

**Commission of Inquiry into Certain Allegations Respecting Business
and Financial Dealings Between Karlheinz Schreiber and the Right
Honourable Brian Mulroney**

**SUBMISSIONS BY THE ATTORNEY GENERAL
OF CANADA REQUESTED BY THE COMMISSIONER ON JANUARY 7, 2009**

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1. On January 7, 2009, the Commissioner sought submissions from the Parties on three issues, which were reiterated in Ms. Brooks' letter to the parties on January 9, 2009, namely:

i) Sections 5(3) of the Conflict of Interest and Post-Employment Code for Public Office Holders (September 1985) states:

Conforming to this Code does not absolve public officeholders from conforming to any specific references to conduct contained in the statutes governing their particular department or office and to the relevant provisions of legislation of more general application, such as the *Criminal Code*, the *Canadian Human Rights Act*, the *Privacy Act*, the *Financial Administration Act*, and the *Public Service Employment Act*. [Emphasis added.]

The Commissioner seeks counsel's views on the significance of this section, particularly the underlined words, in addressing the standard or standards of conduct as set out in paragraph (a), questions 11, 12 and 13 of the Inquiry's Terms of Reference.

ii) Questions 11 and 12 of the Inquiry's Terms of Reference state, respectively: "Were these business and financial dealings appropriate" and "Was there appropriate disclosure and reporting of the dealings and payments".

Question 13 states : "Were there ethical rules or guidelines which related to these business and financial dealings? Were they followed?"

If the applicable standards of conduct are subsumed by the ethical rules and guidelines which are referred to in Question 13, as Mr. Pratte seems to suggest, what is the purpose of questions 11 and 12?

iii) In terms of the appropriateness and the standard by which the conduct should be judged, what are your views, counsel, of this suggestion that an objective standard be applied by my asking this question: What would the fully informed, fair-minded reasonable Canadian feel about the conduct in question and whether or not it was appropriate?

2. The Attorney General of Canada, having provided an answer to all three questions on January 7, 2009, will therefore rely upon its oral submissions, and reserves its right of reply to any submissions filed by other parties.

Dated at Ottawa, this 26 of January, 2009.


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