File No.______
E-File Name: 2018-04-30WOP Appeal No. ______

IN THE PROVINCIAL COURT OF MANITOBA WINNIPEG, MANITOBA

IN THE MATTER OF

THE LAW ENFORCEMENT REVIEW ACT Complaint # 2017-68

AND IN THE MATTER OF

An Application Pursuant to s.13 of the *Law Enforcement Review Act* R.S.M. 1987, c. L75

BETWEEN

Complainant

DECISION (Excerpt) (Pages T1 - T3)

April 30, 2018 Winnipeg, Manitoba

Royal Reporting Services Ltd. 300 - 2010 - 11th Avenue Regina, Saskatchewan S4P 0J3

Phone: 306-352-3234 Fax: 306-757-7788

BAN ON PUBLICATION

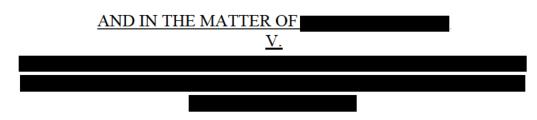
TABLE OF CONTENTS

Description		Page
April 30, 2018	Afternoon Session	T1
Decision		T1
Certificate of Transcript		Т3

1	Proceedings taken in the Provincial Court, Winnipeg, Manitoba		
2 3			
3 4	April 30, 2018	Afternoon Session	
5	April 30, 2018	Attenioon Session	
6	The Honourable Judge	The Provincial Court of Manitoba	
7	S. Lerner	210 2 20 (110 200 0 0 0 0 0 1 1 1 1 1 1 1 1 1 1 1	
8			
9	D. Johnston	For the LERA Commissioner	
10	P. McKenna	For the Respondents	
11	M. Lawson	Court Clerk	
12			
13	D 44		
14	Decision		
15 16	THE JUDGE:	It's clear to me that there was comething	
17	THE JUDGE: It's clear to me that there was somethin that you had and the police officers concede this what exactly it was is unclear		
18	that didn't make its way ultimately to the end of the line with you: the contents		
19	of that plastic bag. The contents seem to be		
20	or that plante oug. The contents seem to co		
21	MS. :	Because it's jewellery.	
22			
23	THE JUDGE:	Yeah, I understand.	
24			
25	MS. :	It's a viable commodity. Gold and silver,	
26	I mean, my God.		
27 28	THE HIDGE:	Lundarstand Lundarstand Put all of this	
29	THE JUDGE: I understand, I understand. But all of this was before the Commissioner, the Commissioner assessed it. He came to the		
30	conclusion that the fact that your property was I'll call it "lost" at some point,		
31	it seems to be clear that that was the case, whatever that property may have been		
32	was obviously a mistake. The question is, does that mistake does that we'll		
33	call it for the sake of discussion "carelessness" potentially on the part of someone,		
34	unknown who		
35			
36	MS.	Excuse me. This is happening time and	
37	time again.		
38	THE HIDGE.	Vool	
39 40	THE JUDGE:	Yeah.	
40	MS. :	It is not carelessness.	
41	MS:	it is not carciossicss.	

1 THE JUDGE: Okay. 3 4 It is calculated. MS. 6 THE JUDGE: Unfortunately, I have to just deal with 7 the facts before me. I don't know anything about the previous instances. I don't 8 know if the Commissioner did either. I just have to look at the decision of the 9 Commissioner and decide whether or not he conducted a reasonable assessment. whether or not it was a rational conclusion that he reached as a result of that 10 11 assessment. What I've said in terms of the difference between mistakes, and even carelessness, and a finding of abuse of authority stands. I conclude that this was a 12 decision that the Commissioner was able to reach in terms of whether or not what 13 happened here rose to the level of an abuse of authority. And as a result, I'm 14 obliged to dismiss the appeal of the Commissioner's decision in this case. There 15 will continue to be -- I'm not sure if there's been an order yet made with respect to 16 17 a ban on publication with the officers' names, but --18 19 MR. MCKENNA: I believe there was. 20 21 THE JUDGE: All right. Then I'll simply indicate that 2.2. for obvious reasons that will continue in place. 23 24 25 26 EXCERPT CONCLUDED

IN THE MATTER OF THE LAW ENFORCEMENT REVIEW ACT



I, KARI SHORT, Court Transcriber, HEREBY MAKE OATH AND SAY that the foregoing typewritten pages being numbered T One (T1) to T Two (T2), inclusive, contain a true and correct transcription of the recorded proceedings taken herein to the best of my knowledge, skill and ability.



COURT TRANSCRIBER