



Office of the Conflict
of Interest and Ethics
Commissioner

Commissariat aux
conflits d'intérêts et à
l'éthique

THE DYKSTRA REPORT

made under the
CONFLICT OF INTEREST ACT

and the

*CONFLICT OF INTEREST CODE FOR
MEMBERS OF THE HOUSE OF COMMONS*



September 7, 2010

Mary Dawson
Conflict of Interest and
Ethics Commissioner

The Dykstra Report

made under the
CONFLICT OF INTEREST ACT

and the
CONFLICT OF INTEREST CODE FOR MEMBERS OF THE HOUSE OF COMMONS

For additional printed copies of this publication, please contact:

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

Telephone: (613) 995-0721
Fax: (613) 995-7308
Email: ciec-ccie@parl.gc.ca

Ce document est également publié en français

This publication is also available online at the following address: <http://ciec-ccie.gc.ca>

© Office of the Conflict of Interest and Ethics Commissioner, Parliament of Canada
092010-22E



PREFACE

The *Conflict of Interest Act*, S.C. 2006, c.9, s. 2 (Act) came into force on July 9, 2007. The *Conflict of Interest Code for Members of the House of Commons* (Code), which constitutes Appendix 1 of the *Standing Orders of the House of Commons*, came into force on October 4, 2004 and was amended in 2007, 2008 and 2009.

The Act

An examination under the Act may be initiated at the request of a member of the Senate or House of Commons pursuant to subsection 44(1) or by the Conflict of Interest and Ethics Commissioner pursuant to subsection 45(1).

Pursuant to subsection 44(3) of the Act, unless the Commissioner determines that the matter is frivolous or vexatious or is made in bad faith, the Commissioner is required to examine the matter. Subsection 44(7) requires the Commissioner to 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 request. Subsection 44(8) provides that, at the same time that a report is provided to the Prime Minister, a copy of the report is also to be provided to the Member who made the request and to the public office holder who is the subject of the request. The report is also to be made public.

The Code

Under section 27 of the Code, a request for an inquiry may be made by a Member of the House of Commons who has reasonable grounds to believe that another Member has not complied with his or her obligations under the Code.

The Conflict of Interest and Ethics Commissioner is required to forward the request to the Member who is the subject of the request and to afford the Member 30 days to respond. Once the Member has completed his or her response, the Commissioner has 15 working days to conduct a preliminary review of the request and the response and to notify both Members in writing of the Commissioner's decision as to whether an inquiry is warranted.

Following the completion of an inquiry, a report is to be provided to the Speaker of the House of Commons who tables it in the House of Commons when it next sits. The report is made available to the public once it is tabled or, if the House is not then sitting, upon its receipt by the Speaker. The House of Commons was not sitting at the time this report was completed.

TABLE OF CONTENTS

EXECUTIVE SUMMARY	1
THE REQUEST	4
THE PROCESS	5
FINDINGS OF FACT	8
Owner’s Suite at the Rogers Centre	8
The Fundraising Event	9
<i>The Event</i>	9
<i>The Role of Mr. Dykstra</i>	9
<i>The Role of the “Organizing Committee”</i>	12
<i>The Role of the St. Catharines Electoral District Association</i>	13
The Cost of the Event	14
Official Dealings	14
<i>Rogers Communications Inc.</i>	15
<i>Mr. Pietrobon</i>	15
<i>Other Invitees and Attendees</i>	15
Summary of Findings of Fact	17
PROCEDURAL ISSUES	18
Right to Procedural Fairness	18
Simultaneous Representation of Mr. Dykstra, Ms. Pang and Mr. Karabinos	19
Right to be Present	19
MR. DYKSTRA’S POSITION	21
ANALYSIS	22
Section 11 of the Act and Section 14 of the Code	22
<i>Rogers Communications Inc.</i>	24
<i>Volunteers</i>	25
Section 8 of the Code	25
Section 16 of the Act	27
OBSERVATIONS	29
SCHEDULE I	31
SCHEDULE II	33
SCHEDULE III	37

EXECUTIVE SUMMARY

This report presents the findings of my investigation into the activities of Mr. Rick Dykstra, Parliamentary Secretary to the Minister of Citizenship and Immigration and Member of Parliament for St. Catharines, in connection with a political fundraising event organized for the benefit of the St. Catharines Electoral District Association and held in the Owner's Suite at the Rogers Centre in Toronto on September 6, 2009.

The request for an investigation alleged that Mr. Dykstra contravened several specific provisions of the Act and the Code. My Office conducted the investigation under the *Conflict of Interest Act* (Act), which applies to ministers, parliamentary secretaries and other public office holders, and under the *Conflict of Interest Code for Members of the House of Commons* (Code).

In previous instances when I have conducted a single investigation under both regimes, I have issued separate reports under the Act and the Code because of the different requirements of the Act and the Code that must be met before the reports can be made public. With the House of Commons adjourned, I have greater flexibility with respect to the reporting process and have chosen, in this instance, to issue a single report.

One issue identified in the request was whether obtaining access to the Owner's Suite at the Rogers Centre or the assistance of volunteer organizers for the fundraising event in question contravened section 11 of the Act or section 14 of the Code, which prohibit the acceptance of gifts or other advantages or benefits that could reasonably be seen to have been given to influence the public officer holder or the Member in the exercise of an official power, duty or function.

Because the Owner's Suite can be rented by third parties, and full market value was paid to rent it for the September 6, 2009 event and to cover the cost of food and beverages, I determined that access to it did not constitute a gift or other advantage or benefit. All proceeds from the event benefitted the St. Catharines Electoral District Association. They were not for the private use of Mr. Dykstra.

With respect to the volunteer time and services provided by Mr. Dykstra's personal friends and his brother, I found that they were for the benefit of the St. Catharines Electoral District Association and not for Mr. Dykstra in his own right. In any event, even if they had been for Mr. Dykstra's benefit, the exceptions in the Act and the Code would apply so as to permit Mr. Dykstra to accept the services. Furthermore, I found no evidence that any of the time volunteered by the friends and brother of Mr. Dykstra was given to influence him in the exercise of an official duty or function.

The request also identified section 8 of the Code, which prohibits Members from furthering their own private interests or those of their family members or from improperly furthering the private interests of another person or entity. I found no evidence to suggest that Mr. Dykstra acted to further the private interests of anyone who was involved as an organizer of, or invited to, the fundraising event. Even if Mr. Dykstra were to benefit from some of the contributions should he choose to run again in the next election, his interest in having a well-funded campaign is one that is political in nature and is not a private interest, within the meaning of the Code.



I also examined Mr. Dykstra's actions in relation to section 16 of the Act, which prohibits public office holders from personally soliciting funds from a person or organization if it would place them in a conflict of interest. Although the request did not refer to this section, it was relevant in light of the information showing that Mr. Dykstra had invited a number of individuals whose identities were not known to the Office to attend the fundraising event.

I found that Mr. Dykstra personally solicited funds for the event. I found, however, that he had not had official dealings as Parliamentary Secretary with any of those from whom he had solicited funds, and therefore was not in a conflict of interest under the Act.

Under the Code, on the other hand, I found that Mr. Dykstra did have official dealings with several invitees shortly before and after the fundraiser that related to his duties as a Member. There is no provision, however, in the Code similar to section 16 of the Act that prohibits Members from personally soliciting funds that would place them in a conflict of interest. In any event, I found no evidence to suggest that Mr. Dykstra had improperly furthered the private interests of those invitees.

I noted, however, in my observations the potential for a future conflict of interest under both the Act and the Code in this regard and highlighted the need for Mr. Dykstra to exercise caution with respect to participating in discussions and decisions that could affect the private interests of those from whom he had solicited funds.

When the investigation of Mr. Dykstra's activities began, my Office was still in the process of investigating the activities of the Honourable Lisa Raitt, Member of Parliament for Halton, in connection with a political fundraising event. The Raitt Reports were released in May 2010. My comments in the General Observations section of the Raitt Reports on political fundraisers are relevant to the circumstances surrounding Mr. Dykstra's involvement in organizing the fundraising event in the Owner's Suite on September 6, 2009.

In particular, the Raitt Reports addressed the need for fundraising guidelines and commented on the Prime Minister's recent guidance document, which has not, to my knowledge at the time this report was finalized, been made public. I noted that this document applies to Members of Parliament who are public office holders, namely ministers and parliamentary secretaries, but not more broadly to all Members of the House of Commons.

As in the Raitt Reports, I reiterate my suggestion that consideration should be given to amending the Code to include provisions dealing with political fundraising, perhaps to include prohibitions against solicitation of funds, broader recusal obligations and provisions for the establishment of conflict of interest screens.

With respect to Members of the House of Commons who are also public office holders, more stringent provisions relating to fundraising should be considered. In this connection, I note that the predecessor to the Act, the *Conflict of Interest and Post-Employment Code for Public Office Holders*, prohibited ministers, parliamentary secretaries and other full-time public office holders from personally soliciting funds, regardless of whether or not doing so would place them in a conflict of interest. That prohibition did not require a determination of whether doing so



could create a potential conflict of interest or whether that potential conflict of interest arises out of their duties as a minister or parliamentary secretary, on the one hand, or their duties as Members, on the other.

I do not know why the prohibition in its previous form was not carried over into the Act. Its reinstatement, at least in relation to ministers and parliamentary secretaries, would be worth considering, as it would remove a source of public concern in this area.



THE REQUEST

On October 21, 2009, Mr. Bill Siksay, Member of Parliament for Burnaby-Douglas, requested that I conduct an investigation into alleged contraventions of both the *Conflict of Interest Act* (Act) and the *Conflict of Interest Code for Members of the House of Commons* (Code) by Mr. Rick Dykstra, Parliamentary Secretary to the Minister of Citizenship and Immigration and Member of Parliament for St. Catharines, in relation to a fundraising event for the St. Catharines Electoral District Association that was held in the Owner's Suite at the Rogers Centre in Toronto on September 6, 2009.

In requesting an investigation under both the Act and the Code, Mr. Siksay referred to a letter sent to my Office by Mr. Duff Conacher, Coordinator of Democracy Watch, on October 16, 2009, which raised similar concerns about this fundraising event. Mr. Siksay relied on Mr. Conacher's letter, which alleged, among other things, that access to the Owner's Suite was provided to Mr. Dykstra and the St. Catharines Electoral District Association at less than full market value and, therefore, constituted a gift or other advantage under the Act or benefit under the Code. Mr. Siksay also relied on Mr. Conacher's suggestion that, in light of Rogers Communications Inc.'s status as a registered lobbyist, providing such access to the Owner's Suite could reasonably be seen to have been given to influence Mr. Dykstra in the performance of his official duties. The Owner's Suite was alleged not to be generally available for use or rental by members of the general public. On this basis, Mr. Siksay alleged that Mr. Dykstra may have violated section 11 of the Act and sections 8 and 14 of the Code in connection with his participation in this fundraising event.

