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

The Gill Report

made under the
CONFLICT OF INTEREST ACT



February 24, 2016

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

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CONFLICT OF INTEREST ACT

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EXECUTIVE SUMMARY

This report presents the findings of my examination under the *Conflict of Interest Act* (Act) of the conduct of Mr. Parm Gill, former Parliamentary Secretary and Member of Parliament for Brampton–Springdale, in relation to letters of support that he sent to an administrative tribunal in May 2015.

I undertook the examination on my own initiative after receiving information that Mr. Gill had, at the request of two of his constituents, written letters of support to the Canadian Radio-Television and Telecommunications Commission (CRTC) in relation to applications for broadcasting licences. He signed the letters as a Member of Parliament and did not use his title of Parliamentary Secretary.

I examined Mr. Gill's actions under section 9 of the Act, which prohibits public office holders from using their position to seek to influence a decision of another person so as to improperly further another person's private interests.

Parliamentary secretaries have responsibilities beyond those they have as Members of Parliament. The role of Parliamentary Secretary has been enhanced over the years to include supporting ministers in the development of specific departmental policies. Considering the special influence that they may have given their governmental roles, it would be improper for parliamentary secretaries, as for ministers, to seek to influence an administrative tribunal, meant to operate at arm's length from the government, with respect to its decision-making. Parliamentary secretaries cannot remove themselves from their responsibilities as reporting public office holders by signing letters of support as Members of Parliament, even if they do not include their parliamentary secretary title.

While section 64 states that nothing in the Act prohibits Members of the House of Commons who are public office holders from engaging in those activities that they would normally carry out as Members, it does not supersede all other provisions of the Act. Section 64 cannot be understood to permit ministers or parliamentary secretaries to provide support to constituents in any and all circumstances or to engage in activities that would place them in contravention of the Act.

While I believe that Mr. Gill acted in good faith, I concluded that he contravened section 9 of the Act by sending letters of support to the CRTC on behalf of two constituents when he was a parliamentary secretary. Like ministers, parliamentary secretaries are prohibited from sending letters of support to administrative tribunals in relation to their decision-making whether or not they explicitly identify themselves as parliamentary secretaries.





CONCERNS

On October 7, 2015, I received an email from a member of the public stating that Mr. Parm Gill, then Parliamentary Secretary to the Minister of International Trade, had written letters of support on behalf of two broadcasting licence applicants. These two letters, signed by Mr. Gill as a Member of Parliament, were addressed to the Canadian Radio-television and Telecommunications Commission (CRTC). According to its website, the CRTC “is an administrative tribunal that regulates and supervises broadcasting and telecommunications in the public interest.”

The two applicants were seeking a broadcasting licence for a commercial AM radio station that would operate on frequency 1350 kHz in Brampton, Ontario, to serve the multicultural English-speaking population. The letters of support would benefit two constituents in Mr. Gill’s riding.

Section 9 of the *Conflict of Interest Act* (Act) prohibits public office holders from using their position to seek to influence a decision of another person so as to improperly further another person’s private interests.

Based on this information, I had reason to believe Mr. Gill had contravened section 9 of the Act.





PROCESS

On October 13, 2015, I commenced an examination on my own initiative pursuant to subsection 45(1) of the *Conflict of Interest Act* (Act). I wrote to Mr. Parm Gill to inform him that, based on the information before me, it appeared that he had, in contravention of section 9 of the Act, written two letters to the Canadian Radio-television Telecommunications Commission in support of applications for broadcasting licences each of which would benefit one of his constituents.

I asked Mr. Gill to provide me with a written response to my concerns as well as any other document that might be relevant to my examination. I received his response on November 4, 2015 and subsequently conducted an interview with him on December 9, 2015. As I did not interview any other witnesses in this matter or receive any documents aside from those provided by Mr. Gill, there was no need to conduct a second interview with him.

In keeping with the practice I have established in conducting examinations, Mr. Gill was given an opportunity to comment on the draft of the factual sections of this report (Concerns, Process, Findings of Fact and Mr. Gill's Position) before it was finalized.





FINDINGS OF FACT

Background

Mr. Parm Gill was the Member of Parliament for Brampton–Springdale from May 2, 2011, to August 2, 2015. On September 19, 2013, Mr. Gill was appointed Parliamentary Secretary to the Minister of Veterans Affairs. On becoming a parliamentary secretary, Mr. Gill became subject to the *Conflict of Interest Act* (Act) as a reporting public office holder.

On January 23, 2015, Mr. Gill ceased to be Parliamentary Secretary to the Minister of Veterans Affairs and became Parliamentary Secretary to the Minister of International Trade.

Letters of support

Mr. Gill specified that Members' first and foremost responsibility is to represent their constituents because, ultimately, they are the ones who elected them. He considered his role to be that of helping and serving them in any way possible. He added that, in his role as a Member, if he could assist organizations that do good work in their community, he would do so and his constituents and the community would benefit.

