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Our file no: 301994 vol.4

June 15, 1992

Mr. Ken Cancellara
Cassels, Brock & Blackwell
Barristers & Solicitors
Scotia Plaza, Suite 2100
40 King Street West
TORONTO Ontario
M5H 3C2

Dear Sir:

Re: Canadian Forces Policy on Sexual Orientation

You will recall that during the discovery of Brigadier General Munro, Harriet Sachs asked questions about policies which might be in the works to replace the current CFAO 19-20. That matter was referred to two times and I am enclosing herewith page 55 of the examination for discovery and pages 145 through 149.

As you are aware, the Canadian Forces had for some time been trying to get Department of Justice and Cabinet approval for a revised policy regarding sexual orientation which policy would be incorporated in a new CFAO. As you will note at page 55, question 217 and on, we indicated that any discussion of the replacement policy would constitute a Cabinet confidence.

Similarly, at page 145 and throughout to page 149, there is a further discussion of why we believed the drafts of the replacement policy constituted Cabinet confidences. It was our view that they were draft legislation.

We have now received an opinion from the office of the Privy Council to the effect that it does not consider the draft CFAO in question to be a Cabinet confidence. We are now faced with the problem of what to do in light of Ms. McAllister's assertions to Ms. Sachs with respect to that document.

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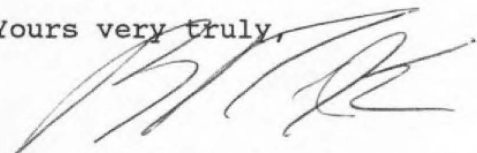
We also face a problem in the *Poirier* case. While we have not provided you with details regarding this case, because we still have not gotten to the discovery stage, we are nevertheless going to have to produce the draft replacement CFAO in that case and it is particularly relevant in that case because there is documentation on her file wherein it was suggested that notwithstanding the fact that the new CFAO had not been formally adopted nevertheless, it would be appropriate to apply it "in principle" to her case.

Once you have had an opportunity to review this matter, please let me know what you would propose to do with respect to the release of the draft CFAO.

For your reference, I am also enclosing a copy of the most recent draft of the CFAO which would be the one which I would propose to release to Ms. Sachs if you deem appropriate.

I look forward to hearing from you.

Yours very truly,



(Mrs.) Barbara A. McIsaac
General Counsel
Civil Litigation Section

BAM/cm
Enclosure

c.c. Lt. Col. Ken Watkin, Office of JAG
Mr. George Logan, Directorate, Personnel Policy
Ms. Debra McAllister, Toronto R.O.

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