



Office of the
Conflict of Interest and
Ethics Commissioner

Commissariat aux
conflits d'intérêts et
à l'éthique

Bloom Report

2025

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**Hon. Konrad von Finckenstein,
C.M., K.C.**

Conflict of Interest and
Ethics Commissioner

Bloom Report

made under the *CONFLICT OF INTEREST ACT*

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PREFACE

This report is submitted pursuant to the *Conflict of Interest Act* (Act) S.C. 2006, c.9, s.2.

The Conflict of Interest and Ethics Commissioner may conduct an examination under the Act at the request of a member of the Senate or House of Commons or, as is the case with this examination, on his own initiative.

When an examination is conducted on the Commissioner's own initiative, unless the examination is discontinued, the Commissioner is required to provide a report to the Prime Minister setting out the relevant facts of the case as well as the Commissioner's analysis and conclusions in relation to the examination. At the same time that the report is provided to the Prime Minister, a copy of the report is also provided to the public office holder or former public office holder who is the subject of the report, and the report is made available to the public.

01 Executive Summary

02 Concerns and Process

03 Facts

07 Issue

08 Mr. Bloom's Position

10 Analysis and Conclusion

EXECUTIVE SUMMARY

This report presents the findings of an examination under the *Conflict of Interest Act* of the conduct of Mr. Glen Bloom, a former member of the Canadian Cultural Property Export Review Board (Review Board).

I had to determine if he contravened the Act's post-employment rules by "switching sides" when he represented an art auction house in a 2024 Review Board proceeding after he had previously participated as a member of the Review Board in a 2022 decision relating to the same art auction house and work of art.

The examination focused on subsection 34(1) of the Act. It prohibits former public office holders from acting for or on behalf of a person or organization in connection with any specific proceeding, transaction, negotiation or case to which the Crown is a party and if they previously had acted for, or provided advice to, the Crown.

In 2022, Heffel Gallery Limited (Heffel Gallery) sold a work of art to an overseas buyer and applied to the Canada Border Services Agency for a cultural property export permit. When the permit was refused, the art auction house filed a Request for Review to the Review Board but missed the filing deadline.

The Review Board allowed Heffel Gallery to make submissions on the Review Board's authority to extend the deadline. Mr. Bloom was part of a panel that concluded the Review Board did not have the authority to do so. As a result, the Review Board did not conduct the requested review.

In 2024, Heffel Gallery applied for a cultural property export permit and was again refused. It requested to the Review Board, within the deadline, a review of the new refusal. Mr. Bloom, who was no longer a member of the Review Board, represented Heffel Gallery in its Request for Review.

These two Review Board proceedings dealt with separate reviewable decisions, even though they involved the same art auction house and the same work of art.

As a result, I found that Mr. Bloom did not "switch sides" when he represented Heffel Gallery in the 2024 proceeding before the Review Board and, therefore, did not contravene subsection 34(1) of the Act.

CONCERNS AND PROCESS

[1] On September 13, 2024, the Office received a letter from a member of the public which outlined concerns with respect to the post-employment conduct of Mr. Glen Bloom, former member of the Canadian Cultural Property Export Review Board (Review Board).

[2] As a Governor-in-Council appointee from February 2013 until March 3, 2023, Mr. Bloom was a public office holder subject to the substantive sections of the *Conflict of Interest Act* (Act). As a former public office holder, he is subject to the post-employment rules set out in sections 33 and 34 of the Act.

[3] The member of the public wrote that in July 2024, they were informed by Heffel Gallery Limited (Heffel Gallery), an art auction house, that Mr. Bloom would be acting as its representative in an upcoming review requested by the art auction house relating to a refused cultural property export permit application for an object that was the subject of a Review Board decision in 2022. According to the complainant, Mr. Bloom had direct involvement as a panel member in that 2022 request submitted by Heffel Gallery.

[4] Based on the information provided in the letter, there was reason to believe that Mr. Bloom may have contravened a post-employment rule, namely subsection 34(1) of the Act, by “switching sides.” This rule prohibits former public office holders from acting for or on behalf of a person or organization in connection with any specific proceeding, transaction, negotiation, or case to which the Crown is a party and if they previously had acted for, or provided advice to, the Crown.

[5] In a letter dated October 1, 2024, Mr. Bloom was informed that, pursuant to subsection 45(1) of the Act, an examination was initiated into his conduct.

