

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

**MOTION FOR STANDING IN PART II (POLICY REVIEW) BY THE
ATTORNEY GENERAL OF CANADA**

John H. Sims
Deputy Attorney General of Canada
Department of Justice
234 Wellington Street
10th floor, East Tower, Room 1001
Ottawa, Ontario
K1A 0H8

Per: Paul B. Vickery

Tel: (613) 948-1483
Fax: (613) 941-5879
E-mail: paul.vickery@justice.gc.ca

**Counsel for the Attorney General of
Canada**

INDEX

DESCRIPTION

Motion for Standing by the Attorney General of Canada..... 3

Overview..... 3

Mandate of the Commission..... 3

Grounds for Granting Appropriate Participation..... 4

Possession, Custody and Control of Relevant Documents 4

**Representation of the Government of Canada, Departments
and Agencies and current and former Crown servants..... 5**

**Contact information for Counsel for the Attorney General
of Canada..... 6**

Conclusion..... 6

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

**MOTION FOR STANDING IN PART II (POLICY REVIEW) BY THE
ATTORNEY GENERAL OF CANADA**

The Attorney General of Canada hereby moves to participate fully in Part II (Policy Review) of the Commission of Inquiry into Certain Allegations Respecting Business and Financial Dealings Between Karlheinz Schreiber and the Right Honourable Brian Mulroney (the “Commission”). The grounds for the motion are as follows:

Overview

1. The Attorney General will represent the Government of Canada and its several departments and agencies as well as individual Crown servants, past and present, who may have relevant evidence regarding Part II of the Commission (Policy Review).
2. Any recommendations made by the Commissioner with regard to the Policy Review may have an impact on governmental policies and legislation.
3. Consequently, the Attorney General of Canada has a substantial and direct interest in the subject matter of the Policy Review.

Mandate of the Commission

4. The Commission was established by Order in Council P.C. 2008-1092, dated June 12, 2008 with a mandate to investigate and report on questions relating to the business and financial dealings between Karlheinz Schreiber and the Right Honourable Brian Mulroney, P.C. as well as to make recommendations on the sufficiency of ethical rules and guidelines and correspondence procedures as provided by paragraphs 14 and 17 of the Commission’s Terms of Reference:

14. Are there ethical rules or guidelines which currently would have covered these business and financial dealings? Are they sufficient or should there be additional ethical rules or guidelines concerning the activities of politicians as they transition from office or after they leave office?

17. Should the Privy Council Office have adopted any different procedures in processing Mr. Schreiber's correspondence to Prime Minister Harper of March 29, 2007?
5. By virtue of its mandate, the Commissioner "is charged with reporting and making recommendations on two issues raising policy questions. These two issues centre, first, on the content of Canada's federal ethics rules and, second, on the policies and practices at the Privy Council Office (PCO) governing the provision to the Prime Minister of correspondence from the public."¹

Grounds for Granting Appropriate Participation

6. Pursuant to paragraph (e) of the Order in Council, the Commissioner is authorized "to grant to any person who satisfies him that they have a substantial and direct interest in the subject matter of the Commission an opportunity for appropriate participation in it."
7. Further, the Commission's Rules of Procedure and Practice provide that:

63. A person may be granted full or partial standing as a party by the Commissioner if the Commissioner is satisfied that the person is directly and substantially affected by the mandate of the Policy Review or portions thereof. Persons with party standing are referred to as parties in these Rules.

Possession, Custody and Control of Relevant Documents

8. Many documents relevant to the Commission's mandate are within the possession, custody or control of the Government of Canada.
9. On July 14, 2008, the Commission issued a Request for Documents to the Attorney General requiring the Privy Council Office, the Prime Minister Office, the RCMP, the House of Commons and the Department of Justice to produce all documents relevant to the Terms of Reference of the Commission.
10. Further, on July 18, 2008, the Commissioner issued a Request for Documents to the Attorney General requiring that the Privy Council Office, the Prime Minister Office, the RCMP, the House of Commons, the Department of Justice, Industry Canada, the Department of National Defence and Public Works and Government Services Canada produce all documents relevant to the Terms of Reference of the Commission.

¹ <http://www.oliphantcommission.ca/English/research/policy.php>

11. As advised in its letter to the Commission dated August 8, 2008, the Attorney General is responsible for representing the Government of Canada in matters related to the production of documents to the Commission except for the documents in the possession of the House of Commons.

Representation of the Government of Canada, Departments and Agencies and current and former Crown servants

12. The Government of Canada as a whole and several federal departments and agencies have a substantial and direct interest in the subject matter of this Commission because any recommendations made by the Commissioner with regard to questions 14 and 17 of the Terms of Reference may have an impact on governmental policies and legislation.
13. The Attorney General will represent the interests of the Government as a whole in this Commission as well as the specific interests of affected departments and agencies including those referred to in the Order in Council, the Privy Council Office and the Prime Minister's Office.
14. In addition, and in accordance with the Treasury Board Policy on Legal Assistance and Indemnification, the Attorney General may also represent former and current Crown servants who have knowledge of facts, events, policies and procedures that may be relevant for the mandate of the Commission.
15. The Attorney General of Canada hereby applies for standing before the Commission for the purposes of the Commission on the following grounds:
 - (a) the Attorney General of Canada is responsible for representing the Government of Canada and its several departments and agencies in matters related to the production of documents held by Canada in response to any request for such documents issued by the Commission;
 - (b) the Attorney General of Canada acts as the Crown's legal adviser with respect to the positions to be advanced before the Commission, and also with respect to the Government's response to any report submitted to the Governor in Council by the Commission; and
 - (c) the Attorney General of Canada will be the legal representative of certain current and former Crown servants who may have information relevant to the Commission or who may be called as witnesses.

Contact information for Counsel for the Attorney General of Canada

16. Lead counsel for the Attorney General of Canada will be Paul B. Vickery. Mr. Vickery may be reached at :

Department of Justice
234 Wellington Street
10th floor, East Tower, Room 1001
Ottawa, Ontario
K1A 0H8
Tel: (613) 948-1483
Fax: (613) 941-5879
E-mail: paul.vickery@justice.gc.ca

Conclusion

17. Therefore, the Attorney General of Canada has a substantial and direct interest in Part II of the Commission (Policy Review), and should be granted full standing, through counsel, to give evidence, examine or cross-examine witnesses and make submissions.

Dated at Ottawa this 19 of January, 2009.


Counsel for the Attorney General of Canada

Counsel for the Attorney General of Canada

John H. Sims
Deputy Attorney General of Canada
Department of Justice
234 Wellington Street
10th floor, East Tower, Room 1001
Ottawa, Ontario
K1A 0H8

Per: Paul B. Vickery

Tel: (613) 948-1483
Fax: (613) 941-5879

E-mail: paul.vickery@justice.gc.ca