

Schedule 'A'

General Overview

The Applicant, Mr. Michael Jack, has filed an application with the Human Rights Tribunal of Ontario (HRTO). Attached as Exhibit 1 to this Form 10 are copies of documents pertaining to filing of that application.

The Respondent, the Ontario Provincial Police (OPP) has provided a response to the application that is attached as Exhibit 2.

The application is scheduled for a 3 day hearing on May 22 – 24, 2012 (Exhibit 3). Complete disclosure by the Applicant and the Respondent to each other with two hard copies from each to the HRTO is to be done by April 10th, 2012.

Facts Relating to Substantive Issues

- 1) The application before the HRTO was filed on the 13th of December, 2010, through then Counsel for the Applicant, Ms. Kimberley Wolfe (Exhibit 1).
- 2) Ms. Kimberley Wolfe shared a copy of the application (refer to fax acknowledgment from Respondent's counsel to Ms. Kimberley Wolfe – Exhibit 3a) with the Respondent via the Legal Services Branch of the Ministry of the Attorney General before removing herself from representation of the Applicant (Exhibit 3b).
- 3) Sometime after the 7th of January, 2011, (Exhibit 4) the Respondent provided their Counsel, Marnie Corbold with volumes of disclosure that was later shared with the Complainant after the 16th of January, 2012.
- 4) On the 30th of March, 2011, Counsel for the Respondent, Marnie Corbold, requested for an extension of the 35 day deadline to provide a response to the Tribunal (Exhibit 5).
- 5) The extension was granted by the Tribunal and Counsel for the Respondent was given an extension of time to provide a response to the application until May 2, 2011 (Exhibit 6).
- 6) The Applicant subsequently received a copy of the response from Counsel for the Respondent via the Tribunal on or about the 4th day of May, 2011 (Exhibit 2).

- 7) Deadline for each side to make respective disclosure to each other was done by the stipulated date of January the 16th, 2012 (Exhibit 7).
- 8) Upon analysing the disclosure provided it became very apparent to the Applicant that the Respondent has failed to comply with the obligations imposed on the Respondent under Sections 17 and 18 of the application (Exhibit 8). The Respondent has failed to provide a copy of the Applicant's notebook entries for his entire time with the OPP with respect to the allegations in the application. The Respondent has further failed to provide a copy of all of the e-mails involving the Applicant for his entire time (16 months) with the OPP. The Respondent further failed to disclose a copy of my entire interview involving the OPP's Professional Standards Bureau (PSB).
- 9) The Applicant addressed this failure to comply in an e-mail to Counsel for the Respondent on March 13th, 2012 (Exhibit 9).
- 10) In a cover letter respective to additional disclosure to the Applicant dated April 4th, 2012 (Exhibit 10) the Respondent made it clear through their current Counsel, Lynette D'Souza that they would not be complying any further with Section 17 of the application. One of the reasons the Respondent cited for this non-compliance was that there was not sufficient time to do so and that the request to comply was overboard and amounted to a fishing expedition on the part of the Applicant.
- 11) The Respondent's refusal to comply with Section 17 is tantamount to an abuse of the jurisdictional powers of Human Rights Tribunal and a mockery of the rules governing such an application. In support of this assertion the Application states the following:
 - Whereas the Respondent has been formally requested to comply with Section 17 of the said application with respect to: ***Entire contents of personnel file and Internal notes and emails not otherwise recorded in the personnel file.***
 - Whereas the Respondent has disclosed a copy of all e-mails from the individual personal respondents closely associated with my probationary period at Peterborough County OPP Detachment.
 - Whereas all these e-mails from the personal respondents were submitted to Counsel for the Respondent shortly after they were printed on or about the 26th of January, 2011 (Exhibit 11).
 - Whereas Counsel for the Respondent has had almost fifteen months since the application that was shared with the Respondent prior to the 10th of January, 2011 (Exhibit 4).

