

MEMORANDUM

11th Floor - 1001 Douglas Street, PO Box 9290 Stn Prov Govt, Victoria BC V8W 9J7 Phone: (250) 387-0149 Fax: (250) 387-6224

July 18, 2005

Tamara Vrooman
Deputy Minister of Finance
109 - 617 Government Street
Victoria, BC V8W 9V1

Re: R. v Basi and Virk – indemnity coverage for legal expenses

We are enclosing an Information Briefing Note prepared by Richard Butler of our Legal Services Branch, regarding the grant of a special indemnity to cover the legal expenses of Dave Basi and Bobby Virk for representation in criminal proceedings for conduct in their employment as Ministerial Assistants.

Both of these individuals were told, as part of the correspondence relating to their termination of employment, that the Province would consider providing them with indemnities. The background to this, and the current situation is set out in the Briefing Note.

As you probably know, the decision to grant an indemnity like this is normally made by the Deputy Attorney General and the Deputy Minister of Finance.
we support the idea of granting an indemnity.

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Would you please consider this note and determine whether you are prepared to approve this? If you wish to discuss this, or want to have a full briefing on this, please do not hesitate to contact me.

Note that I have not yet discussed this with the new Attorney General. If you are prepared to accept the recommendation, I suggest that we arrange to have both the Attorney General and the Minister of Finance briefed on this before proceeding.

Yours truly,



Robert Lapper
Acting Deputy Attorney General

To Be Completed By Deputy's Office
MEETING SCHEDULED

To Be Completed By Branch
CLIFF No.: 291791
DATE: July 14, 2005

**MINISTRY OF ATTORNEY GENERAL
LEGAL SERVICES BRANCH
BRIEFING NOTE**

TOPIC:

R. v Basi and Virk – indemnity coverage for legal expenses

PURPOSE OF NOTE:

- **FOR DECISION BY:** Deputy Minister of Finance
Decision as soon as possible (trial starts November, 2005)
- **MEETING REQUIRED:** Not unless the Deputy Minister wishes
- **DECISION REQUIRED:** Whether to grant an indemnities to cover the legal expenses of Mr. Basi and Mr. Virk in criminal proceedings against them arising from conduct that was in the course of their employment as ministerial assistants

S.14

**NOMINEE OPPOSES
SEVERING**

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NOMINEE OPPOSES
SEVERING

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NOMINEE OPPOSES
SEVERING

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NOMINEE OPPOSES
SEVERING

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NOMINEE OPPOSES
SEVERING

480-1



COMMISSIONER
FOR
REVENUE
AND
CUSTOMS

INFORMATION/DENONCIATION

Court Identifier:	1201 - P - R - A		
Court File Number:	129533		
Type Reference:	D		
Info. Seq. Number:	1		
Agency File Number:	40:03-1072		
DNA Primary:	<input type="checkbox"/>	DNA Secondary:	<input type="checkbox"/>
K File:	<input type="checkbox"/>		
SOR:	<input type="checkbox"/>		

CANADA:
PROVINCE OF BRITISH COLUMBIA
PROVINCE DE LA COLOMBIE-BRITANNIQUE

"BY INDICTMENT"

This is the information of / Les presentes constituent la denonciation de Constable A. Cowan, a Peace Officer (the "informant" / le "denonciateur") of / de Victoria, British Columbia.

The informant says that the informant has reasonable and probable grounds to believe and does believe that / Le denonciateur declare qu'il a des motifs raisonnables et probables et croit effectivement que

Count 1

Udhe Singh (Dave) BASI, between the 1st day of April, 2002 and the 28th day of December, 2003, at or near Victoria or elsewhere in the Province of British Columbia, directly or indirectly, being an official, demanded, accepted or offered or agreed to accept for himself rewards, advantages and benefits being money, meals, travel and employment opportunities as consideration for cooperation, assistance, exercise of influence or an act or omission in connection with matters of government business including a bid by OmniTRAX Inc. to obtain the operating rights of BC Rail from the Government of British Columbia, contrary to Section 121 (1)(a)(ii) of the Criminal Code.

Count 2

Bobby Singh VIRK, between the 1st day of April, 2002 and the 28th day of December, 2003, at or near Victoria or elsewhere in the Province of British Columbia, directly or indirectly, being an official, demanded, accepted or offered or agreed to accept for himself rewards, advantages and benefits being meals, travel and employment opportunities as consideration for cooperation, assistance, exercise of influence or an act or omission in connection with matters of government business including a bid by OmniTRAX Inc. to obtain the operating rights of BC Rail from the Government of British Columbia, contrary to Section 121 (1)(a)(ii) of the Criminal Code.

