order Ms. Beaumont to pay the sum of \$3,000 in special compensation, pursuant to s. 54(1)(b) of the *Act*.

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

[96] 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 and Mr. Warman have requested that a penalty of \$7,500 be assessed.

[97] I have determined that most of the impugned messages are likely to expose a number of targeted groups to hatred or contempt. Ms. Beaumont testified that she did not care what effect her messages would have on members of these groups or the community at large.

[98] Compared to other hate messages that have come before the Tribunal in the past, I find that Ms. Beaumont's do not have the same "gravity". Thus, although her postings contained negative epithets with respect to a number of targeted groups, these terms were not used with the same frequency as in other cases. Ms. Beaumont did not engage in any vivid descriptions of violence against the targeted groups. Her messages were in the form of relatively short postings on the forum, for the most part. She did not create an entire website replete with or dedicated to the communication of hate messages, as we have seen in other cases.

[99] The Commission pointed out that Ms. Beaumont has posted at least 1,000 more messages on the Stormfront.org forum, beyond those that are in evidence in this case. Without viewing the other postings, however, I cannot assume that they would offend s. 13. Indeed, as I have indicated in my decision, not every single one of the impugned messages filed in evidence was found to constitute hate messages within the meaning of the *Act*.

[100] Ms. Beaumont testified that she had not "been on" Stormfront.org since July 2006, and that her EveryonesSpace.com and MySpace accounts had been deleted. Mr. Warman points out,

however, that after the human rights complaint was filed against her, she posted a number of the hate messages that are in evidence in this case.

[101] Ms. Beaumont testified that whatever the Tribunal's decision in this matter, she would not change her views and ideas. However, she also testified that "she would stop going to the Internet" if the Tribunal ordered her to do so.

[102] At the time of the hearing, Ms. Beaumont was no longer residing in British Columbia and had moved back to Calgary. She is 21 years old and is living with her parents. She claimed to be paying rent to her parents although this evidence was not documented. She produced pay stubs showing that she was employed as a salesperson in a retail store earning \$10.50/hour.

[103] I have no evidence of her having engaged in any prior discriminatory practices. In December 2005, Mr. Warman made a criminal complaint to the British Columbia Hate Crimes Team, alleging that Ms. Beaumont had wilfully promoted hatred, within the meaning of s. 319 of the *Criminal Code*. In July 2006, based in part on this information, the Vancouver Police Department obtained a warrant and seized Ms. Beaumont's computer. She has not, however, been formally charged with any crime relating thereto. I cannot, therefore, conclude that she has engaged in a prior discriminatory practice in this regard.

[104] Taking all of these factors into account, I order Ms. Beaumont to pay a penalty of \$1,500. 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 Ms. Beaumont.

Signed by

Athanasios D. Hadjis
Tribunal Member

Ottawa, Ontario
October 26, 2007

Canadian Human Rights Tribunal

Parties of Record

Tribunal File: T1106/8705

Style of Cause: Richard Warman v. Jessica Beaumont

Decision of the Tribunal Dated: October 26, 2007

Date and Place of Hearing: December 11 to 13, 2006

Vancouver, British Columbia

Appearances:

Richard Warman, for the Complainant

Giacomo Vigna, for the Canadian Human Rights Commission

Paul Fromm, for the Respondent