



November 26, 2015

The Honourable Celine Hervieux-Payette
583-S, Centre Block
The Senate of Canada
Ottawa, ON K1A 0A4

Dear Senator Hervieux-Payette:

This letter concerns a written request from Senator Jean-Guy Dagenais, under paragraph 47(2)(b) of the *Ethics and Conflict of Interest Code for Senators* ("the Code")¹ and dated June 29, 2015, with clarifications on July 7, 2015, that I conduct an inquiry in order to determine whether you have not complied with your obligations under the *Code*.

The allegations of non-compliance were based on an article published in the *Journal de Montréal* on June 28, 2015.

Under paragraph 47(4)(b) of the *Code*, I advised you, in a letter dated July 8, 2015, that, pursuant to paragraph 47(2)(b) of the *Code*, I would be conducting a preliminary review of this matter in order to determine whether an inquiry was warranted and I forwarded this request to you. I also provided you with 15 days within which to respond to the allegations, in accordance with subsection 47(7) of the *Code*. On July 9, 2015, I granted you an extension of time, under subsection 47(8) of the *Code*, in which to respond to the allegations. You provided me with your response on August 11, 2015, at which time you also provided me with a number of documents to support your submissions.

Having completed my preliminary review of the matter, I am required to write to you, under subsection 47(10), to inform you as to my decision, including my reasons, concerning whether or not an inquiry into this matter is warranted in order to determine whether you have not complied with your obligations under the *Code*.

What follows is my decision, along with my reasons and the evidence that supports my findings.

Allegations

In his letter of June 29, 2015, Senator Dagenais set out the following allegations:

¹ *Ethics and Conflict of Interest Code for Senators*, adopted by the Senate on June 16, 2014.

- (a) that you failed to disclose the assets you allegedly held in a private corporation by the name of Medina Quality Assurance Systems Inc., as required under the provisions of the *Code*;
- (b) that you failed to disclose a position you allegedly held as an ‘advisor’ of Medina Quality Assurance Systems Inc., as required under the provisions of the *Code*;
- (c) that, during the time in which you allegedly held interests in Medina Quality Assurance Systems Inc. and served as an advisor thereto, the corporation was allegedly receiving funding from the Government of Canada and that you allegedly failed to disclose this, as required under the provisions of the *Code*; and
- (d) that, in 2006, you allegedly aided Ms. Danielle Medina, a friend and business associate of yours, in developing a project with the Canadian International Development Agency (“CIDA”) in Barbados, contrary to the provisions of the *Code*.

In his letter to me, Senator Dagenais indicated that his grounds for believing that you have failed to comply with your obligations under the *Code* are based on an article published in the *Journal de Montreal* on June 28, 2015, a copy of which was enclosed with his letter to me of June 29, 2015.

He also provided me with an extract from the Registre des entreprises du Québec, dated June 29, 2015, relating to Medina Quality Assurance Systems Inc. in support of his complaint.

Your Submissions

As already noted above, on August 11, 2015, you provided me with your oral and written response to the above-noted allegations. You also provided me with a list of documents to support your submissions. These documents are as follows:

- the Certificate of Incorporation and the Articles of Incorporation, under the *Canada Business Corporations Act*, of Medina Quality Assurance Systems Inc., dated November 5, 2003;
- the financial statements of Medina Quality Assurance Systems Inc. for the following dates: February 28, 2004, February 28, 2005, February 28, 2006, February 28, 2007, February 28, 2008, February 28, 2009, February 28, 2010, and February 28, 2011;²
- corporate organizational charts illustrating the linkages between the various Medina corporations;³

² Though these statements are confidential, I received your written permission on November 4, 2015, as well as that of Ms. Medina on November 13, 2015, to refer to their contents in this letter.

³ Since these documents are confidential, I have decided not to publish any of the information contained therein in order to protect your privacy interests, as well as those of other relevant parties. However, I am satisfied as to the facts which they establish in this matter.

