



Government
of Canada

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Registrar
of Lobbyists

Directeur
des lobbyistes

Ottawa, Canada
K1A 0R5

OCT 10 2006

Mr. Duff Conacher
Co-ordinator
Democracy Watch
1 Nicholas Street, Suite 420
P.O. Box 821, Postal Station B
Ottawa, Ontario
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Dear Mr. Conacher:

As you are aware, the complaint against Mr. Barry Campbell, lodged by your organization on April 13, 2000 with the former Office of the Ethics Counsellor, was transferred to the Office of the Registrar of Lobbyists for review.

We have now completed our examination of the allegations and wish to inform you of our findings. The review focussed on the allegations relating to the *Lobbyists Registration Act* and the *Lobbyists' Code of Conduct* (Code) and not the *Conflict of Interest and Post Employment Code for Public Office Holders*. The responsibility for examining issues related to conflicts of interest rests with the Ethics Commissioner.

Rule 8 falls under the general heading of Conflict of Interest in the Code. It reads as follows:

8. Improper Influence

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.

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The advice currently provided to lobbyists on Rule 8 is available at the Office of the Registrar of Lobbyists website (see attached copy). In part, it states that what constitutes "improper influence" is a question of fact in each case. Factors to be considered in assessing whether a lobbyist has proposed or undertaken any action that would constitute an improper influence on a public office holder include but are not limited to:

- whether there has been interference with the decision, judgement or action of the public office holder;
- whether there has been a wrongful constraint whereby the will of the public office holder was overpowered and whether the public office holder was induced to do or forbear an act which he or she would not do if left to act freely; and
- whether there has been a misuse of a position of confidence or whether the lobbyist took advantage of a public office holder's weakness, infirmity or distress to alter that public office holder's actions or decisions.

To determine whether Mr. Campbell had breached Rule 8 of the Code, pertinent documents were examined and interviews were conducted with key involved individuals including current and former public office holders from the Department of Finance and elsewhere.

Based on the evidence gathered, the Office of the Registrar of Lobbyists has determined that Mr. Campbell did not interfere with Secretary of State Peterson's action or decisions and that his accepting to take on the Chair of the *Friends of Jim Peterson* did not cause Secretary of State Peterson to treat his client (or ask his staff to treat his client) favourably. In addition, the Office of the Registrar of Lobbyist has concluded that the role and discretion of officials working on the relevant file had not been in any way constrained.

Therefore, we have concluded that Mr. Campbell did not breach Rule 8 of the *Lobbyists' Code of Conduct*, when he became the Chair of the *Friends of Jim Peterson* while being registered to lobby the Department of Finance.

That said, I take a view of the *Lobbyists' Code of Conduct* that is more broad than that of the former Ethics Counsellor. You will note that the version of the Code that is posted on the Office of the Registrar of Lobbyists website no longer includes the constraint that a rule must be broken in order to initiate an investigation. It would be unfair to retroactively impose my approach to

enforcement of the *Lobbyists' Code of Conduct* upon lobbyists who operated under the previous approach to enforcing the Code. However, I will expect lobbyists to observe both the spirit and the letter of the entire *Lobbyists' Code of Conduct* in their current and future lobbying assignments.

Thank you for bringing this matter to our attention.

Sincerely yours,



Michael Nelson
Registrar of Lobbyists

Attachment