

Statement of Commissioner Bélanger

March 19, 2013

1. On February 4, I issued an Order pursuant to s. 29 of the *Public Inquiries Act, 2009* requiring Bob Nazarian, Irene Nazarian, and Levon Nazarian to comply with summonses I issued on Sept. 6, Sept. 13, Sept. 27, and December 6, 2012.
2. On March 5, counsel retained by me contacted counsel for the Nazarian's and advised him that she had been retained to state a case to the Divisional Court under s. 30 of the statute, the contempt provisions.
3. On March 6, 2013, I issued Reasons for my Order of February 4. Those Reasons, and the Order of February 4, can be found on the Commission's website.
4. On March 7, 2013, the Notice of Application for a Stated Case was issued at the Divisional Court. The Court assigned a hearing date of March 20.
5. On March 8, 2013, counsel for the Nazarian's caused to be delivered to the data management firm retained by the Commission approximately 85,000 emails which were from certain email addresses referred to in one or more of the summonses.
6. These emails are not all relevant to the Commission's work; they will be reviewed electronically to produce potentially relevant emails. Those emails so identified will be screened for relevance by a law firm retained for that purpose by the Commission. After that review, the documents which are relevant will be provided to Commission counsel for review, unless the screening law firm

concludes that a particular email or emails may be potentially subject to a legal privilege. This is the same process which has been followed with respect to other documents obtained pursuant to summonses issued by the Commission where the custodian of the documents was unable to review the documents for relevance and potential privilege in a timely manner.

7. Those potentially privileged emails will be provided to the Nazarian's counsel for review so that they may determine whether to assert a claim that any of the emails are privileged. The Nazarian's have agreed, through counsel, that if they do not assert a claim to privilege in accordance with the Commission's Rules of Procedure within 7 days, accompanied by supporting sworn evidence, they will be deemed to have waived any privilege associated with any email.
8. On March 12, 13, and 15, the data management firm retained by the Commission was provided with financial information sought in the summonses to the Nazarian's.
9. On Friday, March 15, my counsel was provided with a sworn affidavit from each of Bob, Irene, and Levon Nazarian which set out in detail the steps taken by them to comply with the summonses. In each of those affidavits, the deponent swore that he or she was not in possession or control of any other document described in any of the summonses. A copy of each of those affidavits has been posted to the Commission's website.
10. Each of the Nazarian's has also provided the Commission with a signed direction to the Canada Revenue Agency directing that agency to provide income tax information to the Commission.

11. In light of the above, I have instructed my counsel to advise the Divisional Court that my application to state a case is being discontinued, without prejudice and without costs.