



Office of the Conflict
of Interest and Ethics
Commissioner

Commissariat aux
conflits d'intérêts et à
l'éthique

THE GUERGIS REPORT

made under the
*CONFLICT OF INTEREST CODE FOR
MEMBERS OF THE HOUSE OF COMMONS*



July 14, 2011

Mary Dawson
Conflict of Interest and
Ethics Commissioner

The Guergis Report

made under the
Conflict of Interest Code for Members of the House of Commons

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PREFACE

Under section 27 of 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*, 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. Inquiries must be conducted in private.

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.

Within 10 sitting days after the tabling of the report, the Member who is the subject of the report has the right to make a statement in the House of Commons. The report may be subject to either a motion to concur or a motion to be considered by the House.

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EXECUTIVE SUMMARY

This report presents the findings of my inquiry under the *Conflict of Interest Code for Members of the House of Commons* (Code) in connection with a letter dated September 9, 2009, sent to municipal officials in Simcoe County by the Honourable Helena Guergis when she was the Member of Parliament for Simcoe–Grey. The letter encouraged them to consider a request by a constituent, Mr. Jim Wright of Wright Tech Systems Inc., to make a public presentation on his company’s green waste management technology to Simcoe Council.

It was alleged that, by sending the letter, Ms. Guergis promoted a firm that was linked to her husband, Mr. Rahim Jaffer, and thereby contravened specific provisions of the Code.

My Office faced a number of challenges during the fact-finding stage of this inquiry. There were substantial inconsistencies and gaps in the testimony of important witnesses and my Office experienced significant problems in obtaining documentary evidence.

I determined that Mr. Jaffer was building a business relationship with Mr. Wright during the period when Ms. Guergis prepared and sent the letter to Simcoe County officials. I also found that Mr. Jaffer had a private interest in relation to the letter, as the work that he did relating to Mr. Wright, Wright Tech and its related marketing firm, Green Rite Solutions Inc., was carried out in the expectation that Mr. Jaffer would at some point receive a financial benefit.

My inquiry focussed on whether Ms. Guergis contravened two provisions of the Code: section 8, which prohibits Members from acting in any way to further their private interests or those of a member of their family, when acting in an official capacity; and section 9, which prohibits Members of the House of Commons from using their position to influence the decision of another person so as to further their private interests or those of a member of their family.

I concluded that Ms. Guergis contravened section 8 of the Code by sending the letter relating to Wright Tech because she was acting in a way to further Mr. Jaffer’s private interests. I also concluded that she contravened section 9 because the letter was directed at influencing the decision of the Warden and Council of Simcoe County in a way that could further her husband’s private interests. Ms. Guergis was aware of some of the initial business interactions between her husband and Mr. Wright and his companies that raised conflict of interest concerns and therefore she should not have written the letter.

This inquiry was launched in response to a request by Ms. Libby Davies, Member of Parliament for Vancouver East and is not related to a letter that I received from the Prime Minister on April 9, 2010 about Ms. Guergis, which was the subject of substantial media attention. During the course of this inquiry, my Office found no evidence indicating that there were additional matters relating to Ms. Guergis’ conduct that warranted investigation under the *Conflict of Interest Act* or the Code.



THE ALLEGATIONS

On April 16, 2010 Ms. Libby Davies, Member of Parliament for Vancouver East, 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 Ms. Helena Guergis, former Minister of State (Status of Women) and Member of Parliament for Simcoe–Grey, in relation to a letter Ms. Guergis had sent to municipal officials in Simcoe County.

Ms. Davies' request made reference to a media report, also published on April 16, 2010, alleging that Ms. Guergis had written to a municipal official in September 2009 on behalf of a company called Wright Tech Systems Inc. to encourage that official to consider a request for a presentation by Wright Tech on its alternative waste management technology. This letter was made public by the media.

The article reported an alleged business relationship between Ms. Guergis' husband, Mr. Rahim Jaffer, Toronto-area businessman Mr. Nazim Gillani and Wright Tech. It alleged that Mr. Jaffer and Mr. Gillani had been involved in a plan to put an initial public offering of one of Mr. Jim Wright's companies on the market and that they had discussed plans involving two of Mr. Wright's companies, Wright Tech and its sales arm, Green Rite Solutions Inc., at a dinner meeting the day after Ms. Guergis sent her letter. There were also media reports that Mr. Jaffer's company, Green Power Generation, had submitted a proposal for funding under the Government of Canada's Green Infrastructure Fund on behalf of Green Rite.

In light of the publicly available information linking Mr. Jaffer to Mr. Jim Wright and his companies, I was about to raise my concerns with Ms. Guergis when I received Ms. Davies' request. My concerns were that Ms. Guergis might have contravened the Code in relation to section 8 and section 9. Section 8 prohibits Members of the House of Commons from acting in a way to further their private interests or those of a member of their family when acting in an official capacity. Section 9 prohibits Members from using their position to influence the decision of another person so as to further their private interests or those of a member of their family.

Ms. Davies wrote that it appeared that Ms. Guergis and her family had a private interest in Wright Tech and that Ms. Guergis' promotion of the company could have furthered the interests of herself and her family. With respect to the Code, Ms. Davies alleged that Ms. Guergis had contravened section 9. With respect to the Act, she alleged that Ms. Guergis had contravened section 4, which describes a conflict of interest as including situations in which a public office holder exercises an official power, duty or function that provides himself or herself with an opportunity to further his or her private interests or those of his or her relatives.



Ms. Guergis' letter to the municipal official was dated September 9, 2009, and was printed on Ms. Guergis' Member of Parliament letterhead. It introduced a constituent, Mr. Jim Wright of Wright Tech, to Simcoe County Warden Tony Guergis and Council. It encouraged these municipal officials to consider a request by Mr. Wright to make a public presentation on his company's green waste management technology to Simcoe County Council. A copy of this letter is included in *Schedule I* of this report.



CORRESPONDENCE FROM THE PRIME MINISTER'S OFFICE

On April 9, 2010, a week before I received Ms. Davies' request, I had received a letter from the Office of the Prime Minister indicating that his Office was aware of allegations concerning Ms. Guergis' conduct that were possibly relevant to her obligations under both the *Conflict of Interest Act* (Act) and the *Conflict of Interest Code for Members of the House of Commons* (Code). That letter was the subject of substantial media attention.

The letter did not include specific information, nor did it request an investigation under either the Act or the Code. It directed me to a private investigator who had contacted counsel for the Conservative Party of Canada. My Office contacted the private investigator, who told us that he had made no allegations against Ms. Guergis. In the absence of any information that would lead me to proceed with an investigation, my Office did not pursue the matter further.

My Office found no evidence in the course of this inquiry to indicate that there were additional matters relating to Ms. Guergis' conduct that warranted investigation under the Act or the Code.



THE PROCESS

After reviewing Ms. Davies' request and being satisfied that she had set out her reasonable grounds to believe that Ms. Guergis had not complied with her obligations under the *Conflict of Interest Code for Members of the House of Commons* (Code), I concluded that Ms. Davies' letter constituted a valid request for an inquiry under section 27 of the Code.

With respect to the *Conflict of Interest Act* (Act), which applies to ministers as well as other public office holders, I was not satisfied that Ms. Davies' letter set out the grounds for an examination under section 44 of the Act. Ms. Davies provided me with no information to suggest that Ms. Guergis had been acting in her capacity as a minister when she sent the letter to Simcoe County. The matter described in Ms. Davies' request appeared to be a constituency matter, one of purely local interest with no apparent connection to Ms. Guergis' former position of Minister of State (Status of Women). In addition, Ms. Guergis' letter to Simcoe County identified her only as a Member of the House of Commons, containing no reference to the ministerial position she had held at the time of the alleged contravention.

