



Office of the
Conflict of Interest and
Ethics Commissioner

Commissariat aux
conflits d'intérêts et
à l'éthique

**Report on alleged
wrongdoing by a
public office holder**
Referral from the Public
Sector Integrity Commissioner

2022

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Conflict of Interest and
Ethics Commissioner

Report on alleged wrongdoing by a public office holder: Referral from the Public Sector Integrity Commissioner
made under the *CONFLICT OF INTEREST ACT*

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PREFACE

The *Conflict of Interest Act* (Act), S.C. 2006, c. 9, s. 2, came into force on July 9, 2007.

Pursuant to section 68 of the Act, if a matter is referred to the Conflict of Interest and Ethics Commissioner by the Public Sector Integrity Commissioner under subsection 24(2.1) of the *Public Servants Disclosure Protection Act*, the Conflict of Interest and Ethics Commissioner must provide a report to the Prime Minister setting out the facts in question as well as the Commissioner's analysis and conclusions in relation to the referral. A copy is provided to the public office holder or former public office holder who is the subject of the report and to the Public Sector Integrity Commissioner. The report is also made public.

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REFERRAL

[1] Pursuant to the *Public Servants Disclosure Protection Act*, the Public Sector Integrity Commissioner receives and investigates disclosures of wrongdoing in or relating to the federal public sector. Where the subject matter of a disclosure received is within my jurisdiction as Conflict of Interest and Ethics Commissioner, the Public Sector Integrity Commissioner must, under subsection 24(2.1) of the *Public Servants Disclosure Protection Act*, refer the matter to this Office.

[2] If, having received a referral in this manner, I have reason to believe that the public office holder or former public office holder who is the subject of the referral has contravened the *Conflict of Interest Act* (Act), I may commence an examination under section 45 of the Act. Even if I do not launch an examination under such circumstances, section 68 of the Act nevertheless requires that I issue a public report setting out the facts in question and my analysis and conclusions.

[3] In this case, in a letter dated May 13, 2022, which I received on May 24, 2022, the Public Sector Integrity Commissioner referred to me, under subsection 24(2.1) of the *Public Servants Disclosure Protection Act*, a disclosure alleging a wrongdoing by a public office holder. At the time of the disclosure, the individual held an executive position with a federal agency (referred to as “federal agency A” in this report), and had previously held a public office with a different federal agency (referred to as “federal agency B” in this report). The subject of the allegations will be referred to as “the subject” in this report.

First allegation

[4] According to the disclosure, the subject used their title and the logo of federal agency A to advertise workshops, conferences and various activities on the website of a private company with which they had ties (referred to as “the private company” in this report).

Second allegation

[5] The discloser also alleged that the subject, as an executive with federal agency B, used the resources of that federal agency to support an event organized for the private company. The subject allegedly asked their executive staff, on several occasions, to perform tasks related to the private company. In addition, according to the disclosure, the subject allegedly used their title in speeches and a promotional video for the private company, which was filmed on the federal agency’s premises.

Third allegation

[6] A third allegation, that a contract was awarded between a federal department and the private company, was purely speculative and not linked to the subject. I therefore did not examine this matter.

PROCESS

[7] In an email dated June 14, 2022, I contacted the discloser to request further information to support some of their allegations, including the one that the subject had used the resources of federal agency B while they held an executive position. I also asked that they provide further information to corroborate their third allegation.

[8] In an email dated June 22, 2022, the discloser provided several links to videos in the public domain indicating that these videos demonstrated that the subject had used their official title to promote the private company, and that the promotional videos were filmed on the premises of federal agency B. Although the discloser provided the names of staff members who were believed to have been asked to perform tasks related to the private company, the discloser was unable to provide any other evidence supporting this allegation or the one concerning the awarding of a contract.

[9] In a letter dated June 26, 2022, I wrote to the subject to inform them of the referral from the Public Sector Integrity Commissioner and to invite them to comment on the first two allegations described above.

[10] Additionally, I asked the subject to address some of my concerns about the use of the Twitter account of federal agency A, of which the subject is an executive, and of their own Twitter account, the biography of which mentions their position with that federal agency. I told the subject that a search of the public domain indicated that, through these two accounts, tweets promoting the private company or directing readers to the private company's website had been shared.

[11] In light of the above allegations, I had concerns about the subject's management of their private affairs to avoid being in a conflict of interest under section 5 of the *Conflict of Interest Act* (Act) and the use of their position as a public office holder to seek to influence a decision of another person under section 9 of the Act.

[12] I therefore asked the subject to provide me with details of any discussions or instructions given to the staff of either federal agency A or federal agency B regarding the promotion of the private company.

[13] I informed the subject that I would consider their response to determine whether to proceed with the publication of a report under section 68 of the Act without the need to gather additional information, should I have no reason to believe that the subject had contravened their obligations under the Act, or whether to commence an examination under section 45 of the Act.

[14] On July 27, 2022, the subject responded in detail to the alleged facts and concerns raised, and then submitted supporting documentary evidence.

[15] After having considered all the information relating to the matters referred to me, including the additional information provided by the discloser and the documentary evidence and written representations submitted by the subject, I determined that I did not have any reason to believe that the subject may have contravened the Act. Therefore, I did not commence an examination under the Act. In a letter dated October 20, 2022, I informed the subject of that decision.

[16] The subject also had the opportunity to comment on a draft of the factual portions of this report (Referral, Process and Facts).

[17] In light of a number of factors, including the lack of reasonable grounds to commence an examination, and in order to limit any damage to the subject's reputation, I determined that it was not necessary to identify them, and I have written the report in such a way as to protect their anonymity.

