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Conflict of Interest and
Ethics Commissioner

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Vandenbeld Report

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Conflict of Interest and
Ethics Commissioner



Vandenbeld 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 their 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 their response, the Commissioner has 15 working days to conduct a preliminary review of the request and the response and to notify both Members in writing of the Commissioner's decision as to whether an inquiry is warranted.

Following the completion of an inquiry, which must be conducted in private, 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 for concurrence or a motion for consideration by the House.

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EXECUTIVE SUMMARY

[1] This report presents the findings of my inquiry under the *Conflict of Interest Code for Members of the House of Commons* (Code) into the conduct of Ms. Anita Vandenberg, Member of Parliament for Ottawa West–Nepean, in connection with her spouse’s candidacy in the 2018 municipal election for the position of city councillor for Ottawa’s Bay Ward.

[2] The purpose of the inquiry was to determine whether Ms. Vandenberg contravened section 9 or 11 of the Code by using or attempting to use her position as a Member of the House of Commons to influence the decision of voters in Bay Ward so as to further the private interests of her spouse.

[3] Section 9 prohibits Members from using their position as a Member to influence a decision of another person so as to further their private interests or those of a family member, or to improperly further another person’s or entity’s private interests. A Member’s spouse is considered a member of their family.

[4] Section 11 of the Code prohibits Members from attempting to engage in any of the activities prohibited under sections 8 to 10 of the Code. It serves to bring within the scope of the Code any actions intended to further private interests, regardless of their result.

[5] I found that Ms. Vandenberg’s spouse had a private interest that could be furthered when he sought to be elected to the position of city councillor, a remunerated public office.

[6] The documentary evidence revealed a campaign strategy aimed at using Ms. Vandenberg’s position as a Member of the House of Commons to communicate with voters in order to convey a positive endorsement of her spouse as a serious candidate so as to increase his chances of being elected.

[7] The evidence showed that Ms. Vandenberg used her position as the Member for Ottawa West–Nepean, when she identified herself as a Member while endorsing her spouse’s election bid in a September 2018 letter to Bay Ward voters, in a recorded telephone message that was broadcast to voters in October 2018, and when engaging in door-to-door canvassing.

[8] In the report, I noted that Ms. Vandenberg also used two social media platforms to support her spouse’s campaign. While Ms. Vandenberg described these accounts as purely partisan, I found it may not be so clear to members of the public that her social media accounts, which mention her title, link to her Member’s website and contain posts relating to her role as a Member, were not parliamentary accounts. Members should be mindful of this when deciding what materials to post on such accounts.

[9] It is clear that Bay Ward voters had a decision to make as to which candidate they will cast their vote for in the 2018 municipal election. I found that when Ms. Vandenberg used her position as a Member of the House of Commons, she sought to influence those voters and that her actions could further the private interests of a family member.

[10] Since Ms. Vandenberg's spouse was ultimately not elected to public office, no private interests were actually furthered. I therefore found that she did not contravene section 9 of the Code.

[11] While Ms. Vandenberg's actions did not produce the result that was intended, she did nonetheless attempt to use her position as a Member to influence the decision of voters in Bay Ward to further the private interests of her spouse, an activity prohibited by section 9. I therefore found that she contravened section 11 of the Code.

[12] In the report, I also noted that in my view, the Code does not prevent Members from participating in election campaigns in their private or partisan capacities, provided they do so without ever using their position as Members.

[13] I recommended that no sanction be imposed because it was apparent to me that Ms. Vandenberg's failure to comply with section 11 of the Code occurred through an error in judgment made in good faith. She had made significant efforts to comply with the rules that she had considered, namely the *Members By-law* of the House of Commons' Board of Internal Economy. She expressed a sincere belief that running for public office did not engage private interests. She also immediately stopped all of her campaign activities upon seeking and obtaining my advice in October 2018.

CONCERNS AND PROCESS

[14] On October 12, 2018, I received an email from the Honourable Peter Kent, Member of Parliament for Thornhill, requesting that I commence an inquiry under the *Conflict of Interest Code for Members of the House of Commons* (Code) into the conduct of Ms. Anita Vandenberg, Member of Parliament for Ottawa West–Nepean. On October 15, 2018, Mr. Kent resubmitted a signed copy of his request as required by subsection 27(2) of the Code.

[15] In his email, Mr. Kent alleged that Ms. Vandenberg may have contravened sections 8 and 9 of the Code by recording a message that was broadcast by telephone to voters in Ottawa’s Bay Ward, in which she identified herself as a Member of Parliament and asked them to vote for her spouse in the upcoming municipal election.

[16] Section 8 of the Code prohibits Members, when performing parliamentary duties and functions, from acting in any way to further their private interests or those of a member of their family, or to improperly further another person’s or entity’s private interests.

[17] Section 9 of the Code prohibits Members from using their position as a Member 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 another person’s or entity’s private interests.

[18] I determined that Mr. Kent’s request as submitted on October 15, 2018, met the requirements of subsections 27(1) and (2) of the Code. I was therefore required by subsection 27(3.2) to conduct a preliminary review of the request.

[19] On October 16, 2018, I forwarded Mr. Kent’s request to Ms. Vandenberg, informing her that the Code afforded her 30 days to provide me with a response to the request, after which I would have 15 working days to determine whether an inquiry was warranted.

[20] On October 18, 2018, I received a letter from Ms. Vandenberg responding to the concerns raised.

[21] On October 31, 2018, I wrote to Ms. Vandenberg to inform her that, having carefully considered the information before me including her written representations, I had decided that an inquiry was warranted.

[22] I dismissed Mr. Kent’s allegations of a contravention under section 8 of the Code on the basis that Ms. Vandenberg was not performing a parliamentary duty or function in relation to the activities alleged in his request. Since the Code does not define the parliamentary duties and functions referred to in section 8, I took into consideration the *Members By-law* of the House of Commons’ Board of Internal Economy, which defines a Member’s parliamentary functions as “the duties and activities that relate to the position of Member [. . .], namely, participation in activities relating to the proceedings and work of the House of Commons and activities undertaken in

representing his or her constituency or constituents.” I also noted that the *Members By-law* specifically excludes “activities designed, in the context of a federal, provincial, or municipal election, or any other local election, to support or oppose a political party or an individual candidate” from the scope of parliamentary functions.