- resolution of the board of directors to dissolve Medina Quality Assurance Systems Inc., adopted March 30, 2012;
- Certificate of Dissolution under the *Canada Business Corporations Act* of Medina Quality Assurance Systems Inc., dated March 30, 2012;
- extract from the Registre des entreprises du Québec relating to Medina Quality Assurance Systems Inc.;
- Contribution Agreement For the Food Safety Systems Development Component of the Canadian Integrated Food Safety Initiative, Project No. SYSD-026-JCCM, between Her Majesty the Queen in Right of Canada, as represented by the Minister of Agriculture and Agri-Food, and the Jewish Community Council of Montreal, effective on September 8, 2011;
- extract from the Registre des entreprises du Québec relating to Medina Foods Inc., also identified by the trade name “Services assurance qualité Medina”; and
- your income tax statements of investment income for the years 2003 to 2012.⁴

In response to Senator Dagenais’ allegations, you submit the following:

- (a) that you did not disclose to my office the shares you held in Medina Quality Assurance Systems Inc. during the period within which you held these shares because the codes of conduct in effect during this time did not require the disclosure of these assets since they were valued at under \$10,000;
- (b) that you did not disclose to my office any position as an ‘advisor’ to Medina Quality Assurance Systems Inc. during the period within which you were associated with this corporation because you did not, at any point in time, hold such a position;
- (c) that you did not disclose to my office any contractual arrangement concerning Medina Quality Assurance Systems Inc. and the Government of Canada or a federal agency or body because this corporation has never been a party, directly or indirectly, to a contract, subcontract, or any other business arrangement with the Government of Canada or any federal agency or body;
(You submit that the contractual arrangement referred to in the article published in the *Journal de Montréal* was between the Government of Canada and the Jewish Community Council of Montreal. Under Annex B of this funding agreement, the corporations “Food with a Conscience Inc.” and “Medina Foods Inc.” would have received consulting fees pursuant to this agreement. While Ms. Danielle Medina has interests in both these corporations, you submit that you have never held any interest in either of these two

⁴ Though these documents are confidential, you provided me with your written authorization on November 4, 2015 to make reference to the contents therein for the purposes of this letter.

corporations. You state that there was only one link between you and Medina Foods Inc. -- one of the Medina companies that was listed as receiving consulting fees in the funding agreement between the Government of Canada and the Jewish Community Council of Montreal -- and that link is that you held two common shares, initially valued at \$1.00 each for a total value of \$2.00, in Medina Quality Assurance Systems Inc., while Medina Foods Inc. held a controlling interest in Medina Quality Assurance Systems Inc.); and

- (d) that your only involvement in respect of the CIDA project in Barbados was to suggest to Ms. Medina that she (Ms. Medina) contact CIDA given that the project was international in nature. You state that you have never made any representations to CIDA officials on behalf of Ms. Medina, nor have you ever had any contact with CIDA officials in this respect. Moreover, this project was in no way related to Medina Quality Assurance Systems Inc.

Findings of Fact

The certification of incorporation provides that Medina Quality Assurance Systems Inc. was incorporated on November 5, 2003 under the *Canada Business Corporation Act*. It was also registered in the Registre des entreprises du Québec.

The excerpts from the Registre des entreprises du Québec relating to Medina Quality Assurance Systems Inc. indicate that this corporation was a private corporation that owned and developed a quality control software and provided quality control services related to the food industry.

The financial statements of Medina Quality Assurance Systems Inc. indicate that the corporation was comprised of a total of 100 common shares and 850 preferred shares. The Registre des entreprises du Québec identifies you as having been one of three shareholders of Medina Quality Assurance Systems Inc. You provided me with a letter to you from Mr. Michel Cossette, counsel with the law firm Cossette Dolan Avocats, dated March 12, 2015,⁵ who examined the corporate records of the corporation and confirmed that you held 2% of the common shares that had been issued by it. You also confirmed this to me both by telephone on October 29, 2015, as well as in your written submissions, as did Ms. Medina in a telephone call that same day. According to the Registre des entreprises du Québec, the two other shareholders were: Ms. Elaine Rovinescu and Medina Foods Inc., the latter holding a majority of the shares.⁶ In our telephone call on October 29th, Ms. Danielle Medina also told me that this division of shares, with you holding two common shares, remained unaltered until the date on which the corporation was dissolved. You confirmed this by telephone that same day, as well as in your written submissions to me.

