



Province of British Columbia  
**B.C. HUMAN RIGHTS TRIBUNAL**  
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**DATE:** May 13, 2015

**URGENT**

**CONFIDENTIAL** X

**To:**

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Via email

**From:**

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**RE:**

**Bethany Paquette v. Amaruk Wilderness Corp. and Olaf Amundsen  
and Christopher Fragassi-Bjornsen and Dwayne Kenwood-Bjornsen  
and Arkyn Borg**

**TOTAL PAGES (including cover): 10**

**COMMENTS:**

Please see attached decision of today's date.

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Date Issued: May 13, 2015  
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**IN THE MATTER OF THE HUMAN RIGHTS CODE  
R.S.B.C. 1996, c. 210 (as amended)**

**AND IN THE MATTER of a complaint before  
the British Columbia Human Rights Tribunal**

**BETWEEN:**

Bethany Paquette

**COMPLAINANT**

**AND:**

Amaruk Wilderness Corp., Olaf Amundsen, Christopher Fragassi-Bjornsen,  
Dwayne Kenwood-Bjornsen, and Arkyn Borg

**RESPONDENTS**

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**REASONS FOR DECISION  
APPLICATION FOR DISCLOSURE OF THE TRUE LEGAL NAMES OF THE  
INDIVIDUAL RESPONDENTS AND FOR SUBSTITUTIONAL SERVICE OF  
THE RESPONDENTS WHO HAVE NOT FILED A COMPLAINT RESPONSE OR  
PROVIDED AN ADDRESS FOR DELIVERY**

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Tribunal Member: Norman Treise  
Counsel for the Complainant: Geoffrey Trotter  
On his own behalf: Christopher Fragassi-Bjornsen

## **INTRODUCTION**

[1] Bethany Paquette filed a complaint against Amaruk Wilderness Corp., Olaf Amundsen, Christopher Fragassi-Bjornsen, Dwayne Kenwood-Bjornsen, and Arkyn Borg alleging that they discriminated against her in the area of employment based on ancestry, religion, and political belief contrary to s. 13 of the Code.

[2] The Respondents Amaruk Wilderness Corp. and Christopher Fragassi-Bjornsen filed a complaint response in which they deny discriminating against Ms. Paquette.

## **THE APPLICATION**

[3] Ms. Paquette seeks an order that the Respondents Amaruk Wilderness Corp. ("Amaruk") and Christopher Fragassi-Bjornsen swear an Affidavit in this proceeding deposing to the true legal names of the authors of emails reproduced as Exhibits H-J (the "alleged discriminatory emails" to the Affidavit of Bethany Paquette sworn January 10, 2015), (the "Paquette Affidavit"), sent to her by the individual Respondents Fragassi-Bjornsen, Amundsen, Kenwood-Bjornsen and Borg.

[4] In the alternative, Ms. Paquette seeks an order that Amaruk disclose its employees files for the aforesaid individual Respondents.

[5] In addition, Ms. Paquette seeks an order permitting substituted service of the complaint on Respondents Amundsen, Kenwood-Bjornsen and Borg by email to addresses as follows:

- (a) Amundsen: careers.emploi@amaruk.com;
- (b) Kenwood-Bjornsen: cd@norsk.com; and
- (c) Borg: arkyn.borg@amaruk.com.

(Collectively, the "Proposed Email Addresses")

## **SUPPORTING INFORMATION**

[6] Amaruk's registered office is 1009 Cook Street, in Victoria, British Columbia.

[7] The complaint was sent by registered mail by the Tribunal to all of the Respondents at 1009 Cook Street but it was not accepted for delivery.

[8] Amundsen, Kenwood-Bjornsen and Borg did not file a response to the complaint.

[9] Amaruk has published on the Industry Canada website a web page stating that it has 217 employees and over \$10 million in annual sales. That website does not provide a physical office address nor has any other source of that information been identified.

[10] Investigative journalists have raised concerns respecting the truthfulness of certain claims made by Amaruk. A CBC news article identified an individual who had applied for what appears to be the same job as Ms. Paquette who, upon cancelling her interview, received approximately 15 email contacts which she suggests pretended to be from different people accusing her of slander, but which she felt had all originated with one person. There is nothing in the article to suggest the basis for that assumption.

[11] In the same article, the journalist states that a picture on Amaruk's website purporting to be of Mr. Amundsen does not depict him and actually is an image of someone else taken from a social media site. The article goes further and suggests that Amaruk's website speaks of an airline labeled Amaruk Air but that the plane pictured on that website does not belong to Amaruk Air but instead belongs to the New York National Guard.

[12] There are also two National Post articles from the same journalist, in one of which an unknown source is quoted as saying that there appears to be one person behind the whole Amaruk Corp. "thing" and that the individual who was interviewed questioned whether that person has ever led people on a wilderness expedition anywhere.

