



Human Rights Tribunal of Ontario

Application to the Human Rights Tribunal of Ontario Area of Discrimination: Employment (Form 1-A)

Note: Complete this form if you believe you were discriminated against in the area of Employment. Attach this form to your Application.

Applicant's Name:	Dr. Frank Fowlie
Respondent(s) Name(s):	George Kirikos

PART I

Questions About the Respondent(s)

A1 Put an "X" in the box beside each point that describes the Respondent(s) in your case. Check all that apply.

- The Respondent is the employer at a place where I wanted to work
- The Respondent is my current employer
- The Respondent is my former employer
- The Respondent is an employment agency
- The Respondent is a union or employee association
- The Respondent is a supervisor, manager, or boss
- The Respondent is another employee
- Other - please describe the Respondent(s): a member of stakeholder groups served by the employer



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Question About the Job

Please answer these questions.

A2 What was the position or job where you felt there was discrimination?

Ombudsman

A3 What were the requirements (essential job duties) of the position?

Conflict Resolution, investigation, outreach, and online dispute resolution

A4 Was it a volunteer position?	<input type="radio"/> Yes	<input checked="" type="radio"/> No
A5 Were you employed in this position?	<input checked="" type="radio"/> Yes	<input type="radio"/> No (Go to A6)
a) If you answered "yes" to question A5, how long were you in the position? Please give the dates you started and finished.	From: Nov 2004	To: Feb 2011
b) If you answered "Yes" to question A5, what was the pay for the position?	\$204,000	<input type="checkbox"/> Hourly <input type="checkbox"/> Monthly <input type="checkbox"/> Weekly <input checked="" type="checkbox"/> Yearly
A6 Are you working now?	<input checked="" type="radio"/> Yes	<input type="radio"/> No (Go to A7)
c) If you answered "yes" to question A6, what is your current pay?	\$17,000	<input type="checkbox"/> Hourly <input checked="" type="checkbox"/> Monthly <input type="checkbox"/> Weekly <input type="checkbox"/> Yearly

Questions About Your Union

A7 Were you a member of a union or other occupational or professional association at the time of the alleged discrimination?



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Yes (Fill out details bellow) No (Go to A8)

If you answered "yes", the Tribunal will send them notice of this Application. If there is more than one union or occupational or professional association, attach a separate sheet of paper with the information. Number each page.

Full Name of Organization	6315941 Canada Limited, under contract to the INternet Corporation for Assigned Names and Numbers.
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Street #	Street Name	Apt/Suite
9140	McCutcheon Place	

City/Town	Province	Postal Code	Email
Richmond	BC	V7A 4Z2	frank@fowlie.ca

Daytime Phone	Cell Phone	Fax	TTY
74-644-3308	604-644-3308		

Name of Contact Person

First (or Given) Name	Last (or Family) Name
Dr. Frank	Fowlie

Daytime Phone	Cell Phone	TTY
604-644-3308	604-644-3308	

Questions About What Happened

Alleged Discrimination Before Hiring

A8 Put an "X" in the box beside each point that describes how you believe were discriminated against.

I experienced discrimination:

- In a job ad
- In an application form
- In a job interview
- In drug and alcohol testing before hiring
- In other kinds of pre-employment testing



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In a hiring decision

Other - please explain: _____



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Alleged Discrimination During Employment

A9 Put an "X" in the box beside each point that describes how believe you were discriminated against.

I experienced discrimination:

- In my rate of pay, overtime, hours of work, or holiday
- In being denied a promotion
- In scheduling
- In discipline (such suspensions or warning)
- In being fired
- In comments, displays, jokes, harassment, or a poisoned work environment
- In sexual harassment or solicitation or advances
- In being denied a workplace opportunity (such as training opportunity). Please describe:

- In being denied employment benefits, including time off for medical or other reasons. Please describe:

- In drug testing or alcohol testing
- In being denied necessary accommodation or modified work in the workplace
- Other - please explain: _____

Workplace Policies or Practices	
A10 Is your Application about a workplace policy? (for example, absenteeism accommodation or holiday policy)	<input type="radio"/> Yes <input checked="" type="radio"/> No (Go to Part II)
a) If you answered "Yes" to A10, what is the policy? (Attach a copy if available)	

Questions About Complaining to Your Employer



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Complete this section only if you complained to someone in authority about the alleged harassment or discrimination.

A11 To whom did you complain?