[23] I launched the inquiry based on section 9 in conjunction with section 11, which prohibits Members from attempting to engage in any of the activities prohibited under sections 8 to 10 of the Code. Thus, the purpose of the inquiry would be to determine whether Ms. Vandenberg had used or attempted to use her position as a Member to influence the decision of voters in Bay Ward in order to further the private interests of her spouse, in contravention of sections 9 and 11 of the Code.

[24] I received documents and further written representations from Ms. Vandenberg on November 21, 2018, and held a first interview with her on December 17, 2018. I also received written representations and additional information from her counsel on December 21 and 24, 2018.

[25] I held interviews with two witnesses on January 21, 2019, and received additional information and documents from both these witnesses as well as a third witness on February 5, 2019.

[26] Having provided Ms. Vandenberg with the opportunity to review her transcript, relevant portions of the transcripts of interviews with other witnesses and relevant documents gathered by the Office, I conducted a second interview with her on May 15, 2019.

[27] Ms. Vandenberg was also given an opportunity to comment on a draft of the factual portions of this report (Concerns and Process, Findings of Fact and Ms. Vandenberg’s Position) before it was finalized.

FINDINGS OF FACT

[28] The purpose of this inquiry was to establish whether Ms. Vandenbeld used or attempted to use her position as the Member of Parliament for Ottawa West–Nepean to influence the decision of voters in Bay Ward during the 2018 Ottawa municipal election campaign so as to further the private interests of her spouse, Mr. Don Dransfield, who was a candidate in the election.

Background

[29] During her first interview, Ms. Vandenbeld told me that she and Mr. Dransfield met in 2011 through their shared interest in politics and as a result of having both run in elections held that year at the federal and provincial levels. Prior to this, Mr. Dransfield had also run at the municipal level in 2006. Ms. Vandenbeld stated that she has been aware of Mr. Dransfield’s interest in holding elected office ever since they met and that this has always been a common topic of conversation between them. Ms. Vandenbeld and Mr. Dransfield have been married since 2014.

[30] In 2018, a municipal election year in Ontario, candidates had from May 1 to July 27 to file their nomination papers ahead of the October 22 election. In Ottawa, eligible individuals could be nominated as candidates for the office of city councillor in any one of 23 municipal wards. Information for candidates published on the City of Ottawa’s website stated that city councillors hold their office for four years and that the yearly remuneration for the position was \$103,610.78 in 2018. Other information on the City’s website shows that councillors also receive benefits as part of their remuneration.

[31] Bay Ward consists of the northern half of Ms. Vandenbeld’s federal riding of Ottawa West–Nepean. As a result, Bay Ward’s 28,967 eligible voters in the 2018 election were also Ms. Vandenbeld’s constituents. Having filed his nomination papers to become a candidate for the office of city councillor for Bay Ward on May 11, 2018, Mr. Dransfield was one of five registered candidates appearing on the ballot. In the election result, Mr. Dransfield came in second with 2,104 votes out of a total of 12,059 ballots cast.

Mr. Dransfield’s Electoral Campaign

[32] Mr. Dransfield ran his campaign from the home he shares with Ms. Vandenbeld in Bay Ward. The first campaign team meeting was called on May 3, 2018, and the campaign was launched publicly at an event held on June 23. Activities undertaken during the campaign included fundraising events, door-to-door canvassing and distribution of promotional materials. Mr. Dransfield also maintained a campaign website as well as Facebook, Twitter and Instagram accounts and a YouTube channel.

[33] According to Ms. Vandenberg, approximately 100 individuals volunteered on Mr. Dransfield's campaign. Most of the volunteers had only minor involvement, in many cases limited to one or two canvassing sessions, but about 15 to 20 volunteers were significantly more engaged. In addition to canvassing door to door, these volunteers provided support in organizing campaign events and producing campaign materials, called voters to gauge support for the candidate or to offer to install lawn signs on their property, and accompanied Mr. Dransfield to community events.

[34] During her first interview, Ms. Vandenberg told me that Mr. Dransfield's volunteers were mostly family, friends and people who had volunteered for Mr. Dransfield previously or on her own campaigns. When asked specifically whether members of her staff had volunteered, she stated that three members of her staff had done so, including two who had been "very involved on their own time."

[35] At several points in her testimony, Ms. Vandenberg explained that she was very careful to ensure that her staff members' activities on Mr. Dransfield's campaign were only to take place outside of normal working hours in her Hill and constituency offices and that no parliamentary resources of any kind were used for the campaign. She also stressed that the members of her staff who had participated in the campaign had done so voluntarily, out of their interest for political activity and because they knew and supported Mr. Dransfield. I interviewed the two members of Ms. Vandenberg's parliamentary staff that appeared to have been the most involved in the campaign, who corroborated Ms. Vandenberg's testimony in this regard.

[36] According to statements from Ms. Vandenberg and the two staff members I interviewed, as well as the documentary evidence obtained, all campaign communications, including those between Ms. Vandenberg and her staff, were conducted via personal email accounts.

Ms. Vandenberg's Participation in Mr. Dransfield's Campaign

[37] In her written representations and testimony, Ms. Vandenberg stated that she was involved in many aspects of the campaign, including meetings, public events, door-to-door canvassing sessions and the development of campaign materials. Documents and testimony obtained from witnesses confirmed that Ms. Vandenberg was a key participant in Mr. Dransfield's campaign.

First campaign meeting

[38] According to testimony by one of the members of Ms. Vandenberg's parliamentary staff who volunteered on the campaign, Mr. Dransfield telephoned several individuals he thought might be interested in supporting his candidacy in the municipal election, inviting them to take part in an initial campaign meeting.

[39] On May 3, 2018, Ms. Vandenberg sent an email marked "URGENT" in the subject line to nine individuals including three members of her parliamentary staff. The purpose of this email was to put all recipients in contact with each other and inform them that a campaign strategy

team meeting would be held that evening. Ms. Vandenberg also indicated the respective roles of several of the email's recipients on the campaign team and mentioned that she could not continue to act as campaign manager.

