

Date: 20080327

Docket: T-1758-03

Citation: 2008 FC 392

Ottawa, Ontario, March 27, 2008

PRESENT: The Honourable Madam Justice Dawson

BETWEEN:

**THE CANADIAN COPYRIGHT LICENSING AGENCY
("ACCESS COPYRIGHT")**

Plaintiff

and

U-COMPUTE and RIAZ A. LARI

Defendants

REASONS FOR ORDER AND ORDER

[1] The Canadian Copyright Licensing Agency (plaintiff) asks that a warrant of committal (warrant) be issued. The warrant would require the defendant Riaz A. Lari to be imprisoned for a period of six months. For the following reasons, the warrant of committal shall issue in substantially the same form as sought by the plaintiff.

RELEVANT CHRONOLOGY

[2] The following facts are established in the evidence before me and are not contested.

[3] On December 7, 2005, Justice Lemieux found Mr. Lari to be in contempt of a permanent injunction issued by Justice Harrington on July 19, 2004. This was the third time that Mr. Lari was found to be in contempt of this Court. In coming to this decision, Justice Lemieux found that Mr. Lari gave "contradictory testimony to the Court which irreparably affected his credibility." Justice Lemieux doubted the sincerity of Mr. Lari's apology made to the Court and found "no evidence of substantial good faith."

[4] In consequence, Justice Lemieux issued an order (contempt order) that, in material part, provided as follows:

- (1) **RIAZ A. LARI** is hereby sentenced to a six-month term of imprisonment at Montée St-François Institution, 600 Montée St-François, Laval, Quebec, H7C 1S5;
- (2) **RIAZ A. LARI** is hereby ordered to pay the costs of these contempt proceedings to the plaintiff on a reasonable solicitor-client scale to be taxed forthwith by a taxing officer inclusive of disbursements and GST; such costs shall be paid by Mr. Lari thirty (30) days after taxation.
- (3) The imposition of the prison sentence in paragraph (1) is hereby suspended on the following terms:
 - (a) **RIAZ A. LARI** shall at all times comply with the terms of the permanent injunctions contained in paragraphs (1) and (2) of Justice Harrington's July 19, 2004 judgment;
 - (b) **RIAZ A. LARI** shall, within thirteen (13) months of the date of this Order perform four hundred (400) hours of community service at a hostel operated by the Salvation Army in Montreal or its suburbs by performing such volunteer work as may be directed by the Director of such hostel (Director). The Director shall inform the Court and counsel for the plaintiff in writing when such arrangement has been put into place. The performance of the community

service shall be verified by the Director forwarding a certificate of performance with the Court and with counsel for the plaintiff no later than January 31, 2007.

(4) In the event the plaintiff wishes to prove that Mr. Lari has not complied with one or more of the terms set out in this Order, the plaintiff shall be at liberty to seek a warrant of committal from any Federal Court judge, on an *ex parte* basis or otherwise, as directed by such Judge, and **RIAZ A. LARI** shall, upon the Court finding a breach of one or more of such terms be committed to jail for six months.

[5] On January 6, 2006, an appeal of the contempt order was filed on Mr. Lari's behalf in the Federal Court of Appeal. No motion for a stay of the contempt order was brought, notwithstanding that the contempt order required Mr. Lari to complete his community service by January 31, 2007.

[6] On March 28, 2007, the Federal Court of Appeal rendered judgment from the Bench in respect of Mr. Lari's appeal. As to the merits of the appeal, Justice Létourneau, writing for the Court, wrote at paragraphs 35 through 37 of the Court's reasons that:

[35] The judge who had the benefit of seeing and hearing the appellant saw little remorse in him and no evidence of substantial good faith. He doubted the sincerity of his apology: see paragraph 89 of the reasons for judgment.

[36] In these circumstances, we cannot say that a sentence of imprisonment was undeserved and that the sentence imposed was disproportionate to the gravity of the offence and the degree of responsibility of the appellant.

