



Office of the  
Conflict of Interest and  
Ethics Commissioner

Commissariat aux  
conflits d'intérêts et  
à l'éthique

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**Report on alleged  
wrongdoing by a  
Deputy Minister:**  
Referral from the Public  
Sector Integrity Commissioner

**2020**

September 2020



**Mario Dion**

Conflict of Interest and  
Ethics Commissioner

**Report on alleged wrongdoing by a Deputy Minister: Referral from the Public Sector Integrity Commissioner**  
made under the *CONFLICT OF INTEREST ACT*

For additional copies of this document, please contact:

Office of the Conflict of Interest and Ethics Commissioner  
Parliament of Canada  
66 Slater Street, 22<sup>nd</sup> Floor  
Ottawa, Ontario K1A 0A6

Telephone: 613-995-0721

Fax: 613-995-7308

Email: [info@cie.parl.gc.ca](mailto:info@cie.parl.gc.ca)

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# PREFACE

The *Conflict of Interest Act*, S.C. 2006, c.9, s. 2 (Act) came into force on July 9, 2007.

Pursuant to section 68 of the Act, if a matter is referred to the Conflict of Interest and Ethics Commissioner by the Public Sector Integrity Commissioner under subsection 24(2.1) of the *Public Servants Disclosure Protection Act*, the Conflict of Interest and Ethics Commissioner must provide a report to the Prime Minister setting out the facts in question as well as the Commissioner's analysis and conclusions in relation to the referral. A copy is provided to the public office holder or former public office holder who is the subject of the report and to the Public Sector Integrity Commissioner. The report is also made public.

**01 Referral**

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**02 Process**

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**03 Facts and Analysis**

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# REFERRAL

[1] Pursuant to the *Public Servants Disclosure Protection Act*, the Public Sector Integrity Commissioner is mandated to review and report on disclosures of wrongdoing by public servants. However, where the subject matter of any disclosure received is within my jurisdiction as Conflict of Interest and Ethics Commissioner, the Public Sector Integrity Commissioner must, under subsection 24(2.1) of the *Public Servants Disclosure Protection Act*, refer the matter to this Office.

[2] If, having received a referral in this manner, I have reason to believe that the public office holder or former public office holder who is the subject of the referral has contravened the *Conflict of Interest Act* (Act), I may commence an examination under section 45 of the Act. Even if I do not launch an examination under such circumstances, section 68 of the Act nevertheless requires that I issue a public report setting out the facts in question and my analysis and conclusions.

[3] In this case, in a letter dated February 4, 2020, the Public Sector Integrity Commissioner referred to me, under subsection 24(2.1) of the *Public Servants Disclosure Protection Act*, allegations of a conflict of interest contained in disclosures made by a number of federal department employees against a deputy minister in that department. This person is referred to as “the subject of the allegations” in this report.

[4] Included in this referral are two very different allegations with respect to this person.

[5] The first allegation is that the subject of the allegations violated standard department hiring rules and allowed a senior position to be given to a long-time friend. Specifically, the subject allegedly interfered with or influenced the hiring process to the benefit of the friend.

[6] The second allegation of the referral is that the subject of the allegations allegedly intervened during an internal investigation conducted under the *Public Servants Disclosure Protection Act* by giving instructions pertaining to the investigation to several senior officials. According to the disclosure, the subject was motivated by a personal vendetta to discredit another senior official.

# PROCESS

[7] After receiving the referral from the Public Sector Integrity Commissioner and contacting his office, I obtained additional information from one of the disclosers, which enabled me to assess the situation. I received numerous documents from this individual between March 12 and May 27, 2020.

[8] Based on the information provided with respect to the second allegation of this referral, I found that the matter raised did not relate to the furthering of a private interest under the *Conflict of Interest Act* (Act). I therefore decided not to consider this allegation further and did not disclose it to the subject of the allegations as it was not relevant to the Act.

[9] On April 8, 2020, I wrote to the subject of the allegations that I had received a referral from the Public Sector Integrity Commissioner. I informed the subject about the first allegation only and invited comments on it. I also noted that I would consider the response provided in determining whether to commence an examination under section 45 of the Act or whether to proceed directly with the publication of the required report without the need to gather additional information.