Section 11 of the Act and section 14 of the Code prohibit public office holders, including ministers and parliamentary secretaries, and Members of the House of Commons (Members) from accepting gifts or other advantages or benefits that could reasonably be seen to have been given to influence them in the performance of their official duties or functions. Section 8 of the Code prohibits Members from furthering their own private interests or those of their family members or improperly furthering the private interests of another person or entity when performing their parliamentary duties or functions.

In making his allegations, Mr. Siksay forwarded to my Office a copy of an e-mail that Mr. Dykstra sent, using his parliamentary account, to an undisclosed list of potential contributors, inviting them to attend the fundraising event on September 6, 2009. Section 16 of the Act precludes public office holders from personally soliciting funds from individuals or organizations where to do so would place them in a conflict of interest. In light of Mr. Dykstra's e-mail invitation and the fact that it was sent to an undisclosed list of individuals, I included section 16 in the examination under the Act.



THE PROCESS

On October 23, 2009, I wrote to Mr. Dykstra to inform him that Mr. Siksay had requested that I investigate his involvement with the fundraising event in the Owner's Suite at the Rogers Centre on September 6, 2009 under both the *Conflict of Interest Act (Act)* and the *Conflict of Interest Code for Members of the House of Commons (Code)*.

In my letter, I notified Mr. Dykstra that, in light of his position as Parliamentary Secretary to the Minister of Citizenship and Immigration, I would be examining the concerns raised by Mr. Siksay in relation to the Act and asked him to provide me with his views as to whether he had contravened any of his obligations under the Act in connection with this fundraising event. I also notified Mr. Dykstra that he had 30 days, until November 23, 2009, to respond to Mr. Siksay's allegations under the Code, and that after receiving his response I would conduct a preliminary review to determine if an inquiry was warranted. I enclosed copies of both Mr. Siksay's letter of request, dated October 21, 2009, and Mr. Conacher's letter of October 16, 2009. I also wrote to Mr. Siksay to inform him that I was proceeding with an examination under the Act.

Between November 6 and 10, 2009, my Office confirmed, through an exchange of correspondence, that Mr. Arthur Hamilton, legal counsel to the Conservative Party of Canada and its various Electoral District Associations, was acting for Mr. Dykstra in relation to the investigation under both the Act and the Code.

On November 6 and November 23, 2009, my Office received letters from Mr. Hamilton setting out Mr. Dykstra's position with respect to the issues raised under sections 11 and 16 of the Act and sections 8 and 14 of the Code.

On November 27, 2009, I wrote to Mr. Hamilton to inform him that, based on my preliminary review under the Code, an inquiry was warranted. In that letter, I reminded him that I was already examining these same issues with respect to Mr. Dykstra's obligations under the Act. On the same day, I wrote to Mr. Siksay to communicate the results of my preliminary inquiry under the Code.

On December 3, 2009, I wrote to Ms. Grace Pang, President of the St. Catharines Electoral District Association, Mr. Joseph Karabinos, Chief Financial Officer of the St. Catharines Electoral District Association, and Mr. Hamilton, in his capacity as counsel to Mr. Dykstra, requesting documents related to the organization and planning of the fundraising event. I also included separate lists of questions for each of Ms. Pang, Mr. Karabinos and Mr. Dykstra and requested written responses on or before December 18, 2009.

On December 18, 2009, I received a letter from Mr. Hamilton, jointly responding on behalf of Ms. Pang, Mr. Karabinos and Mr. Dykstra. A list of the individuals who bought tickets to attend the fundraising event and copies of the invoices for renting the Owner's Suite and for the food and beverages consumed during the event were appended. I sent separate lists of questions to each of these witnesses with the expectation that they each respond independently and confidentially. Although Mr. Hamilton provided separate responses for each witness, these responses were substantially similar, giving the impression that they may not have been prepared independently.



On January 15, 2010, I wrote to Mr. Hamilton in his capacity as counsel to both Ms. Pang and Mr. Karabinos of the St. Catharines Electoral District Association expressing my concern about maintaining both the integrity of the fact-finding process and the confidentiality of each interview. Mr. Hamilton was simultaneously representing Ms. Pang and Mr. Karabinos, material witnesses in the context of this investigation, and Mr. Dykstra, the Member and public office holder who was the subject of the investigation. The fact that my Office received very similar responses on behalf of Ms. Pang, Mr. Karabinos and Mr. Dykstra to the list of questions I separately sent to each of them on December 3, 2009 added to these concerns.

On January 27, 2010, Mr. Hamilton responded that nothing prevented him from representing Ms. Pang, Mr. Karabinos and Mr. Dykstra and, to address my concerns, proposed that the interviews of all three be held consecutively. He also indicated that Mr. Dykstra intended to be present at the interviews of Ms. Pang and Mr. Karabinos.

By letter, dated January 28, 2010, I responded to Mr. Hamilton that, although I respected the right of all participants in the investigation process to have legal representation, I continued to be concerned about Mr. Hamilton's simultaneous representation of two of the material witnesses and Mr. Dykstra. I also advised Mr. Hamilton that it was inappropriate for Mr. Dykstra to be present at the interviews of Ms. Pang and Mr. Karabinos.

By letter, dated February 1, 2010, Mr. Hamilton indicated that he had referred Ms. Pang and Mr. Karabinos out for independent legal advice. The next day, my Office received a letter from Mr. Blair McCreddie, indicating that he had been jointly retained by Ms. Pang and Mr. Karabinos to provide them with independent advice in connection with this investigation.

On February 12, 2010, I wrote to Mr. Hamilton to identify possible dates for holding an interview with Mr. Dykstra. I also indicated that, despite having made previous requests, my Office had not yet received the names of the individuals to whom Mr. Dykstra sent the e-mail invitation to attend the fundraising event in the Owner's Suite. I asked Mr. Dykstra to provide me, on or before February 26, 2010, with a copy of the e-mail invitation, brief descriptions of how he knows each of the individuals he invited and the nature and extent of any official dealings he may have had with any of these individuals. On February 23, 2010, Mr. Hamilton sent a list of the individuals to whom Mr. Dykstra had e-mailed invitations to the fundraising event. Mr. Hamilton subsequently advised my Office that the delay in delivery of the list was an oversight on his part and that Mr. Dykstra had intended that the list be attached to the December 18, 2009 correspondence.

Mr. Dykstra was interviewed on March 9, 2010 and given an opportunity, after answering my questions, to make additional representations and comments. After his interview, Mr. Dykstra provided additional documentation requested during his interview and, following my further request, provided my Office shortly thereafter with the names of the individuals he had invited either in person or over the telephone to attend the fundraising event, regardless of whether they ultimately attended.



My Office interviewed a total of sixteen individuals, listed in Schedule I, including Mr. Dykstra, as part of this investigation. In keeping with the practice I have established in conducting an investigation, Mr. Dykstra was given an opportunity to comment on a draft of certain parts of this report, specifically The Request, The Process, Findings of Fact including Schedule II and Mr. Dykstra's Position.

In previous instances when I have conducted a single investigation under both the Act and the Code, I have issued separate reports because of the different requirements of the Act and the Code that must be met before the reports can be made public. With the House of Commons adjourned, I have greater flexibility with respect to the reporting process and have chosen, in this instance, to issue a single report.



FINDINGS OF FACT

On the basis of the information gathered in this investigation, I make the following findings of fact.

Owner's Suite at the Rogers Centre

In order to understand the allegations made against Mr. Dykstra as well as my findings, it is important to consider how access to the Owner's Suite is granted. My own understanding of this process derives primarily from the written submissions made by Mr. Richard Wong, Senior Vice President of Stadium Operations for Rogers Centre, as well as from the interviews that my Office conducted with both Ms. Heidi Bonnell, Director of Government Relations for Rogers Communications Inc., and Ms. Jan Innes, Vice President of Public Affairs for Rogers Communications Inc.

The Toronto Blue Jays Baseball Club ("Toronto Blue Jays") and Rogers Centre are both owned by Rogers Communications Inc. ("Rogers"), but operate as separate entities from Rogers. The Toronto Blue Jays and Rogers Centre are responsible for managing the rentals of the various luxury suites contained in the Rogers Centre and for preparing and sending rental invoices and processing payments.

Rogers Centre has 110 suites (boxes), seven of which are double suites. Box 454/455, referred to within Rogers corporate culture as the "Owner's Suite," is one such double suite. It has a capacity of 60 people.

Each year, Rogers licenses the use of Box 454/455 for \$189,000 (including taxes) from the Toronto Blue Jays and Rogers Centre. This amount, which covers the cost of licensing the Owner's Suite and includes 60 tickets to each of 81 home baseball games per season, is exactly double the price of an 81-game package for a "single suite," valued at \$94,500 according to the public rate cards advertised on the Rogers Centre website. This means that licensing the use of the Owner's Suite costs Rogers \$2,333.33 on a per game basis.

The Owner's Suite is principally reserved for internal use by Rogers' various divisions, which are encouraged to rent it for purposes such as holding team-building events, rewarding high-performing employees and entertaining clients. It costs divisions \$3,000 per game (or \$2,250 per game if the Owner's Suite is booked for four games) to rent the Owner's Suite.

Although the Owner's Suite is not generally available to the public in the sense that it is not explicitly advertised along with the other luxury suites listed on the Rogers Centre website, it is often rented out to third parties, including businesses and non-profit organizations, who can obtain access by requesting use of the Owner's Suite through contacts that they may have with Rogers. In these situations, although the Owner's Suite is reserved by an employee of Rogers in the manner described above, the event is hosted by the third party, who pays the cost of renting the Owner's Suite as well as the cost of the food and beverages consumed during the event. The price to third parties for renting the Owner's Suite is the same as that charged to Rogers' divisions (\$3,000 per game). The prices of the food and beverages are identical for all luxury



suites, including the Owner's Suite, and do not depend on whether the Owner's Suite is used by one of Rogers' divisions or rented out to a third party. Food and beverage services are provided by a company subcontracted by the Rogers Centre to provide food and beverage services to all of the luxury suites.

Mr. Wong confirmed that, in addition to the St. Catharines Electoral District Association, six other third parties had rented the Owner's Suite during the 2009 baseball season.

