

**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 ON THE STANDARDS OF CONDUCT**

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PART I- ISSUES

1. On November 12, 2008, the Commissioner issued a Notice of Hearing on Standards of Conduct and invited the four parties to the Commission of Inquiry into Certain Allegations Respecting Business and Financial Dealings Between Karlheinz Schreiber and the Right Honourable Brian Mulroney (hereinafter the "Commission") to make submissions on the following issues in relation to questions 11, 12, and 13 of its Terms of Reference:
 1. In relation to question 13 of the Terms of Reference, what were the ethical rules and guidelines that were applicable to the business and financial dealings between Mr. Mulroney and Mr. Schreiber?
 2. In relation to questions 11 and 12, what were the applicable norms and standards in interpreting whether Mr. Mulroney's conduct was "appropriate" in the circumstances?
2. It is the function of the Attorney General of Canada in these proceedings to represent the interests of the Government of Canada and in doing so, to assist in facilitating the work of the Commission. To that end, the Attorney General will review those areas of the legislation, rules, guidelines and jurisprudence, which may potentially have application, depending upon the evidence which will ultimately be put before the Inquiry and will attempt to lay out a general framework within which statements of opinion as to what is "appropriate" may be considered.
3. Since these submissions have been requested in advance of any evidence being tendered before the Commission, they are necessarily approached at a conceptual level. What particular findings of fact may be made by the Commissioner and what statements of opinion on the part of the Commissioner may emerge remain unknown.

PART II- STANDARDS OF CONDUCT

A. LEGISLATION

(i) The Parliament of Canada Act

4. The *Parliament of Canada Act*¹ contains several conflict of interest provisions. Notably, section 41 of the Act prohibits Members of Parliament from receiving, or agreeing to receive, any payment to influence proceedings of Parliament. Penalties for violating these prohibitions include fines, and disqualification from the House of Commons or from the public service of Canada, for five years.

5. The current version of the *Parliament of Canada Act* reflects significant legislative amendments that have been implemented since 2004. Many of the relevant sections of the Act that existed during the time of the alleged financial transactions between Messrs. Mulroney and Schreiber have since been altered or repealed. On April 26, 2004, the House of Commons adopted the *Conflict of Interest Code for the Members of the House of Commons*.

6. The sections of the Act reproduced in *Annex A* reflect the provisions as they existed on June 23, 1993, the date at which Mr. Schreiber alleges to have entered into an agreement with Mr. Mulroney. They set out the conflict of interest norms that prohibit sitting Members of Parliament from receiving unauthorized compensation.

¹ *Parliament of Canada Act*, R.S.C. 1985, c. P-1.

(ii) The Financial Administration Act

7. The *Financial Administration Act*² (“FAA”) governs the use of public monies and prohibits certain conduct that would lead to its improper allocation. Its focus is on regulating the financial management and accountability of public service organizations and Crown corporations, by setting out fundamental principles for the management of government funds.

8. The prohibitory language found in sections 80 and 81 is broad and encompasses the actions of Ministers of the Crown as well as public servants.³ As one commentator has noted, “[...] the Act is intended to impose certain legal obligations upon the political executive, obligations that constitute the statutory legal component of ministerial responsibility.”⁴

9. As recognized by the Supreme Court in *R. v. Hinchey*, the criminal law is not the only legislation aimed at preserving the integrity of government and deterring fraudulent behaviour towards the government and bribery of public office holders. Other statutes, such as the *Financial Administration Act*, deals with corrupt or fraudulent practices. In the words of L’Heureux-Dubé J.:

Obviously, the criminal law is not the only method utilized [to preserve the integrity of government]; a variety of other statutes contain provisions which deal with corrupt and fraudulent practises, while there are also conflict of interest and ethical guidelines to regulate behaviour. See, for example, *Financial Administration Act* [...] ss. 80 and 81; *Conflict of Interest and Post-Employment Code for Public Office Holders* (1994).⁵

³ Section 2 of the FAA defines “public officer” to include a *minister of the Crown*, as well as persons employed in the federal public administration.

⁴ Stan Corbett, “Ministerial Responsibility and the Financial Administration Act: The Constitutional Obligation to Account for Government Spending,” in Commission of Inquiry into the Sponsorship Program and Advertising Activities, *Restoring Accountability: Research Studies Volume 3* (Ottawa: PWGSC, 2006), http://epe.lac-bac.gc.ca/100/200/301/pco-bcp/commissions-ef/sponsorship_program-ef/phase2report/en/phase2report/volume3/CISPA_A_Vol3_5.pdf, at p. 244.