I wrote to Ms. Guergis on April 16, 2010 to notify her of the request I had received from Ms. Davies and of my own concerns with respect to the Code and I included a copy of Ms. Davies' request. I explained to Ms. Guergis that the Code afforded her 30 days to respond, after which I would decide whether to conduct an inquiry. I explained to her that, at that time, my concerns related only to her obligations under the Code, but that I would provide Ms. Davies with the opportunity to elaborate on her allegations under the Act.

The same day, I also wrote to Ms. Davies to inform her that I had forwarded her request to Ms. Guergis and that Ms. Guergis had 30 days to respond to the allegations made under the Code. With respect to the Act, however, I indicated to Ms. Davies that for the reasons set out above, her letter did not meet the requirements for requesting an examination under the Act. I explained, however, that she could still send me additional information in that regard.

On April 20, 2010, I received a letter from Ms. Davies in which she disagreed with my interpretation of the Act, arguing that Ms. Guergis' conduct should be reviewable under the Act, regardless of whether her actions were directly related to her position as a minister. I responded to Ms. Davies on April 22, 2010 indicating that, while I agree that the actions of Members of the House of Commons who are ministers will, in some situations, engage their responsibilities under both the Act and the Code, I could not commence an examination under the Act in the absence of reasonable grounds to believe that a contravention of the Act had occurred.

I received a letter from Ms. Guergis on May 10, 2010 responding to the concerns raised. On May 13, 2010, I wrote to Ms. Guergis seeking additional information and received a second letter on May 14, 2010. Ms. Guergis provided additional information in an e-mail on



May 17, 2010. After making a further request for details, I received a second e-mail on May 18, 2010.

Having reviewed the submissions made by Ms. Guergis, I concluded that an inquiry was warranted and, on June 3, 2010, I wrote to Ms. Guergis to inform her that I would be proceeding with an inquiry to determine whether she had contravened sections 8, 9 or 11 of the Code. Section 11 relates to attempts to engage in any of the activities prohibited in sections 8 to 10. Ms. Guergis then informed me that Mr. Howard Rubel would be acting as her counsel. I also informed Ms. Davies on June 3, 2010 of my decision to proceed with an inquiry.

I conducted my first interview with Ms. Guergis on June 29, 2010 and a second on November 26, 2010. My Office interviewed and requested documents from a total of 11 witnesses and requested documents from an additional three individuals who were not interviewed. *Schedule II* includes a list of all these individuals. In keeping with the practice I have established in conducting investigations, Ms. Guergis was given an opportunity to comment on a draft of all parts of this report except the *Analysis and Conclusions* and the *Executive Summary*.



PRELIMINARY OBSERVATIONS

The focus of this inquiry was to understand the extent of the business relationship between Mr. Rahim Jaffer and Mr. Jim Wright and the extent of Ms. Guergis' knowledge of that relationship at the time she sent the letter. There were, unfortunately, several factors that made it difficult to get a complete and accurate picture of the situation. These factors also caused significant delays in completing this inquiry. They are discussed below.

Inconsistencies and gaps in witness testimony

The two central witnesses in this investigation, Ms. Guergis and Mr. Jaffer, are husband and wife. Both Ms. Guergis and Mr. Jaffer appeared to have difficulty remembering details related to the events of late August and early September 2009, including those surrounding the letter and the business dealings Mr. Jaffer had with Mr. Wright's companies.

These events occurred immediately before a period of significant personal difficulties for Mr. Jaffer. In the early morning of September 11, 2009 Mr. Jaffer was arrested on matters unrelated to this inquiry. His arrest was widely reported in the media beginning on September 16, 2009. Mr. Jaffer told me that the experience of the arrest had made it particularly difficult for him to remember details from this period.

Other important witnesses had personal or professional connections either with Ms. Guergis or with her husband. Those witnesses included Ms. Guergis' executive assistant and her husband's friends and former business associates.

The accounts offered by some witnesses were at times inconsistent or incomplete. Some of these inconsistencies were minor, and can probably be attributed to the fact that most interviews took place a year after Ms. Guergis had sent her letter to Simcoe County. There were, however, more substantial inconsistencies within and among the accounts of some witnesses. It appeared, at times, that these witnesses were not entirely forthcoming, but were possibly influenced by a desire to protect another person.

In this report, I note the instances where inconsistencies arise in relation to relevant facts.

Problems in obtaining documentary evidence

Ms. Guergis had told me that she had initiated the drafting of the letter after a telephone conversation she had had with Mr. Jim Wright on September 3, 2009. However, Ms. Guergis' executive assistant testified on October 25, 2010 that she clearly recalled receiving an e-mail on August 25, 2009 from Ms. Guergis asking her to draft the letter requested by Mr. Wright. She also provided a copy of this draft letter. It was substantially different from the wording of the final letter.



I determined that, in order to resolve this discrepancy, I needed access to additional documents, including all drafts of the letter showing document properties with the date on which the document was first drafted, and all related e-mails and calendar entries. The timing of the first draft was particularly relevant to this inquiry. My Office approached the House of Commons to inquire about the process to obtain these documents on a confidential basis. Gathering this documentary evidence proved to be a major challenge.

We were informed that e-mails and documents saved electronically on the House of Commons system were the property of the Member and therefore that we would need the Member's permission to proceed with such a request. We were also informed by the House of Commons that the release of any documents directly to my Office would require the authorization of the Member involved or the Speaker of the House of Commons.

Ms. Guergis agreed that my Office could have access to documents retrieved as a result of our request, but only after they were vetted by herself and Mr. Rubel, her counsel, because of concerns that constituent information might be contained in some of the documents. Under the arrangements that were made, my Office was not given direct access to the documents retrieved by the House of Commons. Instead, they were reviewed by Ms. Guergis and her counsel before some were provided to me, and I was advised that there were no other relevant documents.

There were significant delays while we waited for the search and vetting process to be completed. In addition, my Office was not satisfied that the methodology of the searches conducted by the House of Commons would yield all relevant documents. The process required months of communication back and forth between the House of Commons, Ms. Guergis, her counsel and my Office.

These matters are discussed in some detail later in this report in the section entitled *Findings of Fact*, under the heading *Timing of the letter*.

I am left with a general concern that I cannot be certain, without direct access to documents, that I have received all relevant documents during the course of this investigation. This is a concern that will be relevant to all future investigations involving records of the House of Commons.



FINDINGS OF FACT

The purpose of this inquiry was to determine whether Ms. Guergis failed to comply with her obligations under the *Conflict of Interest Code for Members of the House of Commons* (Code) in sending a letter relating to Wright Tech Systems Inc. to municipal officials in Simcoe County.

The letter, dated September 9, 2009, was printed on Ms. Guergis' Member of Parliament letterhead. It was addressed to the Warden and council members of Simcoe County and encouraged them to consider a request by a constituent, Mr. Jim Wright of Wright Tech Systems Inc., to make a public presentation to Simcoe County Council on his company's green waste management technology. Media reports indicated that Mr. Jaffer had been involved in business dealings relating to Mr. Wright and his companies at the time that Ms. Guergis had sent her letter. A copy of Ms. Guergis' letter is included in *Schedule I* of this report.

In order to determine whether Ms. Guergis failed to comply with her obligations under the Code in relation to this letter, I considered the nature of the dealings of Ms. Guergis' husband, Mr. Jaffer, with Mr. Wright and his companies, the circumstances in which Ms. Guergis decided to send the letter and what Ms. Guergis knew about those dealings at the time she sent the letter.

Background – Mr. Jaffer's initial involvement with the Wrights

Mr. Jim Wright is the Chairman of Wright Tech and a partner in its related marketing firm, Green Rite Solutions Inc. His son, Mr. Stephen Wright, is the president of the marketing firm. Wright Tech is a waste management company that has developed technology to dry organic waste and convert it into fuel. It manufactures units called Biodryers based on this technology. These units are sold to municipalities and other organizations that manage large-scale waste production.