[37] As for the length of the community service, it reflects the seriousness of the appellant's defiance of the law and judicial process. The community service was not meant to be an easy alternative to or a way out of imprisonment. It offers the appellant an opportunity to benefit from lessons learned by spending time

and effort on more worthy causes: see *R. v. Brand* (1996), 105 C.C.C. (3d) 225 (B.C. S.C.). While it is more than what the appellant expected, it is not a length that requires our intervention in the circumstances of this case.

[7] One adjustment was made to the contempt order. It was described as follows by the Court of Appeal:

[41] Counsel for the appellant seeks a clarification of paragraph 4 of the judge's Order issued on December 7, 2005. The paragraph authorizes the respondent to seek a warrant of committal in the event that the appellant does not comply with one or more terms set out in the Order. It reads:

(4) In the event the plaintiff wishes to prove that Mr. Lari has not complied with one or more of the terms set out in this Order, the plaintiff shall be at liberty to seek a warrant of committal from any Federal Court Judge, on an *ex parte* basis or otherwise, as directed by such Judge, and **RIAZ A. LARI** shall, upon the Court finding a breach of one or more of such terms be committed to jail for six months.
[Emphasis added]

[42] The payment of costs on a solicitor-client basis is part of the judge's Order. In a loose sense, it is a term of the Order which could result in the imprisonment of the appellant if he failed to comply with it. Counsel for the respondent conceded that this was not what he sought and what was intended. Rather, compliance in paragraph 4 refers to the terms imposed for the suspension of the sentence of imprisonment which are found in paragraph 3 of the Order. We are satisfied that this is what the judge intended to achieve and we will adjust the Order accordingly.

CONCLUSION

[43] For these reasons, the appeal will be allowed for the limited purpose of adding in paragraph 4 of the Order, after the words "the terms set out in", the words "paragraph 3 of". In all other respects, the appeal will be dismissed with solicitor-client costs fixed at \$22,000 inclusive of taxes and disbursements.

[8] Shortly after March 28, 2007, Mr. Lari was informed by his lawyer that his appeal had been dismissed.

[9] As of March 28, 2007, Mr. Lari had performed no community service and the time for performing such service had expired.

[10] The plaintiff then brought a motion, in writing, for the reconsideration of the judgment of the Federal Court of Appeal. By order dated May 31, 2007, the Federal Court of Appeal extended the time in which Mr. Lari's community service could be performed from January 31, 2007, to December 31, 2007.

[11] Mr. Lari learned of the extension order in early June of 2007.

[12] Mr. Lari's first contact or arrangement with the Salvation Army in respect of community service was not made until sometime in the middle of July, 2007.

[13] As of December 31, 2007, Mr. Lari had performed no more than 64 hours and 29 minutes of community service. Mr. Lari's first day of community service was September 10, 2007. His last day of community service was November 26, 2007.

[14] On February 27, 2008, the plaintiff filed its motion for the warrant. On the return date of the motion, March 3, 2008, Mr. Lari attended without counsel. The motion was adjourned to the Court's general sitting on March 17, 2008, so that Mr. Lari could attend with counsel.

MR. LARI'S POSITION

[15] Mr. Lari submits in his written representations that "[d]espite [his] best efforts ... and due to ... extraordinary circumstances ... it was impossible for [him] to complete the four hundred (400) hours of community service." He says that, after his presence in court on March 3, 2008, he has taken steps to "begin again performing his community service." Mr. Lari seeks an extension of time until July 17, 2008, in order to complete his community service.

[16] In his affidavit sworn in response to the plaintiff's motion for a warrant, Mr. Lari describes the "extraordinary circumstances" that prevented compliance with the contempt order, as extended, to be as follows:

- (i) His community service had to be supervised by Mr. H. Mantinga, the Supervisor of Technical Services at the Salvation Army's Centre Booth, and Mr. Mantinga "was not always present at the Center."
- (ii) Mr. Lari's wife left Canada to visit her family in Pakistan "sometime in November 2007 for a period of one (1) month, I was left taking care of our three (3) children aged 15, 17 and 18. As such, every morning I had to drop off my daughter at school where she attends Villa Maria College and pick her up at the end of the day and travel back home

in Kirkland." This left him little time to continue performing his community service.