⁵ *R. v. Hinchey*, [1996] 3 S.C.R. 1128 at para. 13.

(iii) The Criminal Code

10. Sections 119, 121 and 122 of the *Criminal Code* prohibit corruption in relation to public office. The Supreme Court has stated that society's expectations of public officials are encompassed by these provisions of the *Criminal Code*, which exist to preserve the integrity of government, as well as the appearance of integrity. According to the Court, the heavy level of trust and responsibility bestowed upon public officials merits a more stringent expectation of proper conduct than would be expected of an ordinary person.⁶ In dealing with the interpretation of section 121(1)(c) of the *Criminal Code* (which specifically prohibits an official from accepting any benefit from a person who has dealings with the government without the written consent of a senior official), the Supreme Court of Canada stated that:

Section 121(1)(c) has a special role to play in this regard. This Court has decided on several occasions that the crucial purpose encompassed by this section is not merely to preserve the integrity of government, but to preserve the appearance of the integrity as well.⁷

11. In addition, the Supreme Court, in *R. v. Cogger*, stated that the purpose of section 121(1)(a) of the *Criminal Code* (which makes it an offence for anyone to give, and for an official to accept, any benefits for the purpose of obtaining assistance from an official in connection with government business) "is to prevent government officials from taking benefits from a third party in exchange for conducting some form of business on that party's behalf with government." The Supreme Court held that a "corrupt state of mind" is not a required element of the crime. As explained by the Court:

What is required is that the accused intentionally commit the prohibited act with a knowledge of the circumstances which are necessary elements of the offence. Thus, to be guilty of an offence under this section, the accused must know that he or she is

⁶ *R. v. Hinchey*, Supra note 5.

⁷ *Ibid* at par. 16.

an official; he or she must intentionally demand or accept a loan, reward, advantage or benefit of any kind for himself, herself or another person; and the accused must know that the reward is in consideration for cooperation, assistance or exercise of influence in connection with the transaction of business with or relating to the government.⁸

(iv) Income Tax Act

12. In determining the meaning of “appropriate” in relation to question 12 of the Terms of Reference, which asks whether there was appropriate disclosure and reporting of the dealings and payments in question, it may assist to consider the place of Canada Revenue Agency’s Voluntary Disclosure Program in the overall legislative and administrative framework.
13. Canada Revenue Agency’s (CRA) Voluntary Disclosure Program provides a standard policy for individuals who wish to provide tax information that was not reported or that was misreported in previous years. Taxpayers may request consideration of a voluntary disclosure in accordance with subsection 230 (3.1) of the *Income Tax Act*. If the disclosure is accepted, penalties are waived and prosecution may be avoided.
14. In order to qualify under the program, the disclosure must be voluntary. It must include enough detail to allow the facts to be verified, must be complete and payment of the amount of tax and interest or an acceptable arrangement for paying such amount must be made.⁹

⁸ *R. v. Cogger*, [1997] 2 S.C.R. 842 at paras. 22 and 24.

⁹ IC 85-1R2. CRA’s information Circular on Voluntary Disclosure Program.

B. STANDING ORDERS

15. The House of Commons has exclusive jurisdiction to set its standing orders, which are the internal rules under which the House of Commons regulates its proceedings. Standing Orders do not lapse at the end of a parliamentary session and remain effective until they are suspended, changed or repealed.

16. Standing Order 23 underlines the gravity with which the House views the offence of offering money or bribery to any member of the House:

23. (1) The offer of any money or other advantage to any Member of this House, for the promoting of any matter whatsoever depending or to be transacted in Parliament, is a high crime and misdemeanour, and tends to the subversion of the Constitution.

17. The content of Standing Order 23 has not changed since 1867. There has never been an instance in which it was found to have been breached. The scope of Standing Order 23 is limited, since it only deals with the offer of bribes, and not their acceptance. Thus, it does not cover instances where an MP accepts the offer of a bribe or arranges one.¹⁰ Such conduct by MPs would be prohibited by section 41 of the *Parliament of Canada Act* and section 119 of the *Criminal Code* which both apply to the offer and acceptance of a bribe.