[40] During her second interview, Ms. Vandenberg explained that, as her spouse's campaign was getting started in early May 2018, she expected her parliamentary duties would prevent her from devoting as much time to the campaign as she might otherwise have wished, though she agreed that she ultimately had played a significant decision-making role throughout the campaign.

Fundraising event of May 15

[41] During the month of May 2018, Ms. Vandenberg travelled twice overseas on parliamentary business. While she was away, she kept in contact with key campaign team members via email. On May 8, 2018, she wrote to three of her staff members to ask them to help Mr. Dransfield and a personal friend—who by then had taken on the role of campaign manager—to organize a campaign fundraising event planned for the following week at a location near Parliament Hill. Later that morning, she sent an email to Mr. Dransfield, the campaign manager, two of her staff members and another individual, in which she outlined an outreach strategy for the event and provided the names of people she suggested could be invited. This list of names included Members of the House of Commons and the Senate, as well as their staff. In the email, Ms. Vandenberg also indicated that her own staff would “spread the word amongst other staff.”

[42] During her second interview, Ms. Vandenberg stated that she had produced this list following a discussion with Mr. Dransfield and that the individuals listed were all people they knew personally, mostly through their respective involvement in politics. She also explained that the downtown location, outside Bay Ward, had been chosen because it is a common venue for that type of event and one that many of the invited individuals frequently attend for networking purposes.

Mr. Dransfield's campaign materials

[43] The first promotional materials created in support of Mr. Dransfield's campaign were a public website containing information about the candidate and his electoral platform, a printed brochure to be distributed to voters and an introductory video that was first shown at the campaign launch and later posted online.

[44] The “About” page of Mr. Dransfield's campaign website consisted of an extensive biography of the candidate. The last paragraph on the page specified Mr. Dransfield's relationship with Ms. Vandenberg and the fact that she is the federal Member of Parliament for the area. A photo of Mr. Dransfield and Ms. Vandenberg together also appeared below the text. During her second interview, Ms. Vandenberg confirmed that she had drafted the biography.

[45] On June 13, 2018, a draft electronic version of the first campaign brochure was circulated by email between campaign team members, then forwarded to Ms. Vandenbeld and Mr. Dransfield. Ms. Vandenbeld wrote back, suggesting to include a photo of Mr. Dransfield and her with the caption “Don lives in Bay Ward with his wife, Anita.” In a later email, Ms. Vandenbeld added: “Take out all the captions. The only one with any comment should be the one with me.” The final version of the brochure incorporated all of the above suggestions.

[46] A second brochure was created near the end of the campaign, in September 2018, and distributed by Canada Post to 18,000 addresses as well as by canvassers. Again at Ms. Vandenbeld’s suggestion, a photo of Mr. Dransfield and her was included with a caption that read “Don with his wife Anita Vandenbeld opening a local festival” in the final printed version.

[47] In Mr. Dransfield’s introductory video, which was screened at his June 23, 2018, campaign launch and posted on YouTube the next day, several individuals were shown speaking about the candidate. Three of these individuals were identified with onscreen text, including Ms. Vandenbeld as “Don’s wife Anita.” At various points in the video, Ms. Vandenbeld is shown speaking about her spouse’s character and his experiences and abilities, but no mention is made in the video of Ms. Vandenbeld’s position as a Member of Parliament. Mr. Dransfield is also heard talking about how he often attends community events “with Anita” over a quick succession of some 20 pictures of him at such events, about half of which also feature Ms. Vandenbeld. These pictures were gathered from one of Ms. Vandenbeld’s social media accounts, at her request, by two members of her staff.

[48] Ms. Vandenbeld explained during her first interview that after this introductory video had been produced, the leftover footage of various individuals speaking about Mr. Dransfield was also deemed valuable. It was edited into 23 short testimonial videos, which were posted on Mr. Dransfield’s YouTube channel on July 22, 2018. Ms. Vandenbeld’s full name and a statement of her relationship with Mr. Dransfield appeared in the title of the three such videos that feature her, but there was no mention of her position as a Member of Parliament. In two of the videos, Ms. Vandenbeld referred to Mr. Dransfield’s support during her own political campaign and her work as a federal politician, but she made no mention of her title.

Campaign launch

[49] According to documents obtained in the course of the inquiry, a decision was taken in early June to hold a public campaign launch event on June 23, 2018. A planning meeting for this event occurred on June 9, 2018.

[50] On June 19, 2018, Ms. Vandenbeld sent a private message on Twitter to a CTV journalist about the launch. The next day, the campaign manager sent Ms. Vandenbeld and Mr. Dransfield a draft media advisory announcing the upcoming launch. In this media advisory, details of the event were followed by four short paragraphs about the candidate, the last of which stated: “He lives in Bay Ward with his wife, Anita Vandenbeld, who is the federal MP for the area.” Ms. Vandenbeld passed the text on to a volunteer translator without making any changes.

[51] On June 22, 2018, Ms. Vandenbeld sent the media advisory to 469 recipients through Mr. Dransfield’s campaign email account. The event was held the next day at a restaurant located in Bay Ward and was attended by approximately 150 individuals. The event featured several speakers including Ms. Vandenbeld, who introduced Mr. Dransfield.

[52] Following the launch, a press release was issued on Mr. Dransfield’s campaign website. This included a paragraph on Ms. Vandenbeld’s introduction of Mr. Dransfield, mentioning their relationship and her position as the area’s Member of Parliament. The press release’s closing paragraph listed “notable community leaders” who had attended the event, including leaders of charitable and community organizations and a Member of Parliament for a neighbouring riding. During her first interview, Ms. Vandenbeld mentioned that she had drafted the press release.

Posting on social media

[53] Ms. Vandenbeld maintains three public social media accounts—on Facebook, Twitter and Instagram—in relation to her role as a Member of Parliament. The landing page for each of these accounts displays her full name and title as well as a link to her Member of Parliament’s website (AnitaMP.ca). This website, which is paid for with her Member’s Office Budget and maintained by her parliamentary staff, does not link back to any of Ms. Vandenbeld’s social media accounts.