In the summer of 2009, the companies were working with a firm called International Strategic Investments to explore possible funding sources for Green Rite. Mr. Nazim Gillani, the President and Chief Executive Officer of International Strategic Investments, had asked his cousin, Mr. Aleem Lakhani, to help assess Wright Tech's biodryer technology.

Mr. Lakhani told Mr. Gillani that he did not have expertise in green technology, but that he knew someone who did. Mr. Lakhani had recently learned that his friend, Mr. Rahim Jaffer, had launched a green technology consulting company with a friend, Mr. Patrick Glémaud, who had worked for Environment Canada. Mr. Lakhani suggested that Mr. Gillani meet with Mr. Jaffer. Both Mr. Lakhani and Mr. Gillani were aware of Mr. Jaffer's background in politics and his business partner's background in government and thought they could also be of assistance in obtaining government funding.

Mr. Jaffer was working with Mr. Glémaud, who had started a small company called Green Power Generation Corp. Both Mr. Jaffer and Mr. Glémaud were directors of the company. The



company had no other directors or officers. The company had been exploring several options in the area of environmental technology and policy, but that the company had never made any money.

Mr. Jaffer first met both Mr. Gillani and Mr. Wright on August 25, 2009 at a business lunch organized by Mr. Gillani. Mr. Lakhani was also in attendance, as well as several representatives of Mr. Wright's and Mr. Gillani's companies.

At one point during the lunch, Mr. Jaffer and Mr. Wright were chatting with each other and Mr. Jaffer mentioned that Ms. Guergis, his spouse, was the Member of Parliament for Simcoe–Grey, the riding in which Mr. Wright owned a cottage. Mr. Wright then mentioned a controversial proposal to build a garbage dump in the area, known as Site 41.

Mr. Wright told Mr. Jaffer that he had proposed his technology to staff at Simcoe County as an alternative to the Site 41 dump, but that there had been no follow-up from those officials. Mr. Wright asked Mr. Jaffer if Ms. Guergis might be able to help him connect directly with elected officials from Simcoe County. Mr. Jaffer suggested that Mr. Wright contact Ms. Guergis directly and he provided Mr. Wright with her office telephone number.

Immediately following the meeting of August 25, 2009, Mr. Gillani asked Green Power Generation to conduct a preliminary assessment of the technological and commercial viability of Wright Tech's biodryer. A number of e-mails between Mr. Gillani and Mr. Jaffer in late August 2009 also make reference to an appraisal or analysis being done by Mr. Jaffer and Mr. Glémaud.

The next day, Mr. Jaffer and Ms. Guergis were on a flight to Ottawa. Ms. Guergis told me about a short conversation that she had with her husband during that flight about Mr. Wright. Her husband told her that he had met Mr. Wright through business and that Mr. Wright was a constituent of Ms. Guergis and was familiar with the Site 41 issue. Mr. Jaffer explained that Mr. Wright had asked for an introduction to Ms. Guergis and whether she could help in providing an introduction for Wright Tech to Simcoe County Council. Mr. Jaffer also mentioned to Ms. Guergis that he and Mr. Glémaud had been asked to review Mr. Wright's biodryer technology by Mr. Gillani and that they were thinking of doing work with Mr. Wright. Mr. Jaffer told her that he had given Mr. Wright her phone number and that Mr. Wright would be calling her.

The request for the letter

On September 3, 2009 Mr. Jim Wright called Ms. Guergis at her office. Mr. Wright indicated that he was a constituent whose company had developed waste management technology that could possibly serve as an alternative to Site 41. He told her that he had met and discussed his technology with her husband, who had given him her phone number. Mr. Wright



asked her to send a letter to elected officials at Simcoe County to ask that they provide him with an opportunity to present his technology directly to elected officials.

In her initial letter of May 10, 2010 and in a follow-up e-mail of May 17, 2010, Ms. Guergis told me that Mr. Wright first came to her attention during this phone call. In an e-mail of May 18, 2010, Ms. Guergis amended that account to inform me that her husband had told her about Mr. Wright and his technology a week earlier, on August 26, 2009.

During her preliminary interview with me on June 29, 2010, Ms. Guergis testified that, during her telephone conversation with Mr. Wright on September 3, 2009, she told him that she would not write a letter on his behalf if he were working with her husband. She then asked him whether he was working with her husband or was going to do any business with him in the future. She said she explained that if that were the case she could not write the letter as it would be inappropriate and added that Mr. Wright assured her that there was no prospect of business dealings now or in the future. Ms. Guergis said she told Mr. Wright that she had to think about his request and discuss it with her husband.

My Office asked Mr. Wright to recount his recollection of the telephone conversation. He said that there was no discussion of whether or not he was doing business with Mr. Jaffer. Mr. Wright was interviewed a second time, during which he was presented with Ms. Guergis' statement that she had asked Mr. Wright whether he had a business relationship with her husband. Mr. Wright told my Office that, if there had been such a discussion, he did not recall it.

In a second interview with Ms. Guergis, I presented her with Mr. Wright's testimony. Ms. Guergis told me that she no longer had any specific recollection of that conversation. She could not confirm with certainty that she had discussed with Mr. Wright the possibility of doing business with her husband. She would only say that she was certain that she would have asked him those questions, given that her husband had told her he had met Mr. Wright through business.

Ms. Guergis told me that, after she had spoken to Mr. Wright on September 3, 2009, she asked her husband whether he was engaged in business dealings with Mr. Wright and his company because she had concerns that writing the letter on Mr. Wright's behalf could put her in a conflict of interest. She told him that if she wrote the letter, he would have to confirm that there was no business going on between them and that there could be none in the future. She said that her husband assured her that there was no business relationship between the two, nor was there any prospect of a business relationship in the future.

After discussing this with her husband, Ms. Guergis decided to write the letter on behalf of Mr. Wright. She told me that, before sending the letter, she had asked her husband to confirm again that there would be no business dealings with Mr. Wright. Mr. Jaffer assured her again that



there was no prospect of a business relationship between the two. She then stated to him that once the letter is sent, “that is it ... there is no more.” She advised him when the letter was sent.

I asked Mr. Jaffer why Ms. Guergis had asked him more than once about his involvement with Mr. Wright. He thought that she was nervous about the letter because she did not know if he was telling the truth about his relationship with Mr. Wright since she knew that Mr. Jaffer was still involved with Mr. Gillani. For her part, Ms. Guergis said she did have concerns about a potential conflict of interest but that she had no reason to doubt what her husband had told her.

Circumstances in which Ms. Guergis wrote the letter

Ms. Guergis told me that she felt it was her duty, as Mr. Jim Wright’s Member of Parliament, to consider his request. She also told me that she was politically motivated to write the letter. She represented the federal riding of Simcoe–Grey. Although Site 41 is located in the riding of Simcoe North, just north of her own former riding, she said the proposed dump had been an issue of great concern to her constituents. In addition, prior to the 2008 federal election, she had been engaged in the issue as an active opponent of the Site 41 dump. After the 2008 election, the riding of Simcoe North was won by a fellow Conservative. At that point, for this and other personal family reasons, Ms. Guergis took a back seat on the issue of Site 41.

Ms. Guergis told me, however, that many constituents still expected her to be actively engaging with the Site 41 issue. This was due in part to the proposed dump’s proximity to her riding, but it was also complicated by the fact that some members of her family, who were local politicians and shared her last name, were in favour of the Site 41 dump site. This created public confusion as to what Ms. Guergis’ position was. She told me that she had received a number of letters from constituents on this issue that required a response. For these reasons she was anxious to re-engage on the issue as an opponent of Site 41. The letter relating to Mr. Wright, which suggested that his technology would provide a good alternative to Site 41, gave her an opportunity to do so.