For these reasons, Mr. Lari had to discontinue his community service as of

November 26, 2007.

- (iii) Shortly after his wife returned to Canada, Mr. Lari became "very ill with the flu," was prescribed medication, and attended at his doctor's office.

APPLICABLE LEGAL PRINCIPLES

[17] Mr. Lari asserts that, despite his best efforts, extraordinary circumstances made it impossible for him to complete his community service. He therefore seeks an extension of time.

[18] By analogy with the jurisprudence that has developed under Rule 8 of the Federal Courts Rules with respect to extensions of time, I find that an extension should be granted if Mr. Lari demonstrates that, because of circumstances beyond his control, he was unable to complete his community service and comply with the contempt order, as extended.

CONSIDERATION OF MR. LARI'S EXPLANATIONS

1. The period prior to May 31, 2007

[19] On May 31, 2007, the Federal Court of Appeal extended, at the plaintiff's request, the deadline for completion of Mr. Lari's community service.

[20] Missing from Mr. Lari's affidavit is any explanation as to why he did nothing to perform his community service from the date he learned of the contempt order (early January of 2006) to May 31, 2007. When cross-examined on his affidavit, Mr. Lari stated that his lawyer had told him that the contempt order was suspended until the outcome of the appeal. After giving this explanation, Mr. Lari claimed solicitor-client privilege and did not provide any confirmatory evidence on this point.

[21] It is settled law that an appeal of an order of this Court does not operate as a stay. See: Rule 398 of the Federal Courts Rules. I would be inclined to draw an adverse inference from Mr. Lari's assertion of privilege immediately following his explanation that his lawyer told him that the contempt order was stayed. However, in view of the special and important nature of solicitor-client privilege, I will not do so.

[22] Instead, I will confine my consideration to the period put in issue by Mr. Lari: from early June of 2007, when he learned of the extension order, to December 31, 2007.

[23] Before leaving this time period, I note that Mr. Lari's counsel argued that it was not necessary to seek a stay of the contempt order pending the appeal because of the defect in the contempt order discussed by the Federal Court of Appeal at paragraph 41 of its reasons (quoted above at paragraph 7). I disagree. Even an invalid court order must be followed until it is set aside by legal process. See: *Canada (Human Rights Commission) v. Taylor*, [1990] 3 S.C.R. 892 at paragraphs 176-180.

2. From June, 2007 to December 31, 2007

[24] Each circumstance put in issue by Mr. Lari will be considered.

i. The availability of Mr. Mantinga

[25] Mr. Mantinga swore an affidavit on March 11, 2008, in which he stated that:

5. During my meeting with Lari on September 10, 2007, I advised Lari that he should perform his community service while I was present at the Centre Booth. I told Lari that my scheduled work hours were Monday to Friday, 8:30 a.m. to 4:30 p.m. Lari did not request any kind of schedule or arrangement that would permit him to complete 400 hours of community service by a certain date, nor did I impose a schedule as this kind of work is done on an “honour system”.

6. I maintained my scheduled work hours with the exception of the period of October 19, 2007 to November 2, 2007 when I was on leave.

7. Lari began his community service on September 10, 2007, following our meeting. The last date Lari worked at the Centre Booth was November 26, 2007. Between September 10 and November 26, 2007 Lari did not express any concerns to me as his supervisor with respect to meeting his 400 hour obligation or ask to spend more time at the Centre Booth. Lari did not provide any advance notice that November 26, 2007 would be his last day; he did not indicate any intention at that time to continue his community service.

[26] Mr. Mantinga was not cross-examined on his affidavit.