- Whereas Counsel for the Respondent was only reminded on the 2nd of February, 2012, of the obligations imposed on the Respondent by Section 17 (Section 18 mentioned in error in the letter) of the application.
- Whereas Counsel for the Respondent viewed the time between the 2nd of February, 2012, and the 2nd of April, 2012, as being too short of a time to comply with the Applicant's request pursuant to Section 17 of the application.
- Whereas Counsel would have had enough time even from the date the Respondent was reminded (February 2, 2012) to comply with Section 17 especially in light of the Respondent's timely compliance of providing such a voluminous amount of e-mails from the personal respondents to Counsel on or about the 28th of January, 2011.
- Whereas Counsel's refusal to comply with Section 17 when the application was originally disclosed while referencing this reminder request as, '**overbroad and amounts to a fishing expedition**' and '**contrary to the principle of proportionality as applied in the context of documentary production**' makes a mockery of the Rules governing applications before the Tribunal and leaves the Applicant with no choice, but to seek intervention from the Tribunal.
- Whereas the Applicant who has a Bachelor of Science (Honours) degree in Computer Science and a Master of Science degree in a related discipline (Exhibit 12a and Exhibit 12b) is fully aware of the technical procedures with respect to auditing and printing out complete volumes of all of his e-mails during his brief tenure with the OPP and asserts that what Counsel for the Respondent indicates as overbroad and elsewhere implies is time consuming and further makes a big issue of server restoration is actually nothing, but an excuse on the part of the Respondent not to provide the requested e-mails.

12) The Applicant is of the firm belief that the Respondent does have a copy of a complete volume of all Applicant's e-mails and that to disclose this volume to Counsel would have been damaging to their position in trying to defend the application.

13) The Applicant asserts that this failure to comply on the part of the Respondent has deprived the Applicant of valuable information that would have corroborated many portions of his statement which are in support of the allegations in the application. A few examples of how this information, should it have been provided would have supported the allegations in the application are provided by way of excerpts of the Applicant's analysis of the Respondent's disclosure and two e-mails that are in the possession of the Applicant.

Analysis of the Respondent's Disclosure (7 - December 2008 UPDATED, Page 5):

I will not guess about the reason the two separately disclosed Welcome letters have the same contents yet different dates, with one dated (January 28, 2011) being plain ridiculous. However, I clearly remember that after receiving this letter I immediately emailed PC Shaun Filman and after not hearing from him back I emailed him again a few days later. Still, he never got back to me. Had the Respondent disclosed my e-mails then the Tribunal would have had proof of them and further proof of my allegation that PC Filman did not care about me contrary to the Counsel's assertion in the Response to my Application.

Counsel's Response to the Application (HRTO 2010-07633-I), paragraph 36:

Constable Filman was not disinterested in the Applicant's training or development. On the contrary, it was the Applicant who was not open to constructive criticism or suggestions. At times when Constable Filman would point out something where improvement was needed, the Applicant would not speak to him for hours, even when they were traveling in the same car.

Analysis of the Respondent's Disclosure (24 -January 2011 NEW, Page 1):

Counsel's additional disclosure (April 5, 2012):

From: Bowles, David H. (JUS)

To: Anderson, Brent (JUS)

Cc: Smith, Gerry A. (JUS); Reynolds, Michael (JUS); Flindall, Robert (JUS); Payne, Jennifer (JUS); Butorac, Peter (JUS)

Sent: Fri Jan 07 16:07:56 2011

Subject: Michael Jack

All -

I received a call from Pat Gray, Risk Management. Legal Services has received a Human Rights complaint (race ancestry, place of origin, ethnic origin etc) from Michael Jack, formerly P/C #12690 of Peterborough County Detachment. Pat needed a brief background on Jack so I provided her with what I knew, none of which I was a direct witness to.

She will need all documentation, PCS066's, e-mails etc from coaches, supervisors, co-workers etc that had involvement with him.

There is also a photograph of Jack with 3 undesirables that PSB has??

Pat is imposing a really short timeline. They only have 35 days to respond.

Just a heads up.

Dave

S/Sgt David H. Bowles, #7082
Detachment Manager
Peterborough County Detachment
Bus (705) 742-0401
Fax (705) 742-9247

Please note the excerpt: *'I provided her with what I knew, none of which I was a direct witness to.'* So S/Sgt. Bowles, who had never met me, provided Mrs. Gray with some information about me that he

knew. The information was nothing, but **hearsay**. In light of everything that was piled up on me by members of the Peterborough County OPP could one just imagine what kind of information it was at the time?

Furthermore, Counsel for the Respondent has objected to a vast portion of my application as hearsay, speculation and conclusions. Yet S/Sgt. Bowles feeds Legal Services Branch with a lot of hearsay on his part.

Counsel's additional disclosure (April 5, 2012):

From: Reynolds, Michael (JUS)
To: Bowles, David H. (JUS); Anderson, Brent (JUS)
Sent: Fri Jan 07 16:22:02 2011
Subject: Re: Michael Jack

Brent and Dave,

S/Sgt. Colleen Kohen should be able to assist with the majority of information required as she was provided all documentation to complete a briefing note routed through the Career Development Bureau, OPPA and Deputy Commissioner at the time.

