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LOBBYISTS' CODE OF CONDUCT

ANNUAL REPORT

for the year ended March 31, 2001

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Office of the Ethics Counsellor

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June 30, 2001

The Honourable Brian Tobin, P.C., M.P.
Registrar General of Canada
House of Commons
Confederation Building
Ottawa ON K1A 0A6

Dear Sir:

I have the honour to present to you the sixth 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, 2000, to March 31, 2001.

Yours sincerely,

Howard R. Wilson
Ethics Counsellor

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INTRODUCTION

This is the sixth 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, 2000, to March 31, 2001.

BACKGROUND

Under the *Lobbyists Registration Act*, the Ethics Counsellor was directed 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 reporting period, four new complaints were submitted to the Office of the Ethics Counsellor. Work is continuing on one outstanding complaint identified in last year's report.

One of the four new complaints received during the reporting period has been finalized, while preliminary inquiries are continuing on the remaining three.

The complaint that was finalized was received in December 2000. It alleged possible violations of the *Lobbyists' Code of Conduct*, as well as the *Lobbyists Registration Act* and the *Conflict of Interest and Post-Employment Code for Public Office Holders*. The complaint alleged that the Chairman of Morgan Stanley Canada Limited and some of his colleagues had communicated in an attempt to influence (i.e. had lobbied) during a meeting with the Deputy Minister of Finance and other Finance officials. Initial inquiries determined that lobbying activity was not involved and there was no need for the Chairman to register under the *Lobbyists Registration Act*. The *Lobbyists' Code of Conduct* was, therefore, not applicable and the complaint was dismissed. The complaint and the response by the Ethics Counsellor are available on the Internet (<http://strategis.gc.ca/ethics>).

The three new outstanding complaints allege breaches of the *Lobbyists' Code of Conduct*, as a consequence of a registered consultant lobbyist organizing a fundraising event for a public office holder; the involvement of political party officials and non-elected people in the review of federal grant applications; and an alleged placement of public office holders in a conflict situation.

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 still arises 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. A more detailed discussion of this issue may be found in the Annual Report for 1998-99, which may be accessed 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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