

FEDERAL COURT

B E T W E E N:

REBEL NEWS NETWORK LTD.

Applicant

-and-

**CANADA (LEADERS' DEBATES COMMISSION/COMMISSION DES DEBATS DES
CHEFS) and THE ATTORNEY GENERAL OF CANADA**

Respondents

AFFIDAVIT OF EZRA LEVANT

I, EZRA LEVANT, of the City of Toronto, in the Province of Ontario, **AFFIRM
AND SAY:**

1. I am the founder and principal of the Applicant, Rebel News Network Ltd. ("**Rebel News**"). As such, I have personal knowledge of the matters described in my affidavit. Where my information is based on information obtained from others, I have indicated the source of that information and believe it to be true.

BACKGROUND

2. The herein Application is for judicial review of the decision of the Leaders' Debates Commission (the "**Commission**"), refusing Rebel News the media representative accreditation ("**Accreditation**") required to cover the only official English Language Federal Leaders' Debate taking place on Monday, October 7, 2019, and the French Language Federal Leaders' Debate taking place on Thursday, October 10, 2019 (collectively, the "**Debates**").

The entirety of the denial of Accreditation was outlined in email correspondence sent from Mr. Collin Lafrance, the Chief of the Canadian Parliamentary Press Gallery (the “**Press Gallery**”), who did not form part of the Commission, to Rebel News at 9:08 a.m. EDT on Friday, October 4, 2019, stating as follows:

“Your request for media accreditation for the 2019 Federal Leaders’ Debates has been denied. It is our view that your organization is actively involved in advocacy.”

(the “**Decision**”).

Attached as **Exhibit “A”** to my affidavit is a copy of the Notice of Application dated October 5, 2019 in respect of this judicial review proceeding, together with the Court’s filing confirmations.

THE PARTIES

Rebel News

3. Rebel News is a federally incorporated company, carrying on business as a popular online news and media company operating across Canada. Rebel News’ editorialists and commentators often take strong editorial positions on important public issues affecting Canadians, and convey those positions through different media, including on websites (<http://www.RebelNews.com>), podcasts, YouTube videos and ads, print media, paperback books, e-books, radio ads, and billboards.

4. Rebel News strives for freedom of speech both for ourselves and for those with whom we disagree. We believe any and every idea ought to be open to criticism and debate.

5. Unlike many of our competitors, Rebel News does not take money from any government. We believe this is the only way to retain our freedom of expression and editorial independence. For this reason, Rebel News is one of the few Canadian media outlets having the power, freedom, and reach to challenge the views presented in the legacy Canadian media.

6. Rebel News has been granted media accreditation by governments around the world, including Alberta, the United Nations, the United States (both the White House and Congress), the United Kingdom, the European Union, Sweden, the Netherlands, Israel, Poland, and India. Rebel News has also been granted accreditation in partly-free countries such as Iraq and Morocco.

7. On September 16, 2019, Canada's Globe and Mail published my opinion piece titled "Press freedom applies to everyone — even The Rebel", wherein I detailed the Liberal Party of Canada's prior refusals to accredit me, other Rebel News reporters, and other right-leaning reporters. Attached and marked as **Exhibit "B"** is a copy of the my Globe and Mail opinion piece published September 16, 2019.

8. While quite stunning, the efforts by the Liberal Party of Canada to obstruct media outlets with differing views are nothing new. In fact, the Press Gallery — the reporters' guild that controls access to many media conferences — has banned Rebel News without notice, explanation, or any appeal. China's state broadcaster, Xinhua, is a member of the Press Gallery, but Rebel News is banned.

9. David Menzies ("**Mr. Menzies**") is a broadcaster, journalist, correspondent, and political commentator with Rebel News. Mr. Menzies has been covering Canadian public and political affairs for decades. Kean Bexte ("**Mr. Bexte**") is a reporter with Rebel News based

in Alberta.