Mr. Gill said that it was common for his constituency office to contact government offices in order to help his constituents, and that he often did so. He mentioned that he often helped constituents with issues related to pension, employment insurance or immigration, the latter of which made up the majority of such cases.

Mr. Gill readily admitted sending letters of support to the Canadian Radio-television and Telecommunications Commission (CRTC) for two of his constituents, and said that he had done so solely as a Member of Parliament.

In his written representation, Mr. Gill noted that his relationships with the two constituents that he supported were strictly professional and derived from his duties as a Member. He said that he would not describe these constituents as friends, and that they had not supported, morally or financially, any of his political campaigns. Mr. Gill said he had agreed to help them because they had, separately, approached him in his role as a Member of Parliament.

Mr. Gill told me that he had basically repeated in his two letters of support, one dated May 4, 2015 and the other May 6, 2015, the information that the two applicants had provided and that the two letters were virtually identical. They were sent to the CRTC and each was in support of an application for a broadcasting licence for a commercial AM radio station that would operate on frequency 1350 kHz in Brampton, Ontario. The letters provided some



information on the audience targeted by each of the applications submitted and on the proposed programming, which was aimed at the multicultural English-speaking community in Brampton. In the letters of support, Mr. Gill underlined the past community involvement of the two constituents.

Each letter was written on House of Commons letterhead and signed by Mr. Gill solely as a Member of Parliament, and did not mention that he was a parliamentary secretary.

Upon checking information available in the public domain, my Office found that the CRTC received three broadcasting licence applications for a radio station that would operate on frequency 1350 kHz in Brampton. On October 21, 2015, the CRTC approved one of the applications that were supported by Mr. Gill.

Previous letters of support and compliance orders involving other parliamentary secretaries

In January 2013, I learned that two parliamentary secretaries had sent letters of support to the CRTC. I issued compliance orders to both parliamentary secretaries on January 24, 2013, directing each of them to refrain from sending letters of support to similar bodies in the future without first obtaining approval from my Office. These compliance orders were made public and included the following:

Whereas you sent a letter to the Canadian Radio-television and Telecommunications Commission [...] in support of a community radio station [...];

Whereas you are a parliamentary secretary with official government duties and functions and subject to the Conflict of Interest Act as a reporting public office holder;

Whereas section 9 of the Conflict of Interest Act prohibits public office holders from using their positions to seek to influence decision-making where to do so would improperly further the private interests of another person;

And whereas the Canadian Radio-television and Telecommunications Commission is a quasi-judicial tribunal that is meant to operate at arm's length from the government with respect to its decision-making;

It is improper for you to have written a letter of support to a tribunal in relation to its decision-making. Writing such a letter would be improper regardless of whether or not you explicitly identified yourself as a parliamentary secretary.



I followed up with a guideline, dated October 2013, entitled *Serving your constituents when you are a minister or a parliamentary secretary*, in which I stated as follows:

Ministers and parliamentary secretaries, as well as their staff (ministerial, Hill or constituency), may not under any circumstances attempt to intervene in the decision-making process of an administrative tribunal on behalf of any constituent in any riding, or to expedite the processing of an application. Such contact may be considered an attempt to influence a decision, in breach of section 9 of the Act.

Responsibilities of Members and parliamentary secretaries

In the correspondence sent to Mr. Gill in November 2013 following his initial appointment as Parliamentary Secretary, my Office included the guideline just referred to above. Mr. Gill told me that he did not clearly remember having received or having read either the correspondence or the guideline.

In my interview with Mr. Gill, I discussed the compliance orders issued to parliamentary secretaries in January 2013. He told me that he was vaguely aware of them but he believed the parliamentary secretaries found themselves in trouble because they had used their parliamentary secretary title or letterhead, which he himself did not do in sending the letters of support to the CRTC on behalf of his constituents.





MR. GILL'S POSITION

In his written representation, Mr. Gill stated that he respected the guidance and guidelines issued by the Government of Canada and by my Office in sending the letters of support. However, during his interview, he was unable to identify what guidance and guidelines he was referring to other than advice that colleagues and his staff were able to give him in this regard.

Mr. Gill added that he did not recall having sent other letters to the Canadian Radio-television and Telecommunications Commission (CRTC), and that in sending the two letters to the CRTC, he had in no way intended to influence the decision of this administrative tribunal.

He told me that he had not asked the CRTC to act in a specific way, and that he did not ask anyone (government officials or ministerial staff) at the department then called Department of International Trade to speak with any Government of Canada official on behalf of the two constituents he supported.

Mr. Gill said that he had used the letterhead with his title as Member, and not his title as Parliamentary Secretary, and that when he signed the letters he did so as a Member only and did not mention his title of Parliamentary Secretary. He said he was very careful not to use his position as a parliamentary secretary to try to influence anyone or anyone's decision.