18. In 1962, Mr. Raymond Bruneau was convicted under what would now be section 119 of the *Criminal Code* for unlawfully and corruptly agreeing to accept money from Mr. Abbe Bergeron for the use of his influence in his official capacity as a Member of Parliament in respect to the sale of property by Mr. Bergeron to the Government of

¹⁰ In the *Annotated Standing Orders of the House of Commons*, 2005, it is stated that : “Instances where a Member accepts the offer of a bribe or even arranges for one in consideration of his or her work in Parliament are not foreseen by the rule, although such actions could also be viewed as a breach of privilege.” Available at http://www.parl.gc.ca/Sites/ASOII/00_ASOII_Cover-e.html

Canada. The Ontario Court of Appeal dismissed Mr. Bruneau's appeal, allowed the Crown's appeal, and imposed a tougher sentence on the accused. McLennan J.A., for the Court, made the following statement with respect to the standard of conduct expected from Members of Parliament:

The responsibility of a Member of Parliament to his constituency and to the nation requires a rigorous standard of honesty and behaviour, departure from which should not be tolerated. If, in violation of their responsibilities the services of Members of Parliament can be bought then justice and freedom cannot survive, nor can this nation long survive as a place where free men can live.¹¹

19. Standing Order 21 of the House of Commons, as it read during the time that Mr. Mulroney was a Member of Parliament, provided that "No Member is entitled to vote upon any question in which he or she has a direct pecuniary interest, and the vote of any Member so interested will be disallowed." As this matter is now covered by the *Conflict of Interest Code for Members of the House of Commons*, which forms part of the Standing Orders and establishes a far more comprehensive regime with regard to the standards of conduct expected from Members of the House, Standing Order 21 was considered superfluous and, therefore, repealed on October 4, 2004.

**C. 1985 CONFLICT OF INTEREST AND POST-EMPLOYMENT
CODE FOR PUBLIC OFFICE HOLDERS**

20. Ethical guidelines for public office holders have been in place for more than four decades. It has been usual practice for each new Prime Minister to issue his/her own rules to govern the conduct of public office holders.

¹¹ *R. v. Bruneau*, [1964] 1 C.C.C. 97 at pp. 103-104.

21. Ministerial codes of conduct, up to and including the code introduced by the Right Honourable Brian Mulroney (the “1985 *Conflict of Interest Code*”), had no statutory basis.
22. The ethical rules under Prime Minister Pearson broadly emphasized high ethical standards. The first guidelines regulating post-employment conduct of ministers were introduced in 1978 during Prime Minister Trudeau’s administration.
23. The 1985 *Conflict of Interest Code* was part of a larger package of government initiatives in response to the 1983 Starr/Sharp Task Force on Conflict of Interest appointed by Prime Minister Trudeau to undertake a major review of the policies and procedures on conflict of interest and to assess whether new approaches to this issue should be devised. The Report of the Task Force on Conflict of Interest, released in May 1984, recommended *inter alia* that the existing guidelines be replaced by a short, simple code of ethical conduct and the creation of a new office headed by an ethics counsellor.¹²
24. On September 9, 1985, Prime Minister Mulroney tabled in the House of Commons the first *Conflict of Interest and Post-Employment Code for Public Office Holders*.¹³
25. The 1985 *Conflict of Interest Code* applies to public office holders which are defined as including a Minister of the Crown.¹⁴ Members of Parliament were explicitly excluded from the application of the 1985 Conflict of Interest Code (section 3). Thus,

¹² Report of the Task Force on Conflict of Interest entitled *Ethical Conduct in the Public Sector*, 1984.

¹³ Prime Minister Mulroney stated that his Code “represents a marked strengthening over the current regime”. Prime Minister Brian Mulroney, “An Open Letter to Members of Parliament and Senators”, September 9, 1985.

¹⁴ Section 2(2)(a) of the 1985 *Conflict of Interest Code*.

the applicable rules and standards of ethics imposed upon ministers were more demanding than those that applied to MPs.

