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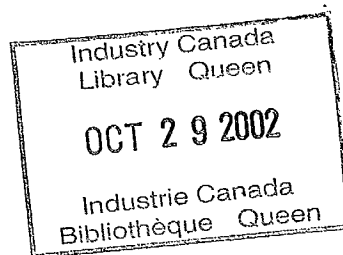
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# LOBBYISTS' CODE OF CONDUCT

## ANNUAL REPORT

for the year ended March 31, 2002

Canada



# **LOBBYISTS' CODE OF CONDUCT**

## **ANNUAL REPORT**

For the year ended March 31, 2002

Office of the Ethics Counsellor

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June 28, 2002

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

Dear Sir:

I have the honour of presenting you the seventh 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, 2001 to March 31, 2002.

Yours sincerely,

Howard R. Wilson  
Ethics Counsellor

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## INTRODUCTION

This is the seventh 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, 2001 to March 31, 2002.

## 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.

## 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 its advisory role by providing guidance and clarification on the Code to lobbyists and their clients and, more generally, the public.

One issue arose involving the media's allegations of a lobbyist in a conflict of interest. The lobbyist was registered under the *Lobbyists Registration Act* to lobby a federal government department on behalf of several companies and other organizations. At the same time, this lobbyist was advising the minister with respect to the unofficial leadership campaign of the Liberal Party.

The lobbyist sought advice on this matter from the Ethics Counsellor and, more specifically, with respect to the alleged breach of Rule 8 of the *Lobbyists' Code of Conduct*. This rule states that "lobbyists shall not place public office holders in a conflict of interest by proposing or undertaking any action that would constitute an improper influence on a public office holder".

In September 2002, the Office will be providing a specific response to advice sought by the lobbyist. The advice provided will be posted on the Office's Internet site (<http://strategis.ic.gc.ca/ethics>).

## COMPLAINTS

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, six new complaints were received by the Office of the Ethics Counsellor. Responses to two of these complaints were finalized.



One complaint involved an invitation by Bell Canada Enterprises (BCE Inc.) to the Prime Minister to play a round of golf with a professional golfer at the Bell Canadian Open Pro-Am event. The Ethics Counsellor examined this situation and concluded that Rule 8 of the *Lobbyists' Code of Conduct*, which requires that lobbyists do not place public office holders in a conflict of interest by proposing or undertaking any action that would constitute an improper influence on a public office holder, did not apply to this situation.

The other complaint that was finalized alleged that a former executive assistant to a Member of Parliament, while at the same time a member of the executive of a non-profit organization, lobbied on behalf of the organization without registering as a lobbyist, and thereby violated provisions of the *Lobbyists' Code of Conduct*. The question was analysed, and it was concluded that the individual was not required to register as a lobbyist. Therefore, the provisions of the *Lobbyists' Code of Conduct* did not apply.

Preliminary work began on the four other complaints received during this fiscal year. One complaint concerns alleged breaches to the *Lobbyists' Code of Conduct* by an individual making paid representations on behalf of companies, while at the same time, as a member of a political party riding association, providing advice to a public office holder. Another complaint concerns work by a minister's former senior policy advisor now working in government relations for a company. A third complaint deals with a company which had hired professional lobbying services to help obtain a government grant. Finally, in February 2002, the Ethics Counsellor announced he would be investigating the links between professional lobbyists who also work on political party leadership campaigns.

Work on three complaints outstanding as of March 31, 2001 continues. These 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. Work also continues on one other complaint received during the 1999-2000 fiscal year.

#### **PARLIAMENTARY COMMITTEE REVIEW OF THE LOBBYISTS REGISTRATION ACT AND LOBBYISTS' CODE OF CONDUCT**

As part of the statutory review by a parliamentary committee of the *Lobbyists Registration Act* in early 2001, the Standing Committee on Industry, Science and Technology examined the investigative powers of the Ethics Counsellor and the enforcement of the *Lobbyists' Code of Conduct*. They addressed the question of whether



this task might not be better assigned to another public servant, and their conclusion was the following recommendation:

“The Committee recommends that the Act be amended to create a new office, which shall have the exclusive responsibility of investigating and reporting to Parliament on alleged violations of the *Lobbyists’ Code of Conduct*.”

The Government’s response, which was tabled in November 2001, did not agree with this recommendation. The reply reads:

“The Code, which was developed by the Ethics Counsellor, has also worked well from the Government’s perspective since it came into effect in 1997. Several complaints have been registered with the Ethics Counsellor and decisions on those complaints are available on the Web site of the Office (<http://strategis.gc.ca/ethics>). Additionally, the Ethics Counsellor has an important advisory role, which is meant to provide guidance on the Code and related issues to the lobbying community, their clients and the public. In the course of this work, the Ethics Counsellor has been able to identify issues of concern to the wider lobbying community and those interested in more transparent government. By drawing attention to these issues and his advice, he has been able to further support the aims of the Act.

But this is not the work of an individual: it draws upon the resources of the whole Office, those who are specifically assigned to lobbyist registration as well as other staff who have assisted in the review of complaints. If a new, separate office were to be created to deal with complaints under the Code much, if not most, of the synergy gained from working on lobbying issues generally would be lost with no assurance that a new office would be effective. As well, there would be new costs associated with the establishment of a separate office.”

## COURT CHALLENGE

On December 4, 2001, Democracy Watch, a public interest group, filed an application for judicial review with the Federal Court of Canada Trial Division for an order quashing the opinion rendered by the Ethics Counsellor relating to BCE’s invitation to the Prime Minister to play a round of golf with a professional golfer at the Bell Canadian Open Pro-Am event.

The applicant seeks a declaration that they were deprived of the right to a fair hearing in accordance with the principle of fundamental justice for the determination of their complaint to the Ethics Counsellor.

They also seek a declaration that the institutional scheme under the *Lobbyists Registration Act*, which permits the same person [Ethics Counsellor] to investigate and report to Parliament on alleged violations of the *Lobbyists' Code of Conduct* while administering the *Conflict of Interest and Post-Employment Code for Public Office Holders*, raises a reasonable apprehension of bias.

They seek relief under s.2(e) of the *Canadian Bill of Rights* to prohibit the appointment of the same person to both the Office of Ethics Counsellor (Lobbyists) and Ethics Counsellor under the *Conflict of Interest Code*.

The application is not expected to be heard by the Federal Court until 2003.

### 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>).

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# **CODE DE DÉONTOLOGIE DES LOBBYISTES**

## **RAPPORT ANNUEL**

pour l'exercice terminé le 31 mars 2002

**Canada**



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