Mr. Wong also indicated that, over the last several years, there has been a decline in the occupancy rates for the luxury suites at the Rogers Centre. He attributed this decline to the expiry of long-term suite licences in 1999, to increased suite inventory in Toronto with the advent of other sporting venues, including the Air Canada Centre, and, more recently, to a decline in the incidence of corporate entertainment generally due to recessionary economic conditions. In light of this business reality, Mr. Wong indicated that Rogers Centre welcomes any opportunities to rent out the Owner's Suite to third parties, particularly for weekend games in respect of which occupancy rates are especially low.

The Fundraising Event

The Event

On September 6, 2009, Mr. Dykstra hosted a fundraising event for the benefit of the St. Catharines Electoral District Association in the Owner's Suite at the Rogers Centre in Toronto during a game between the New York Yankees and the Toronto Blue Jays. Attendees each paid \$400 to the St. Catharines Electoral District Association to attend. This amount included a ticket to the game as well as food and beverages throughout the event. Fifty-seven people attended the event, some of whom were children of the attendees. The event, which took on a parent-child theme, entitled parents to bring their children at no additional cost. Arrangements were also made to allow the children to watch the pre-game batting practice. Proceeds from the event, which were for the benefit of the St. Catharines Electoral District Association, totalled \$9,498.42 after expenses were deducted.

Mr. Dykstra, who hosted the event, attended with his son. No one else from the St. Catharines Electoral District Association was present; nor were any ministers, parliamentary secretaries or other Members of Parliament.

Ms. Bonnell, Director of Government Relations for Rogers Communications Inc., was there for the first third of the game. She escorted the children who attended the event to watch the pre-game batting practice at field level and left part-way through the game, after making sure that everything was in order and after meeting the attendees.

The Role of Mr. Dykstra

The idea of holding a fundraising event in the Owner's Suite at the Rogers Centre appears to have originated during a conversation between Mr. Dykstra and Ms. Bonnell at a restaurant in downtown Ottawa. In early spring 2009, Mr. Dykstra and Ms. Bonnell encountered one another while each was separately dining at the restaurant. They spoke about baseball, which led to a discussion about the availability of the Owner's Suite.



In her interview, Ms. Bonnell testified that she knew Mr. Dykstra and had met him at various functions around Parliament Hill, but that she would not refer to him as a friend. She indicated that her government relations work for Rogers requires her to monitor the Parliamentary process and that she has had occasion to meet various politicians in that capacity. Ms. Bonnell also specified that her lobbying efforts for Rogers, which are focused primarily on the departments of Canadian Heritage and Industry, do not include the Department of Citizenship and Immigration. For his part, Mr. Dykstra confirmed that he had never had any official dealings with Ms. Bonnell.

There was a discrepancy between Ms. Bonnell's and Mr. Dykstra's recollections as to who first raised the prospect of obtaining access to the Owner's Suite. In any event, it was during this conversation at the restaurant that Ms. Bonnell informed Mr. Dykstra and another Member of Parliament that the Owner's Suite could be rented by individual Electoral District Associations for the purposes of holding fundraising events during Blue Jays games.

Mr. Dykstra testified that following this initial conversation, he made a brief announcement at a meeting of the Board of Directors of the St. Catharines Electoral District Association on June 20, 2009 about the prospect of holding a fundraiser in the Owner's Suite at the Rogers Centre in the fall of 2009. Mr. Dykstra provided my Office with a copy of the minutes of the June 20, 2009 meeting. Item 18, entitled "Report of the Member of Parliament – Rick Dykstra", is annotated as follows: "Rick shared recent events and possibilities for the fall."

Mr. Dykstra stated that he told the Board of Directors that renting the Owner's Suite for the purposes of holding a fundraising event on behalf of the St. Catharines Electoral District Association was a good idea, particularly given that such an event would be relatively easy to organize, and that he recommended that the Electoral District Association pursue this fundraising opportunity. Although the minutes do not indicate that a formal decision was taken to approve a fundraising event in the Owner's Suite, Mr. Dykstra testified that a consensus emerged from this meeting to proceed with the event.

In the initial written response, Mr. Hamilton, on behalf of Mr. Dykstra, Ms. Pang and Mr. Karabinos, indicated that Mr. Dykstra's role in organizing the fundraising event was to relay the information that the Owner's Suite could be rented to Ms. Pang and Mr. Karabinos, who then organized the event and made the necessary arrangements. It was submitted that Mr. Dykstra's involvement was to make his friends and acquaintances aware of the event and to attend as a representative of the Association and as the Member of Parliament for the riding. However, in conducting my investigation it became apparent that Mr. Dykstra was the main organizer of the event. During his interview Mr. Dykstra readily offered information with regard to his role as the main organizer. This investigation would have been greatly facilitated had this information been provided at the outset.

Mr. Dykstra followed up with Ms. Bonnell to ask if she could provide a list of dates on which the Owner's Suite was available. Ms. Bonnell stated that Mr. Dykstra expressed interest in the game between the New York Yankees and the Toronto Blue Jays on Sunday, September 6, 2009. For his part, Mr. Dykstra did not recall being given an option as to possible dates and stated that he agreed to the date that was made available to him. In any event, that particular game was ultimately chosen for the fundraising event.



In response to Mr. Dykstra's request, Ms. Bonnell contacted Ms. Jan Innes, who is involved on behalf of Rogers in coordinating the use of the Owner's Suite, to ask about its availability on September 6, 2009. Ms. Innes, in turn, contacted Ms. Darla McKeen, Executive Assistant, Corporate Partnerships with the Toronto Blue Jays Baseball Club, to find out about the availability of the Owner's Suite on that date. She subsequently confirmed to Ms. Bonnell that the Owner's Suite was, in fact, available.

When Ms. Bonnell advised Mr. Dykstra that the Owner's Suite was available on September 6, 2009, Mr. Dykstra provided Ms. Bonnell with Mr. Karabinos' contact information and indicated that she should follow up with him regarding tickets and invoices.

Mr. Dykstra enlisted the support of his brother, Mr. Larry Dykstra, and two close personal friends, Mr. Steve Cook and Mr. Bart Maves. He stated that he consulted all three about whether they thought it was a good idea to hold a fundraiser in the Owner's Suite at the Rogers Centre over the Labour Day Weekend and whether they thought that \$400 was an appropriate amount to charge attendees for tickets. Mr. Dykstra asked for their support in selling tickets to this event.

It was felt that attendees would be willing to pay \$400, which would not only cover the expenses associated with holding the event, but also allow the St. Catharines Electoral District Association to raise a worthwhile amount of money.

Mr. Dykstra invited a number of people in person and over the phone to attend the fundraising event. He also drafted and sent an e-mail invitation, using his parliamentary account, to 15 of his close friends and personal acquaintances in which he provided particulars of the event. As noted above, Mr. Dykstra provided my Office with the names of these individuals. Three of those he invited ultimately attended.

In the e-mail invitation, Mr. Dykstra indicated that, in exchange for making a \$400 contribution to the St. Catharines Electoral District Association, attendees would receive a ticket to the game and access to the Owner's Suite, as well as both food and beverages throughout the event. The invitation stated that the event would include the opportunity to attend the pre-game batting practice and to meet with the President of Blue Jays Operations, some of the Blue Jays players as well as various unspecified ministers of the federal government. Although the children who attended the event were taken, at no additional cost, to field level by Ms. Bonnell to watch pre-game batting practice, the event did not include either a meeting with the President of Blue Jays Operations or any player visits with any members of the Toronto Blue Jays. Mr. Dykstra was also the only federal politician present at this event – no ministers, parliamentary secretaries or other Members of Parliament were in attendance.

In the lead-up to the event, Mr. Dykstra had periodic telephone conversations with Ms. Bonnell of Rogers Communications Inc. to ensure that all of the necessary arrangements had been made.

Mr. Dykstra had pre-ordered the food and provided his credit card number to place the order on the assumption that he would be reimbursed by the Electoral District Association. Upon arriving at the Owner's Suite, Mr. Dykstra was asked for the credit card he had used to pre-order the food for the event in order to pay the actual expense. He testified that he did not have this



credit card with him on the day of the game and that Steven Pietrobon, a personal friend whom Mr. Dykstra had invited to attend the fundraising event, offered to temporarily cover the expense on the understanding that Mr. Dykstra would reimburse him before his next credit card bill was due. Mr. Dykstra personally reimbursed Mr. Pietrobon for the full amount of the cost of the food and beverages consumed during the event and Mr. Karabinos, the Chief Financial Officer of the St. Catharines Electoral District Association, subsequently reimbursed Mr. Dykstra.

In his interview with my Office, Mr. Pietrobon confirmed that Mr. Dykstra had personally invited him to attend the fundraising event, that he was present when Mr. Dykstra realized that he could not produce the credit card he had used to pre-order the food and that he offered to cover this expense temporarily on the understanding that he would be reimbursed.

The Role of the “Organizing Committee”

As noted above, Mr. Dykstra enlisted the support of his brother, Mr. Larry Dykstra, and two close personal friends, Mr. Steve Cook and Mr. Bart Maves, to assist with the fundraising event.

Mr. Cook, Vice President of Operations for Credit Bureau Services Canada and Past President of the Provincial Progressive Conservative Association, is a long-time friend of Mr. Dykstra and is very active in Conservative fundraising activities at both the federal and provincial levels. Mr. Maves, former Progressive Conservative Member of the Legislative Assembly of Ontario from Niagara Falls, is also a longstanding friend of Mr. Dykstra.

In his interview, Mr. Cook testified that Mr. Dykstra called him in early August 2009 to ask for his reaction to the idea of holding a fundraising event in the Owner’s Suite over the Labour Day weekend. Mr. Cook reported that he had recommended that Mr. Dykstra ask attendees to contribute \$400 and helped shape the idea of pitching the fundraiser as a parent-child event as a means of selling tickets to the event. He stated that his only involvement in helping to organize this event, other than to attend with his son, was to sell tickets to the event. Mr. Cook estimated that he sold five tickets. He testified that he did not have any involvement in making any other arrangements.

Mr. Maves, in his interview, recalled that Mr. Dykstra contacted him in late July or early August and asked for his reaction to the idea of holding the fundraising event. He stated that his only involvement in helping to organize this fundraiser was to sell tickets to the event. Mr. Maves indicated that, in selling tickets, he focused on identifying those among his friends with children who he thought would be interested in taking in a Blue Jays game as well as the fathers of children on his son’s baseball team. He estimated that he sold eight tickets not including the one he bought for himself and his son.

Mr. Larry Dykstra’s testimony differs from that of Mr. Cook, Mr. Maves and his brother Mr. Rick Dykstra. Mr. Larry Dykstra indicated that he assisted in selecting a date for the event and that he was asked to help sell tickets to the event by Mr. Cook, whom he characterized as one of the primary organizers of the fundraiser. He stated that he had spoken with his brother about the event and added that his brother had little to no involvement in making any of the decisions regarding the necessary organizational details. He said that he assumed that the St. Catharines Electoral District Association was primarily responsible for organizing the event.



