

**COMMISSION OF INQUIRY
INTO THE INVESTIGATION OF THE
BOMBING OF AIR INDIA
FLIGHT 182**

**NOTICE OF MOTION
OF B'NAI BRITH CANADA**

TAKE NOTICE THAT B'NAI BRITH CANADA will make a motion to the Commission of Inquiry into the Investigation of the Bombing of Air India Flight 182 (the "Inquiry") on July 18, 2006, at 10:00 a.m. or as soon thereafter as the motion can be heard, at Victoria Hall, Bytown Pavillion, 111 Sussex Drive, Ottawa, Ontario.

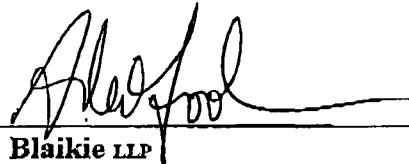
THE MOTION IS FOR an order granting B'nai Brith Canada standing as a party or, in the alternative, as intervenor for the entire mandate of the Inquiry.

THE GROUNDS FOR THE MOTION ARE that B'nai Brith Canada, as a representative organization of the Canadian Jewish community, which is a community affected by terrorism, is directly and substantially affected by the all aspects of the mandate of the Inquiry and represents clearly ascertainable interests and perspectives essential to all aspects of the Commissioner's mandate.

THE FOLLOWING DOCUMENTARY EVIDENCE accompanies this notice of the motion: Affidavit of Anita Bromberg and accompanying exhibits.

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July 7, 2006



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**COMMISSION OF INQUIRY
INTO THE INVESTIGATION OF THE
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FLIGHT 182**

**AFFIDAVIT OF ANITA BROMBERG
(sworn July 7, 2006)**

I, Anita Bromberg, of the City of Toronto, in the Province of Ontario, SWEAR THAT:

1. I am a solicitor called to the Bar of Ontario. I am in-house legal counsel for B'nai Brith Canada, where my responsibilities include (amongst other things) overseeing the organization's hate crimes prevention program, drafting the organization's annual audit of anti-Semitic incidents and drafting policy and legal submissions to government on issues of import to the Canadian Jewish community. As such, I have knowledge of the matters hereinafter described.

2. I swear this affidavit in support of a motion for standing for B'nai Brith Canada ("B'nai Brith") at the Commission of Inquiry into the Investigation of the Bombing of Air India Flight 182 and for no other improper purpose.

Status of B'nai Brith

3. B'nai Brith is a not-for-profit corporation incorporated pursuant to Part II of the *Canada Corporations Act*, R.S.C. 1970, c. C-32 (as amended).

4. B'nai Brith maintains a national head office located at 15 Hove Street, Toronto, Ontario, M3H 4Y8, a national government relations office in Ottawa and four regional offices located in Montreal, Mississauga, Winnipeg and Edmonton.

Annexed hereto and marked as Exhibit "A" to this my affidavit
is the list of B'nai Brith Canada offices and phone numbers
from the B'nai Brith Canada website

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Background of B'nai Brith

5. B'nai Brith Canada was founded in 1875 to provide services to Canada's Jewish community. Since its founding, B'nai Brith has grown to provide the following services (amongst others): social services, affordable housing, government relations and campus outreach.

Annexed hereto and marked as Exhibit "B" to this my affidavit is an excerpt from B'nai Brith Canada's website explaining services provided

6. Further, one of B'nai Brith's principal functions is advocacy on behalf of Canada's Jewish community on issues that affect it. B'nai Brith has intervened in litigation whose outcome impacts the Canadian Jewish community.

Annexed hereto and marked as Exhibit "C" to this my affidavit is an excerpt from B'nai Brith Canada's website explaining its advocacy constituent agencies

7. The Supreme Court of Canada granted B'nai Brith (either directly or through its constituent agency, the League for Human Rights of B'nai Brith Canada) intervenor status in the following cases (amongst others):

- (a) *R. v. Keegstra*, [1990] 3 S.C.R. 697
- (b) *Canada (Human Rights Commission) v. Taylor*, [1990] 3 S.C.R. 892
- (c) *Canadian Council of Churches v. Canada (Minister of Employment and Immigration)*, [1992] 1 S.C.R. 236
- (d) *R. v. Zundel*, [1992] 2 S.C.R. 731
- (e) *R. v. Finta*, [1994] 1 S.C.R. 701
- (f) *Ross v. New Brunswick School District No. 15*, [1996] 1 S.C.R. 825
- (g) *Syndicat Northcrest v. Amselem*, [2004] 2 S.C.R. 551

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(h) *Mugasera v. Canada (Minister of Citizenship and Immigration)*, [2005] 2 S.C.R. 91

(i) *R. v. Krymowski*, [2005] 1 S.C.R. 101.