[54] Testimony from Ms. Vandenbeld and from a member of her staff indicated that social media platforms are the primary vehicles for communication with constituents rather than the AnitaMP.ca website, which is not kept up to date as diligently. While testimony also indicated that members of Ms. Vandenbeld’s staff post on her behalf on Facebook and Instagram, she clarified during her second interview that her social media accounts are political partisan platforms rather than parliamentary ones, and that her staff would only post on their own time, outside of office hours, unless the post concerned a parliamentary event.

[55] On June 24, 2018, the day following the campaign launch, Ms. Vandenbeld reposted on her Facebook account two of Mr. Dransfield’s own posts, one consisting of a series of photos of the previous day’s event, and the other, Mr. Dransfield’s introductory video that was screened during the launch. Each of these reposts were introduced with Ms. Vandenbeld’s own comment, which mentioned, in both cases, her relationship with Mr. Dransfield and the fact that he was a municipal candidate in Bay Ward.

[56] Ms. Vandenbeld also made three posts relating to the campaign on her Twitter account. On June 23, 2018, she tweeted an invitation to attend her spouse’s municipal campaign launch for Bay Ward. On July 27, 2018, she tweeted again about her spouse’s candidacy and provided a link to one of the three videos of her that Mr. Dransfield had posted on his YouTube channel five days earlier, tagging the Twitter handles of three local media outlets (@ottawastart, @OttawaCitizen and @ottawasuncom). This tweet also had a picture of Ms. Vandenbeld and Mr. Dransfield standing together at the podium during the candidate’s campaign launch. Finally, on August 23, 2018, Ms. Vandenbeld tweeted a picture of herself putting up the first lawn sign for

her spouse. Again, the tweet mentioned her relationship with Mr. Dransfield and his candidacy in Bay Ward.

[57] Ms. Vandenbeld testified that she made all five social media posts herself.

Canvassing

[58] During her first interview, Ms. Vandenbeld stated that Mr. Dransfield's campaign was focused mainly on door-to-door canvassing. In her written representations of November 21, 2018, Ms. Vandenbeld provided five dates in late August and late September on which she had gone canvassing door to door with Mr. Dransfield. In her testimony, she further explained that there were seven or eight specific individuals she wanted to introduce Mr. Dransfield to and whose house they drove to for that purpose, and that she did not normally canvass in this manner with Mr. Dransfield.

[59] Ms. Vandenbeld stated that when she did canvass with Mr. Dransfield, she would usually be recognized as the local Member of Parliament by the people who answered the door. She found this made it somewhat challenging to then shift the focus to her spouse's candidacy, and this was one of the reasons why she did not do it very much. Ms. Vandenbeld also stated that when the person answering the door did not recognize her, she did not mention her title and simply introduced the candidate.

[60] A member of Ms. Vandenbeld's staff who was present on one occasion where she and Mr. Dransfield were canvassing together testified that Ms. Vandenbeld usually did mention her position as Member of Parliament in introducing her spouse to voters. When this testimony was put to Ms. Vandenbeld, she stated that this may have been the case for a handful of doors at the beginning of that session, but that afterwards they had continued canvassing on the same street rather than side by side.

Letter to voters

[61] The materials distributed by Mr. Dransfield and his canvassers in the final weeks of the campaign included the candidate's second campaign brochure and a letter to voters signed by Ms. Vandenbeld, which was translated by volunteers into French, Arabic and Somali.

[62] According to documents obtained in the course of the inquiry, Ms. Vandenbeld sent an email to core members of the campaign team on August 30, 2018, to get their opinion on an invitation to a meeting with a few community members in order to discuss ways to reach out to certain segments of the population and certain neighbourhoods in Bay Ward.

[63] On September 1, 2018, the invitation to the meeting to be held three days later was sent out to campaign team members and several others. This email explained that Mr. Dransfield wanted to reach out to certain categories of voters and wished to obtain input from community members on how best to do so.

[64] On September 10, 2018, Ms. Vandenberg circulated a draft of her letter to voters to some of the individuals who had been invited to the meeting to request their thoughts on the document. In the transmission email, Ms. Vandenberg described the attached document as a letter from her to be translated into several languages that could be distributed during weekend and evening blitzes in certain neighbourhoods, including the ones mentioned in the meeting invitation. Ms. Vandenberg also mentioned that voter data could be gathered at the same time.

[65] In the draft letter that was circulated, Ms. Vandenberg's signature at the bottom of the letter included a full mention of her position as the Member of Parliament for Ottawa West–Nepean, which the campaign team decided to omit from the final version. In the end, this mention was absent from the English and French versions but did make its way into the Arabic and Somali versions. In her second interview, Ms. Vandenberg explained this was done inadvertently, presumably because an earlier version was provided to the volunteer translators.

[66] In the afternoon of September 19, 2018, in an email marked “Urgent,” Ms. Vandenberg asked one of her staff members to arrange with the printing company to have the four-language versions of the letter printed and ready for pickup the next day. The staff member contacted the company at 5:28 p.m. that day. In her first interview, Ms. Vandenberg stated that the letter was first distributed by canvassers during the weekend of September 29 and 30, 2018.

[67] Ms. Vandenberg provided me with a copy of all four versions of her letter to voters. The letter's header featured a photo of Ms. Vandenberg and Mr. Dransfield together and the candidate's logo. The first few paragraphs of the one-page letter read as follows:

Dear Neighbour,

As your federal Liberal Member of Parliament, I know how important it is to listen to the people of our community in government decision-making, to be accessible to people and to help people in every way that I can.

It is important to have that kind of political leader at all levels of government. I need a strong municipal counterpart who will partner with other levels of government, with community associations, non-profit groups and small businesses to make our community one where everyone can succeed.

*That is why I am asking you to support my husband, **Don Dransfield**, who is running for City Council in the municipal election. [Emphasis in original]*

[68] In her written representations, Ms. Vandenberg explained that the purpose of this letter to voters signed in her name was to counter a misinformation campaign by one of Mr. Dransfield's opponents in the municipal election. According to Ms. Vandenberg, this candidate was claiming to have her support and was telling this to voters, especially non-English speakers, in parts of the ward where she enjoys wide support. The letter was therefore intended to provide these voters with the correct information. Ms. Vandenberg reiterated this explanation of the letter's purpose in her first interview and added that she had also canvassed with

Mr. Dransfield on two dates in late September, specifically to counter this misinformation. Ms. Vandenberg also indicated to me in her written representations and testimony that the letter was intended to be distributed in areas where she knew she had strong support.