Count 3

Udhe Singh (Dave) BASI, between the 1st day of April, 2002 and the 28th day of December, 2003, at or near Victoria, or elsewhere in the Province of British Columbia, being an official of the Government of British Columbia, accepted from a person who has dealings with the government rewards, advantages and benefits being money, meals, travel and employment opportunities without having received consent in writing of the head of the branch of government of which he is an official, contrary to Section 121 (1)(c) of the Criminal Code.

Count 4

Bobby Singh VIRK, between the 1st day of April, 2002 and the 28th day of December, 2003, at or near Victoria, or elsewhere in the Province of British Columbia, being an official of the Government of British Columbia, accepted from a person who has dealings with the government rewards, advantages and benefits being meals, travel and employment opportunities without having received consent in writing of the head of the branch of government of which he is an official, contrary to Section 121 (1)(c) of the Criminal Code.

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FOR B.C.
REV. REV. 04/00

INFORMATION/DENONCIATION

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SOR:	<input type="checkbox"/>

CANADA:
PROVINCE OF BRITISH COLUMBIA
PROVINCE DE LA COLOMBIE-BRITANNIQUE

"BY INDICTMENT"

Count 5

Udhe Singh (Dave) BASI, between the 1st day of April, 2002 and the 28th day of December, 2003, at or near Victoria, or elsewhere in the Province of British Columbia, having or pretending to have influence with the Government of British Columbia or a Minister of the Government of British Columbia, demanded, accepted or agreed to accept for himself rewards, advantages and benefits being money, meals, travel and employment opportunities as consideration for cooperation, assistance, exercise of influence or an act or omission in connection with matters of government business including a bid by OmniTRAX Inc. to obtain the operating rights of BC Rail from the Government of British Columbia, contrary to Section 121 (1)(d) of the Criminal Code.

Count 6

Bobby Singh VIRK, between the 1st day of April, 2002 and the 28th day of December, 2003, at or near Victoria, or elsewhere in the Province of British Columbia, having or pretending to have influence with the Government of British Columbia or a Minister of the Government of British Columbia, demanded, accepted or agreed to accept for himself rewards, advantages and benefits being meals, travel and employment opportunities as consideration for cooperation, assistance, exercise of influence or an act or omission in connection with matters of government business including a bid by OmniTRAX Inc. to obtain the operating rights of BC Rail from the Government of British Columbia, contrary to Section 121 (1)(d) of the Criminal Code.

Count 7

Udhe Singh (Dave) BASI, between the 1st day of April, 2002 and the 28th day of December, 2003, at or near Victoria, or elsewhere in the Province of British Columbia, being an official of the Government of British Columbia, did commit fraud or a breach of trust in connection with the duties of his office in disclosing to interested third parties confidential government documents and confidential government information including Cabinet confidences pertaining to the sale by the Government of British Columbia of the Freight Division of BC Rail, contrary to Section 122 of the Criminal Code.

Count 8

Bobby Singh VIRK, between the 1st day of April, 2002 and the 28th day of December, 2003, at or near Victoria, or elsewhere in the Province of British Columbia, being an official of the Government of British Columbia, did commit fraud or a breach of trust in connection with the duties of his office in disclosing to interested third parties confidential government documents and confidential government information including Cabinet confidences pertaining to the sale by the Government of British Columbia of the Freight Division of BC Rail, contrary to Section 122 of the Criminal Code.

Handwritten signatures and initials, including the number 026.

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ROYAL CANADIAN MOUNTED POLICE

INFORMATION/DENONCIATION

Court Identifier: 1201 - P - R - A
 Court File Number: 129533
 Type Reference: D
 Info. Seq. Number: 1
 Agency File Number: 40:03-1072

DNA Primary: DNA Secondary:
 K File:
 SOR:

CANADA:
PROVINCE OF BRITISH COLUMBIA
PROVINCE DE LA COLOMBIE-BRITANNIQUE

"BY INDICTMENT"

Count 9

Udhe Singh (Dave) BASIS and Bobby Singh VIRK, between the 1st day of April, 2002 and the 28th day of December, 2003, at or near Victoria, or elsewhere in the Province of British Columbia, did by deceit, falsehood or other fraudulent means, defraud Canadian National Railway Company, Canadian Pacific Railway, CIBC World Markets Inc., and the Government of British Columbia, of an amount exceeding \$5,000.00, by recklessly putting at risk the bidding process for the Freight Division of BC Rail in disclosing to interested third parties confidential government documents and confidential government information including Cabinet confidences, contrary to Section 380 (1)(a) of the Criminal Code.