He estimated that he sold between six and eight tickets to the event. To the extent that his testimony differed from that of the other witnesses, I found the others more credible, particularly with respect to the involvement of Mr. Rick Dykstra in organizing the event.

The Role of the St. Catharines Electoral District Association

In her interview, Ms. Pang, President of the St. Catharines Electoral District Association, testified that she believed the possibility of holding a fundraising event in the Owner's Suite was first raised in the context of the Board of Directors meeting on June 20, 2009 referred to earlier, but she could not remember anything specific about any discussions that were had at that time. Ms. Pang stated that the process for approving fundraising activities is informal and that the Board of Directors is generally willing to proceed with good ideas for events. Her first "specific" recollection of anything to do with the fundraising event was toward the end of July 2009, when Mr. Karabinos, Chief Financial Officer of the Association, informed her that he had been in contact with people from Rogers regarding the rental of the Owner's Suite.

In any event, Ms. Pang's involvement in planning and organizing this fundraising event was minimal. She told us that, as President, her main responsibility is to coordinate the activities of the St. Catharines Electoral District Association. With respect to fundraising activities in particular, Ms. Pang stated that this means ensuring that people have been designated to oversee the organization of fundraising events (to "chair" the events). She also testified that she was aware that an "organizing committee," consisting of Mr. Cook, Mr. Maves and Mr. Larry Dykstra, was in charge of overseeing the organization of the event so she did not involve herself in arranging or organizing any aspects of it. Ms. Pang did not attend the event.

Mr. Karabinos did not recall any conversation during the Board of Directors meeting on June 20, 2009 about the prospect of holding a fundraising event at the Rogers Centre, but suggested that it was possible that he had stepped momentarily away from the meeting when this prospect was announced by Mr. Dykstra.

Mr. Karabinos' involvement was limited to receiving the 60 tickets to the Blue Jays game, paying for both the rental of the Owner's Suite and, ultimately, the cost of the food and beverages for the event and, subsequently, accounting for the proceeds of the event. Mr. Karabinos testified that he first learned of the fundraising event from Ms. Bonnell, Director of Government Relations at Rogers. She had e-mailed him at Mr. Dykstra's request as the contact person from the St. Catharines Electoral District Association with whom she should communicate.

As Chief Financial Officer, Mr. Karabinos is responsible for accounting for the proceeds of the fundraiser, all of which were for the exclusive benefit of the St. Catharines Electoral District Association. Mr. Karabinos stated that he had invested the net proceeds of the event and would file the necessary returns under the *Canada Elections Act* on behalf of the St. Catharines Electoral District Association. Mr. Karabinos was not otherwise involved in making any arrangements or taking care of any of the organizational details.



The Cost of the Event

There were two invoices related to the fundraising event held on September 6, 2009 – one for the cost of renting the Owner’s Suite and one for the cost of the food and beverages consumed during the fundraising event itself.

The invoice for the cost of renting the Owner’s Suite, which was addressed to Mr. Karabinos and dated July 22, 2009, was in the amount of \$3,000 plus applicable federal and provincial taxes (\$390). After the event, Mr. Karabinos paid the full amount of the rental costs (\$3,390) by cheque on September 14, 2009 on behalf of the St. Catharines Electoral District Association. Mr. Karabinos provided my Office with a copy of this cheque.

The invoice for the cost of the food and beverages consumed during the fundraising event was in the amount of \$3,459.45 plus fixed gratuities and administrative charges as well as applicable taxes (which, together, total \$952.13). To this amount, Mr. Dykstra added a “client added gratuity” of \$100 for a total of \$4,511.58.

As noted above, Mr. Pietrobon initially paid the food and beverages invoice and was subsequently reimbursed by Mr. Dykstra. Mr. Dykstra provided my Office with a copy of the cheque that he wrote to Mr. Pietrobon in the amount of \$4,511.58.

Mr. Karabinos signed a cheque, addressed to Mr. Dykstra and dated October 23, 2009, to reimburse him on behalf of the St. Catharines Electoral District Association for the full amount of the invoice for the food and beverages for the fundraiser. Mr. Karabinos also provided my Office with a copy of this cheque.

As evidenced by the copies of both the invoices and the cheques received by my Office, I find that the St. Catharines Electoral District Association not only paid the standard rental fee charged to Rogers’ divisions in renting the Owner’s Suite for the purpose of holding the fundraising event on September 6, 2009, but also paid full commercial value for the cost of the food and beverages consumed during the event.

Official Dealings

In conducting this investigation, it was necessary to ascertain whether Mr. Dykstra had any official dealings, including business discussions or working relationships, with any of the individuals who either assisted him in organizing the fundraising event or who he invited to attend the event, whether or not these individuals made contributions or actually attended.

In addition to conducting interviews with Mr. Dykstra and some of the individuals he invited to attend this fundraising event, my Office reviewed the Registry of Lobbyists maintained by the Commissioner of Lobbying. Lobbying activities are regulated under a completely separate, self-reporting regime. In this connection, it is also important to note that official dealings include, but are not limited to, lobbying activities. The focus in this investigation is solely on Mr. Dykstra’s conduct in his capacities as both Parliamentary Secretary and Member of Parliament.



Rogers Communications Inc.

Mr. Dykstra stated that he did not have any official dealings with anyone from Rogers Communications Inc. or from any of its affiliates, including Ms. Bonnell, Ms. Innes or anyone else who played a role in helping him obtain access to the Owner's Suite.

Mr. Dykstra's testimony in this regard was consistent with that offered by Ms. Bonnell and Ms. Innes, both of whom are listed as registered lobbyists for Rogers. Ms. Bonnell stated that she had never had any official dealings with Mr. Dykstra either in his capacity as Parliamentary Secretary to the Minister of Citizenship and Immigration Canada or in his capacity as Member of Parliament for St. Catharines.

Although Ms. Innes is listed in the registry of lobbyists maintained by the Commissioner of Lobbying as an in-house lobbyist for Rogers, she stated that she is not actively involved in lobbying on behalf of Rogers. More particularly, Ms. Innes stated that she had never had any official dealings with Mr. Dykstra in any capacity. She also stated that she had not had any official dealings with any officials in the Department of Citizenship and Immigration.

A review of the lobbyist registrations for Rogers Communications Inc. over the relevant period of time is consistent with the testimony offered by Mr. Dykstra, Ms. Bonnell and Ms. Innes. These included one inactive registration between February 12, 2009 and September 16, 2009 and the current, active registration from September 16, 2009 to the present.

Mr. Pietrobon

As noted above, Mr. Pietrobon, a businessman and supporter of the Conservative Party of Canada, initially paid the invoice for the food and beverages consumed during the event, but was reimbursed by Mr. Dykstra for the full amount of these expenses.

In his interview, Mr. Dykstra testified that Mr. Pietrobon was his friend and that he had personally invited Mr. Pietrobon to attend the fundraising event in the Owner's Suite. Mr. Dykstra also testified that he did not have, nor did he anticipate having, any official dealings with Mr. Pietrobon.

Mr. Dykstra's testimony in this regard is consistent with the Registry of Lobbyists, referred to above, which does not disclose any registrations or communications logs involving Mr. Pietrobon.

Mr. Pietrobon confirmed as well in his interview with my Office that he had not had official dealings of any kind with Mr. Dykstra.

Other Invitees and Attendees

As noted above, Mr. Dykstra provided my Office with a list of the individuals who paid for tickets to attend the fundraising event, a list of the individuals to whom he e-mailed invitations to attend the event and a list of the individuals he invited in person or over the telephone.



After reviewing these lists, my Office examined the Registry of Lobbyists maintained by the Commissioner of Lobbying to determine whether any of these individuals were registered lobbyists. Seven of the individuals Mr. Dykstra personally invited to attend the fundraising event are registered as lobbyists. They include:

- Mark Cohon,
Commissioner of the Canadian Football League
- David Goldstein,
President and Chief Executive Officer of the Tourism Industry Association of Canada
- Vic Gupta,
Principal of Prime Strategies Group Inc.
- Claude Lajeunesse,
President and Chief Executive Officer of the Aerospace Industries Association of Canada
- Bryan Rogers,
Manager, Public Affairs at Scotiabank
- Will Stewart,
Principal of both Navigator Ltd. and Ensign Canada Inc.
- Jan Westcott,
President and Chief Executive Officer of the Association of Canadian Distillers

Of these seven individuals, only Mr. Gupta and Mr. Westcott attended the fundraising event in the Owner's Suite. In my interview with Mr. Dykstra, I asked him specifically about these seven individuals and any official dealings he may have had with them. My Office also interviewed these seven individuals.

There was no evidence that Mr. Dykstra had any official dealings with any of these lobbyists in his capacity as Parliamentary Secretary to the Minister of Citizenship and Immigration.

Mr. Dykstra did, however, have official dealings with Mr. Cohon, Mr. Goldstein, Mr. Gupta, Mr. Lajeunesse, Mr. Stewart and Mr. Westcott in his capacity as Member of Parliament. These dealings, which related to his role as Member, involved discussions of various issues, including funding for the Canadian Football League, the relationship between local television stations and the cable industry, the status of the aerospace and spirits industries, and the setting of Interac fees. A more detailed summary of these dealings is set out in Schedule II.



Summary of Findings of Fact

The picture that emerges from these findings of fact is that Mr. Dykstra was the primary organizer of all facets of this event. He found out about the possibility that the Owner's Suite was available for fundraising events; he obtained available dates and confirmed September 6, 2009; he ordered and, in the first instance, paid for the food and beverages to be consumed during the event; he enlisted his brother and two close friends to sell tickets; he invited people to attend; and he hosted the event.

Aside from my findings in relation to the organization of the event, I have found that the St. Catharines Electoral District Association paid for both the rental of the Owner's Suite and the food and beverages consumed during the event.

I have also found that, although Mr. Dykstra did not have any official dealings with any of the individuals he invited to attend the event in his capacity as Parliamentary Secretary to the Minister of Citizenship and Immigration, he did have working relationships with some of these individuals in relation to his role as Member.



PROCEDURAL ISSUES

Mr. Arthur Hamilton, counsel for Mr. Dykstra, raised three core procedural concerns regarding the conduct of the investigation carried out under both the *Conflict of Interest Act* (Act) and the *Conflict of Interest Code for Members of the House of Commons* (Code). In this section, I address these procedural concerns.

Right to Procedural Fairness

Mr. Hamilton argued that the information relied upon by Mr. Siksay in making his request was insufficient to justify an investigation and that the failure by Mr. Siksay to provide sufficient information prevented Mr. Dykstra from answering the allegations that had been made against him and, thereby, deprived him of his right to procedural fairness.