[10] On April 16, 2020, the subject of the allegations asked me for a time extension until May 27, 2020, to respond to my request, owing to unique circumstances related to the COVID-19 pandemic. I agreed to this.

[11] On May 27, 2020, the subject of the allegations provided a written response with supporting documentation and written testimony. The subject denied being in a conflict of interest. That same day, I received documents from one of the disclosers. Those were the last documents received by our Office for this case.

[12] After having conducted a preliminary review of all the information relating to the allegations set out in the referral, I had no reason to believe that the subject of the allegations may have contravened the Act. Therefore, I did not commence an examination under the Act and proceeded to prepare this report.

[13] Having considered a number of factors including the lack of any prior public attention to this matter, I have determined that there would be no benefit in identifying anyone involved in the matter and have drafted the report in a way that strives to preserve anonymity and avoid any reputational harm due to unsubstantiated allegations.

# FACTS AND ANALYSIS

## Facts

[14] The first allegation of the referral relates to the hiring of a senior official.

[15] The subject of the allegations is a deputy minister. The hiring process, initially to staff a vacant position on an interim basis, required the subject to approve or reject a hiring recommendation prepared by their department. The subject was then required to send their recommendation to higher authorities, who authorized the hiring of this person.

[16] The subject of the allegations informed me of being familiar with the senior official selected for the position. The subject had worked with the senior official in another federal agency for approximately eight years and had supervised the official for two, but the subject did not consider the official a friend because the official was not someone the subject would spend time with outside the office.

[17] The subject of the allegations informed me they were unaware that this senior official was a candidate for the interim position. In addition, the subject stated having since learned that another senior official had recommended this candidate for the position.

[18] The documents provided by the subject of the allegations showed that the subject was not the one who approved the hiring recommendation for the interim position because the subject was on vacation at the time.

[19] As for staffing the permanent position, a selection committee was established in accordance with the departmental staffing practices. The documents provided by the subject of the allegations showed that the subject was not a member of this committee. Those documents included a statement signed by a member of the selection committee that the subject of the allegations was not required to approve the committee's findings, nor were they required to endorse these findings before the decision-making authorities.

## Analysis

[20] According to the first allegation, the subject of the allegations was in a conflict of interest because the subject allegedly violated their department's standard hiring rules to further the interests of a long-time friend. The subject allegedly made efforts to give this person a high-ranking position in the department. Specifically, the subject allegedly interfered with or influenced the hiring process to the benefit of the friend.

[21] Section 4 of the Act sets out that a public office holder is in a conflict of interest when they exercise an official power, duty or function that provides an opportunity to further the private interests of friends or to improperly further another person's private interests.

[22] However, in light of the information contained in the subject of the allegations' response, it appears that this allegation is not based on an appreciation of all relevant facts, some of which were likely unknown to the disclosers.

[23] First, the appointee cannot be considered a friend of the subject of the allegations within the meaning of the Act. In the *Watson Report* my predecessor, Commissioner Dawson, interpreted the term "friend" for the purposes of the Act to mean "a person with whom one has some history of mutual personal regard beyond simple association." For the purposes of the Act, the notion of friend does not, in her view, extend to acquaintances in a wide social circle or to business partners. In the *Chapman Report*, I implicitly indicated that I agree with this analysis. Since the subject and the appointee did not socialize outside work, I do not consider them to be friends within the meaning of the Act.

[24] The facts show that the subject of the allegations had not approved the recommendation to hire the senior official on an interim basis and was not involved in the appointment process.

[25] In my view, the facts do not support the allegation that the subject of the allegations acted in a manner to improperly further the private interests of the appointee.



# CONCLUSION

[26] Based on the information I received from the Public Sector Integrity Commissioner, one of the disclosers and the subject of the allegations, I have no reason to believe that the subject may have contravened the Act. I will, therefore, not initiate an examination under section 45 of the Act and consider the matter closed.

A handwritten signature in black ink, appearing to read 'Mario Dion', with a stylized, cursive script.

Mario Dion  
Conflict of Interest and Ethics Commissioner

September 30, 2020