[6] Mr. Bloom submitted a detailed response and supporting documents on October 15, 2024, and was interviewed on November 29, 2024. No other witness was interviewed other than Mr. Bloom.

[7] In keeping with the Office’s practice, Mr. Bloom was provided with a copy of the relevant documentary evidence, and an opportunity to comment on a draft copy of the factual portions of the examination report (Concerns and Process, Facts, Issue, and Mr. Bloom’s Position) before the report was finalized.

FACTS

Background

The Canadian Cultural Property Export Review Board

[8] The Canadian Cultural Property Export Review Board (Review Board) is an independent quasi-judicial administrative tribunal established under the *Cultural Property Export and Import Act*. Pursuant to that Act, the Review Board reviews applications for export permits that are refused, makes determinations respecting fair cash offers to purchase, and certifies cultural property for income tax purposes. It is the first function, the review of refused applications for export permits, that is relevant to this examination.

[9] The *Cultural Property Export and Import Act* establishes a *Canadian Cultural Property Export Control List* (Control List), which identifies objects or classes of objects that require export permits. These controls are aimed at preserving Canadian cultural property that is of outstanding significance and of national importance.

[10] Specific elements of the *Cultural Property Export and Import Act* are administered or enforced by the Canada Border Services Agency, which has the specific responsibility to issue cultural property export permits. The Review Board serves as a mechanism for individuals seeking a review of their application for a cultural property export permit when that permit has been refused by the Canada Border Services Agency.

[11] Members of the Review Board are appointed by the Governor in Council on the recommendation of the Minister of Canadian Heritage.

[12] Mr. Glen Bloom's appointment as a member of the Review Board ended in March 2023, at which time he became a former public office holder subject to section 34 of the *Conflict of Interest Act's* post-employment rules.

Request for Review of an application for a cultural property export permit that has been refused

[13] When a cultural property export permit is refused, the applicant for the permit receives a Notice of Refusal from the Canada Border Services Agency.¹ The applicant may, within 30 days after the date on which the Notice of Refusal was sent, make a Request for Review of the application for the cultural property export permit to the Review Board. The applicant must then file a written statement and may request an oral hearing before the Review Board.

¹ [Canada Border Services Agency cultural property export permits](#)

[14] After receiving a Request for Review, members of the Review Board conduct a proceeding to determine whether an object is included in the Control List, is of outstanding significance, and is of national importance. If the Review Board determines that the object does not meet any one of these criteria, it will direct the Canada Border Services Agency to promptly issue an export permit for the object. However, if the Review Board determines that the object meets all three criteria, it will then form an opinion as to whether an institution or public authority in Canada might make a fair cash offer to purchase the object within six months after the date of its decision in the proceeding.

[15] If the Review Board determines a fair cash offer is possible, it will establish an export delay of between two and six months, during which time the object may not be exported from Canada in order to provide designated organizations with an opportunity to acquire the object.

[16] If the applicant does not make a Request for Review within the statutory time to do so, no cultural property export permit can be issued for the object for a period of two years from the date when the Notice of Refusal was sent. After two years, a new application for a cultural property export permit may be submitted to the Canada Border Services Agency.

Heffel Gallery Limited's 2022 Request for Review

[17] On April 28, 2022, after selling a woodcut print to an individual living outside of Canada, Heffel Gallery Limited (Heffel Gallery) applied for a cultural property export permit from the Canada Border Services Agency.

[18] On May 13, 2022, the Canada Border Services Agency sent Heffel Gallery a written Notice of Refusal. The refusal was based on the advice of an expert examiner who determined that the woodcut print was on the Control List.

[19] On June 14, 2022, one day after the 30-day deadline set out in the *Cultural Property Export and Import Act*, Heffel Gallery filed a Request for Review with the Review Board. Legal counsel for the art auction house acknowledged that the Request for Review had been filed one day late and requested that the Review Board either extend the filing deadline or provide the opportunity to make submissions concerning the Review Board's authority to extend time. The Secretariat to the Review Board asked the applicant to make submissions on the authority to extend time, which it did on June 30, 2022.

[20] On July 20, 2022, the Review Board provided a decision,² which concluded that it did not have the authority to extend the 30-day deadline for the initiation of a Request for Review. According to the written decision, the Review Board determined that there was, therefore, no need to consider the other issues, namely whether the Review Board should exercise such a discretion in that case and the merits of Heffel Gallery's Request for Review.