Mike

Sent from my Blackberry Wireless Device

Counsel's additional disclosure (April 5, 2012):

From: Anderson, Brent (JUS)
To: Kohen, Colleen (JUS); Bowles, David H. (JUS)
Cc: Tod, John (JUS)
Sent: Fri Jan 07 16:26:43 2011
Subject: Fw: Michael Jack

Hello Colleen: do you have information referred to below. This took place prior to Dave and my arrival.
Thanks
Brent

Counsel's additional disclosure (April 5, 2012):

From: Bowles, David H. (JUS)
Sent: January-07-11 5:02 PM
To: Anderson, Brent (JUS); Kohen, Colleen (JUS)
Cc: Tod, John (JUS); Reynolds, Michael (JUS)
Subject: Re: Michael Jack

The only material that Colleen won't have is from the post-dismissal involvement at his 01Apr10 POA trial. I have the transcript from the trial, but not for the Aug '10 decision date where he was acquitted.

Fyi
Dave

Analysis of the Respondent's Disclosure (8 - January 2009 UPDATED, page 14):

First, PC Filman never mentioned anything to me about the existence of the form. I learned about it and solicited it from other officers. Had the Respondent disclosed my e-mail correspondence from my Justice account the Tribunal would have had proof that first, it was possibly PC Payne who sent me an e-mail with numerous attachments on or about January 12, 2009, and second it was PC Paradis who sent me an e-mail sometime in the spring of 2009 with numerous attachments pertaining to police work at the Peterborough County OPP Detachment. I remember specifically asking PC Paradis for those forms and he was kind enough to furnish me with them as PC Filman never bothered. Furthermore, had the Respondent disclosed all my e-mail correspondence between PC Filman and I, the Tribunal would have had proof that there were very few e-mails exchanged between us and that PC Filman's e-mails were poorly written.

Analysis of the Respondent's Disclosure (9 – February 2009 UPDATED, Page 10):

Furthermore, sometime in February 2009 PC Dan Gay was walked through the process of investigating an impaired driver and subsequent note taking in careful detail by PC William Syvret. PC Gay gladly furnished me with his notebook pertaining to his first arrest of an impaired driver to photocopy them so I could learn what needed to be done. PC Filman never taught me the process. I studied on my own and subsequently compiled a set of guidelines (among many other guidelines) for doing an impaired arrest (Exhibit 107, pages 1 - 2), printed them out, laminated and used them in my subsequent investigations. Furthermore, a few months later on PC Mitch Anderson was impressed with them and asked me to furnish him with a copy, which I did and had the Respondent disclosed all my e-mail correspondence using my Justice E-mail account the Tribunal would have seen proof of this.

Analysis of the Respondent's Disclosure (17 – October 2009 UPDATED):

Re: Break & Enter investigation at Young's Point Public School (Exhibit 34b):

Jack, Michael (JUS)

From: Eberhard, Kelly (JUS)
Sent: October 8, 2009 2:01 PM
To: Jack, Michael (JUS)
Subject: RE: r v. Vollick sp09178964

Hi Michael, thank you very much for your information. It is very helpful. I found the restitution documents, thanks. It becomes more confusing when we have an adult in the picture...I wonder if I might have the school board rep's name and number and if I could contact them and see exactly what they have in mind, then we can have a pow wow about it. thanks,
Kelly

Re: Large illegal drug grow op (letter of commendation from Cst. Ernie Garbutt) (Exhibit 35):

Jack, Michael (JUS)

From: Garbutt, Ernie (JUS)
Sent: October 16, 2009 9:35 AM
To: Stimson, David (JUS); Jack, Michael (JUS); Butorac, Peter (JUS)
Subject: Update

Gentlemen

Just want to thank you for the info you provided the other day about possible drug grow at 2021 Cty Rd 48. I executed a warrant on Tuesday and got over 2000 large marihuana plants behind the house. This was an organized asian crime house. They had been in the house trimming, but were gone when we showed up. We had no idea there was a set up at the house and your info put us onto it. Thanks for your help and observations.

Ernie Garbutt

I wonder if Counsel for the Respondent could furnish the Tribunal with a rational explanation as to the reason the above two e-mails along with numerous other ones from my Justice account were withheld?

May I respectfully make a suggestion about the real reason? Because it was in regards to my positive performance which was never reflected in any of the documents! Hence, the Respondent deliberately withheld those e-mails along with many other e-mails that attest to my positive performance, the quantity and quality of my work, and, among other things, PC Shaun Filman's lack of interest in coaching me.

14) The Applicant prays that an order be issued by the Tribunal directing the Respondent to comply with the obligations imposed by Section 17 of the application.