[69] One of the staff members I interviewed testified that he had been instructed to distribute the letter when canvassing in certain communities and had only found out after the fact about the letter's purpose being to counter misinformation. The other staff member brought up the explanation of a response to misinformation in testifying about the letter. He stated having heard from certain volunteers that they had been told that some of Mr. Dransfield's opponents were claiming to have the support of Ms. Vandenberg. He recalled one meeting where ways to address this situation were discussed and stated that the letter was a result of this. During her second interview, Ms. Vandenberg stated that one or both of these staff members may have reviewed her written representations to me of November 21, 2018, in order to check their factual accuracy. In these representations, she mentioned that her letter to voters was created and distributed to counter a misinformation campaign conducted by Mr. Dransfield's opponent.

[70] The documents submitted by witnesses contained no mention of, or reference to, misinformation of any sort on the part of any of Mr. Dransfield's opponents. When this fact was put to Ms. Vandenberg during her second interview, she explained that the situation would only have been discussed orally with volunteers on Mr. Dransfield's campaign. She also insisted that there were numerous reports of such misinformation and that the effort appeared to be widespread.

Recording of an interactive voice response message

[71] According to documents obtained during the inquiry, on September 15, 2018, the campaign manager planned for Mr. Dransfield and Ms. Vandenberg to meet with a communications consultant he knew who could arrange a robocall or an interactive voice response (IVR) call and provide advice on what would be best. Unlike a robocall, an IVR call offers the possibility of obtaining voter data by enabling the call's recipients to key in options or leave a message at the end of the call.

[72] On September 18, 2018, the campaign manager wrote a text message to Ms. Vandenberg to update her on a follow-up conversation he had with the consultant, including about the cost and the list of phone numbers to be called. The campaign manager also relayed the consultant's advice to start the recorded message with "Hi, this is Anita Vandenberg, your Member of Parliament" so that fewer people would hang up. In response to that text message, Ms. Vandenberg replied, "Yes perfect thanks." In her second interview, Ms. Vandenberg stated that, by that time, she had already decided how she would identify herself in the recorded message.

[73] Over the following days, Ms. Vandenberg and Mr. Dransfield's campaign manager discussed the list of telephone numbers to be called, whether to go ahead with a simple robocall or an IVR call and the issue of when the call should be issued. Seeking again the advice of the

consultant arranging the call, the campaign manager described the purpose of the call in the following way: “As I mentioned to you the real goal of this exercise is getting the word out that Don is Anita’s husband and encouraging folks to vote for him.”

[74] Ms. Vandenberg met with the campaign manager to work on the script and record the message on September 27, 2018. She testified in her first interview that she wrote the text of the recorded message herself, having discussed its content with Mr. Dransfield and the campaign manager. With respect to the reason why she identified herself at the beginning of the message, she stated that she was told she didn’t need to do so, but she wanted to go beyond what is required in the context of municipal elections by ensuring the IVR call conformed to the CRTC’s rules that she follows when she makes such calls in relation to her role as a Member of Parliament.

[75] On October 9, 2018, starting at about 4:30 p.m., the IVR call was made to 12,471 telephone numbers. The following is a transcript of the beginning of the minute-long recorded message:

I’m Anita Vandenberg and today I’m calling to ask you to vote for my husband, Don Dransfield, for City Council. [Contact information omitted] As your federal MP, I’m looking for a municipal counterpart who’s going to fight as hard for the people of our community as I do.

[76] Ms. Vandenberg then delivers several of the key points of Mr. Dransfield’s campaign, and at the end of the message, prompts recipients of the call to press “1” to indicate support for the candidate or “2” to request a sign.

[77] Ms. Vandenberg stated that, having been contacted by the media about the IVR call, she had provided a copy of the recorded message in order to be transparent.

[78] Starting on October 11, 2018, the IVR call was the subject of various reports in local media, including some that mentioned a potential breach of the *Conflict of Interest Code for Members of the House of Commons*. The next day, Ms. Vandenberg contacted our Office to obtain advice on how to proceed given the media attention regarding her support of her spouse’s municipal campaign. That same day, I advised her to cease her activities on the campaign. In her written representations and first interview, Ms. Vandenberg confirmed that she immediately ceased all campaigning activities outside her home and sent the remaining copies of her letter to voters for recycling. She also asked the campaign volunteers who are members of her staff not to volunteer on voting day.

[79] During her first interview, Ms. Vandenberg first stated that the purpose of her IVR call was to inform voters in Bay Ward of her political views and preferred candidate in the election and to obtain voter data. However, she subsequently added that, in her view, the urgency to place the call really came from the fact that they were realizing that there were many Liberals who supported her who thought that she was supporting another candidate. One of Ms. Vandenberg’s

staff members also told me in his interview that the IVR call, like the letter, was put out in reaction to misinformation from another candidate in the election.

Endorsements on Mr. Dransfield's Campaign

[80] Various documents obtained over the course of the inquiry suggested that endorsements were an important consideration in Mr. Dransfield's campaign. In a text message exchange with Ms. Vandebeld about the press release following the campaign launch, the campaign manager expressed that the final paragraph listing notable community members showed journalists that Mr. Dransfield was "a serious candidate." Ms. Vandebeld and the campaign manager also discussed several times the possibility of obtaining or turning down endorsements by several local politicians. This was also briefly mentioned during her first interview.

[81] In her representations to me, Ms. Vandebeld acknowledged unreservedly that she publicly campaigned for and endorsed Mr. Dransfield.

[82] During her second interview, Ms. Vandebeld stated that she views endorsements as a way of conveying information to voters about a candidate by letting them make an association with another person they might be more familiar with. Ms. Vandebeld also explained that in Mr. Dransfield's campaign, strategic decisions were made concerning possible endorsements in consideration of the estimated public support for the potential endorser and how likely the endorsement would help the candidate obtain votes. Ms. Vandebeld further noted that there would be no way of knowing precisely what effect an endorsement might have in voters' minds given that many other factors come into play and, ultimately, the ballot is secret.