[21] Mr. Bloom was one of seven panel members who participated in the Review Board's deliberations relating to the request for an extension of time. He testified that he recalled participating in deliberations on this decision. To his recollection, there was no oral hearing and the applicant had not made written submissions concerning the merits of their application for a cultural property export permit, but rather on the issue of the extension of time. He explained that decisions such as this are reached by the panel members on consensus.

[22] Since it had filed its application past the deadline, Heffel Gallery waited two years from the date of the refusal to apply again to the Canada Border Services Agency for a cultural property export permit, as required by the *Cultural Property Export and Import Act*.

Mr. Bloom is hired by Heffel Gallery during his post-employment

[23] Mr. Bloom testified that in the late fall of 2023, during his post-employment, he spoke with a representative of Heffel Gallery at a reception he attended, at which time Mr. Bloom informed the representative that he was no longer a member of the Review Board.

[24] In a January 3, 2024 email to Mr. Bloom, the representative of Heffel Gallery asked Mr. Bloom whether he would be available to assist the art auction house with cultural property export permit applications and with subsequent Requests for Review to the Review Board.

[25] On January 11, 2024, Mr. Bloom emailed this Office seeking advice regarding his post-employment obligations. He wrote that he was considering taking on work that would involve him making representations to the Review Board on behalf of a client.

[26] On the same day, the Office replied to Mr. Bloom indicating that as a former public office holder, the *Conflict of Interest Act* (Act) did not prevent him from making representations to the Review Board. However, he was advised that he must observe three lifetime prohibitions that apply to former public office holders: section 33, which prohibits him from taking improper advantage of a previous public office; subsection 34(2), which prohibits him from providing advice based on information obtained while in office that is not available to the public; and subsection 34(1), which prohibits him from "switching sides" by acting for or on behalf of any person or organization in relation to a specific proceeding, transaction, negotiation, or case in which the Crown is a party and in which he had previously acted for, or provided advice to, the Crown.

² [July 2022 Review Board Decision: Request for Review](#)

[27] Mr. Bloom testified that he understood from the advice provided that he would be able to advise Heffel Gallery as he was of the view that the prohibitions cited in the email did not apply to his situation.

[28] According to documentary and testimonial evidence, shortly afterwards, Mr. Bloom accepted the offer to assist Heffel Gallery. According to Mr. Bloom, during a January 17, 2024 telephone call with a representative of Heffel Gallery, the representative mentioned that the end of the statutory two-year waiting period relating to the woodcut print was set to expire, and that the art auction house would be applying for a new cultural property export permit from the Canada Border Services Agency.

Heffel Gallery's 2024 Request for Review regarding the woodcut print

[29] After the statutory two-year waiting period ended on June 3, 2024, Heffel Gallery applied to the Canada Border Services Agency for a cultural property export permit for the same woodcut print as in 2022. Mr. Bloom testified that he assisted Heffel Gallery with the drafting of the application.

[30] On June 24, 2024, the art auction house received a written Notice of Refusal from the Canada Border Services Agency with respect to the woodcut print.

[31] According to documentary evidence, on July 15, 2024, Heffel Gallery submitted to the Review Board a Request for Review of the application for a cultural property export permit that was refused on June 24, 2024. At the same time, the Heffel Gallery also informed the Review Board that Mr. Bloom would be representing the art auction house.

[32] In August 2024, on behalf of Heffel Gallery, Mr. Bloom provided written submissions to the Review Board, which included images, a condition report, a written statement, and two expert reports. In an October 30, 2024 hearing before the Review Board, Mr. Bloom also provided oral submissions.

[33] On November 14, 2024, the Review Board³ rendered its decision stating that it had established a delay period of six months during which time it would not direct that a cultural property export permit be issued in respect of the woodcut print.

³ [November 2024 Review Board Decision: Request for Review](#)

ISSUE

The issue to be addressed is as follows:

[34] Did Mr. Glen Bloom “switch sides” thereby contravening subsection 34(1) of the *Conflict of Interest Act* by representing Heffel Gallery Limited before the Canadian Cultural Property Export Review Board on a 2024 Request for Review of an application for a cultural property export permit that was refused given he had previously participated, as a member of the Review Board, in a 2022 decision relating to the same object for export and applicant?

MR. BLOOM'S POSITION

[35] In his written submission of October 15, 2024, Mr. Bloom stated that he did not contravene the *Conflict of Interest Act* (Act) and specifically did not contravene subsection 34(1) of the Act.