In mid-September 2009, Ms. Guergis sent a number of letters responding to constituents’ concerns about Site 41. My Office obtained an unsigned draft of a response letter. Ms. Guergis sent a similar letter to a local newspaper in Simcoe County to counter false statements that she supported Site 41. That letter was published in that newspaper on September 22, 2009. In both letters, Ms. Guergis outlined the actions that she had taken in the past to oppose Site 41. She wrote, “Just this month a letter was sent to Simcoe County Warden Tony Guergis to introduce constituents of mine who are using green technology to dispose of waste”. During her interview she told me that she was referring to the letter of September 9, 2009 relating to Mr. Wright, and that she had not put forward the names of any other constituents. Neither letter referred specifically to Mr. Wright or his companies.



Timing of the letter

Preparation of the letter

In her initial interview on June 29, 2010, Ms. Guergis told me that she had made the decision to write the letter relating to Wright Tech after having spoken to Mr. Jim Wright on September 3, 2009. During the course of my inquiry I received some contradictory evidence, discussed in detail below, indicating that a draft of the letter may have been written more than a week earlier. If drafting had begun before Ms. Guergis' conversation with Mr. Wright, this would raise the possibility that Mr. Jaffer had made a direct request to Ms. Guergis to write the letter.

Ms. Guergis' executive assistant told my Office that she had prepared an initial draft of this letter on August 25, 2009. She recalled that Ms. Guergis had sent her an e-mail that day asking her to draft the letter and that she had prepared a draft letter and left it for Ms. Guergis on August 26, 2009, just before the executive assistant left on several days' leave. The executive assistant was unable to produce a copy of this e-mail but did provide my Office with a copy of an initial draft of the letter. It was substantially different from the final letter signed by Ms. Guergis. When asked to check the document properties of the letter, the executive assistant wrote in an e-mail to my Office that the document properties indicated that it was created on August 25, 2009, but that she was unable to print out that information.

When presented with this inconsistency in her second interview, Ms. Guergis expressed surprise and said she had never seen the draft letter provided to us by the executive assistant. She told me that she was certain that the drafting of the letter did not start until after that telephone conversation with Mr. Wright.

Ms. Guergis' executive assistant also provided my Office with an e-mail dated September 3, 2009. This e-mail was written to a former colleague of Ms. Guergis and in it the executive assistant wrote that she had been asked to draft a letter to Simcoe County suggesting that they sit through a presentation by Wright Tech. I note that this e-mail was sent on the same day and several hours after Ms. Guergis' telephone discussion with Mr. Wright. It did not, however, indicate when the executive assistant had been asked to draft the letter.

I considered it important to determine when the first draft of the letter relating to Mr. Wright was prepared. August 25, 2009 was more than a week before Ms. Guergis' discussion with Mr. Wright but the same day on which Mr. Jaffer first met Mr. Wright.

My Office contacted the House of Commons to ask about the process for obtaining, on a confidential basis, all drafts of the letter, with document properties, and all relevant e-mails and calendar entries from the accounts of Ms. Guergis and her staff. As mentioned under the heading *Preliminary Observations*, my Office was advised that e-mails and documents saved electronically on the House of Commons system were the property of the Member and that any



search would require the Member's authorization. We were also informed that the release of any documents directly to my Office would require the authorization of the Member involved or the Speaker of the House of Commons

On November 12, 2010, I asked Ms. Guergis for her authorization and she agreed to the search for all drafts of the letter. Although she had also agreed that these drafts be forwarded directly to my Office, the House of Commons forwarded them to Ms. Guergis instead.

With respect to the e-mail search, Ms. Guergis raised concerns about the scope of the search and about my obtaining the materials directly, because they might contain private information belonging to her constituents. Ms. Guergis ultimately agreed to have the e-mail search carried out as well, on the condition that the results be first vetted by her and Mr. Rubel, who would then forward them to me. Ms. Guergis told me during her interview on November 26, 2010 that she had consulted the House of Commons lawyers, who advised her that constituent information could not be released. A letter from Ms. Guergis' lawyer indicated that she had received legal advice from the House of Commons' lawyers that she had a duty to protect private constituent information.

On November 30, 2010, Mr. Rubel wrote to my Office to provide the results of the letter search: two copies of a draft letter that had the same wording as the final letter, with accompanying document properties. The properties indicated that the letter had a "created" date of September 11, 2009 and a "last printed" date of September 16, 2009. Mr. Rubel advised that Ms. Guergis had now come to believe that she would have signed the letter after September 11, 2009, but before September 16, 2009. He suggested that Ms. Guergis had based her previous belief that it was signed on September 8, 2009 on the fact that it was date-stamped September 9, 2009.

On January 18, 2011, after the vetting of the e-mail search results had been done by Ms. Guergis and Mr. Rubel, Mr. Rubel forwarded one relevant calendar entry, advising that no other relevant documents had been found.

We found the search results surprising, as they did not contain the initial draft letter or the e-mail of September 3, 2009, both of which Ms. Guergis' executive assistant had recently printed from her office computer and provided to us. After discussions with officials from the House of Commons Information Technology Services and with Mr. Rubel, we learned that there had been some misunderstandings about the scope of the searches, and consequently, some relevant documents may have been missed. It was clear that additional searches were necessary.

After several letters between my Office, Ms. Guergis and Mr. Rubel, including my final request for a very focussed search, I received a box of documents on May 16, 2011 from



Ms. Guergis. There was no indication whether the documents I had been seeking had been found, or whether the box contained any other relevant documents.

These documents did not include a copy of the earlier draft of the Wright Tech letter that Ms. Guergis' executive assistant had provided to my Office. These documents did, however, include the September 3, 2009 e-mail sent by her executive assistant that mentioned that she had been asked to draft a letter suggesting that county council sit through a presentation from Wright Tech, which had not been retrieved in the previous searches.

In addition, there were several drafts of the Site 41 constituent letter between August 20, 2009 and September 16, 2009. The reference to having sent the letter to Simcoe County was not added until September 16, 2009. This would appear to indicate that the Wright Tech letter to Simcoe County Council may have been finalized at the same time.

The process of obtaining these documents from the House of Commons electronic records took almost six months and required many communications between the House of Commons, Ms. Guergis, her counsel and my Office.

Signing of the letter

In her initial interview on June 29, 2010, Ms. Guergis told me the letter was signed on September 8, 2009 and date stamped September 9, 2009. She said that she specifically recalled that date because she remembered signing the letter in her departmental office prior to leaving for an event in her constituency on the evening of September 8, 2009. The timing of the signing was corroborated by her executive assistant during her first interview on October 25, 2010, when she told my Office that she was with Ms. Guergis when it was signed. She also provided contextual details that indicated a clear recollection of these events.

In a second interview with Ms. Guergis' executive assistant on April 1, 2011, she told my Office that she now believed that she had not started to draft the letter until sometime in September. She suggested that she had been looking at the properties of another document when she told us it was started on August 25, 2009.

The executive assistant said that she now believed the letter was signed on September 16, 2009 and that she had stamped it with the September 9, 2009 date because Ms. Guergis' office was also sending out a letter to constituents on the Site 41 issue that made reference to the letter sent to Simcoe County officials. The executive assistant said that because of this reference, it was important that it appear that the Wright Tech letter had been sent before the constituent letter. This is at odds with her earlier firm recollection, and that of Ms. Guergis, that the letter was signed on September 8, 2009.



Reaction from Simcoe County

The letter sent by Ms. Guergis relating to Mr. Jim Wright was addressed to Mr. Tony Guergis, the Warden of Simcoe County, and to Simcoe County councillors. Mr. Guergis is Ms. Guergis' second cousin. Media reports in 2010 raised concerns that Ms. Guergis may have taken advantage of her relationship with Mr. Guergis to make other representations on behalf of Mr. Wright.

The intent of the letter was to request that Simcoe County Council receive a presentation from Wright Tech about their technology and its applicability as an alternative to the Site 41 dump. Mr. Jim Wright told my Office that earlier in 2009, he had met with the County's waste manager on the subject of his technology, but there was no follow-up. Mr. Stephen Wright, President of Green Rite, told my Office that the County did request further information from Green Rite regarding the possible cost of an installation in the summer of 2009 but, again, did not follow up.