8. I am further aware of B'nai Brith's intervention in other cases before the Federal Court of Appeal, the Canadian Human Rights Tribunal and provincial superior courts.

B'nai Brith Participation in Public Inquiries

9. In 1985, B'nai Brith was the first party granted standing at the Commission of Inquiry on War Criminals in Canada presided over by Mr. Justice Jules Deschênes, which examined the Canadian justice system's treatment of war criminals. In his decision regarding standing, Justice Deschênes stated, "the Commission is of the view that the Applicant has a special and direct interest in the object of this Inquiry."

10. In 1995, B'nai Brith was granted standing as a party at the Commission of Inquiry into the Deployment of Canadian Forces to Somalia presided over by Mr. Justice Gilles Létourneau which investigated the events surrounding the death of a Somali youth at the hands of members of the Canadian military in 1993 (the "Somalia Inquiry"). At the Somalia Inquiry, B'nai Brith made submissions and cross-examined witnesses regarding issues of cross-cultural sensitivities, training and screening of soldiers.

Terrorism and the Jewish Community

11. It is my belief that for decades, Jews in multiple countries have been targeted by international terrorism.

Annexed hereto and marked as Exhibit "D" to this my affidavit is the 2001 Chronology of Significant Terrorist Incidents, 2001 from the US State Department publication Patterns of Global Terrorism dated 2001

12. It is further my belief that the Canadian Jewish community and its institutions have been targets for incitement and terrorism. Additionally, I have been informed that

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the Canadian Jewish community has had to provide additional security for its schools, houses of worship and community buildings across the country as a direct result of bomb threats against its institutions.

13. I have knowledge of specific bomb threats made against B'nai Brith's offices.

B'nai Brith's Experience regarding Counter-Terrorism Law and Policy

14. Following the terrorist attacks of September 11, 2001, B'nai Brith has been involved in several initiatives regarding Canadian anti-terrorism law and policy. Amongst many other counter-terrorism-related initiatives, B'nai Brith called for stricter regulation of hate and terrorism-related material on the Internet in September of 2001. As well, in November of 2002, B'nai Brith brought an application in the Federal Court (Trial Division) to freeze the assets of Hezbollah. Soon after the commencement of this application, I have been informed that the Minister of Foreign Affairs announced that Hezbollah would be designated as a terrorist organization.

Annexed hereto and marked as Exhibit "E" to this my affidavit
are media clippings examining these matters

15. In September of 2005, B'nai Brith made oral and written submissions to the House of Commons Subcommittee on Public Safety and National Security and the Senate Special Committee on the Anti-Terrorism Act, which examined the *Anti-Terrorism Act*, S.C. 2001, c. 41. I helped to draft B'nai Brith's written submissions. In these submissions, B'nai Brith made a detailed list of recommendations to improve Canadian counter-terrorism law and policy, including (amongst other things) making terrorism-related criminal offences permanent, ensuring no ethnic community is discriminated against and changing the current definition of terrorism in the legislation.

Annexed hereto and marked as Exhibit "F" to this my affidavit
is B'nai Brith's written submissions to the Senate Special
Committee on the Anti-Terrorism Act dated September 2005

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B'nai Brith's View of the Air India Disaster


16. In the first page of its written submissions to the House of Commons and Senate committees, B'nai Brith noted that prior to September 11, 2001, "the most serious terrorist act anywhere in the world, the one with the largest number of deaths, was planned, organized and executed right here in Canada – the Air India disaster. There has never been a commission of inquiry into that disaster. We simply have not digested the lessons to be learned."

17. B'nai Brith views the establishment of this Honourable Commission of Inquiry as long overdue from the perspective of the families of the victims of the tragedy, law enforcement agencies and the Canadian public.

18. B'nai Brith has an interest in all seven issues before this Honourable Commission of Inquiry. Further B'nai Brith seeks full standing as party (or in the alternative, as intervenor) to participate in all seven issues.

19. It is my opinion that B'nai Brith, as a representative organization of the Canadian Jewish community, is directly and substantially affected by the mandate of this Honourable Commission of Inquiry. It is my further belief that B'nai Brith possesses clearly ascertainable interests and perspectives essential to the Commissioner's mandate. It is further my opinion that, as the leading advocacy institution of the Jewish community, B'nai Brith has a unique perspective on Canadian counter-terrorism law and policy in general and the events surrounding the Air India disaster specifically.

SWORN BEFORE ME at the Toronto,
Ontario on July 7, 2006.



Commissioner for taking affidavits
HARVEY BERKAL



Anita Bromberg