[36] He agreed that he is a former public office holder and that he was acting for or on behalf of the applicant, Heffel Gallery Limited (Heffel Gallery), in respect of a 2024 Request for Review before the Canadian Cultural Property Export Review Board (Review Board), which he agreed is a proceeding within the meaning of subsection 34(1).

[37] However, Mr. Bloom's position is that there are two additional conditions under subsection 34(1) of the Act that must be met to find a contravention. In his submission, he wrote that neither of those conditions were present.

[38] The first condition is that the Crown must be a party to the Request for Review proceeding. It is his position that the only party in the 2024 Request for Review was Heffel Gallery. Mr. Bloom wrote that the Crown is not named as a party and had no role in the proceeding. The Review Board was the decision maker and not a party to the proceeding. In support of this position, he relied on *The Toews Report*⁴ dated April 2017, in which the Office considered whether the former Minister had contravened subsection 34(1) of the Act by "switching sides" in a legal proceeding involving the Crown as a party before the Federal Courts. Mr. Bloom submitted that as there was only one party in the Request for Review proceeding, there was no opportunity to switch sides.

[39] He submitted that the second condition that must be met to find a contravention of subsection 34(1) is that the 2024 proceeding on which he was acting for or on behalf of Heffel Gallery must be the same specific proceeding in which he was involved as a public office holder in 2022.

[40] According to Mr. Bloom, he did not act for or provide advice to the Crown in the 2024 Request for Review of the application for a cultural property export permit that was refused. His position is that while the 2024 Request for Review may have dealt with the same applicant and object for export as the 2022 Request for Review, it was a different proceeding.

⁴ [The Toews Report](#)

[41] In support of this latter position, Mr. Bloom submitted that the 2024 Request for Review was based on new developments that did not exist in 2022. To show that the Review Board relied on new developments for its 2024 decision, Mr. Bloom directed the Office's attention to paragraph 96 of the Review Board's published 2024 decision stating that there was now much more information on the rarity, quality, and value of the woodcut print. According to Mr. Bloom, the Review Board would not have had, in 2022, this information to consider had the Request for Review been submitted in time.

ANALYSIS AND CONCLUSION

Analysis

[42] The *Conflict of Interest Act* (Act) has post-employment rules for all former public office holders. Among these is subsection 34(1), a lifetime prohibition against switching sides, which reads as follows:

34. (1) No former public office holder shall act for or on behalf of any person or organization in connection with any specific proceeding, transaction, negotiation or case to which the Crown is a party and with respect to which the former public office holder had acted for, or provided advice to, the Crown.

[43] I must determine whether Mr. Glen Bloom contravened subsection 34(1) of the Act when he represented Heffel Gallery Limited (Heffel Gallery) before the Canadian Cultural Property Export Review Board (Review Board) on its 2024 Request for Review of a 2024 decision by the Canada Border Services Agency that refused an application for a cultural property export permit for a woodcut print Heffel Gallery had sold to an overseas buyer in 2022.

[44] In 2022, Mr. Bloom, while a public office holder, participated as a panel member in the Review Board's decision concerning Heffel Gallery's request for an extension to file a late Request for Review application concerning a 2022 decision by the Canada Border Services Agency refusing an export permit for the same woodcut print.

[45] Mr. Bloom acknowledged the fact that, while a public office holder, he participated as a panel member in the 2022 Review Board decision concerning the extension of time. He also acknowledged that during his post-employment he was hired by Heffel Gallery to represent it in the 2024 Request for Review and did so. Finally, he agreed with the Office that the Request for Review is properly characterized as a proceeding within the meaning of subsection 34(1).

[46] Mr. Bloom's position is that he did not contravene subsection 34(1) of the Act because two essential elements necessary to find a contravention of that provision were absent:

- 1) the Review Board itself was not a party to the proceeding but rather the decision maker (he submitted that the only party was Heffel Gallery); and
- 2) the 2024 Request for Review application he worked on was not connected with the specific proceeding that seized the Review Board when he sat as a panel member in 2022.

[47] Regarding the first point, Mr. Bloom submitted that the Review Board was not a party to the proceeding since it is a decision maker and not a litigant. In support of his position, he cited the 2017 *Toews Report* issued by the Office. That report also dealt with subsection 34(1) of the Act and the facts concerned the Crown as a named party in a court proceeding.

[48] To address Mr. Bloom's submission on this point, I must first determine the meaning of the term "Crown" for the purposes of subsection 34(1) of the Act, including who may be considered to be acting for or providing advice to the Crown, as described in that provision.