In a letter to me, received on August 10, 2010, the current Simcoe County Warden, Cal Patterson, set out the actions taken by the County upon receipt of the letter from Ms. Guergis. The letter was received September 22, 2009 and was forwarded to the Clerk's Department, where it was added to the agenda of the Corporate Services Committee for their October 14, 2009 meeting. The committee recommended that the letter be received for information but took no further action. On October 27, 2009, the letter was added to the County Council's agenda and the Council approved the recommendation that the letter be received for information only. A letter was sent to Ms. Guergis to advise her of this. After this point, no further action was taken by Simcoe County Council or any of its representatives.

Mr. Tony Guergis, who had been the Warden of Simcoe County in 2009, confirmed that there was no follow-up on the letter because all alternative technologies had already been explored by county employees and there were no viable alternatives that had received provincial approval. A process had been developed a number of years ago for any company with waste conversion technology to present it to county employees, who would then determine its viability before it could be presented to elected officials.

Mr. Guergis said that it is routine for the County Council to receive letters from the four members of Parliament whose ridings overlapped with Simcoe County. The process by the County administration for dealing with all correspondence directed to the County Council and the Office of the Warden is the same no matter what the source of the correspondence. Mr. Guergis said that he did not recall the letter until he read about it in the media and never spoke to Ms. Guergis or anyone else about it.



I have found no evidence to suggest that Ms. Guergis had any further communications with Simcoe County officials relating to the letter, or that Simcoe County officials had any further communications with Mr. Wright or any representative of Wright Tech after the letter was received by the County.

Mr. Jaffer's ongoing business activities with and related to Mr. Wright

To determine whether Ms. Guergis acted in a way to further the private interests of her husband, it was necessary to establish whether Mr. Jaffer had a private interest that could be affected by Ms. Guergis' letter relating to Mr. Jim Wright. I therefore had to understand the nature of any business relationship between Mr. Jaffer and Mr. Wright.

Although both Ms. Guergis and Mr. Jaffer told me that Mr. Jaffer had assured Ms. Guergis that he would not be doing business with the Wrights, documents collected and the testimonies of several witnesses show that Mr. Jaffer and Green Power Generation continued to engage in business activities with and related to Wright Tech and Green Rite during the weeks following the initial meeting of August 25, 2009 in Toronto. Mr. Jaffer was directly involved in several of these.

An e-mail from Mr. Lakhani to Mr. Gillani on August 29, 2009 advised that Mr. Lakhani had met with Mr. Jaffer and Mr. Glémaud to follow-up on the meeting in Toronto. Mr. Lakhani requested in that e-mail that all financial and related discussions pertaining to Green Rite and other projects should be filtered through Mr. Jaffer.

A short document entitled "GPG-Preliminary Technology Assessment: Biodryer Technology" was distributed by Mr. Jaffer to Mr. Gillani and others on August 31, 2009. The document indicated that Mr. Jaffer or Mr. Glémaud could be contacted for further information. Documents and testimony obtained by my Office indicate that a conference call to discuss this document took place on August 31, 2009 between Mr. Gillani, Mr. Glémaud, Mr. Lakhani and Mr. Jaffer.

The next day, Mr. Jaffer sent an e-mail to Mr. Gillani, Mr. Lakhani and Mr. Glémaud indicating that he and Mr. Glémaud would prepare an "initial project outline for Greenrite". On Friday, September 4, 2009, the day after Ms. Guergis first spoke to Mr. Jim Wright, Mr. Jaffer sent an e-mail to Mr. Gillani indicating that an initial overview and next steps had been prepared and would be sent to Mr. Gillani the following week.

Mr. Stephen Wright, president of Green Rite Solutions Inc., recalled that Mr. Jaffer had called him around that time to say that he and Mr. Glémaud looked forward to working with Green Rite. Mr. Wright said that Mr. Jaffer stated that they knew how the government worked, where the funding programs were and how to prepare the appropriate applications. Mr. Wright noted that he and his father, Mr. Jim Wright, were interested as they knew that applying for government funding was not a straightforward process.



Several witnesses told my Office that in early September 2009 Mr. Jaffer and Mr. Glémaud had met with Mr. Jim Wright at the offices of Wright Tech in Richmond Hill, Ontario. Mr. Glémaud and Mr. Gillani recalled a meeting taking place between Mr. Jaffer, Mr. Glémaud and Mr. Jim Wright at Wright Tech's office. Mr. Glémaud believed this meeting took place on September 7 or 8, 2009. He remembered travelling with Mr. Jaffer to Toronto, staying overnight at Mr. Gillani's residence and borrowing his car to go to this meeting. Mr. Gillani offered a similar account of these events.

On September 8, 2009, Mr. Gillani sent an e-mail to two clients of Wright Tech, asking them to provide a testimonial. The e-mail indicated that Mr. Jaffer and Mr. Glémaud would follow-up by phone.

Mr. Jaffer had also met with Mr. Gillani and others at a dinner that took place on September 10, 2009. A calendar entry from Mr. Jaffer's agenda for that evening reads "Dinner with Naz and Greenrite gang". An e-mail from Mr. Gillani on September 8, 2009 to representatives of Green Rite indicates that the intent of the meeting was to discuss with Mr. Wright the next steps to be taken on the Green Rite project by Mr. Jaffer and Mr. Glémaud. Mr. Jaffer attended the meeting, but no representatives of Wright Tech or Green Rite attended the dinner.

Ms. Guergis and Mr. Jaffer both told me that they had dinner in Toronto on September 12, 2009 with Mr. Gillani, his girlfriend, a business partner of Mr. Gillani's and that partner's spouse. Ms. Guergis, Mr. Jaffer, Mr. Gillani and Mr. Gillani's business partner all said that there were no business discussions. I have found no evidence to contradict this.

During his interview, Mr. Jaffer initially told me that he did not recall the technology review referred to above nor did he recall some of the meetings and discussions referred to above. In each instance, we presented him with the testimony of other witnesses and corroborating e-mails. Mr. Jaffer then agreed that the technology review and the meetings and discussions had indeed taken place. He reiterated repeatedly that the events of late August and early September were difficult to recall because of the personal issues he dealt with related to his arrest on September 11, 2009.

Mr. Jaffer told me that he was not engaged in the business activities of Green Power Generation for several weeks after his arrest and, in particular, after the arrest became public on September 16, 2009. He told me, however, that he went into the office on September 15 and 16, 2009.

Documents show that he did maintain some active involvement during that time period. An e-mail sent to Mr. Jaffer by Mr. Gillani's lawyer indicated that the two had had a discussion on September 16, 2009 about a contract between Green Power Generation and International



Strategic Investments. The e-mail was dated September 17, 2009 and included a draft copy of the contract. A revised version of the contract was signed by Mr. Glémaud and Mr. Gillani on September 21, 2009. Mr. Jaffer told me that he did not recall discussing the contract with Mr. Gillani's lawyer, reading the e-mail or reviewing the contract.

The contract did not refer specifically to Green Rite or Wright Tech. It indicated that Green Power Generation would provide consulting services to International Strategic Investments. Although the terms of remuneration were not set out in the contract, it did commit both parties to negotiating payment on a project-by-project basis.

My Office also obtained a copy of a submission made by Green Power Generation under the federal government's Green Infrastructure Fund on behalf of Green Rite. Mr. Glémaud was identified as the representative of Green Power Generation. This submission was sent to Mr. Brian Jean, who was Parliamentary Secretary to the Minister of Transport, Infrastructure and Communities at the time and had been mandated to review funding proposals. Mr. Jean told my Office that he believed the submission was received in early September 2009 and that he had reviewed it during the week of September 7 to 11, 2009.

An e-mail sent on September 16, 2009 from Mr. Glémaud to Mr. Gillani and copied to Mr. Jaffer and Mr. Wright indicates that the submission had been made. That e-mail included an electronic copy of the submission. When questioned about this submission, Mr. Jaffer said that he did not recall having read that e-mail and that he did not know about the submission at that time.

