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# LOBBYISTS' CODE OF CONDUCT

## ANNUAL REPORT

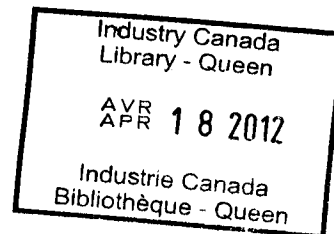
for the year ended March 31, 2000

# **LOBBYISTS' CODE OF CONDUCT**

## **ANNUAL REPORT**

For the year ended March 31, 2000

Office of the Ethics Counsellor



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June 30, 2000

The Honourable John Manley, P.C., M.P.  
Registrar General of Canada  
House of Commons  
Confederation Building  
Ottawa, Ontario  
K1A 0A6

Dear Sir:

I have the honour to present to you the fifth Annual Report on the *Lobbyists' Code of Conduct* for transmission to Parliament and in accordance with section 10.6 of the *Lobbyists Registration Act*. The Act requires the Ethics Counsellor to table a report on the exercise of the powers, duties and functions related to the *Lobbyists' Code of Conduct*. The report covers the period from April 1, 1999 to March 31, 2000.

Yours sincerely,

Howard R. Wilson  
Ethics Counsellor

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## **INTRODUCTION**

This is the fifth Annual Report on the exercise of the powers, duties and functions conferred on the Ethics Counsellor under the *Lobbyists Registration Act* for the *Lobbyists' Code of Conduct*. This report covers the period from April 1, 1999, to March 31, 2000.

## **BACKGROUND**

In July of 1995, the *Lobbyists Registration Act* was significantly amended to promote public trust in the integrity of government decision making. The amendments greatly increased the information that all paid lobbyists must disclose, and directed the Ethics Counsellor to develop a code of conduct for lobbyists. After extensive consultations, the code was referred to the House of Commons Standing Committee on Procedure and House Affairs and subsequently published in the *Canada Gazette* on February 8, 1997. The *Lobbyists' Code of Conduct* entered into force on March 1, 1997.

## **PURPOSE AND DESCRIPTION OF THE *LOBBYISTS' CODE OF CONDUCT***

The purpose of the *Lobbyists' Code of Conduct* (the Code) is to assure the Canadian public that lobbying is done ethically and with the highest standards, with a view to conserving and enhancing public confidence and trust in the integrity, objectivity and impartiality of government decision making.

The Code establishes mandatory standards of conduct for all lobbyists communicating with federal public office holders and forms a counterpart to the obligations that federal officials must honour in their codes of conduct when they interact with the public and with lobbyists.

Like most professional codes, the *Lobbyists' Code of Conduct* begins with a preamble that states its purpose and places it in a broader context. Next comes a body of overriding principles that set out, in positive terms, the goals and objectives to be attained without establishing precise standards. They are intended as general guidance. The principles of integrity and honesty, openness and professionalism thus represent goals that should be pursued.

The principles are then followed by rules that set out specific obligations or requirements. The rules are in three categories: transparency, confidentiality and conflict of interest. Under the rule of transparency, lobbyists have an obligation to provide accurate information to public office holders and to disclose the identity of the person or organization on whose behalf the representation is made and the purpose of the

representation. They must also disclose to their client, employer or organization, their obligations under the *Lobbyists Registration Act* and the Code itself. Under the rule of confidentiality, lobbyists cannot divulge confidential information nor use insider information to the disadvantage of their client, employer or organization. Finally, under the rule of conflict of interest, lobbyists are not to use improper influence nor represent conflicting or competing interests without the consent of their clients.

The *Lobbyists' Code of Conduct* is also an integral part of the registration kit distributed to all lobbyists and printed copies can be obtained from the Office of the Ethics Counsellor.

## COMPLIANCE

Lobbyists have a legal obligation to comply with the Code. Where, on reasonable grounds, the Ethics Counsellor believes that a rule has been breached, the Act provides that the Ethics Counsellor shall investigate and the results of that investigation must be tabled in Parliament.

During the year, a preliminary investigation was conducted relating to a complaint received in November 1999 alleging that the Chair of the Red Hill Creek Expressway Review Panel had contravened the *Lobbyists' Code of Conduct* in that he was registered to lobby Environment Canada, the Department of Fisheries and Oceans (DFO) and the Canadian Environmental Assessment Agency (CEAA) while performing contract services for the CEAA and chairing the above-mentioned panel, all at the same time. In addition to the alleged conflict, the complainant also alleged that rule 1 of the Code had been breached. This rule states that lobbyists shall disclose to public office holders the identity of the person or organization on whose behalf a representation is made.

To determine whether a formal enquiry was necessary, facts were first gathered relevant to the complaint. The Office of the Ethics Counsellor proceeded by obtaining relevant information pertaining to the establishment of the panel and its relationship with the CEAA; the process leading to the appointment of the chair to the panel; and the lobbyist registration forms of the individual against whom the complaint was made. The Office of the Ethics Counsellor also obtained copies of certain affidavits filed with the Federal Court of Canada in a case involving the Hamilton and District Chamber of Commerce, the Minister of the Environment, the Minister of Fisheries and Oceans, and the members of a review panel appointed under the *Canadian Environmental Assessment Act*. A series of interviews was also conducted with the individual against whom the complaint was made, representatives from the Office of the Minister of the Environment, the CEAA, Environment Canada and DFO, and officials from several private corporations.

On the basis of the research conducted, the Ethics Counsellor concluded that there was no need to undertake a formal enquiry.

Another complaint was also received during the year under the *Lobbyists' Code of Conduct* alleging that rules 2, 4 and 5 had been breached by a lobbyist. Rule 2 requires a lobbyist to provide accurate and factual information to public office holders and to not knowingly mislead anyone; rule 4 prohibits a lobbyist from divulging confidential information without informed consent or legal requirement; and rule 5 forbids the use of confidential or insider information to the disadvantage of the client, employer or organization. Preliminary enquiries were still ongoing at the end of the fiscal year.

### ADVISORY ROLE OF THE OFFICE

Since a major objective of the Code is to promote public trust in the integrity of government decision making, the Office places a high priority on providing guidance and clarification on the Code to lobbyists and their clients and, more generally, the public.

One issue that has occasionally arisen involves firms that are involved in two lines of business: lobbying on behalf of private sector clients while, at the same time, providing advisory services to government departments. The question is whether there is any way a firm can avoid conflict and satisfactorily provide advice to a government department while at the same time representing a company with interests in the activities of that same department.

The Office of the Ethics Counsellor has advised that the only satisfactory way this can be handled is by putting in place "Chinese Walls" to ensure that information confidential to each of the two clients (one private, the other public) is not inadvertently used to the advantage or disadvantage of the other. Additional information on this subject may be found in the Annual Report for 1998-99, available on the Internet (<http://strategis.gc.ca/ethics>).



**ADDITIONAL INFORMATION**

The full text of the *Lobbyists' Code of Conduct* and the annual reports on the Code are available on the Internet (<http://strategis.gc.ca/ethics>).

For further information, please contact:

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