QueerOntario
VISIT queerontario.org
EMAIL info@queerontario.org
TWITTER @queerontario
FACEBOOK Queer Ontario
MAIL Box 822, Station A, Toronto, Ontario M5W 1G3

For Immediate Release Toronto, ON -- July 17, 2012

QUEER ONTARIO Responds to the Dispute Resolution Panel's Rationale for allowing QuAIA to march in the Toronto Pride Parade

On July 9, 2012, the Pride Toronto Dispute Resolution Panel, led by Robert G. Coates, issued the rationales behind their decision to allow Queers Against Israeli Apartheid (QuAIA) to march in the Toronto Pride Parade http://www.scribd.com/doc/99971360/Final-Decision-Pride-July-9-2012 While most of the ruling is reasonable and carefully thought out, there are still a number of issues with the ruling that we feel need to be highlighted below. Most notably: the conservative legal approach that was used to come to the decision.

1. THEIR RULING ON THE IMPARTIALITY OF RAJA KHOURI

DETAILS: When it came to the question of whether there was a 'reasonable apprehension of bias' on the part of panelist Raja Khouri (Point 3), the Panel ruled that "No specific evidence was proffered by either B'nai Brith, or QuAIA, to support such claims. Thus, in face of there being no evidence filed to support such an allegation, the Board rejected the claims as raised by both parties, and Mr. Coates and Mr. Green saw no other reason for Mr. Khouri to recuse himself." However, a simple Internet search reveals that Khouri has submitted a couple of opinion pieces to the *Globe and Mail*: one entitled "Shifting our Mideast policy makes us a loser," published on page A15 on January 14, 2005; and one entitled "Canada's Shameful Hypocrisy on Palestine," published on page A5 on Thursday, April 6, 2006.[1]

IMPLICATIONS: This shows that the presiding panelists, following strict legal procedures, will only consider the pre-collected evidence that is filed by the parties during the proceeding, without bothering to look into any of the issues or concerns that may arise *during* or *as a result of* the proceedings. This places parties at a particular disadvantage if they were unable to foresee an issue or concern when preparing their cases; or if they did not bring any physical evidence to support their otherwise legitimate concerns, be it because of an unfamiliarity with legal processes or otherwise.

2. MAKING THE COMPLAINANT RESPONSIBLE FOR PROVING THE ACTUALITY OF THEIR DISCRIMINATORY EXPERIENCE

DETAILS: When considering the lack of clarity surrounding the victims or forms of discrimination alleged by Anita Bromberg, the National Director of Legal Affairs for B'nai Brith Canada's Human Rights League, the Panel cited a decision by the Ontario Court of Appeal in *Ontario (Disability Support Program) v. Tranchemontagene* (Point 33), which ruled that "the onus of prov[ing]

[1] Those articles have been reposted by supporters here http://www.canpalnet-ottawa.org/shift3.html and here http://groups.yahoo.com/group/canpalnet_news/message/8777. The original texts have unfortunately expired and/or been removed from the *Globe and Mail* website.

QueerOntario
VISIT queerontario.org
EMAIL info@queerontario.org
TWITTER @queerontario
FACEBOOK Queer Ontario
MAIL Box 822, Station A, Toronto, Ontario M5W 1G3

discrimination on a balance of probabilities remains on the claimant throughout." This means that it is the responsibility of the complainant to prove that
(1) the alleged treatment "truly creates a disadvantage" for them; and (2) that the "protected ground or characteristic truly played a role in creating the "disadvantage."

IMPLICATIONS: While this rule may work for allegations like Bromberg's where legitimate political speech is being stifled by allegations of discrimination or hatred, it runs the risk of placing an actual victim of discrimination at a legal disadvantage – and may even re-victimize them – if they are required to re-create their experience of discrimination and, on top of that, unequivocally prove to the Panel that their instance of discrimination was real and disadvantageous to them.

THEREFORE…

1. Given the fact that it is becoming increasingly clear that parties will have to commission the assistance of a competent lawyer if they want to present a strong case that will "win" them their right to participate in a Pride parade or march – time and costs that most marginalized and community-based groups do not have; and

2. Given the fact that it is unfair for any community group to be forced to undergo such a process in order to justify their right to partake in the Pride Festival – something that rhw Pride Toronto should *already* know given its mandate to 'celebrate' Toronto's LGBTQ communities; and

3. Given the fact that QuAIA or any other group can *still* be dragged through this process again, despite this positive ruling, as outlined by Pride Toronto Executive Director Kevin Beaulieu in an interview with Xtra! http://www.youtube.com/watch?v=TgVawTWIJmw; and

4. Given the efficacy of a socially-conscious and anti-oppressive approach that *thoroughly* understands the social and political issues in question, and the ways in which legal structures and procedures can disadvantage and further marginalize already-marginalized individuals.

WE…

1. Reiterate our call for the Dissolution of the Dispute Resolution Process, available here: http://www.scribd.com/doc/98260181/QueerOntario-CalltoAction-DisputeResolutionProcess

2. Call on the Pride Toronto Board to make a concerted effort to work directly with community groups to resolve any controversies; and

3. Call on the Pride Toronto Board to begin a public education process to inform funders and festival-goers about our communities' complex politics and how they contribute to our rich diversity – in the name of freedom of speech, freedom of expression, and freedom of assembly.

We urge you to ask Pride Toronto to do the same. You can contact the Pride Toronto Co-Chairs at francisco.alvarez@pridetoronto.com and luka.amona@pridetoronto.com