[13] The article raises much mystery about Amaruk, including that it purports to be a member of an organization called the Professional Association of Wilderness Guides and Instructors (PAWGI) of which Mr. Fragassi-Bjornsen is stated to be Technical Director for Canada. The article suggests that two outdoor guides told the National Post that PAWGI is not a recognized association in their industry and cast doubt on its purported technical committee membership.

[14] The second National Post article suggests that an individual by the name of Christoph Fragassi lived a lifestyle inconsistent with alleged accomplishments of

Christopher Fragassi-Bjornsen and suggests that an individual by the name of Gregory Kenwood had been killed in the 911 terrorist attacks in the U.S.

[15] Ms. Paquette indicates that the application for substituted service is intended to ensure that the three Respondents who have not filed a response to the complaint have been served in order that this matter can proceed and so that those individual respondents will be personally bound by any order which the Tribunal may make in this proceeding.

#### **RESPONSE OF MR. FRAGASSI-BJORNSEN**

[16] In a response of some 365 pages, most of which is non-responsive to the application, including arguments respecting religious extremism, expressed dissatisfaction with the focus of past Tribunal decisions on other matters, issues of religious freedom and whether it encompasses heathenry, allegations that tattling is part of the Canadian culture, allegations that media attention is distorted and unreliable, a statement that advice received by Mr. Fragassi-Bjornsen from legal counsel in the EEA was to refrain from disclosing information publicly used to identify Respondents which might place their personal security at risk (unsupported), arguments respecting the merits of the case, alleged issues of Amaruk with operating in Canada, a letter from a former Trinity Western student (now a psychiatrist) purporting to provide an opinion respecting Ms. Paquette, and questions respecting why counsel for Ms. Paquette wants to serve the Respondents.

[17] Mr. Fragassi-Bjornsen does, however, make some relevant submissions. They are:

- (a) Amaruk Wilderness Corporation is federal (albeit extra-provincially registered), doesn't employ any of the individual Respondents and is not involved in the hiring of applicants so is unable to release information about unrelated third parties.
- (b) Mr. Fragassi-Bjornsen is no longer a Director of Amaruk so any queries should be directed to the sole remaining Director.
- (c) Privacy issues take precedence and the *Personal Information Protection Act of British Columbia* would be breached. Accordingly, neither Mr. Fragassi-Bjornsen nor Amaruk can legally confirm or release personal information. He

also asserts that a publication ban will be inconsequential to radical religious groups who may take offence to statements made.

- (d) The purpose of making the request is public or religious harassments. The complainant will not be able to collect on any judgment against the Respondent out of the country because no EEA court would register the judgment (no authority provided) and that counsel for Ms. Paquette has been leaking previous communications.
- (e) The release of relevant information for persons who are outside of Canada would have to be authorized by the law of the country in which they reside and that an order by a British Columbia court has no legal standing in any EEA country. Further, he suggests that any order articulated in English has no legal standing (no authority provided).
- (f) The web servers of Amaruk are located outside of Canada so the laws of the jurisdiction where the data is located would apply (no authority provided).
- (g) That emails from and to Respondents were not sent from the Amaruk address but were sent from Norskk, which has no legal existence in Canada.
- (h) The emails are irrelevant to the complaint.
- (i) Verbal communications were encrypted using ZRTP protocol and will not be decipherable.
- (j) The request for the incorporation certificates can't be complied with because they are not in his possession, he is no longer with the company in any capacity and that the documents are part of the public domain and can be obtained elsewhere.
- (k) The Tribunal has no jurisdiction to make an order with respect to incorporation certificates in Norway.
- (l) The affidavits provide no evidence that the Respondents have provided incorrect legal names.

- (m) The request to confirm identities is cruel and unusual punishment under the *Canadian Charter of Rights and Freedoms*.
- (n) The true names would be leaked to the media.

#### **REPLY OF MS. PAQUETTE**

[18] Ms. Paquette responds by stating that:

- (a) A change in directorship is irrelevant to Amaruk's obligation to produce the relevant documents.
- (b) Amaruk has attorned to the jurisdiction of the Tribunal.
- (c) Mr. Fragassi-Bjornsen was still a Director of Amaruk in September of 2014 when the emails were sent to Ms. Paquette.
- (d) Mr. Fragassi-Bjornsen has attorned to the jurisdiction of Tribunal.
- (e) That the documents that had been made public previously were not produced through the disclosure process but the documents produced under a Tribunal's order will be covered by an implied undertaking of confidentiality.
- (f) That there's no air of reality to the concern that Mr. Fragassi-Bjornsen articulates that the Respondents will be singled out for violence for opposition to the Trinity Western University. Mr. Fragassi-Bjornsen's claims, that none of the email information provided during the email exchange referred to Amaruk Wilderness Corporation or to any contact information within Canada are not true. She says:
  - i. Industry Canada website shows the website of Amaruk as [www.Amaruk.com](http://www.Amaruk.com);
  - ii. The employment opportunity which is the focus of the complaint was posted on [www.Amaruk.com](http://www.Amaruk.com) which directed applications be sent to [careers.emploi@Amaruk.com](mailto:careers.emploi@Amaruk.com), which Ms. Paquette did; and
  - iii. [www.Amaruk.com](http://www.Amaruk.com) appears in the email signature block of various of the discriminatory emails received from Mr. Amundsen.