MS. VANDENBELD'S POSITION

[83] Ms. Vandenberg admits freely that she endorsed and campaigned for her spouse during the 2018 municipal election in Ottawa. Her position is that, when she carried out these political activities, she did not contravene sections 9 and 11 of the *Conflict of Interest Code for Members of the House of Commons* (Code). She adds that she was very careful to ensure that she did not use any parliamentary resources and notes a lack of guidance from the Office regarding a Member's participation in campaigning activities. She further notes that she ceased her participation in all campaign activities upon seeking and receiving my advice in that regard on October 12, 2018.

[84] In her view, running for public office is not a "private interest" that can be furthered within the meaning of the Code. Candidates do not seek public office for financial gain but do so as a personal calling for the betterment of society. Spouses campaign with one another not to advance private interests but because they share political values and ideals and can also attest to one another's character.

[85] Ms. Vandenberg submits that if the remuneration or other financial benefits associated with a position of public office were considered private interests within the meaning of subsection 3(2) of the Code, such an interpretation would be highly problematic as a Member's endorsement of a spouse in their bid for public office would contravene the Code only in cases where there would be a resulting increase in income, and not where the spouse's income would decrease. She adds that if income is considered when determining whether private interests have been furthered under the Code, consideration should then be given to any opportunity cost incurred by those who obtain public office.

[86] With respect to sections 9 and 11 of the Code, Ms. Vandenberg's counsel submits that these sections prevent a Member from using their office to seek a discernable benefit from an action or inaction taken by the Member and that there must be a discernable cause and effect that flows from the decision that was influenced by the Member. In a municipal election, the vote is secret and because of that, Ms. Vandenberg could not discern if her request influenced voters in a manner that could benefit her spouse.

[87] Counsel also submits that the physical act of casting a ballot is not a decision within the meaning of sections 9 and 11 of the Code, but rather the mechanism through which a constitutional right is exercised by an elector.

[88] Counsel further submits that Ms. Vandenberg did not invoke her title to attempt to influence voters but did so rather to ensure voters had as much information as possible about the identity of their candidate as well as her own as Mr. Dransfield's spouse. Counsel adds that there were no guarantees, when that information was shared with voters, that it would engender support for her spouse.

[89] Counsel also submits that some campaigners invoked Ms. Vandenberg's name, title and reputation to further their own campaign and that Ms. Vandenberg should be able to identify herself in order to respond to any misinformation or to correct the record.

[90] Counsel also submits that any interpretation of the Code must reflect values set out in the *Canadian Charter of Rights and Freedoms* (Charter).

[91] Free speech is at the heart of a political activity to ensure that all voices can be heard in the electoral process. Counsel submits that Ms. Vandenberg has a right to support the individual who she believes is the best candidate for election in Bay Ward. Her freedom of speech protects her ability to make such an endorsement. The fact that the candidate in question happened to be her spouse is secondary to the constitutional protections she enjoys as a citizen.

[92] Counsel submits that the vote itself is also a right that enjoys constitutional consideration. Relying on a decision by the Supreme Court of Canada, counsel submits that the principles enumerated by the Court in respect of section 3 of the Charter have been extended to other facets of elections, and to electoral events other than federal and provincial elections. According to counsel, the Court noted that section 3 should be understood with a reference to each citizen to play a meaningful role in the electoral process. Counsel is of the view that limiting the ability of Members of Parliament to campaign would constrain the rights of other citizens to be informed, not to mention the section 3 Charter rights of the Members themselves.

[93] Ms. Vandenberg submits that if I determine that any of her activities constituted a contravention of the Code, then it was based on a good-faith misunderstanding of what is considered a private interest within the meaning of the Code, and she would follow any recommendations or instructions I may have.

ANALYSIS AND CONCLUSIONS

[94] The purpose of this inquiry was to determine whether Ms. Vandebeld contravened section 9 or 11 of the *Conflict of Interest Code for Members of the House of Commons* by using or attempting to use her position as a Member of the House of Commons to influence the decision of voters in Bay Ward so as to further the private interests of her spouse.

Sections 9 and 11 of the Code

[95] Section 9 of the Code prohibits Members from using their position as a Member to influence a decision of another person so as to further their private interests, those of a member of their family, or to improperly further another person's or entity's private interests. It 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.

[96] Under the Code's interpretative subsection 3(4), a Member's spouse is considered to be a member of their family.

[97] Section 11 of the Code prohibits Members from attempting to engage in any of the activities prohibited under sections 8 to 10 of the Code.

[98] The purpose of section 11 is described in the Fortieth Report of the Standing Committee on Procedure and House Affairs, which was presented to the House of Commons on July 13, 2003. This report was the result of the Committee's study of a parliamentary ethics initiative to include in the *Standing Orders of the House of Commons* a conflict of interest code for Members based on the Milliken-Oliver report of 1997. In its report, the Committee wrote that section 11 was meant to address situations where a Member's actions did not succeed in furthering private interests. The relevant excerpt of the report reads as follows:

Attempts (section 11)

31. In addition to the requirement regarding disclosure and declaration of private interests, the Code contains key rules against furthering private interests, using influence, and using insider information. The way the Code was originally drafted, a Member would need to have succeeded in doing any of the prohibited acts before contravening the rules. We feel that this creates a significant loophole. Moreover, it was not the way that the Milliken-Oliver report conceived the rules. We therefore recommend that Members also be prohibited from attempting to violate such core rules.

[99] Section 11 therefore serves to bring within the scope of the Code any actions intended to further private interests, regardless of their result.

The Existence of a Private Interest

[100] Ms. Vandenberg's position is based on the notion that seeking public office is a public interest and that, as a result, no action she took to support her spouse's campaign could be considered furthering private interests under the Code. Therefore, the first issue I must address is whether or not any private interests are engaged in this case.