He also said that section 64 of the Act allowed him to rightly engage in activities normally carried out by Members on behalf of their constituents.

Mr. Gill noted that, if he were in the same situation today, he would probably do things differently.





ANALYSIS AND CONCLUSION

Analysis

In this examination, I had to determine whether Mr. Parm Gill had contravened section 9 of the *Conflict of Interest Act* (Act) by sending letters of support relating to applications for broadcasting licenses for a new radio station to the Canadian Radio-television and Telecommunications Commission (CRTC) on behalf of two of his constituents when he was a parliamentary secretary. As a parliamentary secretary, Mr. Gill was a reporting public office holder subject to the Act.

Section 9 of the Act reads as follows:

9. No public office holder shall use his or her position as a public office holder to seek to influence a decision of another person so as to further the public office holder's private interests or those of the public office holder's relatives or friends or to improperly further another person's private interests.

There is no doubt that the letters sent by Mr. Gill were intended to influence the decision of the CRTC in a way that could further the private interests of the two constituents.

The constituents were neither relatives nor friends of Mr. Gill, and Mr. Gill was not seeking to further his own private interest. The question that remains is whether he was seeking to improperly further the private interests of the two constituents by sending the letters of support.

It has long been understood that it would be improper for a minister to seek to influence an administrative tribunal (also sometimes referred to as a quasi-judicial tribunal) in relation to any matter before it. I am of the view that the same considerations that apply to ministers concerning their actions with respect to administrative tribunals must also apply to parliamentary secretaries.

Parliamentary secretaries have responsibilities beyond those they have as Members of Parliament. The role of parliamentary secretary has been enhanced over the years, especially in the area of supporting ministers in the development of specific departmental policies. Nowadays, they have taken on governmental roles in addition to their legislative role. Former Prime Minister Harper's 2011 document entitled *Accountable Government: A Guide for Ministers and Ministers of State*, as well as Prime Minister Trudeau's document entitled *Open and Accountable Government*, published in November 2015, both state that:

A Minister may delegate to a Parliamentary Secretary specific duties for policy development initiatives.



I mentioned in the Findings of Fact that I had issued compliance orders on January 24, 2013 to two parliamentary secretaries who had written letters of support to an administrative tribunal in relation to its decision-making. In those compliance orders, I stated expressly that the parliamentary secretaries had acted improperly in writing those letters of support.

In my 2012-2013 Annual Report, I referred to these compliance orders and stated:

In the case of the parliamentary secretaries, I noted that their positions entailed official government duties and functions and that the Canadian Radio-television and Telecommunications Commission is meant to operate at arm's length from the government with respect to its decision-making.

These observations apply equally in this case.

As discussed earlier in the Findings of Fact, I have previously determined that ministers and parliamentary secretaries cannot remove themselves from their responsibilities as reporting public office holders by signing as a Member and not including their title of Minister or Parliamentary Secretary in a letter of support or in any other correspondence. This is because of the special influence ministers and parliamentary secretaries may have as members of the government.

Mr. Gill raised section 64 of the Act, as noted earlier in this report. My guideline of October 2013 states that section 64 of the Act cannot be used to permit ministers and parliamentary secretaries to provide support to constituents in any and all circumstances. Section 64 must be taken into account in interpreting the other provisions of the Act, but it does not supersede them. Section 64 cannot be understood to allow ministers and parliamentary secretaries to engage in activities that would place them in contravention of the Act.

The relevant portion of section 64 of the Act reads as follows:

64. (1) *Subject to subsection 6(2) and sections 21 and 30, nothing in this Act prohibits a member of the Senate or the House of Commons who is a public office holder or former public office holder from engaging in those activities that he or she would normally carry out as a member of the Senate or the House of Commons.*

Mr. Gill had at his disposal my guideline of October 2013 in which I stated my position on this matter. In the guideline, I stated that ministers and parliamentary secretaries may not under any circumstances attempt to intervene in the decision-making process of an administrative



tribunal on behalf of any constituent or expedite the processing of an application as such contact may be considered an attempt to influence a decision, which is a breach of section 9 of the Act.

Mr. Gill said he believed that by not using his title of Parliamentary Secretary, he could send these letters of support, adding that he had never read the compliance orders. I believe that Mr. Gill acted in good faith but was not clear as to the full breadth of my previous advice.

Conclusion

While I believe Mr. Gill acted in good faith, I nevertheless must conclude that he contravened section 9 of the Act by sending the letters of support to the CRTC, an administrative tribunal, when he was a parliamentary secretary.

Parliamentary secretaries are prohibited from sending letters of support to an administrative tribunal whether or not they sign as a Member only or as a parliamentary secretary.