The Commission

10. The Commission is a body created by an Order in Council (PC Number: 2018-1322) dated October 29, 2018 (the “**Order in Council**”). According to paragraph 1 of the Order in Council, the Commission consists of the Debates Commissioner, the Advisory Board and the Secretariat. According to paragraph 2 of the Order in Council, the mandate of the Commission is to:

- (a) Organize one leaders’ debate in each official language during each general election period;
- (b) Ensure that the leader of each political party meet two enumerated criteria listed in paragraph 2 to be invited to participate in the Debates;
- (c) Ensure that the Debates are broadcast and otherwise made available in an accessible way to persons with disabilities;
- (d) Ensure that the Debates reach as many Canadians as possible, including those living in remote areas and those living in official language minority communities through a variety of media and other fora;
- (e) Ensure that the Debates are broadcast free of charge, whether or not the broadcast is live;
- (f) Ensure that any reproduction of the Debates is subject to only the terms and conditions that are necessary to preserve the integrity of the debates;
- (g) Ensure that high journalistic standards are maintained for the Debates;
- (h) Undertake an awareness raising campaign and outreach activities to ensure that Canadians know when, where and how to access the Debates; and
- (i) Provide advice and support in respect of other political debates related to the general election, including candidates’ debates, as the Debates Commissioner considers appropriate.

Attached and marked as **Exhibit "C"** is a copy of the Order In Council dated October 29,

2018.

11. Significantly, the Order in Council provides at paragraph 4 that in fulfilling its mandate, the Commission is to be guided by the “pursuit of the public interest” and by the principles of independence, impartiality, credibility, democratic citizenship, civic education, inclusion and cost-effectiveness.” Critically, the Order in Council makes no mention at all of “advocacy” or involvement therein by media organizations or representatives, and certainly does not reference “advocacy” as a bar to media participation.

12. The Commission’s website contains a section titled “Why debates matter”, which states in part as follows:

Why debates matter

Debates play an essential role in Canada’s democracy. They give you a chance to see the character, temperament, and unscripted approaches of leaders seeking to be Canada’s Prime Minister.

Making an informed decision is part of a thriving democracy...

You’ll see leaders together in one place, live on stage, answering questions and challenging each other’s ideas and opinions. This will help you make your own decision about the issues that matter to you. It is also an opportunity to learn about issues that matter to other Canadians, and be exposed to views that are different from your own, and those around you. It’s a window into the world of others.

A debate is something we can participate in together. It would be easy to see the things that separate us as Canadians; we are spread apart across a huge land mass; we live in different places; we speak different languages, we come from different backgrounds and yes, we care about different things. But this is an opportunity for the country to come together: to watch or listen to the same thing, at the same time, to gain an understanding about the issues at hand, what they mean to people across the country.

[...]

Attached and marked as **Exhibit "D"** is a copy of the “Why debates matter” section of the

Commission's website, located online at <https://www.debates-debats.ca/en/why-debates-matter/>.

13. The Commission's website also contains a section titled "Transparency", which states, "In fulfilling its mandate, the Leaders' Debates Commission is to be guided by the pursuit of the public interest." Attached and marked as **Exhibit "E"** is a copy of the "Transparency" section of the Commission's website, located online at <https://www.debates-debats.ca/en/transparency/>.

14. According to the Commission's website: "In fulfilling its mandate, the Leaders' Debates Commission is to be guided by the pursuit of public interest" and a printout from the "Transparency" section of the Leaders' Debates Commission's Website.

THE DEBATES

15. The two Debates — one in English and one in French — are the only official election debates for the 2019 federal general election. The English Language Federal Leaders' Debate is taking place on Monday, October 7, 2019 at 7-9 p.m. ET at The Canadian Museum of History in Gatineau, Quebec, and the French Language Federal Leaders' Debate is taking place on Thursday, October 10, 2019 at 8-10 p.m. ET at the same location.

16. The Debates are critical during this election cycle because the Prime Minister of Canada, Right Honourable Justin Trudeau, has refused to participate in any other national election debates across Canada, deferring instead to the Commission's Debates as the only debate forum he sees fit to participate. This is understandable given the mounting scandals he has been confronting this election cycle, including the SNC-Lavalin Affair and the

Blackface/Brownface photo controversy. Accordingly, the Debates will be the singular forum whereby Canadians may consider the federal party leaders in a debate setting.