[27] Where there is any conflict between the evidence of Mr. Mantinga and Mr. Lari, I prefer the evidence of Mr. Mantinga for the following reasons. First, counsel for Mr. Lari did not cross-examine Mr. Mantinga on his affidavit. Second, there is no evidence of any animosity between Mr. Mantinga and Mr. Lari. Mr. Mantinga also has no interest in this proceeding. As a result, his evidence is less likely than Mr. Lari's to be coloured by any self-interest. Third, as demonstrated below, Mr. Lari made significant concessions when cross-examined on his affidavit. I find his affidavit to have over-reached the truth.

[28] Mr. Lari admitted on cross-examination that:

- he was unemployed throughout all of 2007; and
- it was not impossible for him to have completed 400 hours of community service in the period from June 1, 2007 to December 31, 2007.

[29] Mr. Lari further testified on cross-examination that:

...

Q. Did you ever ask Mr. Mantinga to give you more hours or to assign somebody else to your case at any time?

A. I can't specifically ask him that, no.

Q. Did you ask anybody else at Salvation Army, say, "Listen, I'm up against this deadline. I need more hours"? Did you ever do that?

A. No. My only point of contact was Mr. Mantinga, so I'm not going to go around and asking everybody else.

Q. So you made no efforts to go beyond Mr. Mantinga to try to get more hours to -- of community service, right?

A. Right

Q. You never alerted Mr. Perras that you were not going to meet that deadline --

A. No, I --

Q. -- before the deadline elapsed?

A. No, I didn't contact him, no.

Q. You never brought a motion to the Court to extend a deadline?

A. No.

Q. Never contacted me to explain that you were not going to meet the deadline?

A. No.

Q. Never asked your wife to defer her trip?

A. No.

...

[30] On the basis of this evidence, I find no extraordinary circumstance and no reasonable excuse for non-compliance with the contempt order arising from any lack of availability on the part of Mr. Mantinga.

ii. *The absence of Mr. Lari's wife and his parental responsibilities*

[31] Mr. Lari's wife's airline itinerary/receipt in connection with her trip to Pakistan was marked as an exhibit to Mr. Lari's cross-examination. It shows that his wife left Montréal on November 19, 2007, and returned on December 10, 2007.

[32] Salvation Army records show that 11 hours and 29 minutes of Mr. Lari's community service (or about 18%) were performed on November 22 and November 26, 2007. Mr. Lari's wife was in Pakistan at this time.

[33] With respect to Mr. Lari's obligation to drive his daughter to school, Mr. Lari's evidence on cross-examination was:

...

Q. No? Okay. So you chose to drive your daughter to school rather than have her take public transit. I understand that. School hours are from 8:00 'til 3:00 right?

A. Yes.

Q. Seven-hour days?

A. Yes.

Q. The school is located about four miles away from Centre Booth, right?

A. Yes.

Q. So about a ten-minute drive in non-rush hour?

A. 15 to 20 minutes' drive, yes. Sometimes there's always rush hour.

Q. Right. But it's a short drive between where you drop your daughter off at eight o'clock in the morning and Centre Booth?

A. Yes. That's why I used to be there for 8:30.

Q. For where?

A. Those days that I worked, I'd start at 8:30. I used to drop her for 8:30, I used to be there.

Q. Those two days you dropped her off -- sorry, it was two days referred to at page 163 of the record -- were days you drove your daughter to school, right?

A. Yes.

Q. And in between the time when you dropped her off and picked her up after school, for those two days at least, you went to Centre Booth?

A. Yes.

Q. And you cannot explain to me today why you didn't do it any other day, can you?

A. No, I can't.

Q. So what did you do on the days that you didn't go to Centre Booth? Just drive back home?

A. Yes.

Q. So you made four one-way trips back and forth to your house instead of staying downtown and doing community service?

A. Yes.

...

Q. So dealing with your wife away, sir, there was no reason you could not have spent your days at the Centre Booth performing your community service while your daughter was in school, correct?