A12 Was there an investigation?

Yes

No (Go to Part II)

a) If you answered "Yes" to A12, what was the outcome of the investigation?

PART II

The following Part asks you to answer how you believe you were harassed or discriminated against based on grounds you identified. If you believe that you were discriminated against or harassed based on more than one ground, fill out all the sections that apply.

Questions About Employment Discrimination on the Grounds of Race, Colour, Ancestry, Place of Origin, Citizenship, or Ethnic Origin

Complete this section only if you believe that you have been discriminated against on one or more of these grounds: race, colour, ancestry, place of origin, citizenship, or ethnic origin.

A13 Explain why you believe you were discriminated against because of your race, colour, ancestry, place of origin, citizenship, or ethnic origin.

A14 Please describe how you identify yourself in terms of your race, colour, ancestry, place of origin, citizenship, and ethnic origin.

Questions About Employment Discrimination on the Ground of Disability or Perceived Disability

Complete this section only if you believe that you have been discriminated against on the ground of disability or perceived disability.

A15 Explain why you believe you were discriminated against based on your disability or a perceived disability.

My name is Dr. Frank Fowlie. I am the President of 6315941 Canada Limited, a privately held company based in Richmond, BC. My company has acted under a contract with the Internet Corporation for Assigned Names and Numbers (ICANN) since November 2004, up to and including January 31, 2011. I presently am engaged with ICANN to provide training and orientation to my replacement as Ombudsman, once that person or entity is hired by the agency.

ICANN is the international body which administers the domain name system which serves as the addressing backbone for the Internet. It is based on a multi-stakeholder model which comprises many pillars of participation; including national governments, educational institutions, internet registries and registrars, businesses, not for profit and non commercial internet users, and individual users of the internet. (Please see, for example: <http://www.icann.org/en/participate/what-icann-do.html>.)



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Mr. George Kirikos, the respondent, is a stakeholder in ICANN and over the years he has participated in a number of groups, such as the Business Constituency, and the General Assembly discussion group. During this period of time, Mr. Kirikos has been a regular critic of me, and my Office as the Ombudsman.

While Mr. Kirikos is not my direct employer, nor an agent of my employer, he is a member of the community of stakeholders which participates in the organization. Mr. Kirikos pays, either directly, or indirectly, fees on an annual basis to ICANN, and he participates in its community forums and discussion groups. It is analogous to a relationship between a person cutting the grass at a condominium complex and the owner of a condominium. While there is not a direct employment relationship, discrimination and harassment by the condo owner towards the grass cutter would still be in the employment context and illegal.

To point out Mr. Kirikos' role in ICANN, see, for example:

http://www.circleid.com/posts/how_is_icann_spending_your_money/. This website, along with <http://www.leap.com/> and <http://www.kirikos.com> link the Respondent to the twitter posts - "@GeorgeKirikos Toronto, Canada. President of Leap of Faith Financial Services Inc. (if it's important, email or phone me, don't tweet me) <http://www.leap.com/>".

On February 5, 2011, Mr. Kirikos apparently ran my name through the Canadian Legal Information Institute (CANLII) to find if there was any information about me, or any legal proceeding in which I may have been involved. The Federal Court of Canada database is not accessible through web browsers, and can only be accessed by a search through CANLII or the Federal Court webpages.

I was a plaintiff in a 1998 request for judicial review concerning funding to take an educational program. The funding was refused, and I applied for a judicial review. Paragraph 2 of the Reasons for Judgment indicated that I was suffering from Bi-Polar disorder; a disability, or perceived disability within the scope of the authority of the Tribunal as defined in Section 10:

Definitions re: Parts I and II

10. (1) In Part I and in this Part,

"disability" means,...

(d) a mental disorder,

The Ontario Human Rights Commission states the following about mental illness:

Mental disability

Although mental disability is a form of non-evident disability, it raises particular issues that merit independent consideration. Over the years, many employers have expressed the need for specific guidance on the issue of mental disability. Section 10 of the Code expressly includes mental disabilities. Persons with mental disabilities face a high degree of stigmatization and significant barriers to employment opportunities. Stigmatization can foster a climate that exacerbates stress, and may trigger or worsen the person's condition. It may also mean that someone who has a problem and needs help may not seek it, for fear of being labelled.