26. The 1985 *Conflict of Interest Code* was more detailed and more structured than those of its predecessors. For example, it:

- i. contained enforcement mechanisms in its post-employment regime.
- ii. had much broader application, covering almost all public office holders.
- iii. was structured much like a statute, including language that compelled certain conduct (“shall” language).
- iv. contained nine principles which specifically delineated prohibited conduct, and significantly expanded the obligations imposed by its predecessor.
- v. contained a “Failure to Comply” section, which stated that breach could result in discharge from office.¹⁵

27. Section 4 of the 1985 *Conflict of Interest Code* provides that the object of the Code is to “enhance public confidence in the integrity of public office holders and the public service.” When Mr. Mulroney introduced the 1985 *Conflict of Interest Code* and its accompanying public sector ethics initiatives he stated:

It is a great principle of public administration – I could even say an imperative – that to function effectively the government and the public service of a democracy must have the trust and confidence of the public they serve. In order to reinforce that trust, the government must be able to provide competent management and, above all, to be guided by the highest standards of conduct.¹⁶

28. Section 5(2) provides that mere respect of the code is not enough. Public office holders have the responsibility to take such additional action as may be necessary to prevent any real, potential or apparent conflict of interest.

¹⁵ In practice, this was not new since ministers are appointed at pleasure. However, this was the first time a code explicitly set out this warning.

¹⁶House of Commons Debates, Official Report, First Session, Thirty-Third Parliament, 34 Elisabeth II, Volume V, 1985 at p. 6399 .

29. Section 7 sets out the principles which are intended to govern the conduct of public office holders. It would appear that subsections 7(a) and (b) constitute the organizing principles while subsections (c) to (i) are specific illustrations of these principles. Subsections 7(a) and (b) reads as follows:

- (a) public office holders shall perform their official duties and arrange their private affairs in such a manner that public confidence and trust in the integrity, objectivity and impartiality of government are conserved and enhanced;
- (b) public office holders have an obligation to act in a manner that will bear the closest public scrutiny, an obligation that is not fully discharged by simply acting within the law;

Section 7 is set out in its entirety at *Annex A*.

30. Under Part II of the 1985 *Conflict of Interest Code*, Ministers of the Crown were required to arrange their private affairs so as to minimize the risk of conflict of interest (section 15). They were *inter alia* prohibited from serving as paid consultants outside their official duties (section 29), except in exceptional circumstances under which those services related to their official duties (section 31). Ministers of the Crown had to decline any benefit that could influence their judgment and performance of official duties and responsibilities (section 33) except in very limited circumstances where the benefit was of nominal value, constituted a normal expression of courtesy, would not bring suspicion on his or her objectivity and impartiality, and would not compromise the integrity of the government (section 34). Finally, Ministers of the Crown were required to avoid being placed, or the appearance of being placed, under an obligation to anyone that might profit from special consideration on his or her part and avoid according preferential treatment to anyone (section 36). Failure to comply with these provisions, allowed the designated authority (i.e. the Prime Minister in the case of Ministers of the Crown) to take “appropriate measure” including “discharge or termination or appointment” (section 38).

31. Part III of the 1985 *Conflict of Interest Code* deals with Compliance measures for former public office holders and public office holders anticipating departure from office. A former prime minister's conduct would be specifically regulated by the relevant post-employment provisions of the 1985 *Conflict of Interest Code*. The object of Part III of the 1985 *Conflict of Interest Code* is to ensure that public office holders did not act, after they leave public office, "in such a manner as to take improper advantage of their previous public office" (section 57) and to minimize the possibilities of:
- (a) allowing prospects of outside employment to create a real, potential or apparent conflict of interest for public office holders while in public office;
 - (b) obtaining preferential treatment or privileged access to government after leaving public office;
 - (c) taking personal advantage of information obtained in the course of official duties and responsibilities until it has become generally available to the public; and
 - (d) using public office to unfair advantage in obtaining opportunities for outside employment.
32. Pursuant to section 58 of the 1985 *Conflict of Interest Code*, prior to leaving office, a Minister of the Crown is required to disclose to the Prime Minister any offers of outside employment that could place him or her in a conflict of interest. In addition, a Minister of the Crown has to disclose to the Prime Minister any outside employment offer that they had accepted and, if he or she was engaged in "significant official dealings with the future employer", the Minister has to be assigned to other duties and responsibilities as soon as possible. The period of time spent in office after such an assignment is counted towards the limitation period on prohibited activities.