[101] While the Code does not define private interests, it does, at subsection 3(2), identify the circumstances in which a Member's actions are considered to further a person's private interests for the purposes of the Code. Also, at subsection 3(3), it specifies certain circumstances in which a Member's actions are not considered to further a person's private interests. Subsections 3(2) and 3(3) read 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.*

3. (3) For the purpose of this Code, a Member is not considered to further his or her own private interests or the interests of another person if the matter in question

- (a) is of general application;*
- (b) affects the Member or the other person as one of a broad class of the public;*
 - (b.1) consists of being a party to a legal action relating to actions of the Member as a Member of Parliament; or*
- (c) concerns the remuneration or benefits of the Member as provided under an Act of Parliament.*

[102] Considering subsection 3(2) above, the Code appears to be concerned in particular with private interests of a largely pecuniary nature.

[103] The Code also sets out a disclosure regime with respect to the private interests of Members and their family. Section 20 provides that each Member, when elected to the House of Commons, must provide to the Commissioner “a full statement of the Member’s private interests and the private interests of the members of the Member’s family” containing the information listed under subsection 21(1). These private interests are identical to those referred to in subsection 3(2), which is meant to capture any change to such private interests resulting, directly or indirectly, from a Member’s actions.

[104] Under paragraph 21(1)(b), Members must state the amount of any income greater than \$1,000 and indicate the source of this income, namely the employer, the party with whom a contract is made or the business or profession the income arises from. In my view, remunerated provincial and municipal public offices must be captured as private interests under this provision of the Code.

[105] In fact, the only interest attached to an income that is specifically excluded from consideration under the Code at subsection 3(3) has to do with the remuneration and benefits of Members as provided under an Act of Parliament. The other private interests not considered are those that relate to matters of general application or that affect the Member as one of a broad class of the public.

[106] I recognize, as submitted by Ms. Vandenberg, that there are public interests engaged in the context of an election campaign. For example, there are public interests in having qualified candidates run for public office or in ensuring voters are well informed about the electoral process, the issues and the candidates. There are, however, also private interests involved, some of which belong to each individual who seeks the particular elected public office. The position of city councillor for Bay Ward, with its six-figure annual salary and other benefits over a four-year term, clearly constitutes a private interest.

[107] Ms. Vandenberg also took the position that, if I find that an elected public office can give rise to a private interest because of the remuneration attached to it, then I must consider any opportunity costs incurred in determining whether her spouse’s income would have increased overall should he have obtained public office. She further noted that this would be very difficult to determine and that, in any case, such a consideration would be problematic since it would mean the Code applies differently according to a person’s existing income.

[108] In my view, what is relevant under paragraph 3(2)(d) is the individual’s existing and potential entitlement to income only from the particular source at issue. Thus, an increase in income from a source would include any new entitlement resulting from being elected to a public office or obtaining a new contract. Also captured is a change to an existing entitlement or a renewed entitlement where a previous one is extinguished as in the case of a re-election or the renewal of a contract.

[109] In light of the above, and given that none of the circumstances set out in subsection 3(3) apply, I find that Ms. Vandenberg's spouse had private interests that could be furthered when he sought to be elected to city council.

Ms. Vandenberg's Use of Her Position

[110] I must now determine whether Ms. Vandenberg's actions undertaken in endorsing her spouse's candidacy constituted a use of her position as a Member of the House of Commons.

[111] While Ms. Vandenberg fully admitted all aspects of her participation in her spouse's municipal campaign, she and her counsel submit that any mention of her position as a Member of Parliament was simply intended to articulate her identity by providing a statement of her resume, by indicating her political preference and by ensuring that voters had information they needed to cast an informed ballot, i.e. that she was Mr. Dransfield's spouse, that she supported him and that she was the local sitting Member of Parliament.

[112] Accepting that this may have been one of Ms. Vandenberg's purposes, I find that the evidence, including Ms. Vandenberg's own testimony, also showed that the campaign placed a value on "endorsements" from certain individuals based on their visibility and perceived level of support. As such, Ms. Vandenberg's endorsement as the local sitting Member of Parliament was perceived by the campaign to be valuable.

[113] Furthermore, the documentary evidence revealed a campaign strategy aimed at using Ms. Vandenberg's position as a Member of the House of Commons to communicate with voters, who are also her constituents, in order to convey a positive endorsement of her spouse as a serious candidate so as to increase his chances of being elected.

[114] Ms. Vandenberg used her position as a Member when she endorsed her spouse's bid for public office in the letter to voters she drafted in September 2018. In the letter, she not only referred to her title ("as your federal Liberal Member of Parliament"), but also described why it would be relevant to voters to hear from her in her capacity as a Member about a municipal candidate, including how it would be beneficial for her to have a "strong municipal counterpart," and that these were the reasons why she was asking voters to support her spouse.

[115] It is also clear that Ms. Vandenberg used her position as a Member when she endorsed her spouse in the IVR call to voters made in October 2018. According to documents, Ms. Vandenberg was advised to mention her title at the beginning of the call so that people would be less likely to hang up the call. While she did not exactly follow this advice, she did nonetheless mention her title as Member of Parliament early on in the message to frame her statements about the candidate as coming from the perspective of the Member in the same way she had done in her letter.

[116] Ms. Vandenberg told me that her position as the local Member of Parliament came up frequently when she canvassed with or on behalf of her spouse. In many cases, this was because she was recognized by the residents who answered their door, but she also admitted that there

may have been times where she had referenced her title in introducing herself and the candidate. I find that when she did so, she effectively used her position as a Member to facilitate the promotion of her spouse's candidacy. Ms. Vandenberg acknowledged that in the end, she found the strategy to be ineffective because having captured the attention as the Member of Parliament made it difficult to then move on to the subject of her spouse's candidacy.

[117] In explaining why she had used her title in the context of her spouse's campaign, Ms. Vandenberg referred to a campaign of misinformation being conducted by Mr. Dransfield's opponents, who allegedly were stating that they had the support of the local sitting Member of Parliament. This required Ms. Vandenberg to "correct the record" by putting out a letter to voters, being present at canvassing sessions in the ward and recording her IVR message.

[118] The documentary evidence and the testimony of one member of Ms. Vandenberg's parliamentary staff suggested instead that the letter was created as a tool to reach certain segments of voters in areas where she knew she had strong support. Regarding the IVR call, the evidence showed it was a planned element in the campaign strategy rather than a measure taken in reaction to a particular situation.

[119] Whatever the motivation for writing a letter to voters and recording an IVR message, in my view, the purpose of Ms. Vandenberg's actions was the same in either case, and this was to ensure that voters made the connection between the candidacy of her spouse and an endorsement by the local Member of Parliament.