My Office also obtained e-mail exchanges of September 16, 17 and 18, 2009 in which Mr. Glémaud solicited further information about the biodryer technology from Mr. Jim Wright in order to respond to questions from Mr. Jean's office relating to the submission.

Both Mr. Stephen Wright and Mr. Jim Wright told us that they had ceased dealing with Mr. Gillani on September 23, 2009 but continued to work with Mr. Jaffer and Mr. Glémaud. Mr. Stephen Wright stated that after they had decided to stop dealing with Mr. Gillani, Mr. Jim Wright spoke with Mr. Jaffer to see if Green Power Generation was still interested in working with them now that they were no longer dealing with International Strategic Investments. Mr. Stephen Wright said that Mr. Jaffer and Mr. Glémaud said that they were still interested.

Mr. Jaffer and Mr. Glémaud met with the Wrights at the Wright Tech offices to discuss next steps. This meeting appears to have taken place on September 30, 2009. They told the Wrights that they were working on the Green Infrastructure Fund and trying to find a fit for Green Rite. Mr. Stephen Wright said that Mr. Jaffer and Mr. Glémaud also mentioned a municipal funding program and that Mr. Jaffer gave contact information to Mr. Jim Wright.



On October 1, 2009, Mr. Lakhani sent an e-mail to Mr. Gillani, asking how the Green Rite/Green Power Generation meeting had gone the previous day, which would have been September 30, 2009. A second e-mail on October 2, 2009 from Mr. Lakhani to Mr. Gillani stated that Mr. Lakhani had spoken to Mr. Jaffer, who had told him that things had “gone south” with Green Rite, and questioned whether the deal was “off the table now” after Mr. Jaffer and Mr. Glémaud had assisted in “moving ahead” at the federal level.

On October 13, 2009, Mr. Glémaud sent an e-mail to Mr. Jean’s office attaching an additional four-page letter about the Green Rite proposal. He forwarded this e-mail to Mr. Jaffer on October 27, 2009.

A few months later, in January 2010, Mr. Jaffer contacted Mr. Wright about representing Wright Tech and Green Rite in China, and contacted the Federation of Canadian Municipalities about obtaining funding for Mr. Wright’s business. At that time, Mr. Jaffer proposed that Mr. Wright pay Green Power Generation a monthly retainer to compensate them for their work.

Mr. Jaffer’s expectations

Mr. Jaffer told me that neither he nor Mr. Glémaud, nor Green Power Generation, had received any remuneration for the work done by him and his partner, Mr. Glémaud, relating to Wright Tech and Green Rite. This was corroborated by the testimonies of Mr. Glémaud, Mr. Gillani and Mr. Jim Wright. Mr. Jaffer also said that any work he or Green Power Generation had done in relation to Mr. Wright’s companies was done for International Strategic Investments, Mr. Gillani’s company, and not directly for Mr. Wright’s companies. Mr. Jaffer also said that he had not expected to receive any remuneration from Wright Tech or Green Rite directly.

Mr. Jaffer told me that he was not expecting to be remunerated for the work Green Power Generation was doing in relation to the Green Rite project, but was instead hoping to build a long-term relationship between Mr. Gillani and Green Power Generation. He told me that he did not believe that the prospect of building such a relationship depended, from Mr. Gillani’s point of view, on whether or not the Green Rite project was a success.

His expectations in this regard diverge from those of Mr. Glémaud, Mr. Gillani and Mr. Jim Wright. Mr. Gillani and Mr. Wright both testified that, if funding were made available to Wright Tech through the efforts of Green Power Generation, it would have been reasonable to expect that Mr. Jaffer and Mr. Glémaud would be paid for their work on the submission. Mr. Glémaud told us that if there had been interest from the federal government with respect to the Green Rite project submission, Green Power Generation would have negotiated a specific agreement for going forward with a complete funding application.



For her part, Ms. Guergis told me that she had no knowledge of Mr. Jaffer's dealings with or related to Mr. Wright and his companies following the technology review that Mr. Jaffer had mentioned to her on August 26, 2009, until they were revealed through media reports in the spring of 2010. All of the witnesses interviewed stated that they had never been involved in any discussion relating to Green Rite in the presence of Ms. Guergis, nor did they have any other indication that she was aware of her husband's dealings with or relating to Mr. Wright. She told me that she normally tried to distance herself from her husband's business dealings, and that they did not usually discuss their work.



MS. GUERGIS' POSITION

Ms. Guergis' position is that she did not contravene any of the provisions of the *Conflict of Interest Code for Members of the House of Commons* (Code).

She said that she sent the letter, at the request of Mr. Jim Wright, to assist him as a constituent in her riding in presenting his technology to the Warden and Councillors of Simcoe County as a possible alternate solution to the proposed Site 41 waste site. She felt it was part of her duties as the Member of Parliament for Simcoe–Grey and Mr. Wright's elected representative to bring his solution to the attention of the County. She told me that she considered this a typical letter of support that Members regularly provide. She has written similar letters on behalf of constituents in the past, where it had been in the interests of the community.

In addition, Ms. Guergis indicated she had an interest in promoting Wright Tech as part of her political activities to oppose Site 41. She recounted, in a letter sent to constituents who had contacted her office asking what she was doing to stop Site 41, that she had sent a letter to Simcoe County Warden Tony Guergis about Site 41. She sent a letter similar to the one sent to constituents to the local newspaper to counter false statements that she supported Site 41. Her letter was published in that paper on September 22, 2009. She stated that sending this letter to the newspaper indicates a high level of openness and that it demonstrates that she did not think that she was doing anything wrong. She added that, if she had had any concerns that she was doing anything wrong, or even felt uncertain about having sent the letter, she would not have voluntarily opened herself up to criticism by publicizing the fact that she had sent the letter.

Ms. Guergis stated that it was not her intention, in sending the letter of introduction to the Warden and Councillors of Simcoe County, to attempt to further her husband's personal business interests. She said that she was generally not aware of any details of her husband's business activities, as they did not discuss their work in any detail. She said she was concerned about the propriety of sending the letter of introduction in view of the interactions between her husband and Mr. Wright. She wanted to ensure that there was no conflict of interest or even an appearance of conflict of interest.

Ms. Guergis said she told Mr. Wright and her husband that if they were working together or there was any prospect of working together in the future, she could not write the letter. She asked her husband on two occasions whether he or Green Power Generation were doing business or planning to do business with Mr. Wright or his companies, Wright Tech and Green Rite. On both occasions, her husband assured her that this was not the case: that there were no current business dealings nor any prospect of future business dealings. She also told him when she had signed the letter.



Ms. Guergis said that she was trying to confirm that there was no foreseeable possibility that her husband would be doing business with Mr. Wright. She added that she knew, because she had been a political staffer for several years before becoming a MP, that it was important to pay close attention to make sure that there is nothing that is perceived to not look right.

After questioning her husband about any potential business relationship with Mr. Wright, she was satisfied that neither he nor Green Power Generation (GPG), had any business dealings or any prospects of future business dealings with Wright Tech when she sent the letter.

She told me that when she referred to business dealings, she meant that there would be a contract in place, that there was going to be an exchange of money and a relationship that builds down the road, that they would maybe become partners and that her husband would be selling the technology. She told her husband that if she sent the letter he could not be intending to do business with Mr. Wright's companies.

Ms. Guergis told me that she did not learn about the fact that her husband's company, Green Power Generation, had further interactions with Wright Tech following the technology review until articles referring to these dealings appeared in the media in April 2010. She referred to the e-mails between Mr. Glémaud and Mr. Jean's office, which showed that Green Power Generation was dealing with Wright Tech, but stated that it appeared that her husband was not aware of this. She recognized, however, that this involved her husband, through Green Power Generation, whether or not he was personally aware of it. She said that, had she been aware of these subsequent interactions with Mr. Wright at the time she was considering sending the letter of introduction, she would not have sent it.