33. As per section 59 of the 1985 *Conflict of Interest Code*, after leaving office, former Ministers of the Crown are prohibited from acting “for or on behalf of any person, commercial entity, association, or union in connection with any specific ongoing proceeding, transaction, negotiation, or case to which the Government is a party”, in respect of which “the former public office holder acted for or advised a department” and “which would result in the conferring of a benefit not for general application or of a purely commercial or private nature.”
34. Section 60 of the 1985 *Conflict of Interest Code* sets out a limitation period for former Ministers of the Crown. For a period of two years after leaving office (as opposed to one year for other public office holders), they are prohibited from undertaking the following activities:
- (a) accept appointment to a board of directors of, or employment with, an entity with which they had significant official dealings [...];
 - (b) make representations for or on behalf of any other person or entity to any department with which they had significant official dealings [...];
or
 - (c) give counsel, for the commercial purposes of the recipient of the counsel, concerning the programs or policies of the department with which they were employed, or with which they had a direct and substantial relationship [...].
35. The two-year limitation period for prohibited activities can be reduced upon application by the Minister of the Crown to the Prime Minister (section 61).
36. Finally, section 65 provides that public office holders who failed to comply with the 1985 *Conflict of Interest Code*, are “subject to appropriate measures as may be determined by the designated authority [i.e. the Prime Minister in the case of Ministers of the Crown].”

37. The 1985 *Conflict of Interest Code* was subsequently modified in 1994 by Prime Minister Chrétien, in 2003 by Prime Minister Martin, and in 2006 by Prime Minister Harper. A new conflict of interest act, enacted as the *Federal Accountability Act*, S.C. 2006, c. 9, has superseded the 2006 *Conflict of Interest Code* since July 9, 2007. The 2006 *Conflict of Interest Code* has been substantially incorporated into the *Federal Accountability Act* which builds on the Code and also adds new provisions.

D. GUIDANCE FOR MINISTERS

38. The *Guidance for Ministers* is a document circulated to all Ministers by the Prime Minister in order to provide them with guidance and information on their ministerial responsibilities. The 1984 and 1988 versions of the document are relevant for purposes of the inquiry, and contain a section dealing with the standard of conduct expected of ministers.

39. The *Guidance for Ministers* provides that the “elementary qualification demanded of a minister is honesty and incorruptibility.”¹⁷ They go on to provide that ministers have an obligation “not simply to observe the law but to act in a manner so scrupulous that it will bear the closest public scrutiny.”¹⁸

40. The *Guidance for Ministers* is there to assist Ministers in “maintaining the high standard of conduct expected of them throughout their activities”¹⁹ The 1988 *Guidance for Ministers* not only address unethical conduct but also the appearance of

¹⁷ *Guidance for Ministers* (Privy Council Office: Ottawa, Sept. 1984) at p. 43.

¹⁸ *Ibid*, p. 43; *Guidance for Ministers* (Privy Council Office: Ottawa, Oct. 1988) at p. 45.

¹⁹ *Guidance for Ministers* (Privy Council Office: Ottawa, Sept. 1984) at p. 43.

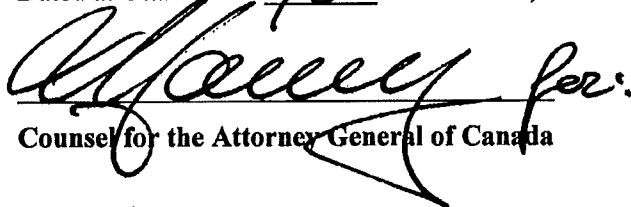
unethical conduct. It warns ministers to be aware that an appearance may also reflect badly on the Government's reputation.²⁰

41. The practical test to be applied is to ask whether the conduct of the minister or that of the staff of a minister could cause "embarrassment or be difficult to justify to the public should it be raised in Parliament or reported in the press."²¹

CONCLUSION

42. A commission of inquiry is neither a criminal trial nor a civil action for the determination of liability. It cannot establish either criminal culpability or civil responsibility for damages, although it may make findings of "misconduct".²² It is submitted that the legislation, rules, guidelines and jurisprudence which are applicable to the conduct of public office holders generally will help to inform the Commissioner's views as to what constitutes "appropriate" conduct for the purposes of this inquiry.

Dated at Ottawa, this 10th of December, 2008.


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²⁰ *Guidance for Ministers* (Privy Council Office: Ottawa, Oct. 1988) at p. 45.

²¹ *Ibid*, p.45.

²² *Canada (A.G.) v. Canada (Commission of Inquiry on the Blood System)*, [1997] 3 S.C.R. 440 at paras. 34 to 57.