The Supreme Court of Canada has recognized the distinct disadvantage and negative stereotyping faced by persons with mental disabilities, and has held that discrimination against individuals with mental disabilities is unlawful. In *Gibbs v Battlefords*, the Court struck down an insurance plan for employees with disabilities that limited benefits for mental disabilities to a lower level than for physical disabilities. It is therefore the OHRC's position that such distinctions are prima facie discriminatory.

Mr. Kirikos has quoted the Reasons for judgment verbatim, and has made the following Tweets:

GeorgeKirikos George Kirikos

From <http://goo.gl/VtYfi> about Frank Fowlie (yes, of #ICANN) "a diagnosis in 1997 that he was suffering from severe Bi-Polar II Disorder"

5 Feb



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GeorgeKirikos George Kirikos
 Frank Fowlie v. Her Majesty The Queen <http://goo.gl/VtYfi> I found a copy on CanLII database, and it was definitely the #ICANN Fowlie.
 5 Feb

GeorgeKirikos George Kirikos
 Frank Fowlie v. Her Majesty The Queen <http://goo.gl/K1gIS> Is this the #ICANN Fowlie, or a different one? Wonder what got deleted in 2002?
 5 Feb

In each tweet Mr. Kirikos purposefully provided a reference to the complete decision, and also included a reference to my employment. There can be no doubt that while each of these is harassing in and of itself, that the post which "outs" me as a person having a disability is discriminatory, and is a violation of Section 5 (2) of the Ontario Human Rights Code:

Employment

5. (1) Every person has a right to equal treatment with respect to employment without discrimination because of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, sex, sexual orientation, age, record of offences, marital status, family status or disability. R.S.O. 1990, c. H.19, s. 5 (1); 1999, c. 6, s. 28 (5); 2001, c. 32, s. 27 (1); 2005, c. 5, s. 32 (5).

Harassment in employment

(2) Every person who is an employee has a right to freedom from harassment in the workplace by the employer or agent of the employer or by another employee because of race, ancestry, place of origin, colour, ethnic origin, citizenship, creed, age, record of offences, marital status, family status or disability. R.S.O. 1990, c. H.19, s. 5 (2); 1999, c. 6, s. 28 (6); 2001, c. 32, s. 27 (1); 2005, c. 5, s. 32 (6).

There can be no reasonable explanation for Mr. Kirikos making the offending tweet, other than to "out" me as a person with a disability; and by doing so to stigmatize, defame, belittle, tarnish my reputation, to impact my ability to fully participate in Canadian society, and finally to impugn my ability to find or continue employment or contractual opportunities; the whole of which is harassment due to a disability, which is therefore discrimination, and thus unlawful. Mr. Kirikos' actions are deliberate and mean-spirited.

This harassment and discrimination has had an impact upon me. I feel stigmatized and defamed by Mr. Kirikos. He has tarnished and put at risk my reputation as an internationally recognized expert on dispute resolution. Mr. Kirikos has put me at risk for finding continuing employment and contractual opportunities as I transition out of ICANN to private practice consulting.

A16 Do you have particular needs related to your disability?	<input type="radio"/> Yes	<input checked="" type="radio"/> No (Go to A19)
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a) If you answered "Yes" to A16, describe your particular needs.
NA

A17 Did you ask the Respondent(s) to meet your needs?	<input type="radio"/> Yes	<input checked="" type="radio"/> No (Go to A19)
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a) If you answered "Yes" to A17, describe what you asked the Respondent(s) to do. If you named more than one Respondent, please tell us who you spoke to.
NA



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A18 Did the Respondent(s) try to meet your needs?	<input type="radio"/> Yes <input type="radio"/> No (Go to A19) <input checked="" type="radio"/> Don't Know (Go to A19)
a) If you answered "Yes" to A18, describe what the Respondent(s) did to meet your needs. If you named more than one Respondent, please tell us what each did.	
b) If you answered "Yes" to A19, why do you believe the Respondent(s)' efforts to meet your needs were not enough?	
NA	

Questions About Employment Discrimination on the Ground of Disability or Perceived Disability

A19 Could you have performed the essential duties of the job if the Respondent(s) had taken steps to meet your needs?	<input checked="" type="radio"/> Yes <input type="radio"/> No
A20 If you had to be off work because of your disability, give the time periods you were off, up to the present.	From: To:
A21 Do you plan to submit medical reports or documents related to your particular needs at the hearing?	<input type="radio"/> Yes <input checked="" type="radio"/> No
a) If you answered "Yes" to A21, please list the medical reports or documents here. You do not need to send copies at this time.	