ANALYSIS AND CONCLUSIONS

Assessment of Facts

Evidence gathered in this investigation clearly shows that Mr. Jaffer and Green Power Generation had several business dealings with and related to Mr. Jim Wright and his companies beginning on August 25, 2009 and continuing throughout September and early October 2009. Following the initial technology review in late August, Mr. Jaffer and Mr. Glémaud met with Mr. Wright on September 7 or 8, 2009.

Mr. Jaffer told me that he did not engage in the work of Green Power Generation between his arrest on September 11, 2009 and mid to late October 2009. Despite this, I have found that Mr. Jaffer did continue to have some active involvement with Green Power Generation. He had a discussion with Mr. Gillani's lawyer on September 16, 2009 about a contract between Green Power Generation and International Strategic Investments. On that date, he was also copied on an e-mail from Mr. Glémaud confirming that a submission had been made by Green Power Generation under the federal government's Green Infrastructure Fund on behalf of Green Rite.

There were also several discussions and at least one meeting with the Wrights in late September and ongoing discussions in October 2009 about continuing to work with them even though the Wrights had stopped working with Mr. Gillani. It would appear that the business relationship between Green Power Generation and the Wrights continued into 2010.

I accept that neither Mr. Jaffer nor Mr. Glémaud, nor Green Power Generation, was compensated for any work done relating to Mr. Wright and his companies. It is not reasonable to believe, however, that Mr. Jaffer's objective was not to be compensated at some point for work done in relation to Mr. Wright and his companies, particularly if they received private or public funding in part through the efforts of Mr. Jaffer and Green Power Generation.

Even if Mr. Jaffer and Mr. Glémaud did not expect to be compensated specifically for their work related to Wright Tech and Green Rite, it would be reasonable to conclude that the prospect of a longer term relationship with International Strategic Investments or Wright Tech and Green Rite would depend on Green Power Generation's ability to add value to the business projects related to these companies. In addition, Green Power Generation continued to work with the Wrights after the Wrights ceased all business discussions with Mr. Gillani. In January 2010, Mr. Jaffer proposed to Mr. Wright that Green Power Generation be paid a monthly retainer.

I therefore conclude that the work of Mr. Jaffer and Green Power Generation relating to Wright Tech and Green Rite, including the interactions that took place in August and September 2009, was carried out with the expectation of future financial reward.



Ms. Guergis told me that she has always tried to distance herself from her husband's business activities and that they rarely discussed their work. Before writing her letter to Simcoe County, however, Ms. Guergis was aware that her husband had met Mr. Jim Wright through business. Mr. Jaffer had told her that Mr. Wright would be calling her for a letter related to Site 41. She also knew that her husband and his business partner had been asked by Mr. Gillani to review the Wright Tech technology and were thinking of doing work with Mr. Wright. However, she did not know when this review was completed.

It is impossible to come to a firm view as to when the letter to Simcoe County was drafted or when it was mailed. A first draft that differed from later drafts was produced by Ms. Guergis' executive assistant but this version was not retrieved in any of the searches. It is impossible to determine, on the face of that draft, when it was prepared.

With respect to when the letter was sent, it may have been mailed as early as September 9, 2009 or as late as September 16, 2009. The letter was marked as received by Simcoe County on September 22, 2009, which would suggest the later date.

The timing of the preparation and sending of the letter was important to this inquiry and could have been determinative. Unfortunately, these questions were never resolved and the delays encountered in attempting to obtain additional documents to sort out the facts underlying inconsistent testimony delayed the progress of the inquiry significantly.

Whether Ms. Guergis sent the letter to Simcoe County on September 9 or 16, there is no indication that the business interactions between the Wrights, Mr. Jaffer and Green Power Generation were subsiding at that time.

The evidence clearly shows that Ms. Guergis had concerns about whether her husband was involved in a business relationship with Mr. Wright and his companies. Ms. Guergis made two or three attempts to find out if Mr. Jaffer was involved in business activities with Mr. Wright. She said that she was concerned that a potential conflict of interest existed.

Ms. Guergis and Mr. Jaffer had dinner in Toronto on September 12, 2009 with Mr. Gillani, his girlfriend, a business associate of Mr. Gillani's and that associate's spouse. This shows that Mr. Jaffer had a continuing relationship with Mr. Gillani, the person who had introduced him to Mr. Wright in a business context and who had asked him to review Mr. Wright's technology. This may explain Mr. Jaffer's belief that Ms. Guergis was nervous about writing her letter in support of Mr. Wright. Ms. Guergis did have concerns but stated that she had no reason to doubt what her husband had told her when he said he would not be doing business with Mr. Wright. She said that she was satisfied that no potential conflict of interest existed.

I conclude that when Ms. Guergis sent the Wright Tech letter, she was probably not aware of her husband's business activities with and in relation to Mr. Wright following the technology review. However, she did know that her husband had met Mr. Wright through business and that



her husband and his business partner Mr. Glémaud were reviewing the technology and were thinking of doing work with Mr. Wright. This raised in her mind concerns about a conflict of interest.

Analysis

The purpose of my inquiry was to determine whether Ms. Guergis contravened sections 8, 9 and 11 of the *Conflict of Interest Code for Members of the House of Commons* (Code) by sending a letter dated September 9, 2009 to Simcoe County Council in support of Mr. Jim Wright, owner of Wright Tech.

Section 8 prohibits Members from acting in any way to further their private interests or those of a member of their family or to improperly further any other person's or entity's private interests, when performing parliamentary duties and functions. Section 9 prohibits Members from using their positions to influence a decision of another person so as to further their private interests or those of a member of their family, or to improperly further any other person's or entity's private interests. Section 11 relates to attempts to engage in any of the activities prohibited in sections 8 to 10.

I note that Section 5 of the Code provides that activities in which Members “normally and properly engage on behalf of constituents” do not breach the Code. At the same time, the Code imposes restrictions and limits on those activities to ensure their propriety. Activities that further the member's private interests or those of a member of their family, or that improperly further those of others, are prohibited.

While Mr. Wright had an interest in having the letter to Simcoe County officials written by Ms. Guergis and it would also be reasonable to conclude that Ms. Guergis could stand to benefit from her husband's business relationship, it is sufficient for the purposes of this inquiry to determine whether Mr. Jaffer had a private interest at stake in relation to this matter.

I have found that Mr. Jaffer had been cultivating a business relationship with Mr. Wright at the time Ms. Guergis sent the letter to Simcoe County officials. For the purposes of this inquiry I must consider whether Mr. Jaffer had a private interest, as contemplated by the Code, in relation to these activities. If there was, I must then determine whether Ms. Guergis acted in a way to further that private interest or attempted to do so.

Private Interest

Although the term “private interest” is not specifically defined in the Code, subsection 3(2) sets out circumstances in which a Member is considered to further a private interest. 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.*

Paragraphs (a) to (f) describe specific private interests. I have concluded that the work of Mr. Jaffer and Green Power Generation relating to Wright Tech and Green Rite was carried out with the intention of future financial reward. This is sufficient, in my opinion, for a finding that Mr. Jaffer had a private interest as contemplated by paragraphs 3(2)(c) and (d) set out above. I must also determine whether Ms. Guergis contravened the Code in relation to that private interest.

Prohibition against furthering private interests: Section 8

Section 8 of the Code prohibits Members from acting in any way to further their own private interests, those of their family members or from improperly furthering the private interests of another person or entity when Members are performing parliamentary duties and functions. 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.

For my analysis under section 8, I must first consider whether Ms. Guergis was performing parliamentary duties and functions when she wrote the letter to Simcoe County officials, and whether in doing so she acted in a way to further her husband's private interests.

For the purposes of the application of the Code, I am of the view that "parliamentary duties and functions" must include all activities that a Member performs as a Member of Parliament.