[19] She says that Mr. Fragassi-Bjornsen claims repeatedly not to be a resident of Canada but the extra provincial summary for Amaruk shows the company attorney as “Christopher G. Fragassi” with an address at a specific location in Sooke, British Columbia. The investigation journalism reveals that Christopher G. Fragassi is the same as the Respondent Fragassi-Bjornsen. Fragassi-Bjornsen has continued to use the Sooke address in Small Claims lawsuits in December 2014.

[20] Some other points which are made are not relevant to the application.

#### **LAW AND ANALYSIS**

[21] This application is made pursuant to Rule 23 and Rule 11 of the Tribunal’s Rules of Practice and Procedure.

[22] Rule 23 reads:

- (1) An application for an order that a person deliver a copy of a document must state:
  - (a) How disclosure of a document requested will further the just and timely resolution of the complaint;
  - (b) How the document requested may be relevant to an issue in the complainant, response to the complaint, or remedy sought;
  - (c) The participants efforts to obtain a copy of the document.

[23] Rule 11 reads:

- (2) If ordinary methods of delivery have not been, or are not likely to be effective, the Tribunal may permit or require an alternative method of delivery.

#### **THE REQUEST FOR THE CORRECT LEGAL NAMES OF THE INDIVIDUAL RESPONDENTS**

[24] Ms. Paquette has provided information satisfying the requirements of Rule 23(1). The question is whether the information is sufficient to justify the order sought for production of an affidavit from Mr. Fragassi-Bjornsen and from Amaruk setting out the full legal names of the individual Respondents.

[25] I am satisfied that the information that has been provided, while largely hearsay and speculative, is sufficient to establish concerns with respect to the nature of Amaruk and its operations, including the nature of its claimed guiding services. It may even be



sufficient to call into question whether there are in fact more individuals involved in Amaruk than Mr. Fragassi-Bjornsen himself, although I would hesitate to go so far based on largely speculative information.

[26] There is virtually nothing, however, in the material which supports that the names of the individual Respondents might be manufactured, with the exception of the allegation that Mr. Amundsen's photograph on Amaruk's website does not depict him, and the suggestion that Mr. Fragassi-Bjornsen has operated under the name of Christoph Bjornsen previously.

[27] After careful consideration, I am not satisfied that the information provided is sufficiently reliable or, indeed, speaks sufficiently to the prospect that these individuals' names were manufactured to justify the order requested from the Tribunal for the aforesaid Affidavit.

[28] That portion of the application is denied.

#### **SUBSTITUTIONAL SERVICE**

[29] The application for an order for substitutional service by service on the individuals at the email address that they sent the offending emails from, however, will be granted.

[30] It is apparent that the Tribunal's Notice of Proceedings was received by Amaruk and Mr. Fragassi-Bjornsen. It is reasonable in the circumstances to conclude that, on the balance of probabilities, the other three Respondents were also made aware of the proceedings but have declined to file a response in these proceedings.

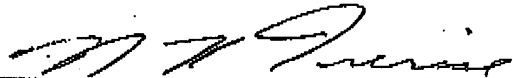
[31] It is in the best interests of the Tribunal's process that service be effected on all of the Respondents in this proceeding. On the information provided, while it is reasonable to conclude that the three non-responding individual Respondents were also made aware of the proceedings, that is uncertain.

[32] It is clear that there is no known address for Amaruk. In the circumstances, service upon these individuals by email is reasonable.

[33] I order that the Respondents Olaf Amundsen, Dwayne Kenwood-Bjornsen and Arykn Borg be served by mail-slotting the complaint directed to each of those three

Respondents at 1009 Cook Street, Victoria, British Columbia, with a copy of this order included, and that a copy of this order and the complaint be emailed as follows:

- (a) To Mr. Amundsen at [careers.emploi@amaruk.com](mailto:careers.emploi@amaruk.com);
- (b) To Mr. Kenwood-Bjornsen at [cd@norsk.com](mailto:cd@norsk.com); and
- (c) To Mr. Borg at [arkyn.borg@amaruk.com](mailto:arkyn.borg@amaruk.com).



Norman Terise, Tribunal Member