Through Mr. Siksay's request, my Office was told that Mr. Dykstra and the St. Catharines Electoral District Association had obtained access to a luxury suite at the Rogers Centre that, by virtue of its name, appeared to be reserved for the owners of the stadium and not generally available for rental by members of the public. It was alleged that access was granted at less than full commercial value and that Rogers was a registered lobbyist. Mr. Siksay's request also included a copy of an invitation that Mr. Dykstra had sent out, using his parliamentary e-mail account, to an undisclosed list of individuals inviting them to an event that was specifically organized to raise funds for the St. Catharines Electoral District Association. I determined that Mr. Siksay's request met the requirements in the Act and Code that he set out the reasonable grounds for his belief that contraventions had occurred.

Mr. Dykstra was fully informed not only of the allegations that had been made against him, but also of the purposes of my investigation under both the Act and the Code. My Office provided Mr. Dykstra with copies of the letters of request written by both Mr. Siksay and Mr. Conacher and a copy of the e-mail invitation sent out by Mr. Dykstra to the fundraising event in the Owner's Suite that was included with Mr. Siksay's request.

Mr. Dykstra was informed that the main issues to be determined concerned whether he had accepted a gift or other advantage or benefit that could reasonably be seen to have been given to influence him in the exercise of an official duty, power or function in connection with the fundraising event and whether he had solicited funds from a person or organization that might place him in a conflict of interest contrary to section 16 of the Act. To determine whether any of the invitations to the event extended by Mr. Dykstra placed him in a conflict of interest, it was necessary to know the identities of the people Mr. Dykstra had invited. My Office also informed Mr. Dykstra that the purpose of this investigation was to understand all of the circumstances surrounding the organization of the fundraising event in order to determine whether Mr. Dykstra had contravened section 11 or 16 of the Act or section 8 or 14 of the Code.

Mr. Dykstra was also given ample opportunity to provide my Office with his views as to whether he had contravened any of his obligations under either the Act or the Code and to explain the circumstances surrounding the organization of this fundraising event. On more than one occasion, my Office notified Mr. Dykstra, through Mr. Hamilton, that more information was required and gave him additional opportunities to provide his views.



From the outset, Mr. Dykstra was fully aware not only of the allegations that had been made against him, but also of the purposes of my investigation under both the Act and the Code.

Simultaneous Representation of Mr. Dykstra, Ms. Pang and Mr. Karabinos

After receiving nearly identical written responses to the list of questions I separately asked of Mr. Dykstra, Ms. Pang and Mr. Karabinos, I expressed concern for both the integrity of the fact-finding process and maintaining the confidentiality of the interviews to be held with each of these three individuals in light of the fact that Mr. Hamilton was simultaneously representing Mr. Dykstra, the Member and public office holder being investigated, and Ms. Pang and Mr. Karabinos, material witnesses for the St. Catharines Electoral District Association.

In response, Mr. Hamilton argued that nothing in the Act, the Code or the Rules of Professional Conduct to which he is subject as a practising lawyer in the Province of Ontario prevented him from simultaneously representing all three. He suggested that my concerns could be addressed by holding consecutive interviews with the three individuals.

I indicated that, although I respect the right of all participants in the investigation process to obtain legal representation, both those who are the subject of an investigation and those in possession of material information, I continued to be concerned about the integrity of the fact-finding process in light of the fact that each of the written responses my Office had received appeared to have been made with knowledge of the other two sets of responses. The same concerns would apply with respect to their preparations for their oral interviews.

In this connection, I would note that the standard practice of my Office is to request that those interviewed maintain the confidentiality of their interviews and, in particular, that they not discuss any aspect of their interviews with anyone, including other witnesses as well as the individual who is the subject of the investigation. I indicated to Mr. Hamilton that I could not see how these confidentiality obligations could be respected in the circumstances.

In conducting investigations, which are not intended to be adversarial in nature, my purpose is to establish the facts surrounding a particular set of circumstances in order to determine whether any public office holders or Members have contravened their obligations under either regime and, where appropriate, to make general recommendations in relation to the subject matter of an investigation.

In my view, Mr. Hamilton's continued representation of Ms. Pang and Mr. Karabinos while he was also representing Mr. Dykstra was incompatible with the objective of ensuring that my Office obtain independent accounts of the events and circumstances in question. Ultimately, Ms. Pang and Mr. Karabinos were referred to another lawyer, who provided separate legal advice and accompanied them to their interviews, which were held consecutively.

Right to be Present

Mr. Hamilton also argued that Mr. Dykstra was entitled to be present during the interviews of other witnesses.



Mr. Hamilton cited subsection 27(7) of the Code in support of this contention, which reads as follows:

27.(7) The Commissioner shall conduct an inquiry in private and with due dispatch, provided that at all appropriate stages throughout the inquiry the Commissioner shall give the Member reasonable opportunity to be present and to make representations to the Commissioner in writing or in person by counsel or by any other representative.

Subsection 27(7) of the Code requires that the Member who is the subject of a request be given a *reasonable* opportunity to be present and to make representations *at all appropriate stages* of the investigation process. It does not entitle a Member to attend the interviews of other witnesses. I advised Mr. Hamilton that it was inappropriate for Mr. Dykstra to be present at the interviews of Ms. Pang and Mr. Karabinos.

I am mindful of the importance of ensuring that procedural fairness is respected throughout the investigation process. I informed Mr. Dykstra that my practice is to provide the individual who is the subject of an investigation with an opportunity to review and comment on my findings of fact before an investigation report is finalized and made public. I also pointed out that Mr. Dykstra would have a full opportunity to make any and all representations that he wished to make during his own interview or at any other time he requested. In my view, these practices help to ensure that the investigation process conforms to the dictates of procedural fairness.



MR. DYKSTRA'S POSITION

Mr. Dykstra took the position that he had not contravened any of his obligations under either the *Conflict of Interest Act* (Act) or the *Conflict of Interest Code for Members of the House of Commons* (Code).

Mr. Dykstra argued that he had not received a gift or other advantage or benefit that might reasonably be seen to have been given to influence him in the exercise of an official power, duty or function contrary to either section 11 of the Act or section 14 of the Code. He argued that the Owner's Suite could be rented by "third parties," including individual Electoral District Associations, and that the amounts paid by the St. Catharines Electoral District Association for both the rental of the Owner's Suite and the food and beverages consumed during the fundraising event were for full commercial value and commensurate with the services provided.

In this connection, Mr. Dykstra also pointed out that he did not personally receive any of the funds raised through this event, which were ultimately collected and accounted for by the St. Catharines Electoral District Association. Mr. Dykstra underscored the fact that he had not had any official dealings with anyone from Rogers Communications Inc. and did not expect to have any such dealings in the foreseeable future.

Mr. Dykstra also argued that he had not acted to further his own private interests or those of any of his family members, or to improperly further the private interests of another person or entity contrary to section 8 of the Code, which, in his view, only applies when a Member is performing parliamentary duties and functions. Mr. Dykstra argued that he was not performing any such duties or functions in connection with his involvement in organizing the fundraising event at the Rogers Centre.

Mr. Dykstra submitted that he had not personally solicited funds from any individuals or organizations that would place him in a conflict of interest contrary to section 16 of the Act. He questioned whether the e-mail invitation constituted a solicitation of funds within the meaning of the Act and argued that he had not had, nor did he anticipate having, any official dealings with anyone he invited to attend the fundraising event either in person, over the telephone or by e-mail and, therefore, that there was no prospect of any conflict of interest arising out of his involvement in organizing and attending this event.

Mr. Dykstra characterized the individuals whom he invited as close friends or acquaintances, individuals who would have his home phone or personal cell phone numbers and whose relationships with him predated his status as a public office holder. Counsel for Mr. Dykstra also suggested that, even if the e-mail invitation could be considered a solicitation of funds, no conflict of interest could be understood to arise because the invitees, as longstanding friends or acquaintances of Mr. Dykstra, would not view a contribution to attend the fundraising event as a means of developing favour with a public office holder or a Member.



ANALYSIS

I have been asked to determine whether Mr. Dykstra contravened section 11 of the *Conflict of Interest Act* (Act) or section 14 of the *Conflict of Interest Code for Members of the House of Commons* (Code) in connection with his involvement in organizing the fundraising event in the Owner's Suite at the Rogers Centre on September 6, 2009.

In responding to this request, I considered whether either the access to the Owner's Suite granted to Mr. Dykstra and the St. Catharines Electoral District Association or the time volunteered by Mr. Dykstra's brother and friends in selling tickets to the fundraising event constituted gifts or other advantages or benefits within the meaning of section 11 of the Act or section 14 of the Code and, if so, whether those gifts or other advantages or benefits could reasonably be seen to have been given to influence Mr. Dykstra in the exercise of an official power, duty or function.

I have also been asked to determine whether Mr. Dykstra acted to further his own private interests or those of his family or to improperly further the private interests of another person or entity contrary to section 8 of the Code.

In addition, I have examined whether Mr. Dykstra personally solicited funds from any person or organization that would place him in a conflict of interest contrary to section 16 of the Act.

All the relevant provisions of the Act and the Code are set out in Schedule III and are also cited throughout this Analysis as needed.

Section 11 of the Act and Section 14 of the Code

It was alleged that, in hosting a political fundraising event in the Owner's Suite at the Rogers Centre on September 6, 2009, Mr. Dykstra had received a gift, advantage or other benefit that was given in order to influence him in the exercise of an official power, duty or function contrary to section 11 of the Act and section 14 of the Code. More particularly, it was alleged that the Owner's Suite was not available for rental by members of the general public, that Mr. Dykstra had obtained access to the Owner's Suite at less than full commercial value and that, as evidenced by its extensive lobbying activities, Rogers Communications Inc. granted access to the Owner's Suite in order to influence Mr. Dykstra in the performance of his official responsibilities.

While subsection 11(1) of the Act precludes public office holders from receiving certain gifts or other advantages, subsection 11(2) sets out three exceptions to this prohibition. These provisions read as follows:

11. (1) No public office holder or member of his or her family shall accept any gift or other advantage, including from a trust, that might reasonably be seen to have been given to influence the public office holder in the exercise of an official power, duty or function.



(2) Despite subsection (1), a public office holder or member of his or her family may accept a gift or other advantage

(a) that is permitted under the Canada Elections Act;

(b) that is given by a relative or friend; or

(c) that is received as a normal expression of courtesy or protocol, or is within the customary standards that normally accompany the public office holder's position.

Subsection 2(1) of the Act defines “gift or other advantage” in the following terms:

2. (1) The following definitions apply in this Act.