I find support for this in the definition that the Board of Internal Economy has given “parliamentary functions” in its Definitions By-Law 101. It reads as follows:

“Parliamentary functions” means duties and activities related to the position of Member of the House of Commons wherever performed and includes public and official business, and partisan matters, but does not include the private business interests of a Member or a Member’s immediate family.

Writing letters is an activity that Members would normally perform on behalf of their constituents and I believe that Ms. Guergis was performing a parliamentary function when she wrote the letter in support of Mr. Jim Wright and his company. It is generally expected that Members of Parliament will write letters of support for their constituents.

I have determined above that Mr. Jaffer had a private interest. For the purposes of section 8, I must determine whether Ms. Guergis “acted in any way” to further her husband’s private interest.

In my view, while subsection 3(2) is defined in terms of a result, a contravention of section 8 does not require that a private interest actually be furthered. Section 8 applies in all cases where a Member acts in a way to further a private interest, whatever the result.

Ms. Guergis had knowledge of specific business interactions between her husband and Mr. Wright. At the time she was asked by Mr. Wright for the letter, she knew that Mr. Jaffer had met Mr. Wright through business, that he and his business partner had been asked to review Mr. Wright’s technology by Mr. Gillani, and that they were thinking of doing work with Mr. Wright. This knowledge is what prompted her to ask her husband about the status of the business relationship after she spoke to Mr. Wright on September 3, 2009. She also knew that her husband continued to be involved with Mr. Gillani because they had a social dinner with Mr. Gillani on September 12, 2009. As well, she told her husband when the letter was sent.

She had a concern over the possibility that her husband might also benefit from this letter and told me that she asked him a number of times about the status of the business relationship. The risk of conflict of interest was clearly present. She should have refrained from sending the letter.

Ms. Guergis may well have been primarily motivated to write the letter in order to help a constituent and resolve the Site 41 issue. By sending the letter, however, she contributed in helping her husband build a successful business relationship with Mr. Wright and his companies and had enough information to suggest that she should not do so.

In my opinion, she acted in a way to further the private interests of her husband.



For these reasons, I conclude that Ms. Guergis has contravened section 8 of the Code.

Prohibition against using a position to influence: Section 9

Section 9 of the Code prohibits Members from using their positions to influence the decision of another so as to further their private interests or those of their family members or to improperly further the private interests of another person or entity. Section 9 reads as follows:

9. A Member shall not use his or her position as a member to influence a decision of another person so as to further the Member's private interests or those of a member of his or her family, or to improperly further another person's or entity's private interests.

Ms. Guergis' letter encouraged Simcoe County officials to meet with Mr. Wright and, therefore, was intended to influence the decision of those officials. Ms. Guergis wrote the letter as a Member and used her position as a Member in doing so. Section 9 prohibits the sending of such a letter if it is done so as to further the Member's private interests or those of a member of his or her family, or to improperly further those of another person.

For the reasons set out above for section 8 in relation to the furthering of Mr. Jaffer's private interests, I am of the opinion that in writing the letter Ms. Guergis used her position so as to further her husband's private interests. I note that the English versions of sections 8 and 9 use slightly different terminology ("in any way to further" in section 8, and "so as to further" in section 9) but the French version makes no such distinction ("de façon à" in both sections). In light of this, I find it appropriate to apply the same analysis for section 9 as I did for section 8 in this regard. I therefore find that Ms. Guergis has also contravened section 9 of the Code.

Prohibitions against attempting to engage in prohibited activities: Section 11

Section 11 prohibits a Member from attempting to engage in prohibited activities. It provides as follows:

11. A Member shall not attempt to engage in any of the activities prohibited under sections 8 to 10.

Because I have found contraventions of sections 8 and 9 of the Code, it is unnecessary to make any determinations related to section 11.

Conclusions

Ms. Guergis had specific knowledge of some of the business interactions between her husband and Mr. Wright. In both her written response and her oral testimony, Ms. Guergis indicated she had concerns before sending the letter in support of Wright Tech. She said she asked her husband on a number of occasions whether he was or would be doing business with



Mr. Wright. This indicates that she was aware that there was an issue: that her letter could further her husband's private interests. Ms. Guergis had the right instincts in raising the concerns with her husband but she should not have let the matter go at that.

Ms. Guergis told me that she was motivated to write the letter because it was an alternative to the Site 41 issue which she had historically opposed and I believe that this was indeed a significant part of her motivation. Ms. Guergis stated that, had she known about the ongoing business interactions, she would not have sent the letter. However, with the knowledge that she did have, she should not have written the letter.

The principles set out in section 2 of the Code articulate an expectation that Members carry out their duties and responsibilities and arrange their private affairs in a way that withstands the closest public scrutiny and avoids perceptions of conflict of interest. They must exercise informed judgment and caution and, where there is any doubt, they should refrain from such action or seek advice from my Office.

For the reasons stated above, I have determined that Ms. Guergis has contravened sections 8 and 9 of the Code in respect of the letter in support of Wright Tech because in doing so she acted in a way to further the private interests of her husband, Mr. Jaffer.



SCHEDULE I: MS. GUERGIS' LETTER TO SIMCOE COUNTY

(from page 3)



Hon. Helena Guergis, PC

M.P. for Simcoe—Grey
Députée de Simcoe—Grey

SEP 09 2009



Warden Guergis and County Council
County of Simcoe
1110 Hwy 26
Midhurst, ON
L0L 1X0



Dear Warden Guergis and County Council,

I would like to introduce a constituent of mine, Mr. Wright. I was approached by Mr. Wright who works for Wright Tech Systems Inc. in Richmond Hill, ON. Mr. Wright informed me of this company and how they are using GREEN technology to dispose of waste.

Mr. Wright has advised me that he was spoken with county officials in regards to the county councilors receiving a public presentation by Wright Tech Systems Inc. As his Member of Parliament I feel it is my responsibility to encourage you to consider this presentation about alternative waste management technology.

For information on this company please visit their website at:

Wright Tech Systems Inc
www.wrighttech.ca

or contact Mr. Jim Wright directly on his cell phone at 416-568-3824.

I encourage you to consider the request made by Mr. Wright. I think his ideas will help the county in their future decisions on waste management.

Sincerely,

Hon. Helena Guergis, P.C., M.P.
Simcoe—Grey
HG/sn

Cc: Mr. Jim Wright
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Richmondhill, ON
L4B 3G2

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Fax: (705) 435-6448
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Office of the Conflict of Interest and Ethics Commissioner

SCHEDULE II: WITNESSES – INTERVIEWS AND WRITTEN SUBMISSIONS

(from page 6)

Interviews

The names of all the witnesses interviewed are listed below with the positions they held at the time the events that are the subject of this investigation occurred.

1. Mr. Nazim Gillani
President and Chief Executive Officer, International Strategic Investments
2. Mr. Patrick Glémaud
Director, Green Power Generation Corporation
3. The Honourable Helena Guergis
Member of Parliament for Simcoe–Grey
4. Mr. Tony Guergis
Warden, Simcoe County Council
5. Mr. Rahim Jaffer
Director, Green Power Generation Corporation
Spouse of Ms. Helena Guergis
6. Mr. Brian Jean
Parliamentary Secretary to the Minister of Transport, Infrastructure and Communities
7. Mr. Aleem Lakhani
Cousin of Mr. Nazim Gillani
8. Mr. Mike Mihelic
Vice-President of Business Affairs, International Strategic Investments
9. Ms. Sarah Nolan
Executive Assistant to the Honourable Helena Guergis
10. Mr. Jim Wright
Chairman of Wright Tech Inc.
Partner in Green Rite Solutions Inc.
11. Mr. Stephen Wright
President, Green Rite Solutions Inc.



Written Submissions

1. Mr. Garth Ballantyne
Director, Green Rite Solutions Inc.
2. Mr. Gerald Mcleod
Director, Green Rite Solutions Inc.
3. Mr. Cal Patterson
Warden, Simcoe County Council