17. In May 2019, the Commission issued a request for proposal, seeking bidders to produce the Debates. The following nine media outlets formed the Canadian Debate Production Partnership (the “**CDPP**”), orchestrated a bid to produce the Debates, and won the contract to produce the Debates:

- (a) CTV News;
- (b) CBC News;
- (c) Radio-Canada;
- (d) Global News;
- (e) Toronto Star and Torstar chain;
- (f) HuffPost Canada and HuffPost Québec;
- (g) La Presse;
- (h) Le Devoir; and
- (i) L'Actualité.

(the “**Establishment Outlets**”)

18. In a press release dated July 31, 2019, the Commission announced the appointment of the CDPP as the official producer for the Debates, responsible for promoting, producing, and distributing the Debates (the “**Release**”). In the Release, the Commission states that the Debates will be, *inter alia*:

- Produced by a large partnership with strong values of public service journalists, integrity and production quality
- Widely distributed on television, radio, digital and social streaming platforms to

ensure access to a broad cross-section of Canadian across the country, on the platform of their choice

Attached and marked as **Exhibit "F"** is a copy of the Release.

19. The following federal party leaders were invited to the Debates:

- (a) **Yves-François Blanchet**, Bloc Québécois;
- (b) **Andrew Scheer**, Conservative Party of Canada;
- (c) **Elizabeth May**, Green Party of Canada;
- (d) **Justin Trudeau**, Liberal Party of Canada;
- (e) **Jagmeet Singh**, New Democratic Party; and
- (f) **Maxime Bernier**, People's Party of Canada.

20. The following moderators of the Debates were chosen by the CDPP from the Establishment Outlets:

English Debate

- (a) **Susan Delacourt**, Ottawa bureau chief, Toronto Star;
- (b) **Dawna Friesen**, national anchor, Global News;
- (c) **Althia Raj**, Ottawa bureau chief, HuffPost Canada;
- (d) **Lisa LaFlamme**, chief news anchor, CTV News; and
- (e) **Rosemary Barton**, chief correspondent of political coverage and live specials, CBC News.

French Debate

- (a) **Alec Castonguay**, head of politics bureau, L'actualité;
- (b) **Patricia Cloutier**, National Assembly reporter, Le Soleil;
- (c) **Hélène Buzzetti**, parliamentary correspondent, Le Devoir; and
- (d) **François Cardinal**, editor-in-chief, La Presse.

Attached and marked as **Exhibit "G"** is a copy of the "Moderators" section of the

Commission's website, located online at <https://www.debates-debats.ca/en/debates2019/>.

21. Most, if not all, of the Establishment Outlets (formally or informally) actively engage in advocacy on a regular mandate.

22. For example, The Toronto Star, expressly states that advocacy is a core pillar of its mandate, as follows:

The Toronto Star is a multi-platform news organization that makes things happen. **We inform, connect, investigate, report and effect change...**

...

We focus public attention on injustices of all kinds and on reforms designed to correct them. We are the news organization people turn to when they need help; when they want to see the scales balanced, wrongs righted; when they want powerful people held to account.

The Star has long been guided by the values of Joseph E. Atkinson, publisher from 1899 to 1948. Throughout his leadership Atkinson developed strong views on both the role of a large city newspaper and the editorial principles it should espouse. These values and beliefs now form what are called the Atkinson Principles, **the foundation of the Star's ongoing commitment to investigating and *advocating* for social and economic justice.**

The principles Atkinson espoused were founded on his belief that **a progressive news organization should contribute to the advancement of society through pursuit of social, economic and political reforms.** He was particularly concerned about injustice, be it social, economic, political, legal or racial.

...

Attached and marked as **Exhibit "H"** is a copy of the "About The Star" section of the Toronto Star's website, located online at <https://www.thestar.com/about/aboutus.html>.

23. HuffPost Canada expressly summarizes its mandate as "Informing, engaging and amplifying Canadians." Attached and marked as **Exhibit "I"** is a copy of HuffPost Canada's

“About HuffPost Canada” section of its Facebook page, located online at <https://www.facebook.com/HuffPostCanada/>.

24. While it does not appear that the Establishment Outlets have yet published their 2019 federal election endorsements, the legacy media members have historically done so each election cycle closer to election day. Attached and marked as **Exhibit "J"** are copies of the 2015 endorsements published by Torstar newspapers, La Presse, and Le Devoir — all members of the Establishment Outlets.