[120] The evidence also showed that Ms. Vandenberg used two of her social media platforms to promote her spouse's bid for public office. She did not mention her position as a Member of Parliament in these posts, but the landing page for both of these accounts identify her as the Member of Parliament for Ottawa West–Nepean.

[121] Ms. Vandenberg testified that she uses social media primarily for partisan purposes and that these are not parliamentary accounts. I am of the view that this may not be so clear to members of the public who visit or follow these accounts. In addition to mentioning the Member's title, these accounts not only link to the Member's website and contain many posts relating to her role as a Member, but Ms. Vandenberg's staff also direct constituents to these accounts for parliamentary purposes. Considering how common it is for institutions and public officials to have official social media accounts, I am concerned that members of the public could reasonably mistake a Member's partisan account for a parliamentary one and would caution Members to be mindful of this when deciding what materials to post on such accounts.

[122] Weighing all of the evidence, I can only conclude that Ms. Vandenberg used her position as a Member of the House of Commons to endorse her spouse in a manner intended to give weight and credibility to his candidacy.

Influencing a Decision of Another Person

[123] Finally, I must turn to the question of whether there was a decision to be influenced in this matter.

[124] Ms. Vandenberg's counsel submitted that the physical act of casting a ballot is not a decision within the meaning of sections 9 and 11 of the Code, but rather the mechanism through which a constitutional right is exercised by an elector.

[125] The position of city councillor is an elected public office. The only way to obtain this position is by entering oneself as a candidate and, in the case of a contested election, persuading a sufficient number of voters to cast a ballot in one's favour. Thus, all activities undertaken in an election campaign have as an overarching purpose to influence a decision to be taken by each individual voter. While the act of casting a ballot simply represents the exercise of a decision, I am of the view that each voter indeed does have a decision to make as to which candidate they will cast their vote for.

[126] In light of the above, I find that Ms. Vandenberg, in taking part in her spouse's municipal campaign, sought to influence the decision to be made by voters in Bay Ward.

Counsel's Submissions Concerning the Charter

[127] Counsel's position is that the Code should not be interpreted in a manner that unduly constrains a Member's ability to participate in election campaigns.

[128] Parliament has exclusive jurisdiction to regulate its internal affairs and deal with complaints within its privileged sphere of activity, including over the conduct of its Members. It has done so through the *Standing Orders of the House of Commons*, which include the Code, and the *Members By-law*.

[129] As noted earlier in the Concerns and Process section of this report, the *Members By-law* specifically prohibits the use of parliamentary resources for non-parliamentary functions, which include "activities designed, in the context of a federal, provincial, or municipal election, or any other local election, to support or oppose a political party or an individual candidate."

[130] If it is improper to use parliamentary resources for the purpose of endorsing or supporting a political party or individual candidate, the logical conclusion to be drawn in my view is that using one's position as a Member of Parliament for that purpose is also improper.

[131] In my view, the Code does not encroach in any way on Members' participation in election campaigns as long as they do so without using their position as Members. As such, they may endorse candidates, but only in their private or partisan capacity.

[132] In this case, Ms. Vandenberg was able to participate in a meaningful way as a private citizen wishing to support her spouse's candidacy in an election. She was a key organizer and decision maker on the campaign team, she appeared in videos and other campaign materials as

the candidate's spouse, and she leveraged her personal network of contacts for the benefit of the campaign. These types of activities on their own would have raised no concerns under the Code.

Conclusions

Section 9

[133] Ms. Vandenberg's spouse was ultimately not elected to public office. Consequently, Ms. Vandenberg's actions in support of her spouse did not actually result in furthering his private interests.

[134] I find that, since no private interests were furthered, Ms. Vandenberg did not contravene section 9 of the Code.

Section 11

[135] Section 11 of the Code extends the prohibitions contained in sections 8 to 10 against furthering private interests to activities conducted with that purpose, regardless of their result.

[136] While Ms. Vandenberg's actions did not produce the result that was intended, the inquiry has shown that she did nonetheless attempt to use her position as a Member of the House of Commons to influence the decision of voters in Bay Ward to further the private interests of her spouse, an activity prohibited by section 9.

[137] Therefore, I find that Ms. Vandenberg contravened section 11 of the Code.

SANCTION

[138] Pursuant to subsection 28(5) of the Code, where a Member has not complied with the Code, the Commissioner may find that there were mitigating circumstances. The subsection reads as follows:

28. (5) If the Commissioner concludes that a Member has not complied with an obligation under this Code but that the Member took all reasonable measures to prevent the non-compliance, or that the non-compliance was trivial or occurred through inadvertence or an error in judgment made in good faith, the Commissioner shall so state in the report and may recommend that no sanction be imposed.

[139] While I have determined that Ms. Vandenberg has not complied with her obligations under section 11 of the Code, I have concluded, for the reasons set out below, that the non-compliance occurred through an error in judgment made in good faith.

[140] It was apparent to me from the documentary evidence and from my two interviews with Ms. Vandenberg that she had made significant efforts to comply with the rules she had considered. She ensured that no parliamentary resources were used in support of her spouse's campaign and made efforts to establish boundaries for her and her staff when volunteering on her spouse's campaign in accordance with the *Members By-law*. She expressed a sincere belief that running for public office did not engage private interests that could be furthered within the meaning of the Code. Additionally, in October 2018, when questions arose about her participation on her spouse's campaign, Ms. Vandenberg sought my advice and immediately stopped all of her campaign activities when she obtained it.

[141] I therefore recommend that no sanction be imposed.



Mario Dion

Conflict of Interest and Ethics Commissioner

July 10, 2019

SCHEDULE: LIST OF WITNESSES

The names of all witnesses are listed below according to the organizations to which they belonged at the time of the events that are the subject of this inquiry.

Interviews

Office of Ms. Anita Vandenberg, Member of Parliament for Ottawa West–Nepean

- Mr. Franklin Rodriguez, Case Manager
- Mr. Fawzi Ghosn, Executive Assistant

Information and Documents Requested

- Mr. Kevin Bosch, in his capacity as campaign manager for Mr. Don Dransfield