[...]

“gift or other advantage” means

*(a) an amount of money if there is no obligation to repay it;
and*

(b) a service or property, or the use of property or money that is provided without charge or at less than its commercial value.

Subsection 14(1) of the Code precludes Members from receiving certain gifts and other benefits. The relevant portions of this provision read as follows:

14.(1) Neither a Member nor any member of a Member's family shall accept, directly or indirectly, any gift or other benefit, except compensation authorized by law, that might reasonably be seen to have been given to influence the Member in the exercise of a duty or function of his or her office.

(1.1) For greater certainty, subsection (1) applies to gifts or other benefits:

*(a) related to attendance at a charitable or political event;
and*

(b) received from an all-party caucus established in relation to a particular subject or interest.

Subsection 3(1) of the Code defines “benefit” in the following terms:

“benefit” means

*(a) an amount of money if there is no obligation to repay it;
and*



(b) a service or property, or the use of property or money that is provided without charge or at less than its commercial value, other than a service provided by a volunteer working on behalf of a Member;

but does not include a benefit received from a riding association or a political party.

As I stated in the recent reports related to activities of the Honourable Lisa Raitt, Member of Parliament for Halton, when she was Minister of National Resources (the Raitt Reports), I have some doubt that political contributions and volunteer fundraising services were intended to be included in these definitions in light of the fact that they are regulated by the *Canada Elections Act*, but I will proceed with the analysis on the basis that they were intended to be included.

Rogers Communications Inc.

Although the access to the Owner's Suite granted to Mr. Dykstra and the St. Catharines Electoral District Association by representatives of Rogers Communications Inc. can be characterized as "use of property" under paragraph 2(1)(b) of the Act and paragraph 3(1)(b) of the Code, there was no evidence to suggest that this access was obtained either "without charge or at less than its commercial value." To the contrary, I have found that the St. Catharines Electoral District Association paid the full market value of both the cost of renting the Owner's Suite and the cost of the food and beverages consumed during the fundraising event. For these reasons, the access to the Owner's Suite obtained by Mr. Dykstra and the St. Catharines Electoral District Association does not meet the definition of a "gift or other advantage" within the meaning of the Act or the definition of a "benefit" within the meaning of the Code.

Furthermore, although Mr. Dykstra played a central role in both organizing and hosting this fundraising event, the proceeds were for the benefit of the St. Catharines Electoral District Association, which is required both to account for these proceeds and to file the necessary returns under the *Canada Elections Act*. The St. Catharines Electoral District Association is responsible for the political fundraising events and is charged with the administration of all funds that are collected. They were not for the private use of Mr. Dykstra. Mr. Dykstra cannot, therefore, be understood to have accepted a gift, other advantage or benefit as required by subsection 11(1) of the Act and subsection 14(1) of the Code.

In addition, the evidence showed that access to the Owner's Suite was not granted to Mr. Dykstra and the St. Catharines Electoral District Association to influence him in the exercise of an official power, duty or function. The evidence showed that the Owner's Suite could, in fact, be rented by third parties. In his written submissions, Mr. Wong, Senior Vice President of Stadium Operations for the Toronto Blue Jays and Rogers Centre, confirmed that, in addition to the St. Catharines Electoral District Association, six other third parties had rented the Owner's Suite during the 2009 baseball season. Moreover, there was no evidence to suggest that Mr. Dykstra had or anticipated having any official dealings with Ms. Bonnell, Ms. Innes or any other representative or employee of Rogers Communications Inc., Rogers Centre or the Toronto Blue Jays Organization.



For these reasons, I conclude that Mr. Dykstra did not contravene his obligations under section 11 of the Act or section 14 of the Code in respect of the access he obtained to the Owner's Suite at the Rogers Centre.

Volunteers

I must also determine whether the time volunteered by Mr. Cook, Mr. Maves and Mr. Larry Dykstra in helping Mr. Dykstra to organize this fundraising event constitutes a gift or other advantage or benefit within the meaning of subsection 2(1) of the Act or subsection 3(1) of the Code and, if so, whether this time was given to influence Mr. Dykstra in the exercise of his official duties or functions contrary to either section 11 of the Act or section 14 of the Code.

As noted above, the evidence showed that Mr. Larry Dykstra, Mr. Cook and Mr. Maves volunteered time in helping Mr. Dykstra to sell tickets to this fundraising event on behalf of the St. Catharines Electoral District Association. This time, which may be appropriately characterized as a service without charge referred to in paragraph 2(1)(b) of the Act and in paragraph 3(1)(b) of the Code, meets the definition of "gift or other advantage" in subsection 2(1) of the Act and the definition of "benefit" in subsection 3(1) of the Code.

Although Mr. Dykstra recruited Mr. Cook, Mr. Maves and Mr. Larry Dykstra to sell tickets to the fundraising event, the services they volunteered were for the benefit of the St. Catharines Electoral District Association. These volunteer services cannot, therefore, be understood to have been accepted by Mr. Dykstra in his own right as contemplated by both section 11 of the Act and section 14 of the Code.

Even if the time volunteered by Mr. Cook, Mr. Maves and Mr. Larry Dykstra were appropriately understood to have been accepted by Mr. Dykstra, the exceptions in paragraph 11(2)(b) of the Act, which allows public office holders to accept gifts or other advantages given by a relative or friend, and paragraph 3(1)(b) of the Code, which exempts services provided by a volunteer working on behalf of a Member from the definition of benefit, would have applied.

Finally, and perhaps most important, there is no evidence to show that any of the time volunteered by Mr. Cook, Mr. Maves or Mr. Larry Dykstra was given to influence Mr. Dykstra in the exercise of an official duty or function, a requirement under both subsection 11(1) of the Act and subsection 14(1) of the Code for a contravention to occur.

For these reasons, I conclude that Mr. Dykstra did not contravene his obligations under section 11 of the Act or section 14 of the Code in respect of the time volunteered by Mr. Larry Dykstra, Mr. Cook or Mr. Maves in helping to organize the fundraising event for the St. Catharines Electoral District Association on September 6, 2009.

Section 8 of the Code

Section 8 of the *Conflict of Interest Code for Members of the House of Commons* (Code) prohibits Members from furthering their private interests or those of their family members and from improperly furthering the private interests of another person or entity. Section 8 reads as follows:



8. When performing parliamentary duties and functions, a Member shall not act in any way to further his or her private interests or those of a member of the Member's family, or to improperly further another person's or entity's private interests.

In my analysis under section 8, I must determine whether Mr. Dykstra acted to further his own private interests or those of his family members, or whether he acted to improperly further those of any other person or entity, when organizing and hosting this fundraising event.

Subsection 3(2) of the Code sets out those circumstances in which a Member may be considered to have furthered a person's private interests. This provision reads as follows:

3.(2) Subject to subsection (3), a Member is considered to further a person's private interests, including his or her own private interests, when the Member's actions result, directly or indirectly, in any of the following

- (a) an increase in, or the preservation of, the value of the person's assets;*
- (b) the extinguishment, or reduction in the amount, of the person's liabilities;*
- (c) the acquisition of a financial interest by the person;*
- (d) an increase in the person's income from a source referred to in subsection 21(2);*
- (e) the person becoming a director or officer in a corporation, association or trade union; and*
- (f) the person becoming a partner in a partnership.*

There is no evidence to suggest that Mr. Dykstra acted to further his private interests or those of his family members within the meaning of subsection 3(2) of the Code in connection with his involvement in the fundraising event at the Rogers Centre. Those invited each made a contribution of \$400 to the St. Catharines Electoral District Association in order to attend the event. All proceeds were for the benefit of the St. Catharines Electoral District Association, which has the authority to decide how the funds are to be used. Mr. Karabinos, the Chief Financial Officer, was responsible for accounting for the proceeds and filing the necessary returns under the *Canada Elections Act* on behalf of the St. Catharines Electoral District Association. Accordingly, Mr. Dykstra had no direct access to or control over any of the money raised in connection with the fundraising event, nor did he personally accept any proceeds from it.

Even if Mr. Dykstra were to benefit from some of the contributions should he choose to run again in the next election, this interest in having a well-funded electoral campaign is one that is political in nature and not a private interest under the Code.



There is also no evidence to suggest that Mr. Dykstra acted to further the private interests of anyone involved in granting access to the Owner's Suite or anyone involved in assisting with the organization of the fundraising event within the meaning of subsection 3(2) of the Code.

Although Mr. Dykstra did further the private interests of the St. Catharines Electoral District Association in helping to organize a fundraising event for its benefit, it is not improper, in and of itself, for Members to engage in political fundraising activities on behalf of their own Electoral District Associations.

As noted above, Mr. Dykstra did have official dealings with some of the individuals he invited to attend the fundraising event. These dealings related to his duties as a Member of Parliament and not as Parliamentary Secretary. His dealings with Mr. Cohon, Mr. Goldstein, Mr. Gupta, Mr. Lajeunesse, Mr. Stewart and Mr. Westcott related to his role as Member. The discussions related to funding for the Canadian Football League, the relationship between local television stations and the cable industry, the status of the aerospace and spirits industries and the setting of Interac fees.

Although Mr. Dykstra has clearly developed a working relationship and claims a friendship with these individuals, we had no evidence that Mr. Dykstra sought to improperly further the private interests of these individuals or the entities they represent in connection with the activities under investigation.

For the reasons set out above, I conclude that Mr. Dykstra did not contravene section 8 of the Code in connection with his involvement in organizing and hosting the fundraising event in the Owner's Suite on September 6, 2009. However, there remains the potential for a conflict of interest situation to arise in the future and I will comment further on these situations in the next section.

I note that Mr. Dykstra argued, in his response, that he was not exercising any of his parliamentary duties or functions as contemplated by section 8 of the Code when organizing this fundraising event. I am concerned that giving section 8 a narrow construction could unduly narrow the scope of this important provision, which is central to the Code. In light of my conclusions that Mr. Dykstra did not further his own private interests or those of his family members, and that he did not improperly further those of another person or entity, it is not necessary for me to address this issue at this time.

Section 16 of the Act

Although the request did not refer to section 16 of the Act, I determined that I should also examine whether Mr. Dykstra contravened that section, which precludes public office holders from personally soliciting funds from individuals or organizations where to do so would place them in a conflict of interest. I made this determination in light of Mr. Dykstra's e-mail, sent using his parliamentary account, inviting an undisclosed list of recipients to attend the political fundraising event.



Section 16 reads as follows:

16. No public office holder shall personally solicit funds from any person or organization if it would place the public office holder in a conflict of interest.

Section 16 requires that two elements be established: that the public office holder personally solicited funds from a person or organization; and that this solicitation of funds places the public office holder in a conflict of interest.