THE APPLICATION PROCESS AND THE DENIAL

25. On or about September 23, 2019, the Commission published a press release providing details of the Debates, including the parties that were invited to participate. The press release also provided instructions to media representatives who wished to cover the debates, noting that they must apply for accreditation using the Government of Canada accreditation portal. The press release noted that the portal was open, and would close on October 4, 2019 at 11:59pm EDT. The notice provided no information regarding the criteria that would be applied in granting parties Accreditation. Attached and marked as **Exhibit "K"** is a copy of the Commission’s September 23, 2019 press release.

26. Mr. Menzies and Mr. Bexte applied for Accreditation through the Government of Canada Accreditation portal. Attached and marked as **Exhibit "L"** is a copy of their respective applications through the portal.

27. At 9:08 a.m. on Friday, October 4, 2019, Rebel News received email correspondence from Mr. Collin Lafrance, the Chief of the Press Gallery, advising that its request for

Accreditation was denied.

28. The entirety of the Decision was conveyed to Rebel News as follows:

Hello,

Your request for media accreditation for the 2019 Federal Leaders' Debates has been denied. It is our view that your organization is actively involved in advocacy.

Regards.

Collin Lafrance

Chief | Chef

Press Gallery Secretariat

Secrétariat de la Tribune de la presse

T. 613-992-4511

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www.press-presse.ca

Attached and marked as **Exhibit "M"** is a copy of the email correspondence received by Mr. Meznies and Mr. Bexte on October 4, 2019 from Mr. Collin Lafrance, the Chief of the Press Gallery.

29. Mr. Collin Lafrance is the Chief of the Press Gallery and has no official relationship with the Commission. Attached and marked as **Exhibit "N"** is a copy of the Press Gallery's website noting the contact information and employment position of Mr. Collin Lafrance.

30. For reference, the following media outlets, *inter alia*, have been granted accreditation by the Press Gallery:

- (a) Xinhua News Agency, the Chinese Communist Party TV agency;
- (b) The People's Daily, a Chinese Communist Party newspaper;
- (c) Rabble.ca — a radical-left advocacy media outlet; and
- (d) National Observer — a left-wing advocacy outlet.

Attached and marked as **Exhibit "O"** is a copy of the Press Gallery's members section of its website located online at <https://www.press-presse.ca/en/press-gallery-members/organization>.

31. By waiting until the last business day before the English Language Debate, the Commission acted unfairly and in bad faith in conveying to the Applicant that its application for Accreditation was denied. Similarly, the Decision was made and/or conveyed by an individual who was not part of the Commission.

32. To date, the Commission has provided no further detail regarding what the criteria was for Accreditation of why the Applicant's application for Accreditation was denied.

33. On a separate matter, however, the Commission provided detailed, cogent reasoning for decision to invite Maxime Bernier to the Debates as leader of the People's Party of Canada. Attached and marked as **Exhibit "P"** is a copy of the Commission's Letter to the People's Party of Canada dated September 16, 2019.

THE RELIEF SOUGHT ON THE MOTION

34. I do verily believe that the evidence herein demonstrates a strong likelihood that the Applicant will be successful in this judicial review proceeding.

35. I do verily believe that the Applicant will suffer irreparable harm if it is not granted Accreditation to attend the Debates, which cannot be quantified in monetary terms or cured.

36. I swear this affidavit in support of the within motion seeking *inter alia*, the following urgent injunctive relief:

- (a) an interlocutory injunction for an Order granting the Applicant the Accreditation required to cover the Debates; and
- (b) in the alternative, an interlocutory injunction for an Order requiring the Commission to grant the Applicant Accreditation.

AFFIRMED BEFORE ME at
_____, on the day of
October, 2019.

Commissioner for Taking Affidavits

EZRA LEVANT

REBEL NEWS NETWORK LTD. - and-

**CANADA (LEADERS' DEBATES
COMMISSION/COMMISSION DES DEBATS DES
CHEFS) ET AL**

Applicant

Respondents

Court File No.:

FEDERAL COURT OF APPEAL

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