



IN THE SUPREME COURT OF BRITISH COLUMBIA

BETWEEN:

REGINA

Respondent

AND:

UDHE SINGH (DAVE), BASI, BOBBY SINGH VIRK, ANEAL BASI

Applicants

**IRREVOCABLE UNDERTAKING
(SOLICITOR-CLIENT PRIVILEGED DOCUMENTS)**

I _____ am counsel for _____ in R. v. Udhe Singh (Dave) Basi, Bobby Singh Virk and Aneal Basi, British Columbia Supreme Court File No. 23299, Vancouver Registry (the "Proceedings").

WHEREAS:

A. I, on behalf of my client, have sought access to and disclosure of documents seized from the Legislature, over which Her Majesty the Queen in right of the Province of British Columbia (the "Provincial Government") and the British Columbia Railway Company ("BCRC") have claimed solicitor-client privilege and confidentiality, some of which the court in the Proceedings has found to be "likely relevant" or of "significant relevance";

B. The documents referred to in Recital A are contained in the folder "George" on the hard drive ED Copy 2, provided to counsel for the Provincial Government by R.C.M.P. Corporal Clint Baker (the "Documents");

C. I and my client understand that the Provincial Government and BCRC have asserted and, despite any offer to disclose or disclosure of the Documents contemplated herein, continue to assert a claim for solicitor-client privilege and confidentiality with respect to the Documents;

D. The Provincial Government has offered to provide a copy of each of the Documents to me provided that I enter into this Irrevocable Undertaking to maintain confidentiality with respect to each of the Documents, subject to the terms and conditions hereof;

E. I am prepared to enter into this Irrevocable Undertaking in order that a copy of each of the Documents may be disclosed to me and may, subject to the terms and conditions hereof and of any order of the court in the Proceedings, potentially become available in defence of my client in the Proceedings, all in accordance with the law.

NOW THEREFORE, in consideration of the premises stated above, I irrevocably give the following **UNDERTAKINGS**:

- I will not disclose or permit the disclosure by any means of any of the Documents to anyone, or communicate about any of them or their contents to anyone, except for
 - (a) my client,
 - (b) the persons working with me in the Proceedings, including the Nominee, C. Louis Webster, or
 - (c) counsel for _____ and _____ but only after they have given irrevocable undertakings to the Provincial Government and BCRC to the same effect.
- I will use due diligence to ensure that my client and the persons working with me in the Proceedings do not disclose, permit the disclosure of or communicate about any of the Documents or their contents, except among themselves and to me.

THE TERMS AND CONDITIONS of the Undertakings are as follows:

- I may only be relieved from those undertakings with respect to a Document or Documents by bringing an application in the Proceedings for an order to that effect (the "Order").
- The sole ground for any such application will be that there is no other way, except through the Document or Documents, to establish my client's innocence or otherwise raise a reasonable doubt about the Crown's case against my client and that the Document or Documents meets the "innocence at stake" test in *R. v. McClure*, [2001] 1 S.C.R. 445 with respect to my client.
- Any such application will be made on five (5) clear days written notice to counsel for the Provincial Government and counsel for B.C. Railway Company, who may appear on the application, if so instructed, to make submissions as to procedures

or measures which should be included in the Order to maintain the confidentiality of the Document or Documents while enabling its or their use in the Proceedings.

I HAVE EXPLAINED these undertakings to my client and now give them with his express authority, intention and agreement that he and I be bound by them.

THIS IRREVOCABLE UNDERTAKING GIVEN THIS ____ DAY OF FEBRUARY, 2008.

(witness)

(counsel)