Questions About Discrimination on the Ground of Creed (Faith, Religion or System of Beliefs)

Complete this section only if you believe that you have been harassed or discriminated against on the ground of creed (faith, religion or system of beliefs).

A22 Explain why you believe you were discriminated against based on your creed.
A23 Please describe your creed.

Questions About Employment Discrimination on the Grounds of Sex, Pregnancy, or Gender Identity

Complete this section only if you believe that you have been discriminated against on the grounds of sex, pregnancy, or gender identity.

A24 Is your Application about discrimination on the ground of pregnancy?	<input type="radio"/> Yes <input checked="" type="radio"/> No
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A25 Explain why you believe you were discriminated against based on your sex, pregnancy, or gender identity.

A26 Please identify your sex or describe your gender identity.

Questions About Employment Discrimination on the Grounds of Sexual Solicitation, Sexual Advances or Reprisal for Refusing a Sexual Solicitation or Advance

Complete this section only if you believe that you have experienced sexual solicitation, sexual advances or reprisal for refusing a sexual solicitation or advance from someone who is in a position to grant or deny you a benefit, (such as a promotion).

A27 Tell us what happened.

A28 How was this person in a position to grant or deny a benefit?

Question About Employment Workplace Harassment Because of a Prohibited Ground of Discrimination, Including Workplace Sexual Harassment, and Poisoned Work Environment

Complete this section only if you believe that you have been discriminated against on the ground of workplace harassment, workplace sexual harassment, or poisoned work environment.

A29 Tell us what happened

Questions About Employment Discrimination on the Ground of Sexual Orientation

Complete this section only if you believe that you have been discriminated against on the ground of sexual orientation.

A30 Explain why you believe you were discriminated against based on your sexual orientation.

A31 Please describe your sexual orientation.

Questions About Employment Discrimination or Harassment on the Grounds of Family or Marital Status

Complete this section only if you believe that you have been discriminated against on the grounds of family or marital status.

32 Explain why you believe you were discriminated against based on your family or marital status.



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A33 Please describe your family or marital status.

Questions About Employment Discrimination on the Ground of Age

Complete this section only if you believe that you have been harassed or discriminated against on the ground age.

A34 Explain why you believe you were harassed or discriminated against based on your age.

A35 Please give your date of birth. (DD/MM/YYYY)

Questions About Employment Discrimination or Harassment on the Ground of Record of Offences

Complete this section only if you believe that you have been harassed or discriminated against on the ground of having a record of offences.

A36 Do you believe you were discriminated against because of your record of offences under a federal law (Criminal Code offence)?	<input type="radio"/> Yes <input checked="" type="radio"/> No (Go to A37)
a) If you answered "Yes" to A36, what was the federal offence?	
b) If you answered "Yes" to A36, have you received a pardon for the federal offence?	<input type="radio"/> Yes <input type="radio"/> No
c) If you answered "Yes" to A36, why do you believe you were harassed or discriminated against based on your record of a federal offence?	

A37 Do you believe you were harassed or discriminated against because of your record of offences under the provincial law (such as the Highway Traffic Act)?	<input type="radio"/> Yes <input type="radio"/> No
a) If you answered "Yes" to A37, what was the provincial offence?	
b) If you answered "Yes" to A37, why do you believe you were harassed or discriminated against based on your record of a provincial offence?	

Question About Employment Harassment or Discrimination on the Basis of Association

Complete this section only if you believe that you were discriminated against because the Respondent(s) associated you with a person who is a member of a group identified in the Code.



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A38 Please explain why you believe you were discriminated against on the basis of association.

Questions About Discrimination on the Ground of Reprisal

Complete this section only if you believe that the Respondent(s) have done something to punish you for exercising your rights under the Ontario Human Rights Code.

A39 Put an "X" in each box that applies to you:

- I claimed or enforced my rights under the Code (Go to A41)
- I refused to infringe on another person's rights under the Code (Go to A41)
- I started or took part in a human rights proceeding (Go to A40)

A40 If you marked that you started or took part in a human rights proceeding in A39, put an "X" in each box that applies to you and give any file number(s).

- The Ontario Human Rights Commission (OHRC) OHRC File #: _____
- The Human Rights Tribunal Of Ontario (HRTO) HRTO File #: _____
- Other Proceeding – specify: _____

A41 Please explain why you believe you were reprimed against.