The term “conflict of interest” is defined in section 4 of the Act as follows:

4. For the purposes of this Act, a public office holder is in a conflict of interest when he or she exercises an official power, duty or function that provides an opportunity to further his or her private interests or those of his or her relatives or friends or to improperly further another person’s private interests.

As I noted in the Raitt Reports, in order to find that a public office holder had solicited funds in connection with a fundraising event, the public office holder would have to have actively sought monetary contributions to support the event.

Mr. Dykstra sent an e-mail invitation to potential attendees of the fundraising event at the Rogers Centre, which indicated that, in exchange for making a monetary contribution to the St. Catharines Electoral District Association, attendees would receive a ticket to a Toronto Blue Jays baseball game and access to the Owner’s Suite, as well as food and beverages throughout the event. He also invited, in person or by telephone, a number of other individuals. I therefore conclude that Mr. Dykstra actively sought monetary contributions to support this fundraising event and, therefore, is properly understood to have solicited funds as required by the first element of section 16.

The analysis under section 16 turns, therefore, on the second element identified above, namely whether soliciting funds from any of the individuals invited to the event placed Mr. Dykstra in a conflict of interest and, in particular, whether he had the opportunity to further the private interests of any of these individuals.

As outlined elsewhere in this report, Mr. Dykstra had official dealings with several individuals he invited to the fundraiser. After reviewing Mr. Dykstra’s role, I am satisfied that the matters involved in his dealings with Mr. Cohon, Mr. Goldstein, Mr. Gupta, Mr. Lajeunesse, Mr. Stewart and Mr. Westcott did not touch on his duties as Parliamentary Secretary to the Minister of Citizenship and Immigration, and therefore did not engage his obligations under the Act. Therefore, the invitations that he extended to the fundraising event cannot be understood to have placed him in a conflict of interest contrary to section 16 of the Act in his capacity as a public office holder. Mr. Dykstra did not contravene section 16 of the Act.

I note that the *Conflict of Interest Code for Members of the House of Commons* does not contain a provision similar to section 16 of the Act. I will, however, comment further in the next section on the fact that Mr. Dykstra invited individuals with whom he had dealings as the Member of Parliament for St. Catharines to attend the event.



OBSERVATIONS

The request for this investigation focused primarily on the allegation that Mr. Dykstra received privileged access to the Owner's Suite at the Rogers Centre, possibly at less than market value. I became more concerned about the fact that Mr. Dykstra personally invited several registered lobbyists and possibly other stakeholders to attend the political fundraising event in the Owner's Suite and to make contributions to the St. Catharines Electoral District Association. Although lobbyists and other stakeholders are entitled to make political contributions, and despite the fact that the individuals invited by Mr. Dykstra were close friends or personal acquaintances of Mr. Dykstra, a perception of conflict of interest can arise when a Member of the House of Commons seeks political contributions from lobbyists or other stakeholders, particularly if the Member is a public office holder.

Furthermore, issuing invitations to political fundraisers stating that various ministers will be present would appear to imply an opportunity for lobbyists and other stakeholders to obtain special access to ministers by attending the event. I note that lobbyists are not required under the lobbyist regime to register discussions with parliamentary secretaries and Members of Parliament, but am pleased to note that the Government has announced its intention to seek amendments in this regard.

I have found in my analysis that, although Mr. Dykstra personally solicited funds from individuals with whom he had official dealings shortly before and after the fundraising event, these actions did not place him in contravention of either the Act or the Code. There remains, nonetheless, the possibility that future dealings between Mr. Dykstra and those individuals could create situations where issues of preferential treatment or other conflicts of interest could arise.

While it may be more likely that this would arise in relation to the functions and duties of a minister or a parliamentary secretary, it could also arise in relation to the functions and duties of a Member of the House of Commons.

At the time of the September 6, 2009 fundraiser, there were no rules or guidelines that applied generally to Members, or in particular to ministers or parliamentary secretaries, in relation to political fundraising events that could assist them in ensuring that they are not placed or seen to be placed in situations of actual or potential conflict of interest.

When the investigation of Mr. Dykstra's activities began, my Office was still in the process of investigating the activities of the Honourable Lisa Raitt, Member of Parliament for Halton, in connection with a political fundraising event. The Raitt Reports were released in May 2010. My comments in the General Observations section of the Raitt Reports on political fundraisers are relevant to the circumstances surrounding Mr. Dykstra's involvement in organizing the fundraising event in the Owner's Suite on September 6, 2009.

In particular, the Raitt Reports addressed the need for fundraising guidelines and commented on the Prime Minister's recent guidance document, which has not, to my knowledge at the time this report was finalized, been made public. I noted that this document applies to Members of Parliament who are public office holders, namely ministers and parliamentary secretaries, but not more broadly to all Members of the House of Commons.



As in the Raitt Reports I reiterate my suggestion that consideration should be given to amending the Code to include provisions dealing with political fundraising, perhaps to include prohibitions against solicitation of funds, broader recusal obligations and provisions for the establishment of conflict of interest screens.

With respect to Members of the House of Commons who are also public office holders, more stringent provisions relating to fundraising should be considered. In this connection, I note that the predecessor to the Act, the *Conflict of Interest and Post-Employment Code for Public Office Holders*, prohibited ministers, parliamentary secretaries and other full-time public office holders from personally soliciting funds, regardless of whether or not doing so would place them in a conflict of interest. That prohibition did not require a determination of whether doing so could create a potential conflict of interest or whether that potential conflict of interest arises out of their duties as a minister or parliamentary secretary, on the one hand, or their duties as Members, on the other.

I do not know why the prohibition in its previous form was not carried over into the Act. Its reinstatement, at least in relation to ministers and parliamentary secretaries, would be worth considering, as it would remove a source of public concern in this area.



SCHEDULE I:
LIST OF WITNESSES – INTERVIEWS AND WRITTEN SUBMISSIONS
(from page 7)

Interviews

1. Ms. Heidi Bonnell
Director, Government Relations
Rogers Communications Inc.
2. Mr. Mark Cohon
Commissioner
Canadian Football League
3. Mr. Steve Cook
Vice President, Operations
Credit Bureau Services Canada
St. Catharines, ON
4. Mr. Larry Dykstra
Brother of Mr. Rick Dykstra
5. Mr. Rick Dykstra
Member of Parliament for St. Catharines
Parliamentary Secretary to the Minister of Citizenship and Immigration
6. Mr. Vic Gupta
Principal
Prime Strategies Group
7. Mr. David Goldstein
President and CEO
Tourism Industry Association of Canada
8. Ms. Jan Innes
Vice President, Public Affairs
Rogers Communications Inc.
9. Mr. Joseph Karabinos
Chief Financial Officer
St. Catharines Electoral District Association
10. Mr. Claude Lajeunesse
President and Chief Executive Officer
Aerospace Industries Association of Canada



11. Mr. Bart Maves
Former Progressive Conservative MPP for Niagara Falls, ON
12. Ms. Grace Pang
President
St. Catharines Electoral District Association
13. Mr. Stephen Pietrobon
Friend of Mr. Dykstra
14. Mr. Bryan Rogers
Manager, Public Affairs
Scotiabank
15. Mr. Will Stewart
Principal
Navigator Ltd. and Ensign Canada
16. Mr. Jan Westcott
President and CEO
Association of Canadian Distillers

Written Submissions:

1. Mr. Richard Wong
Senior Vice President, Stadium Operations
Rogers Centre / Toronto Blue Jays Baseball Club



**SCHEDULE II:
OFFICIAL DEALINGS WITH INVITEES**
(from page 16)

The following is a summary of the dealings that Mr. Dykstra has had with some of the individuals he invited to attend the fundraising event held on September 6, 2009 at the Rogers Centre.

Mr. Mark Cohon

Mr. Cohon is the Commissioner of the Canadian Football League (CFL). He is listed as the Responsible Officer for the CFL on the Registry of Lobbyists. The CFL is not registered to lobby the Department of Citizenship and Immigration and there are no registrations of communications with Mr. Dykstra or any official from the Department of Citizenship and Immigration.

With respect to his role as Parliamentary Secretary, Mr. Dykstra indicated that he had not had any official dealings with Mr. Cohon. This was confirmed by Mr. Cohon in his interview with my Office.

With respect to his role as a Member of the House of Commons, Mr. Dykstra also indicated that he talks about the CFL with Mr. Cohon on a semi-regular basis in connection with what Mr. Dykstra referred to as the CFL Caucus.

In his interview, Mr. Cohon stated that the CFL has had dealings with Mr. Dykstra in his capacity as Member of Parliament for St. Catharines. In particular, Mr. Cohon confirmed that Mr. Dykstra attended a lunch that he hosted on February 12, 2009 in Ottawa for Members of Parliament interested in supporting the CFL. At this lunch, Mr. Cohon indicated that he spoke about the CFL, its history and place in Canadian culture and its status as a league and identified issues of interest to the CFL, including various initiatives supported by the federal government (for example, investments in a new stadium being built in Winnipeg, holding an exhibition game in Atlantic Canada). Mr. Cohon also indicated that he met with Mr. Dykstra for lunch on September 9, 2009 and they discussed, in addition to generalities about the CFL, funding received by the CFL from the Marquee Tourism Events Program administered by Industry Canada in support of Grey Cup games held in both Calgary and Edmonton.

Mr. David Goldstein

Mr. Goldstein has been President and Chief Executive Officer of the Tourism Industry Association of Canada since April 6, 2010. Before assuming this position, Mr. Goldstein was Senior Vice President, Regulatory Affairs at CTVglobemedia Inc., where a significant part of his work involved lobbying activities.

Mr. Goldstein is listed on the Registry of Lobbyists as the Responsible Officer for the Tourism Industry Association of Canada. In its most recent registration (dated April 6, 2010 to the present), the Tourism Industry Association of Canada listed the Department of Citizenship and Immigration among the departments it is registered to lobby and reported an official communication with the Director of Multicultural Affairs in the Office of the Minister of Citizenship and Immigration on June 25, 2010.



With respect to his role as Parliamentary Secretary, Mr. Dykstra indicated that he had not had any official dealings with Mr. Goldstein. This was confirmed by Mr. Goldstein in his interview with my Office in relation to both the Tourism Industry Association of Canada and CTVglobemedia Inc.

With respect to Mr. Dykstra's role as Member, Mr. Goldstein indicated that, although he did not have any official dealings with Mr. Dykstra in relation to the Tourism Industry Association of Canada, he did have official dealings with Mr. Dykstra in relation to CTVglobemedia Inc. More particularly, Mr. Goldstein indicated that, in the fall of 2009, he was involved in meeting with Members of Parliament, including Mr. Dykstra, to discuss the relationship between local television stations and the cable industry.