Count 10

Udhe Singh (Dave) BASIS and Bobby Singh VIRK, between the 1st day of January, 2003 and the 28th day of December, 2003, at or near Victoria, or elsewhere in the Province of British Columbia, did by deceit, falsehood or other fraudulent means, defraud (1) Macquarie North America Ltd. and OmniTRAX Inc., (2) a consortium which included Canadian National Railway Company, Canadian Pacific Railway and the Vancouver Port Authority, (3) TD Securities Inc., and (4) the Government of British Columbia, of an amount exceeding \$5,000.00, by recklessly putting at risk the bidding process for the Port Subdivision of BC Rail in disclosing to interested third parties confidential government documents and confidential government information including Cabinet confidences, contrary to Section 380 (1)(a) of the Criminal Code.

Count 11

Aneal BASI, between the 1st day of April, 2002 and the 31st day of January, 2004, at or near Victoria or elsewhere in the Province of British Columbia, did aid in the commission of an offence by laundering money accepted by Udhe Singh (Dave) BASI who, directly or indirectly, being an official, demanded, accepted or offered or agreed to accept for himself money as consideration for cooperation, assistance, exercise of influence or an act or omission in connection with matters of government business including a bid by OmniTRAX Inc., to obtain the operating rights of BC Rail from the Government of British Columbia, contrary to Section 121 (1)(a)(ii) of the Criminal Code.

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FORM 100-1 (REV. 03/04)

INFORMATION/DENONCIATION

Court Identifier: 1201 - P - R - A
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 Type Reference: D
 Info. Seq. Number: 1
 Agency File Number: 40:03-1072
 DNA Primary: DNA Secondary:
 K File:
 SOR:

CANADA:
PROVINCE OF BRITISH COLUMBIA
PROVINCE DE LA COLOMBIE-BRITANNIQUE

"BY INDICTMENT"

Count 12

Aneal BASI, between the 1st day of April, 2002 and the 31st day of January, 2004, at or near Victoria, or elsewhere in the Province of British Columbia, did aid in the commission of an offence by laundering money accepted by Udhe Singh (Dave) BASI who being an official of the Government of British Columbia, did commit fraud or a breach of trust in connection with the duties of his office, to wit: in disclosing to interested third parties confidential government documents pertaining to the sale by the Government of British Columbia of the Freight Division of BC Rail, contrary to Section 122 of the Criminal Code.

SWORN BEFORE ME / ASSERMENTE DEVANT MOI

ON / CE 21st DAY OF / JOUR DE
DECEMBER, 2004

AT / A Victoria,

BRITISH COLUMBIA / COLOMBIE-BRITANNIQUE

A JUSTICE OF THE PEACE IN AND FOR THE
PROVINCE OF BRITISH COLUMBIA
JUGE DE PAIX DANS ET POUR LA PROVINCE DE
LA COLOMBIE-BRITANNIQUE

(SIGNATURE OF INFORMANT)
(SIGNATURE DU DENONCIATEUR)

WARRANT TO ISSUE

PROCESS CONFIRMED / ACTE DE PROCEDURE
CONFIRME

A JUSTICE OF THE PEACE IN AND FOR THE
PROVINCE OF BRITISH COLUMBIA
JUGE DE PAIX DANS ET POUR LA PROVINCE DE
LA COLOMBIE-BRITANNIQUE

P. 29-30



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WITHOUT PREJUDICE

January 5, 2004

VIA COURIER

Bobby Virk
4304 Maltwood Lane
Victoria BC V8X 5G2

Dear Mr. Virk:

I have been requested by Martyn Brown, Chief of Staff, to confirm the position of Government with respect to your employment status.

You are presently suspended with pay from performance of your duties as Ministerial Assistant to the Minister of Transportation. This suspension is a result of recent events, including the execution of a search warrant against your office and the ongoing police investigation. These events, in Government's estimation, preclude you from effectively performing the duties of the position to which you have been appointed. As you are aware, as an Order in Council appointee, your status continues to be subject to change as required to meet the needs of Government.

In the event you require legal defence with respect to particular issues arising out of your government employment, there is no general policy that provides indemnity coverage to ministerial assistants. The Government is prepared to consider special indemnity coverage for any matters arising directly from the performance in good faith of your duties as an employee of the Government. The Government is not prepared to indemnify you against legal fees, disbursements or expenses incurred with respect to any other matter.

In considering coverage, the Government will likely require further information with respect to the matters arising directly from the performance in good faith of your duties. Further, any indemnity in that regard which may be extended to you must be in a form satisfactory to the Attorney General, and must, in particular, exclude any payment of legal fees, disbursements or expenses other than with respect to the particular matter that is the subject of the indemnity.

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BC PUBLIC SERVICE AGENCY



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Mr. Brown wishes you to know he regrets that it is not possible to communicate directly with you during the ongoing investigation. However, this decision is based on advice he has been given. He hopes this matter will be resolved quickly in the interest of all, and that you will find support and comfort from friends and family during this difficult time.

Yours truly,

ORIGINAL SIGNED BY

Philip Topalian
Labour Relations Consultant

bpc: Ron McEachern
Martyn Brown
Richard Butler

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