ANNEX A

The Parliament of Canada Act

Receiving prohibited compensation

41. (1) No member of the House of Commons shall receive or agree to receive any compensation, directly or indirectly, for services rendered or to be rendered to any person, either by the member or another person,

(a) in relation to any bill, proceeding, contract, claim, controversy, charge, accusation, arrest or other matter before the Senate or the House of Commons or a committee of either House; or

(b) for the purpose of influencing or attempting to influence any member of either House.

Offence and punishment

(2) Every member of the House of Commons who contravenes subsection (1) is guilty of an offence and liable to a fine of not less than five hundred dollars and not more than two thousand dollars and shall, for five years after conviction of that offence, be disqualified from being a member of the House of Commons and from holding any office in the public service of Canada.

(3) Every person who gives, offers or promises to any member of the House of Commons any compensation for services described in subsection (1), *rendered or to be rendered*, is guilty of an indictable offence and liable to imprisonment for a term not exceeding one year and to a fine of not less than five hundred dollars and not more than two thousand dollars.

See also:

Government Contractor

34. Where a person, directly or indirectly, alone or with any other, personally or by the interposition of any trustee or third party, holds, enjoys, undertakes or executes any contract or agreement, expressed or implied, with or for the Government of Canada on behalf of the Crown, or with or for any of the officers of the Government of Canada, for which any public money of Canada is to be paid, the person is not eligible to be a member of the House of Commons and shall not sit or vote therein.

Disqualification

35. If any member of the House of Commons

(a) accepts any office or commission, or is concerned or interested in any contract, agreement, service or work, that, by virtue of this Division, renders a person incapable of being elected to, or of sitting or voting in, the House of Commons, or

(b) knowingly sells to the Government of Canada any goods, wares or merchandise, or knowingly performs for the Government of Canada or for any of

the officers of that Government any service, for which any public money of Canada is paid or to be paid,

whether the contract, agreement or sale is expressed or implied and whether the transaction is single or continuous, the seat of the member is thereby vacated and the member's election is thenceforth void.

Penalty

36. (1) Any person who, by this Division, is declared ineligible to be a member of the House of Commons or is disqualified from sitting or voting therein or, having been duly elected, is disqualified pursuant to section 35 from continuing to be such a member or continuing to so sit or vote, and who nevertheless sits or votes in the House of Commons or continues to do so, shall forfeit the sum of two hundred dollars for each day on which the person so sits or votes.

...

Acts done in recess

37. Sections 34 to 36 extend to any transaction or act begun and concluded during a recess of Parliament.

Clause in all Government contracts

38. (1) In every contract, agreement or commission to be made, entered into or accepted by any person with the Government of Canada or any of the departments or officers of that Government, for which any public money of Canada is to be paid, there shall be inserted an express condition that no member of the House of Commons shall be admitted to any share or part of the contract, agreement or commission or to any benefit to arise therefrom.

Penalty

(2) Where any person who has entered into or accepted, or enters into or accepts, any contract, agreement or commission described in subsection (1) admits any of the members of the House of Commons to any part or share of the contract, agreement or commission or to receive any benefit thereby, that person shall, for each such admission, forfeit and pay the sum of two thousand dollars, recoverable with costs in any court of competent civil jurisdiction by any person who sues for it.

Limitation period

39. Proceedings for the recovery of any forfeiture imposed by section 36 or 38 may be instituted at any time within but not later than one year after the time when the forfeiture was incurred.

Further exceptions

40. (1) This Division does not extend to render ineligible to be a member of the House of Commons, or disqualify from sitting or voting therein, any person by reason only that the person is

(a) a shareholder in any corporation having a contract or agreement with the Government of Canada, except any company that undertakes a contract for the building of any public work;

(b) a person on whom the completion of any contract or agreement, expressed or implied, devolves by descent, limitation, marriage, common-law partnership or by virtue of a marriage contract, or a pre-nuptial or co-habitation agreement, or as devisee, legatee, executor or administrator, where less than twelve months have elapsed after the devolution;

(c) a contractor for the loan of money or of securities for the payment of money to the Government of Canada under the authority of Parliament, after public competition; or

(d) a contractor in respect of the purchase or payment of the public stock or debentures of Canada, on terms common to all persons.