A. Yes.

...

[34] On the basis of this evidence, I find no extraordinary circumstance and no reasonable excuse for non-compliance with the contempt order arising out of Mr. Lari's wife's absence or his parental responsibilities.

iii. Mr. Lari's Illness

[35] On cross-examination Mr. Lari clarified that he became ill "during the holidays, just before the holidays" and that he had "a very bad cough." Mr. Lari saw his family doctor in January, 2008. On January 17, 2008, his doctor issued a prescription to him.

[36] Mr. Lari's very bad cough arose in the latter part of December 2007. The nature of the illness was such that he was prepared to wait for medical treatment until he could see his family doctor in January of 2008.

[37] This late-occurring illness is not an extraordinary circumstance that prevented compliance with the contempt order nor does it provide a reasonable excuse for non-compliance with the contempt order.

OTHER RELEVANT EVIDENCE FROM MR. LARI'S CROSS-EXAMINATION

[38] The following evidence is also relevant to understanding Mr. Lari's failure to comply with the contempt order.

[39] With respect to the summer of 2007 and the fact that Mr. Lari commenced his community service only on September 10, 2007, Mr. Lari testified as follows:

...

Q. Right. Between the middle of August and September is yet another month, right? What was preventing you from beginning immediately in August?

A. Mr. Renaud, nothing was preventing me to go to work. It's just, I had a hesitation for this work, you know. Like, I've never done anything like this, and I just was not comfortable with it, and I brought myself to doing that, and I did it.

Q. What kind of work were you asked to do that you felt so uncomfortable with?

A. Basically, washing walls, you know, like --

Q. Labour.

A. Very menial labour jobs. Labour jobs also, there's some recent ones, and there's some very menial. This was most menial labour job.

Q. The same kind of labour jobs you were doing throughout 2006, ten, 20 hours a week.

A. Yeah.

Q. Correct?

A. Well, those are a little bit more respectable than this.

Q. But you understood, sir, this was punishment for your --

A. I understand, and that's why I was doing it right now. That's why I have done it, whatever I've done. I've been doing it. I brought myself -- mentally, I brought myself to doing it, yes.

Q. So there was nothing preventing you from doing it from the middle of August to September the 10th, other than your sense of -- sense that it would be demeaning? Is that your evidence?

A. I wouldn't say "demeaning". It's just, you know, I've never been -- I'm not used to this type of thing, that's all.

Q. Used to what? Doing labour jobs?

A. This type of labour jobs, yes.

Q. So you couldn't bring yourself to do it between August and September. You had to get your -- had to wrap your head around that. Is that your evidence?

A. Right. I had to -- I had to adjust my mental attitude, yes.

Q. So it was your mental attitude that was preventing you from beginning your community service until September of '07. Is that your evidence?

A. Yes.

Q. And in terms of the court order, the Federal Court of Appeal issued an order on May 31st extending the time line to December 31st, 2007. You were made aware of that extension again by phone by Mr. Perras?

A. Yes.

Q. Within a day or two after the order was made?

A. Yes.

Q. So you were aware by early June of '07 of the obligation of the new deadline of December the --

A. Definitely, yes.

Q. Right. And your evidence is that you waited until the middle of July before you made efforts to contact the Salvation Army, this Juan something?

A. Yes.

Q. And there was nothing preventing you between early June and middle of July from making that contact, was there?

A. No.

...

[40] Mr. Lari's cross-examination concluded as follows:

...

Q. So it wasn't impossible for you to have completed those 400 hours in the period January '06 --

A. No, it wasn't --

Q. -- to December 31st, right?

A. Yeah.

Q. And it's not impossible for you to have not completed -- sorry, it wasn't impossible for you to have completed 400 hours of community service in the period June 1st, '07 to December 31st, '07, right?

