

HUMAN RIGHTS PANELS OF ALBERTA

BETWEEN:

Darren E. Lund

Complainant

and

**Stephen Boissoin and
The Concerned Christian Coalition Inc.**

Respondents

and

Canadian Civil Liberties Association and Attorney General of Alberta

Interveners

DECISION ON REMEDY

Panel Chair: Lori G. Andreachuk, Q.C.

Decision Date: May 30, 2008

File Number: S2002/08/0137

Human Rights and Citizenship Commission
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Background

1. On November 30, 2007, a decision was rendered in this matter finding the respondents, Mr. Stephen Boissoin and The Concerned Christian Coalition Inc., contravened Section 3 of the *Human Rights Citizenship and Multiculturalism Act* by causing to be published in the Red Deer Advocate (before the public), a publication in which it was likely to expose homosexuals to hatred or contempt because of their sexual orientation.
2. The Panel Chair directed that submissions from the parties on the issue of remedy be presented at a later date.
3. Written submissions were provided by the complainant, Dr. Darren Lund and by the respondent, Mr. Stephen Boissoin.

Powers of the Panel

4. Section 32(1) of the *Human Rights, Citizenship and Multiculturalism Act* (the Act) provides as follows:

32(1) A human rights panel

(a) shall, if it finds that a complaint is without merit, order that the complaint be dismissed, and

(b) may, if it finds that a complaint has merit in whole or in part, order the person against whom the finding was made to do any or all of the following:

(i) to cease the contravention complained of;

(ii) to refrain in the future from committing the same or any similar contravention;

- (iii) *to make available to the person dealt with contrary to this Act the rights, opportunities or privileges that person was denied contrary to this Act;*
- (iv) *to compensate the person dealt with contrary to this Act for all or any part of any wages or income lost or expenses incurred by reason of the contravention of this Act;*
- (v) *to take any other action the panel considers proper to place the person dealt with contrary to this Act in the position the person would have been in but for the contravention of this Act.*

5. Dr. Lund seeks the following remedies:

- a. That Mr. Boissoin and the Concerned Christian Coalition Inc. be formally disallowed to publish discriminatory letters in newspapers by email, on the radio, in public speeches and on the internet in the future. Further, that they be prohibited from making disparaging remarks in the future against the complainant or any of the complainant's witnesses relating to their involvement in the complaint.
- b. That damages for pain and suffering be paid by the respondents to Dr. Lund in the amount of \$5,000.00.
- c. That an Order for damages for pain and suffering directly related to the retaliation that Dr. Lund has suffered be paid by the respondents to Dr. Lund in the amount of \$5,000.00.
- d. An Order for additional damages for pain and suffering be paid to Ms. Janelle Dodd in the amount of \$2,500.00.

- e. An Order that Mr. Boissoin and The Concerned Christian Coalition Inc. publish a summary of the ruling of the case in the editorial section of the Red Deer Advocate.
6. Mr. Boissoin argues the only appropriate remedy in the case is an Order requiring Mr. Boissoin “to refrain in the future from committing the same or similar contravention” pursuant to Section 32(1)(b)(ii) of the Act.

Decision

7. The Panel agrees with the submissions of Dr. Lund that the Panel is to use the principle of fairness in determining appropriate remedies¹:

*It is important to keep in mind that the purposes of the Code are remedial, not punitive: see, for example, Taylor, supra at 933. As noted by the Supreme Court of Canada in Robichaud v. Canada (Treasury Board), [1987] 2 S.C.R. 84 at 90, human rights legislation is aimed at **ameliorating the effects of discrimination, rather than punishing the perpetrator.***

8. The Panel agrees also with Dr. Lund’s submission that hate propaganda remedies should have a symbolic and educational value as stated in the *Citron*² case:

*Any remedy awarded by this, or any Tribunal, will inevitably serve a number of purposes: prevention and elimination of discriminatory practices is only one of the outcomes flowing from an Order issued as a consequence of these proceedings. There is also a **significant symbolic value in the public denunciation of the actions that are the subject of this complaint.** Similarly, there is the **potential educative and ultimately larger preventative benefit that can be achieved by open discussion of the principles enunciated in this or any Tribunal decision.***

9. The Panel also agrees with the submissions of Mr. Boissoin when he states that this is not a criminal case. It would be inappropriate to punish Mr. Boissoin for his actions and I find that the purpose of the remedy in this case, is not to punish

¹ *Abrams v. North Shore Free Press Ltd. (c.o.b. North Shore News)* [1999] B.C.H.R.T.D. No. 5 at paragraph 79

² *Citron v. Zundel* [2002] C.H.R.D. No. 1

but rather to attempt as far as possible, to ameliorate the effects of the discrimination insofar as is possible and to denunciate the actions which were the subject of the complaint with a view to educate and hopefully prevent actions of this nature in future.

10. Section 32 of the Act limits to a large degree the available redress that the Act provides in affording opportunities and privileges through awarding wages, lost income and expenses to the person or persons dealt with contrary to the Act and to placing the person dealt with contrary to the Act in the same position that they would have been in had it not been for the contravention of the Act. In this case, there is no specific individual who can be compensated as there is no direct victim who has come forward seeking redress by the contravention of the Act by Mr. Boissoin and The Concerned Christian Coalition Inc.
11. That is not to say, however, that some financial redress is inappropriate in this case. The Panel notes that the respondent alleges he does not have the actual wherewithal to pay a fine or costs, however, there was no evidence on that point and no information as to the financial circumstances of Mr. Boissoin were brought forward in his submissions.
12. The Panel has heard no submissions from The Concerned Christian Coalition Inc.
13. The Panel does find that Dr. Lund, although not a direct victim, did expend considerable time and energy and suffered ridicule and harassment as a result of his complaint. The Panel finds therefore that he is entitled to some compensation.
14. The Panel finds, and the Panel orders as follows:
 - a. That Mr. Boissoin and The Concerned Christian Coalition Inc. shall cease publishing in newspapers, by email, on the radio, in public speeches, or on the internet, in future, disparaging remarks about gays and homosexuals. Further, they shall not and are prohibited from making disparaging

remarks in the future about Dr. Lund or Dr. Lund's witnesses relating to their involvement in this complaint. Further, all disparaging remarks versus homosexuals are directed to be removed from current web sites and publications of Mr. Boissoin and The Concerned Christian Coalition Inc.

- b. That The Concerned Christian Coalition Inc. and Mr. Boissoin shall, in future, be restrained from committing the same or similar contraventions of the Act.
- c. That Mr. Boissoin and The Concerned Christian Coalition Inc. provide Dr. Lund with a written apology for the article in the Red Deer Advocate which was the subject of this complaint.
- d. That Mr. Boissoin and The Concerned Christian Coalition Inc. shall request the Red Deer Advocate publish a copy this Order in the Red Deer Advocate and that they request their written apology for the contravention of the Act be published in the Red Deer Advocate.
- e. That Mr. Boissoin and The Concerned Christian Coalition Inc. shall pay to Dr. Lund an award for damages, jointly and severally, in the amount of \$5,000.00.
- f. That Ms. Dodd shall provide a list of expenses incurred as a result of her testimony at the hearing to the Panel Chair for review and such sum shall be paid to her for her actual expenses associated with this matter up to the maximum amount of \$2,000.00 as directed by the Panel Chair upon receiving her list of expenses. Such amounts so ordered by the Panel Chair shall be paid jointly and severally by Mr. Boissoin and The Concerned Christian Coalition Inc.

May 30, 2008

ALL OF WHICH IS RESPECTFULLY
SUBMITTED

LORI G. ANDREACHUK, Q.C.,