Financial Administration Act

80. (1) Every officer or person acting in any office or employment connected with the collection, management or disbursement of public money who

(a) receives any compensation or reward for the performance of any official duty, except as by law prescribed,

(b) conspires or colludes with any other person to defraud Her Majesty, or makes opportunity for any person to defraud Her Majesty,

(c) designedly permits any contravention of the law by any other person,

(d) wilfully makes or signs any false entry in any book, or wilfully makes or signs any false certificate or return in any case in which it is the duty of that officer or person to make an entry, certificate or return,

(e) having knowledge or information of the contravention of this Act or the regulations or any revenue law of Canada by any person, or of fraud committed by any person against Her Majesty, under this Act or the regulations or any revenue law of Canada, fails to report, in writing, that knowledge or information to a superior officer, or

(f) demands or accepts or attempts to collect, directly or indirectly, as payment or gift or otherwise, any sum of money, or other thing of value, for the compromise, adjustment or settlement of any charge or complaint for any contravention or alleged contravention of law,

is guilty of an indictable offence and liable on conviction to a fine not exceeding five thousand dollars and to imprisonment for a term not exceeding five years.

Fraud against Her Majesty

(2) Every officer or person acting in any office or employment connected with the collection, management or disbursement of public money who, by deceit, falsehood or other fraudulent means, defrauds Her Majesty of any money, securities, property or service is guilty of an indictable offence and liable on conviction,

(a) if the amount of the money or the value of the securities, property or service does not exceed \$5,000, to a fine not exceeding \$5,000 and to imprisonment for a term not exceeding five years; or

(b) if the amount of the money or the value of the securities, property or service exceeds \$5,000, to a fine not exceeding that amount or that value and to imprisonment for a term not exceeding fourteen years. R.S., 1985, c. F-11, s. 80;

Idem, where bribes offered or accepted

81. Every person who

(a) promises, offers or gives any bribe to any officer or any person acting in any office or employment connected with the collection, management or disbursement of public money, with intent

(i) to influence the decision or action of that officer or person on any question or matter that is then pending, or may, by law, be brought before him in his official capacity, or

(ii) to influence that officer or person to commit, or aid or abet in committing any fraud on the revenue, or to connive at, collude in, or allow or permit any opportunity for the commission of any such fraud, or

(b) accepts or receives any such bribe,

is guilty of an indictable offence and liable on conviction to a fine not exceeding three times the amount so offered or accepted and to imprisonment for any term not exceeding five years.

Criminal Code

119. (1) Every one is guilty of an indictable offence and liable to imprisonment for a term not exceeding fourteen years who

(a) being the holder of a judicial office, or being a member of Parliament or of the legislature of a province, directly or indirectly, corruptly accepts, obtains, agrees to accept or attempts to obtain, for themselves or another person, any money, valuable consideration, office, place or employment in respect of anything done or omitted or to be done or omitted by them in their official capacity, or

(b) directly or indirectly, corruptly gives or offers to a person mentioned in paragraph (a), or to anyone for the benefit of that person, any money, valuable

consideration, office, place or employment in respect of anything done or omitted or to be done or omitted by that person in their official capacity.

Consent of Attorney General

(2) No proceedings against a person who holds a judicial office shall be instituted under this section without the consent in writing of the Attorney General of Canada.

R.S., 1985, c. C-46, s. 119; 2007, c. 13, s. 3.

...

Frauds on the government

121. (1) Every one commits an offence who

(a) directly or indirectly

(i) gives, offers or agrees to give or offer to an official or to any member of his family, or to any one for the benefit of an official, or

(ii) being an official, demands, accepts or offers or agrees to accept from any person for himself or another person,

a loan, reward, advantage or benefit of any kind as consideration for cooperation, assistance, exercise of influence or an act or omission in connection with

(iii) the transaction of business with or any matter of business relating to the government, or

(iv) a claim against Her Majesty or any benefit that Her Majesty is authorized or is entitled to bestow,

whether or not, in fact, the official is able to cooperate, render assistance, exercise influence or do or omit to do what is proposed, as the case may be;

(b) having dealings of any kind with the government, directly or indirectly pays a commission or reward to or confers an advantage or benefit of any kind on an employee or official of the government with which the dealings take place, or to any member of the employee's or official's family, or to anyone for the benefit of the employee or official, with respect to those dealings, unless the person has the consent in writing of the head of the branch of government with which the dealings take place;

(c) being an official or employee of the government, directly or indirectly demands, accepts or offers or agrees to accept from a person who has dealings with the government a commission, reward, advantage or benefit of any kind for themselves or another person, unless they have the consent in writing of the

head of the branch of government that employs them or of which they are an official;

