



**Office of the Conflict
of Interest and Ethics
Commissioner**

**Commissariat aux
conflits d'intérêts et à
l'éthique**

Referral from the Public Sector Integrity Commissioner: December 2014 Report

made under the
CONFLICT OF INTEREST ACT



December 4, 2014

**Mary Dawson
Conflict of Interest and
Ethics Commissioner**

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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 pursuant to 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.

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REFERRAL

On October 9, 2014, the Public Sector Integrity Commissioner referred to me a protected disclosure that his office had received on July 14, 2014. The Public Sector Integrity Commissioner must, pursuant to subsection 24(2.1) of the *Public Servants Disclosure Protection Act*, refer to the Conflict of Interest and Ethics Commissioner the subject-matter of any such disclosure if he is of the opinion that the subject-matter is within the jurisdiction of the Conflict of Interest and Ethics Commissioner.

The disclosure raised concerns in respect of an alleged political intervention by a Member of Parliament, a minister and a deputy minister relating to the withdrawal of a monetary penalty. The penalty had been imposed on a corporation, whose director was a constituent of the Member of Parliament.





BACKGROUND

The *Conflict of Interest Act* (Act) requires that I issue a public report setting out the facts, as well as my analysis and conclusions, whenever I receive a referral from the Public Sector Integrity Commissioner. I must do so even in cases where I decide not to proceed with an examination under the Act.

The individual who made the disclosure to the Public Sector Integrity Commissioner first raised his concerns in a confidential letter dated July 11, 2014 that was addressed to my Office, that of the Public Sector Integrity Commissioner and the Senior Integrity Officer of a department of the Government of Canada. This was the same document referred to me by the Public Sector Integrity Commissioner on October 9, 2014.

When I received the referral from the Public Sector Integrity Commissioner, I had already conducted a preliminary review of the matter, carefully considered the allegations of wrongdoing, and concluded that the information on which the allegations were based was too speculative. The information did not provide me with reason to believe that there may have been a contravention of the *Conflict of Interest Code for Members of the House of Commons* (Code) or the Act. Indeed, the individual who made the disclosure, himself, said that his allegations were only speculation on his part. By letter dated August 20, 2014, I advised the individual of my decision not to initiate an inquiry under the Code or an examination under the Act.





FACTS, ANALYSIS AND CONCLUSION

The letter of July 11, 2014

A confidential letter dated July 11, 2014 was addressed to my Office, that of the Public Sector Integrity Commissioner and the Senior Integrity Officer of a department of the Government of Canada. The letter indicated that a monetary penalty had been issued in relation to an unauthorised event following an investigation by the enforcement arm of a department of the Government of Canada. Shortly after the decision on the penalty was issued, the director of the corporation who organised the event was advised by telephone by the responsible regional manager of that department that the notice of penalty could be ignored.

It was alleged that no written instructions were provided offering a rationale for the decision to withdraw the penalty nor was a letter sent confirming the withdrawal. It was further alleged that the call to the director of the corporation was placed as a result of verbal instructions received from officials in Ottawa. The letter stated that the justification given for withdrawing the penalty was that there had been an administrative error, and that the penalty needed to be re-issued at a higher value.

It was further stated in the letter that the Member of Parliament referred to in this matter attended the event in question, spoke to invited guests on behalf of the Government of Canada, and posed for pictures with participants. The individual who wrote the letter stated in the letter that he believed that the Member of Parliament may have intervened in the matter, as a personal favour to a constituent, by requesting the Minister's assistance in arranging for the penalty to be withdrawn. He wrote that it is apparent that the minister gave direction to the deputy minister to withdraw the penalty and that the direction was likely passed on through various departmental officials.

Follow-up by my Office

After I received this complaint in July 2014, my Office communicated directly with the individual who made the disclosure to obtain further information.

The individual informed my Office that he had no specific information to support the allegations of political intervention by a Member of Parliament, a minister and a deputy minister, and that he could only speculate as to what had occurred. He reiterated that he was aware that the Member of Parliament attended and publicly supported the event in relation to which the penalty was issued but said that it was only speculation on his part that the constituent went to the Member of Parliament to have the penalty withdrawn. He also told my Office that he did not have any information relating to any actions taken by the Member of Parliament, the minister or



the deputy minister to have the penalty withdrawn or any evidence to suggest that any of them had intervened in any way.

After carefully considering both the written complaint and the additional representations made to my Office by the individual who made the disclosure, I wrote on August 20, 2014 to that individual to convey my decision not to initiate an inquiry or an examination in relation to the matter he raised.

I informed the individual who made the disclosure that I may, on my own initiative, commence an inquiry under subsection 27(4) of the *Conflict of Interest Code for Members of the House of Commons* (Code), or an examination under subsection 45(1) of the *Conflict of Interest Act* (Act), where information comes to my attention that gives me reasonable grounds to believe that the Code or the Act, as the case may be, has been contravened.

I advised the individual that, in my view, the information on which he had based his allegations was too speculative and did not provide me with any reason to believe that the Member of Parliament, the minister or the deputy minister referred to may have contravened his or her obligations under the Code or the Act. Consequently, I informed the individual that I would not, at that time, commence an inquiry under the Code or an examination under the Act in this matter but invited him to contact my Office again if he became aware of further information in support of his allegations, so that I could reconsider this matter in light of any new evidence.

After I received the referral from the Public Sector Integrity Commissioner, which made it necessary for me to issue this report, my Office contacted the individual who made the disclosure once again. He was unable to provide my Office with any further information that would suggest that there had been any intervention by the Member of Parliament, the minister or the deputy minister in relation to this matter. I also spoke directly with the deputy minister and my Office spoke to several departmental officials. No one provided any information in respect of any actions taken by the Member of Parliament, the minister or the deputy minister that would suggest that any of them had intervened in any way.

Conclusion

The referral from the Public Sector Integrity Commissioner has provided me with no additional information that would give me reason to initiate an inquiry or an examination in relation to this matter. Should additional information come to light from any source it remains open to me to consider that information and, if appropriate, initiate an inquiry or examination.



OBSERVATIONS

An allegation based on speculation alone, without any information to support the allegation, cannot constitute a reason to believe that a contravention has occurred.

In this report, I have withheld the identity of the Member of Parliament, the minister and the deputy minister named in this matter. In the absence of any prior public attention, I have decided not to identify the individuals named because I do not have any reason to believe that any of them has contravened the *Conflict of Interest Code for Members of the House of Commons* or the *Conflict of Interest Act*. Identifying these individuals could cause damage to their reputations solely on the basis of speculative and unsubstantiated allegations.

In January, 2013, I recommended in my submission to the Standing Committee on Access to Information, Privacy and Ethics in the context of the five-year review of the *Conflict of Interest Act* that section 68 of the Act be repealed. The Committee endorsed this recommendation.

