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February 2, 2012

Mr. Lloyd Tapp  
252 Angeline Street North  
Lindsay ON K9V 4R1

Re: Michael Jack v. HMQ  
Tribunal File Number: 2010-07633-I

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As you are aware, I am of counsel to Her Majesty the Queen in Right of Ontario ("HMQ") as represented by the Ontario Provincial Police ("OPP") for the purposes of the above-noted file.

We are in receipt of your list and copies of "Arguably Relevant Documents" and are writing to you with respect to specific concerns that we have in relation to some of the documents you disclosed.

***Exhibit 95 - Minutes of Settlement between Lloyd Tapp and OPP***

Exhibit 95 includes the Minutes of Settlement with respect to four files at the Human Rights Tribunal of Ontario ("HRTTO") in which the OPP was the respondent as represented by HMQ. The Minutes of Settlement were signed by you and by a representative of the OPP and provide that both parties agree to maintain the confidentiality of the terms of the Minutes of Settlement.

Kindly remove that document from the disclosure documents you have assembled for this proceeding immediately. I must advise you that should there be any further use or disclosure of this document, the OPP will have no choice but to consider taking further action with respect to a breach of the Minutes of Settlement. Breach of a term in Minutes of Settlement is a serious matter that, if necessary, can be brought back before the HRTTO for a remedy.

For your reference, the Minutes of Settlement include the following confidentiality clause:

3. The Applicant and the Respondent agree to maintain confidentiality of the terms of these Minutes of Settlement, and shall not discuss or disclose the terms of settlement with anyone other than immediate family, or legal or financial advisors, or as required by law.

Perhaps the inclusion of this document in the disclosure for Mr. Jack's application was an error or misapprehension of the Minutes of Settlement on your part. I would suggest that this error be corrected immediately. The fact that you have apparently disclosed the Minutes of Settlement to

Mr. Jack, and that you have taken steps to use this document in Mr. Jack's proceeding at the HRTO, constitutes a breach of the Minutes of Settlement.

The *Human Rights Code* provides that a party may seek an order from the HRTO in relation to a breach of settlement.

**Section 45.9**

**(3)** If a settlement of an application made under section 34 or 35 is agreed to in writing and signed by the parties, a party who believes that another party has contravened the settlement may make an application to the Tribunal for an order under subsection (8),

(a) within six months after the contravention to which the application relates; or

(b) if there was a series of contraventions, within six months after the last contravention in the series.

**(8)** If, on an application under subsection (3), the Tribunal determines that a party has contravened the settlement, the Tribunal may make any order that it considers appropriate to remedy the contravention.

Kindly confirm that this document has been removed from your disclosure of documents, and that any copy that you have provided to Mr. Jack or anyone else has been retrieved. We trust that you will not attempt to make any further use of this document and will comply with the Minutes of Settlement from this point forward.

Should you choose not to do so, the OPP will consider bringing an application to the HRTO for this contravention of your settlement with the OPP, and will seek an order to remedy the contravention – and that may include an order for recovery of at least part of the general damages paid to you under that settlement. We hope that now that this has been brought to your attention, you will take corrective action, and an application to the HRTO will not be necessary.

In addition, we ask that you kindly remove Exhibit 96a and 96b as it does not appear that these documents contain any evidence relevant to Mr. Jack's application. If these documents are not removed, then the OPP will have to bring a Request for an Order to have these documents excluded.

***Exhibit 48 Harry Allen Chase's Willsay and associated documents***

Having reviewed Mr. Harry Allen Chase's Willsay found at Exhibit 48 of your disclosure, we would ask that his willsay also be removed along with any other associated documents including Exhibits 62 and 63.

Based on the willsay, it appears that Mr. Chase is seeking to re-litigate his previous human rights complaint (File No. FDTE-6T6G27) and his previous grievance authorized under the *Public Service Act* and Uniform Memorandum of Understanding.

It is our position that this re-litigation would be considered an abuse of process as supported by case law.

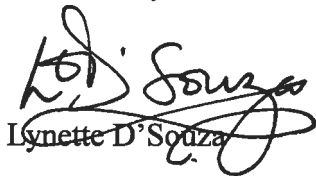
Further it appears that there are contents within Mr. Chase's wills that appear to be in breach of his settlement agreement with the OPP.

If Mr. Chase's wills and associated documents with Mr. Chase are not removed, then the OPP will have to bring a Request for an Order to have these documents excluded. In addition, we will object to Mr. Chase being called as a witness on the basis of relevance, as it does not appear that he has any evidence relevant to Mr. Jack's application.

I would ask that you please confirm in writing how you intend to proceed with respect to the above issues as soon as possible.

Should you have any questions about the above, please do not hesitate to contact me.

Yours Truly,

  
Lynette D' Souza

cc. Registrar, Human Rights Tribunal of Ontario  
Jinan Kubursi, counsel, MAG-MCSCS, LSB  
Don Goard, Risk Management, OPP