A. That's right.

Q. Throughout the entire period of June 1st to December 31st, 2007, when you were unemployed, right?

A. Yes.

Q. You had access to a vehicle throughout the entire period?

A. Yes.

Q. Your licence was not suspended?

A. Right.

Q. Your daughter's school was four miles away from Centre Booth?

A. Yes.

Q. It certainly was possible to perform significant community service throughout that entire period of June the 1st and December 31st, 2007, right?

A. Yes.

...

CONCLUSION WITH RESPECT TO MR. LARI'S EXPLANATION

[41] I conclude from the totality of the evidence that Mr. Lari failed to perform 400 hours of community service before December 31, 2007, as required by the contempt order, as extended. No circumstance, either alone or in combination with others, prevented compliance by Mr. Lari with the contempt order. As a result, no reasonable explanation exists for Mr. Lari's failure to comply with the contempt order.

[42] Thus, Mr. Lari's request for a further extension of time is denied.

THE WARRANT

[43] The contempt order is mandatory in its language. Paragraph 4 provides that, if Mr. Lari is found to have breached the term with respect to community service, he "shall" be committed to jail for six months.

[44] This reflected the gravity of the charge of contempt that Mr. Lari faced, and the fact that it was his third conviction for contempt of court.

[45] As discussed by the Federal Court of Appeal at paragraphs 30-34 of its reasons, Mr. Lari had, at that time, benefited from the Court's clemency on two previous occasions. After the Court of Appeal's reasons were published, the time for fulfilling the community service requirement was extended. Yet, Mr. Lari did not take advantage of the plaintiff's or the Court's leniency in extending the period.

[46] The evidence and excuses Mr. Lari presented to the Court in response to the plaintiff's motion for a warrant lead me to conclude that he still has not grasped the seriousness of his failure to comply with the contempt order. Mr. Lari's fresh efforts (after the March 3, 2008, court appearance) to comply with the contempt order are, simply, too little too late.

[47] Consideration of both individual and general deterrence causes me to conclude that the requested warrant for committal should issue in the form attached to the following order.

COSTS

[48] The plaintiff seeks its costs of the motion on a solicitor-client basis. Mr. Lari does not oppose this request. Since Mr. Lari has made an assignment in bankruptcy, the utility of such an order is in some doubt.

[49] However, in accordance with the Court's general practice on these matters, solicitor-client costs will be awarded.

ORDER

FOR THE ABOVE REASONS, THIS COURT ORDERS that:

1. The motion for an order for a warrant of committal under Rule 429 of the Federal Courts Rules is allowed, and a warrant in the form attached as a schedule to this order shall issue.
2. Mr. Lari shall pay to the plaintiff its costs of this motion as assessed on a solicitor-client basis, in any event of the cause.

“Eleanor R. Dawson”

Judge

Date: 20080327

Docket: T-1758-03

FEDERAL COURT

Ottawa, Ontario, March 27, 2008

PRESENT: The Honourable Madam Justice Eleanor R. Dawson

BETWEEN:

THE CANADIAN COPYRIGHT LICENSING AGENCY
("ACCESS COPYRIGHT")

Plaintiff

and

U-COMPUTE and RIAZ A. LARI

Defendants

WARRANT OF COMMITTAL

TO ALL PEACE OFFICERS AND ALL POLICE OFFICERS;

AND TO ALL OFFICERS OF THE ROYAL CANADIAN MOUNTED POLICE;

AND TO THE OFFICERS of Montée St-François Institution, 600 Montée St-François,
Laval, Quebec, H7C 1S5, Canada;

WHEREAS by order of the Court, dated December 7, 2005, the Honourable Mr. Justice Lemieux found the defendant, Riaz A. Lari, in contempt (Contempt Order);

AND WHEREAS the Contempt Order stated, at paragraph 1, that:

RIAZ A. LARI is hereby sentenced to a six-month term of imprisonment at Montée St-François Institution, 600 Montée St-François, Laval, Quebec, H7C 1S5;

AND WHEREAS the Contempt Order stated, at paragraph 3(b), that:

RIAZ A. LARI shall, within thirteen (13) months of the date of this Order perform four hundred (400) hours of community service at a hostel operated by the Salvation Army in Montreal or its suburbs by performing such volunteer work as may be directed by the Director of such hostel (Director). The Director shall inform the Court and counsel for the plaintiff in writing when such arrangement has been put into place. The performance of the community service shall be verified by the Director forwarding a certificate of performance with the Court and with counsel for the plaintiff no later than January 31, 2007;

AND WHEREAS the Contempt Order stated, at paragraph 4, that:

In the event the plaintiff wishes to prove that Mr. Lari has not complied with one or more of the terms set out in this Order, the plaintiff shall be at liberty to seek a warrant of committal from any Federal Court judge, on an ex parte basis or otherwise, as directed by such Judge, and RIAZ A. LARI shall, upon the Court finding a breach of one or more of such terms be committed to jail for six months;

AND WHEREAS paragraph 3(b) of the Contempt Order was varied by an order, dated May 31, 2007, fixing the date for completion of the community service obligation to be December 31, 2007;

UPON MOTION made by the plaintiff, The Canadian Copyright Licensing Agency, on February 21, 2008, for a warrant of committal to arrest and commit the defendant, Riaz A. Lari, whose last known address is 134 Boulevard Meridian, Kirkland, Quebec, H9H 4A4, Canada;

AND UPON reading the materials filed on behalf of the plaintiff and the defendant, Riaz A. Lari, including the transcript of the cross-examination of Mr. Lari on his affidavit;

AND UPON hearing the oral submissions of counsel for the plaintiff and the oral submissions of the defendant, Riaz A. Lari;

AND UPON the Court being satisfied that the defendant, Riaz A. Lari, was served with a copy of the Contempt Order, as amended;

AND UPON the Court being satisfied that the defendant, Riaz A. Lari, was given notice of this motion;

AND UPON the Court being satisfied that the defendant, Riaz A. Lari, has failed to comply with paragraph 3(b) of the Contempt Order, as amended, having not completed his community service obligation by December 31, 2007;

AND UPON the Court being satisfied that a warrant for committal shall issue pursuant to paragraph 4 of the Contempt Order, as amended;

YOU ARE HEREBY ORDERED to arrest Riaz A. Lari and deliver him to Montée St-François Institution, 600 Montée St-François, Laval, Quebec, H7C 1S5, Canada, and to admit and detain him there for a period of six months.

“Eleanor R. Dawson

Judge

Date: 20080402

Docket: T-1758-03

Ottawa, Ontario, April 2, 2008

PRESENT: The Honourable Madam Justice Dawson

BETWEEN:

**THE CANADIAN COPYRIGHT LICENSING AGENCY
("ACCESS COPYRIGHT")**

Plaintiff

and

U-COMPUTE and RIAZ A. LARI

Defendants

ORDER

UPON noting that the Warrant of Committal issued by the Court on March 27, 2008, mistakenly altered the form of the warrant that was a schedule to the plaintiff's notice of motion filed on February 27, 2008, by deleting from the operative portion of the warrant the phrase "or the nearest corrections or detention facility (minimum security);

AND UPON Rule 397(2) of the *Federal Courts Rules* permitting the Court to correct errors or omissions in an order;

THIS COURT ORDERS that:

1. The Court's Order of March 27, 2008, is amended so that the form and content of the Warrant of Committal appended to the Order and issued by the Court on March 27, 2008, is amended by inserting in the second line of the last paragraph of the warrant, after the word "Canada", the phrase "or the nearest corrections or detention facility (minimum security)."
2. For greater certainty, the last paragraph of the warrant shall read:

YOU ARE HEREBY ORDERED to arrest Riaz A. Lari and deliver him to Montée St-François Institution, 600 Montée St-François, Laval, Québec, H7C 1S5, Canada, or the nearest corrections or detention facility (minimum security), and admit and detain him there for a period of six months.

