

Public Servants
Disclosure Protection
Tribunal Canada



Tribunal de la protection
des fonctionnaires
divulgateurs du Canada

Citation: Charbel El-Helou v. Courts Administration Service, Power, Delage 2011 PSDPT 5

Tribunal File No. T-2011-01

Date: 20110610

Ottawa, Ontario, June 10, 2011

**The Honourable Mr. Justice Martineau, Chairperson
Public Servants Disclosure Protection Tribunal**

BETWEEN:

CHARBEL EL-HELOU
Complainant

-and-

COURT ADMINISTRATION SERVICE
and
DAVID POWER
and
ÉRIC DELAGE
Respondent(s)

INTERIM CONFIDENTIALITY ORDER

UPON MOTION by the Public Sector Integrity Commissioner (the Commissioner),
dated May 13, 2011 and filed with the Public Servants Disclosure Protection Tribunal (the

Tribunal), on May 17, 2011, for an order of confidentiality in regard to certain materials filed with the Commissioner's Notice of Application, dated April 18, 2011 and filed with the Tribunal on May 17, 2011, namely:

- 1) That any part of the record appended hereto and marked as Appendices A and B, that have been filed on this date with the Tribunal in sealed envelopes, be retained by the Tribunal in sealed envelopes marked "confidential evidence" until such time as the Tribunal orders otherwise;
- 2) That Appendix A and Appendix B be kept sealed and separated from the public records in order to remain beyond the knowledge of the public and of any person other than the Members and Staff of the Tribunal and parties to these proceedings and their counsel, and that any confidential record be kept in a sealed envelope until the Tribunal orders otherwise.

CONSIDERING that an application has been made to the Tribunal by the Commissioner pursuant to subsection 20.4(1) of the *Public Servants Disclosure Protection Act*, SC 2005, c 46 (the Act) for a determination of whether or not a reprisal was taken against the complainant;

CONSIDERING that the herein motion for a confidentiality order is made pursuant to Rules 13 and following of the *Public Servants Disclosure Protection Tribunal Rules of Procedure*, published in the *Canada Gazette Part I* on May 21, 2011 (the interim Rules);

CONSIDERING that on an urgent basis, the Commissioner has requested that Appendices A and B be kept sealed and separate from the public records and not be disclosed to anyone other than the Members and Staff of the Tribunal and the parties and their counsel, until the Commissioner's motion can be disposed of by the Tribunal or until such time as the Tribunal orders otherwise;

HAVING read the affidavit dated May 13, 2011, of Ms. Gail M. Gauvreau, Senior Investigator employed by the Office of the Public Sector Integrity Commissioner of Canada and former member of the Royal Canadian Mounted Police;

CONSIDERING that Appendix A and Appendix B contain numerous references to a security investigation conducted by the Courts Administration Service (CAS) in relation to threats made against a member of the judiciary;

BEING satisfied at present time that the wide dissemination of information through the media or by any other person that could identify the alleged victim of the threats and the person suspect of making the threats could seriously harm these persons' privacy rights and potentially compromise any on-going or future investigation;

HAVING heard the oral submissions of the counsels representing the Commissioner, the complainant and the respondents and reviewed the draft consent interim order submitted by them;

THE TRIBUNAL ORDERS that:

1. The documents marked as Appendices A and B to the Commissioner's Notice of Application to the Tribunal, dated April 18, 2011 and filed with the Tribunal on May 17, 2011, shall be kept sealed and separate from the public records and not be disclosed to anyone other than the Members and Staff of the Tribunal and the parties and their counsel, until the Commissioner's motion can be disposed of by the Tribunal or until such time as the Tribunal orders otherwise; and
2. The Tribunal may rescind, amend or vary this interim order at any time for cause upon the initiative of the Tribunal or on motion.

Luc Martineau

Chairperson