Mr. Vic Gupta

Mr. Gupta, the Principal of Prime Strategies Group, is registered to lobby on behalf of various organizations, including both the Canadian Football League (CFL) and the Association of Canadian Distillers, the latter of which is registered to lobby the Department of Citizenship and Immigration. Mr. Gupta has not had, in respect of any of these registrations, any official communications with any official in the Department of Citizenship and Immigration, including Mr. Dykstra.

With respect to his role as Parliamentary Secretary, Mr. Dykstra indicated that Mr. Gupta is a longstanding friend and that he had not had any official dealings with Mr. Gupta in his capacity as Parliamentary Secretary. This was confirmed by Mr. Gupta in his interview with my Office.

With respect to Mr. Dykstra's role as Member, Mr. Gupta indicated that Mr. Dykstra attended a lunch hosted by the Commissioner of the CFL, Mr. Mark Cohon, for Members of Parliament interested in supporting the CFL. Mr. Gupta indicated that this lunch was intended to provide Mr. Cohon and senior members of his staff with an opportunity to become acquainted with Members of Parliament interested in knowing about the CFL and the issues that affect it. Mr. Gupta further indicated that this same group of Members, including Mr. Dykstra, were regularly updated through the summer of 2009 on the status of the league and the various issues with which it is concerned.

Mr. Claude Lajeunesse

Mr. Lajeunesse is listed on the Registry of Lobbyists as the Responsible Officer for the Aerospace Industries Association of Canada. In its most recent registration (dated January 4, 2010), the Aerospace Industries Association of Canada listed the Department of Citizenship and Immigration among the departments it is registered to lobby. However, at the time this report was finalized, it had not had any official communications with any officials from the Department of Citizenship and Immigration, including Mr. Dykstra.

Mr. Dykstra indicated that he was not aware of any lobbying efforts made on behalf of either the Aerospace Industries Association of Canada or Mr. Lajeunesse to the Department of Citizenship and Immigration. He also stated that he had not had any official dealings with Mr. Lajeunesse in his capacity as Parliamentary Secretary to the Minister of Citizenship and Immigration. This was confirmed by Mr. Lajeunesse in his interview with my Office.



Mr. Dykstra also indicated that he knows Mr. Lajeunesse in connection with issues that affect the aerospace industry in his riding, which is home to a number of aerospace-related companies as well as an airport. For his part, Mr. Lajeunesse estimated that he had met with Mr. Dykstra one or two times since he assumed his current position with the Aerospace Industries Association of Canada.

Mr. Bryan Rogers

Mr. Rogers is listed on the Registry of Lobbyists as an employee of Scotiabank who spends more than 20 percent of his time engaged in lobbying activities. A review of the lobbyist registrations for Scotiabank over the relevant period of time (as reflected in one inactive registration between July 29, 2008 and August 24, 2009 and the current, active registration from August 24, 2009 to the present) shows that Scotiabank is registered to lobby the Department of Citizenship and Immigration. It also shows that representatives from Scotiabank met with the Minister of Citizenship and Immigration on June 11, 2009 to discuss temporary foreign workers and with an official from the Minister's Office on June 11, 2009 and on July 9, 2009 to discuss multicultural banking. Mr. Dykstra was not listed on the Registry of Lobbyists as a designated public office holder who participated in any of these communications.

In his interview, Mr. Dykstra indicated that he had no knowledge of these meetings and, more particularly, that he had not had any official dealings with Mr. Rogers in his capacity as either Parliamentary Secretary to the Minister of Citizenship and Immigration or as Member of Parliament for St. Catharines. He indicated that Mr. Rogers is a close personal friend.

In his interview with my Office, Mr. Rogers stated that he did not participate in any of the meetings reported on the Registry of Lobbyists. Mr. Rogers also indicated that he did not have any official dealings with Mr. Dykstra in his capacity as either Parliamentary Secretary or Member of Parliament.

Mr. Will Stewart

Mr. Stewart is a Principal of Navigator Ltd. and Ensign Canada Inc. He is registered to lobby on behalf of the Interac Association with respect to "consumer issues, financial institutions, payments industry, taxation and finance" on the Registry of Lobbyists. This registration does not include the Department of Citizenship and Immigration.

With respect to his role as Parliamentary Secretary, Mr. Dykstra indicated that he had not had any official dealings with Mr. Stewart. This was confirmed by Mr. Stewart in his interview with my Office.

With respect to Mr. Dykstra's role as Member, Mr. Stewart indicated that he had official dealings with Mr. Dykstra on March 10, 2010 to discuss ATM fees in connection with his lobbying efforts on behalf of the Interac Association. This official communication is reported in the Registry of Lobbyists.

In addition, Mr. Stewart indicated that Ensign Canada Inc. hosts events and receptions to which Members are invited, including, for example, an event to honour Mr. Peter Milliken as the longest serving Speaker of the House of Commons, a reception for a newly appointed managing



director of Ensign Canada and a few book launches. Mr. Stewart indicated that he invited Mr. Dykstra to attend these events but that he did not know if Mr. Dykstra attended, and thought Mr. Dykstra might have attended the event for the new managing director.

Mr. Jan Westcott

Mr. Westcott is listed on the Registry of Lobbyists as the Responsible Officer for the Association of Canadian Distillers. Although several lobbyist registrations have been filed on behalf of the Association of Canadian Distillers that include the Department of Citizenship and Immigration, none of these registrations lists any official communications with any officials from that department, including Mr. Dykstra.

With respect to his role as Parliamentary Secretary, Mr. Dykstra indicated that Mr. Westcott is a longstanding friend and that he had not had any official dealings with Mr. Westcott. This was confirmed by Mr. Westcott in his interview with my Office.

With respect to his role as Member, Mr. Dykstra also indicated that he had had periodic business discussions with Mr. Westcott in the time that he has known him.

In his interview, Mr. Westcott indicated that the Association of Canadian Distillers has had official dealings with Mr. Dykstra in his capacity as the Member of Parliament for St. Catharines. He indicated that the Association keeps Mr. Dykstra informed of business developments, particularly as they relate to a small distillery, which is a member of the Association of Canadian Distillers, located in the Niagara Peninsula.



**SCHEDULE III:
THE RELEVANT PROVISIONS**
(from page 22)

Conflict of Interest Act

This investigation engages sections 2, 4, 11 and 16 of the *Conflict of Interest Act* (Act). Section 2 includes a definition of “gift or other advantage” and section 4 defines what constitutes a conflict of interest for the purposes of the Act. Sections 11 and 16 set out rules of conduct relating to the acceptance of gifts and other advantages and the personal solicitation of funds by public office holders, respectively. These provisions read as follows:

2. (1) *The following definitions apply in this Act.*

[...]

“gift or other advantage” means

(a) *an amount of money if there is no obligation to repay it;
and*

(b) *a service or property, or the use of property or money that
is provided without charge or at less than its commercial
value.*

[...]

4. *For the purposes of this Act, a public office holder is in a conflict of interest when he or she exercises an official power, duty or function that provides an opportunity to further his or her private interests or those of his or her relatives or friends or to improperly further another person’s private interests.*

[...]

11. (1) *No public office holder or member of his or her family shall accept any gift or other advantage, including from a trust, that might reasonably be seen to have been given to influence the public office holder in the exercise of an official power, duty or function.*

(2) *Despite subsection (1), a public office holder or member of his or her family may accept a gift or other advantage*

(a) *that is permitted under the Canada Elections Act;*

(b) *that is given by a relative or friend; or*

(c) *that is received as a normal expression of courtesy or protocol, or is within the customary standards that normally accompany the public office holder’s position.*



- (3) *When a public office holder or a member of his or her family accepts a gift or other advantage referred to in paragraph (2)(c) that has a value of \$1,000 or more, the gift or other advantage is, unless otherwise determined by the Commissioner, forfeited to Her Majesty in right of Canada.*

[...]

16. *No public office holder shall personally solicit funds from any person or organization if it would place the public office holder in a conflict of interest.*

Conflict of Interest Code for Members of the House of Commons

This investigation engages sections 3, 8 and 14 of the *Conflict of Interest Code for Members of the House of Commons* (Code). Whereas section 3 includes a definition of “benefit” and establishes the circumstances in which Members are considered to further private interests, sections 8 and 14 set out rules of conduct relating to furthering private interests and the acceptance of gifts or benefits, respectively. These provisions read as follows:

- 3.(1) *The following definitions apply in this Code.*

[...]

“benefit” means

- (a) *an amount of money if there is no obligation to repay it;*
and
- (b) *a service or property, or the use of property or money that is provided without charge or at less than its commercial value, other than a service provided by a volunteer working on behalf of a Member;*

but does not include a benefit received from a riding association or a political party.

[...]

- 3.(2) *Subject to subsection (3), a Member is considered to further a person’s private interests, including his or her own private interests, when the Member’s actions result, directly or indirectly, in any of the following*

- (a) *an increase in, or the preservation of, the value of the person’s assets;*
- (b) *the extinguishment, or reduction in the amount, of the person’s liabilities;*
- (c) *the acquisition of a financial interest by the person;*



- (d) *an increase in the person's income from a source referred to in subsection 21(2);*
- (e) *the person becoming a director or officer in a corporation, association or trade union; and*
- (f) *the person becoming a partner in a partnership.*

[...]

8. *When performing parliamentary duties and functions, a Member shall not act in any way to further his or her private interests or those of a member of the Member's family, or to improperly further another person's or entity's private interests.*

[...]

14.(1) *Neither a Member nor any member of a Member's family shall accept, directly or indirectly, any gift or other benefit, except compensation authorized by law, that might reasonably be seen to have been given to influence the Member in the exercise of a duty or function of his or her office.*

(1.1) *For greater certainty, subsection (1) applies to gifts or other benefits:*

- (a) *related to attendance at a charitable or political event; and*
- (b) *received from an all-party caucus established in relation to a particular subject or interest.*

(2) *Despite subsection (1), a Member or a member of a Member's family may accept gifts or other benefits received as a normal expression of courtesy or protocol, or within the customary standards of hospitality that normally accompany the Member's position.*

(3) *If gifts or other benefits that are related to the Member's position are accepted under this section and have a value of \$500 or more, or if the total value of all such gifts or benefits received from one source in a 12-month period is \$500 or more, the Member shall, within 60 days after receiving the gifts or other benefits, or after that total value is exceeded, file with the Commissioner a statement disclosing the nature of the gifts or other benefits, their source and the circumstances under which they were given.*



(4) Any disclosure made pursuant to the requirements of section 15 does not need to be disclosed as a gift or other benefit under subsection (3).