"Eleanor R. Dawson"

Judge

Date: 20080402

Docket: T-1758-03

FEDERAL COURT

Ottawa, Ontario, April 2, 2008

PRESENT: The Honourable Madam Justice Eleanor R. Dawson

BETWEEN:

THE CANADIAN COPYRIGHT LICENSING AGENCY
("ACCESS COPYRIGHT")

Plaintiff

and

U-COMPUTE and RIAZ A. LARI

Defendants

AMENDED WARRANT OF COMMITTAL

TO ALL PEACE OFFICERS AND ALL POLICE OFFICERS;

AND TO ALL OFFICERS OF THE ROYAL CANADIAN MOUNTED POLICE;

AND TO THE OFFICERS of Montée St-François Institution, 600 Montée St-François,
Laval, Quebec, H7C 1S5, Canada;

WHEREAS by order of the Court, dated December 7, 2005, the Honourable Mr. Justice
Lemieux found the defendant, Riaz A. Lari, in contempt (Contempt Order);

AND WHEREAS the Contempt Order stated, at paragraph 1, that:

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AND WHEREAS the Contempt Order stated, at paragraph 4, that:

In the event the plaintiff wishes to prove that Mr. Lari has not complied with one or more of the terms set out in this Order, the plaintiff shall be at liberty to seek a warrant of committal from any Federal Court judge, on an ex parte basis or otherwise, as directed by such Judge, and RIAZ A. LARI shall, upon the Court finding a breach of one or more of such terms be committed to jail for six months;

AND WHEREAS paragraph 3(b) of the Contempt Order was varied by an order, dated May 31, 2007, fixing the date for completion of the community service obligation to be December 31, 2007;

UPON MOTION made by the plaintiff, The Canadian Copyright Licensing Agency, on February 21, 2008, for a warrant of committal to arrest and commit the defendant, Riaz A. Lari, whose last known address is 134 Boulevard Meridian, Kirkland, Quebec, H9H 4A4, Canada;

AND UPON reading the materials filed on behalf of the plaintiff and the defendant, Riaz A. Lari, including the transcript of the cross-examination of Mr. Lari on his affidavit;

AND UPON hearing the oral submissions of counsel for the plaintiff and the oral submissions of the defendant, Riaz A. Lari;

AND UPON the Court being satisfied that the defendant, Riaz A. Lari, was served with a copy of the Contempt Order, as amended;

AND UPON the Court being satisfied that the defendant, Riaz A. Lari, was given notice of this motion;

AND UPON the Court being satisfied that the defendant, Riaz A. Lari, has failed to comply with paragraph 3(b) of the Contempt Order, as amended, having not completed his community service obligation by December 31, 2007;

AND UPON the Court being satisfied that a warrant for committal shall issue pursuant to paragraph 4 of the Contempt Order, as amended;

YOU ARE HEREBY ORDERED to arrest Riaz A. Lari and deliver him to Montée St-François Institution, 600 Montée St-François, Laval, Québec, H7C 1S5, Canada, or the nearest corrections or detention facility (minimum security), and admit and detain him there for a period of six months.

“Eleanor R. Dawson”

Judge

FEDERAL COURT
SOLICITORS OF RECORD

DOCKET: T-1758-03

STYLE OF CAUSE: THE CANADIAN COPYRIGHT LICENSING
AGENCY v. U-COMPUTE and RIAZ A. LARI

PLACE OF HEARING: TORONTO, ONTARIO

DATE OF HEARING: MARCH 17, 2008

**REASONS FOR ORDER
AND ORDER:** DAWSON J.

DATED: MARCH 27, 2008

APPEARANCES:

MR. ARTHUR B. RENAUD FOR THE PLAINTIFF

MR. DANY S. PERRAS FOR THE DEFENDANTS

SOLICITORS OF RECORD:

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MONTREAL, QUEBEC

RIAZ A. LARI
KIRKLAND, QUEBEC SELF-REPRESENTED