[49] In its ordinary sense, I interpret the Crown as referring to the Executive Branch of government. This interpretation aligns with the case law which recognizes that the Crown can rely on public sector entities, such as administrative tribunals like the Review Board, as vehicles through which it may act and exercise its authority.⁵ Consequently, the Crown would include the Review Board whose appointed decision makers are "acting for" the Crown.

[50] The second question to address on this point is whether the Review Board is a "party" to the proceeding. Mr. Bloom's position is that a party must be adversarial and not the decision maker. I cannot accept this position. Reading subsection 34(1) in its entire context, in its grammatical and ordinary sense, harmoniously with the scheme of the Act, the object of the Act, and the intention of Parliament, I am of the view that the definition of "party" must include anyone who takes part in a proceeding, transaction, negotiation or case.

[51] Subsection 34(1) of the Act applies to all former public office holders, including former reporting public office holders. As set out in the Office's annual reports, the majority of these positions are held, either full-time or part-time, by individuals appointed by the Governor in Council who sit as decision makers on administrative boards, commissions or tribunals. Decisions of administrative bodies are generally not final, as they may be subject to either statutory appeal or judicial review. In my view, it would not have been the intent of Parliament to exclude former public office holders and former reporting public office holders who held important decision-making roles from the application of subsection 34(1) on the basis that they were decision makers, and as such, did not act for or provide advice to the Crown in a proceeding, transaction, negotiation or case.

[52] Such an interpretation, one that would allow a former tribunal member to represent a client on a judicial review or appeal of their own decision, would be contrary to the public interest and the integrity of those administrative regimes. Consequently, the term "party" must be interpreted in its broader sense to also include those who act for or advise the Crown as decision makers by taking part in or working on the proceeding, transaction, negotiation or case.

⁵ *Clyde River (Hamlet) v. Petroleum Geo-Services Inc.*, [2017] [1 SCR 1069](#).

[53] As for *The Toews Report*, the fact that the analysis of subsection 34(1) of the Act was concerned with the Crown as an adversarial party in that matter was merely due to the relevant facts of that particular case. In no way do I read that report as limiting the scope of subsection 34(1) of the Act.

[54] Having determined that the Crown, namely the Review Board, was a party to the proceedings in 2022 and in 2024 and that Mr. Bloom, as a public office holder and decision maker, acted for the Crown in 2022, I must now address Mr. Bloom's second point as to whether these were indeed distinct and separate proceedings so as not to engage subsection 34(1) of the Act.

[55] While the facts show that the 2022 and 2024 applications to the Canada Border Services Agency for export permits concerned the same applicant, Heffel Gallery, and the same object, the woodcut print sold to an overseas buyer in 2022, I accept Mr. Bloom's position that the proceedings in 2022 and 2024 must be considered as two distinct proceedings. For this reason, the prohibition in subsection 34(1) was not engaged.

[56] The 2022 proceeding was not the same specific proceeding for which he represented Heffel Gallery before the Review Board in 2024. On each occasion, Heffel Gallery had applied for an export permit, had been refused by the Canada Border Services Agency, and had applied to the Review Board to review the separate refusals.

[57] The proceedings also dealt with separate issues. The 2022 proceeding did not concern itself with the merits of the refusal for a cultural property export permit because the application had been filed past the deadline. Rather, it concerned only the issue of the Review Board's authority to extend the statutory time for filing applications. Mr. Bloom's sworn evidence on this point was that in 2022, the Review Board did not receive any submissions on the merits of the refused export permit but rather on the issue of an extension of time. It is noted that the 2022 decision itself, published on the Review Board's website, did not address the merits of the application. In 2022, the Review Board found that it did not have the authority to extend the time to file a Request for Review.

[58] Following the end of the statutory two-year period, Heffel Gallery applied in June 2024 to the Canada Border Services Agency for another export permit which was again refused. The proceeding before the Review Board in 2024 was only concerned with the merits of the 2024 refusal of the application for a cultural property export permit.

Conclusion

[59] For the reason outlined above, namely that there were two distinct proceedings relating to two reviewable decisions by the Canada Border Services Agency, I find that Mr. Bloom did not “switch sides” and, therefore, did not contravene subsection 34(1) of the Act when he represented Heffel Gallery in the 2024 proceeding before the Review Board.



The Honourable Konrad von Finckenstein, C.M., K.C.
Conflict of Interest and Ethics Commissioner

January 15, 2025