(d) having or pretending to have influence with the government or with a minister of the government or an official, directly or indirectly demands, accepts or offers or agrees to accept, for themselves or another person, a reward, advantage or benefit of any kind as consideration for cooperation, assistance, exercise of influence or an act or omission in connection with

(i) anything mentioned in subparagraph (a)(iii) or (iv), or

(ii) the appointment of any person, including themselves, to an office;

(e) directly or indirectly gives or offers, or agrees to give or offer, to a minister of the government or an official, or to anyone for the benefit of a minister or an official, a reward, advantage or benefit of any kind as consideration for cooperation, assistance, exercise of influence, or an act or omission, by that minister or official, in connection with

(i) anything mentioned in subparagraph (a)(iii) or (iv), or

(ii) the appointment of any person, including themselves, to an office; or

(f) having made a tender to obtain a contract with the government,

(i) directly or indirectly gives or offers, or agrees to give or offer, to another person who has made a tender, to a member of that person's family or to another person for the benefit of that person, a reward, advantage or benefit of any kind as consideration for the withdrawal of the tender of that person, or

(ii) directly or indirectly demands, accepts or offers or agrees to accept from another person who has made a tender a reward, advantage or benefit of any kind for themselves or another person as consideration for the withdrawal of their own tender.

Contractor subscribing to election fund

(2) Every one commits an offence who, in order to obtain or retain a contract with the government, or as a term of any such contract, whether express or implied, directly or indirectly subscribes or gives, or agrees to subscribe or give, to any person any valuable consideration

(a) for the purpose of promoting the election of a candidate or a class or party of candidates to Parliament or the legislature of a province; or

(b) with intent to influence or affect in any way the result of an election conducted for the purpose of electing persons to serve in Parliament or the legislature of a province.

Punishment

(3) Every one who commits an offence under this section is guilty of an indictable offence and liable to imprisonment for a term not exceeding five years.
R.S., 1985, c. C-46, s. 121; 2007, c. 13, s. 5.

Breach of trust by public officer

122. Every official who, in connection with the duties of his office, commits fraud or a breach of trust is guilty of an indictable offence and liable to imprisonment for a term not exceeding five years, whether or not the fraud or breach of trust would be an offence if it were committed in relation to a private person.

Income Tax Act

Waiver of penalty or interest

230 (3.1) The Minister may, on or before the day that is ten calendar years after the end of a taxation year of a taxpayer (or in the case of a partnership, a fiscal period of the partnership) or on application by the taxpayer or partnership on or before that day, waive or cancel all or any portion of any penalty or interest otherwise payable under this Act by the taxpayer or partnership in respect of that taxation year or fiscal period, and notwithstanding subsections 152(4) to (5), any assessment of the interest and penalties payable by the taxpayer or partnership shall be made that is necessary to take into account the cancellation of the penalty or interest.

1985 Conflict of Interest and Post-Employment Code

Section 7

Every public office holder shall conform to the following principles:

- (a) public office holders shall perform their official duties and arrange their private affairs in such a manner that public confidence and trust in the integrity, objectivity and impartiality of government are conserved and enhanced;
- (b) public office holders have an obligation to act in a manner that will bear the closest public scrutiny, an obligation that is not fully discharged by simply acting within the law;
- (c) public office holders shall not have private interests, other than those permitted pursuant to this Code, that would be affected particularly or significantly by government actions in which they participate;
- (d) on appointment to office, and thereafter, public office holders shall arrange their private affairs in a manner that will prevent real, potential or apparent conflicts of interest from arising but if such a conflict does arise between

responsibilities of that public office holder, the conflict shall be resolved in favour of the public interest;

- (e) public office holders shall not solicit or accept transfers of economic benefit, other than incidental gifts, customary hospitality, or other benefits of nominal value, unless the transfer is pursuant to an enforceable contract of property right of the public office holder;
- (f) public office holders shall not step out of their official roles to assist private entities or persons in their dealings with the government where this would result in preferential treatment to any person;
- (g) public office holders shall not knowingly take advantage of, or benefit from, information that is obtained in the course of their official duties and responsibilities and that is not generally available to the public;
- (h) public office holders shall not directly or indirectly use, or allow the use of, government property of any kind, including property leased to the government, for anything other than officially approved activities; and
- (i) public office holders shall not act, after they leave public office, in such a manner as to take improper advantage of their previous office.