FACTS

[18] The following paragraphs provide the information submitted by the subject in response to the allegations in the disclosure and to the concerns I had raised.

Ties with the private company

[19] The subject described their relationship with the private company. They explained that upon their Governor-in-Council appointment, they resigned from all executive, administrative and management roles at the private company. The private company's management activities were taken over entirely by other executives.

[20] The subject explained that they are no longer part of the private company's management team, have no financial or other interest in the company, and receive no benefit for their participation in various activities offered by the private company.

[21] The subject pointed out that prior to accepting any appointment to a position as a public office holder, they had consulted the Office of the Conflict of Interest and Ethics Commissioner for advice on the possibility of continuing to volunteer with the private company. The Office told the subject that since they had no private interests that could be furthered in the course of their duties, they could continue to engage in this activity.

Use of the subject's title and the federal agency A's logo

[22] According to the disclosure, the subject used their title and the logo of federal agency A to advertise workshops, conferences and various activities on the private company's website.

[23] In response to the allegation regarding the use of federal agency A's logo on the private company's website, the subject noted the pre-existing collaboration between that federal agency and the private company, long before they were appointed as a public office holder. In that regard, the subject provided a letter of agreement prior to their appointment between federal agency A and the private company, authorizing the logo's publication on the private company's website and the promotion of the private company on federal agency A's platforms.

[24] With respect to the allegation that they used their title on the private company's website, the subject stated that they have always introduced themselves by mentioning the job they hold. According to the subject, their position as an executive of a federal agency is relevant biographical information that should be mentioned when they participate in conferences, workshops or presentations. The fact that the title of the position the subject holds now is that of public office holder does not change the fact that it is one of many biographical notes.

Use of Twitter accounts

[25] In response to my concern that their Twitter account and that of federal agency A were being used to promote the private company, the subject explained that they have been using their Twitter account since before they became a public office holder and that it is not an official Government of Canada account.

[26] The subject pointed out that the Government of Canada's *Guideline on Acceptable Network and Device Use* encourages public servants to become social network ambassadors and to show their human side, including by posting content that is important to them and of interest to others. According to the subject, this guideline even calls for public servants to use personal social media accounts for work-related purposes.

[27] The subject explained that they use their Twitter account to share content about their philanthropic involvement, which includes their involvement with the private company.

[28] With respect to the use of federal agency A's Twitter account to promote the private company, the subject explained that managing federal agency A's official Twitter account is not part of their duties. The subject stated that this account is managed by the social media team in accordance with federal agency A's objectives and confirmed that they do not give any instructions regarding the posting of content. The subject submitted examples showing that federal agency A was posting tweets related to the private company long before they took office.

Use of the subject's title and federal agency B resources to promote the private company

[29] The discloser alleged that the subject, who was then in a management position, used the resources of federal agency B to support an event organized for the private company and that they repeatedly asked their executive staff to perform tasks related to the company. In addition, the subject allegedly referred to their title in speeches for the private company and in a promotional video for the company, which was filmed on the premises of federal agency B.

[30] The subject explained that federal agency B regularly rents out its premises to external groups for events. In the case of the event organized for the private company, the subject provided supporting documents showing that the service contract invoice was paid by a third party as the event sponsor. In addition, the subject denied asking the executive staff to assist them with tasks related to the private company.

[31] The subject stressed that their position in an organization is relevant biographical information that should be mentioned when attending conferences, workshops or presentations. They also confirmed that the promotional video for the private company was filmed in a private location.

ANALYSIS

[32] Section 45 of the Act authorizes me to open an investigation on my own initiative if I have reason to believe that a public office holder is in a conflict of interest. For the purposes of the Act, a public office holder is in a conflict of interest when they exercise an official power, duty or function that provides an opportunity to further their private interests or those of relatives or friends, or to improperly further another person's private interests.

[33] The subject confirmed that they had resigned from all executive, administrative and management roles at the private company and that they are not part of the company's management team. The subject confirmed that they have no financial or other interest and receive no benefit for their participation in various activities offered by the private company.

[34] The subject confirmed that they did not discuss with or instruct the staff of federal agency A or federal agency B about promoting the private company.

[35] The subject confirmed that federal agency A's logo is on the private company's website under an agreement established well before their arrival in their position, and that the use of their title on the private company's website or during presentations is merely biographical information about them.

[36] The subject confirmed that federal agency A's Twitter account is managed by the social media team and that they do not have any input into what gets posted. The subject further confirmed that their Twitter account is a personal account, not an official Government of Canada account, and that they follow government guidelines regarding the use of personal social media accounts for work purposes.

[37] In light of the above information, I no longer had any concerns about the subject's conduct in arranging their private affairs in a manner that will prevent them from being in a conflict of interest in accordance with section 5 of the Act or in using their position to seek to influence a decision of another person under section 9 of the Act.

CONCLUSION

[38] After weighing the information I obtained against the allegations contained in the referral, I have no reason to believe that the subject may have contravened any of their obligations under the Act. I will, therefore, not initiate an examination under section 45 of the Act and consider the matter closed.

[39] However, I do wish to take this opportunity to remind public office holders of the need to take precautions when using their title outside of their public office duties and using their personal social media accounts.

[40] Although a public office holder's position remains biographical information, they must ensure that when promoting a business, person or product, members of the public are able to recognize that such promotion is in a personal capacity, not as a public office holder.

[41] Personal social media accounts that include content related to official duties could reasonably be considered related to the position or official duties of the public office holder. Therefore, in all activities related to their official duties, including personal social media accounts, public office holders should keep in mind that where their private interests intersect with their official duties in any way, the conflict should be resolved in a way that protects the public interest.



Mario Dion
Conflict of Interest and Ethics Commissioner

December 1, 2022