The certificate of dissolution indicates that the corporation was dissolved on March 30, 2012.

⁵ Though this letter from counsel to you is probably protected by solicitor-client privilege, you provided me with your written permission on November 25, 2015 to disclose the contents thereof for the purposes of my preliminary determination letter.

⁶ Both you and Ms. Medina informed me as to the specific distribution of shares between Ms. Rovinescu and Medina Foods Inc. in telephone calls on October 29, 2015. You also provided this information to me in your written submissions. However, since these facts are confidential in nature and are not relevant for the purposes of this preliminary review, I have decided not to include them in this letter.

As already noted above, you told me that you held two common shares valued initially at \$1.00 per share for a total value of \$2.00. You also stated that, at the time of dissolution, these shares were of no value due to the corporation's deficits; the financial statements confirm your submissions in this respect.

The evidence demonstrates that you did not hold any positions within the corporation. You were not listed in the Registre des entreprises du Québec as a director or officer of the corporation at any point in time. Moreover, you stated this in the written materials you provided to me. You also confirmed this in our telephone call on October 29, 2015.

You told me that you never received any remuneration from Medina Quality Assurance Systems Inc., nor did you, at any point, receive any dividends as a result of your holding two shares thereof. Your assertion that you did not receive any dividends is supported by your income tax statements of investment income for the relevant years, copies of which you provided to me. Moreover, since you did not hold any position within the corporation, whether as a director, an officer or an advisor, you would not have received any directors' fees or any remuneration as an employee of the corporation. Both the financial statements of the corporation, along with the relevant excerpts from the Registre des entreprises du Québec, substantiate these facts. Ms. Medina also confirmed that you did not receive any remuneration from this corporation in our telephone call on October 29, 2015.

You also told me, both in writing and by telephone in our conversation on October 29, 2015, that between November 5, 2003 (the date on which the corporation was incorporated) and February 2006, the corporation did not carry on any activities and that between February 2006 to February 2010, the corporation was running deficits. The financial statements of the corporation, with which you provided me, substantiate the corporation's lack of activities between November 5, 2003 and February 2006 and that it was running deficits from February 2006 to February 2010. In respect of the year ending February 2011, the financial statements establish that in that year, as in the years 2003 to 2006, the corporation did not carry on any activities. Finally, the income tax returns of the corporation for the period between March 1, 2011 and February 28, 2012 and March 1, 2012 to March 30, 2012 (the date on which the corporation was dissolved), copies of which Ms. Medina provided me on November 19, 2015, illustrate that the corporation did not carry on any activities for those two periods.

In 2011, the Government of Canada, as represented by the Minister of Agriculture, entered into a contribution agreement, effective September 8, 2011, with the Jewish Community Council of Montreal, a not-for-profit corporation incorporated under the laws of Quebec. This contribution agreement was signed pursuant to the *Food Safety Systems Development* component of a Government of Canada program entitled the *Canadian Integrated Food Safety Initiative*. The project involved the development of a food safety standard for Kosher foods, the development of audit methodology, and software development. The term of this agreement was for two years.

In our telephone conversation on October 29th, you told me that Medina Quality Assurance Systems Inc. did not receive any funding from the Government of Canada pursuant to this agreement, or pursuant to any other agreement with the federal government or any federal

agency or body. You also made this point in your written materials to me. Ms. Medina confirmed this in our telephone call with me that same day.

It is noteworthy that the contribution agreement, a copy of which you provided to me, identifies a number of consultants in Annex B who were remunerated under the agreement. These include two Medina companies: (1) Medina Foods Inc. and (2) Foods with a Conscience Inc. However, these two corporations are two separate legal entities from Medina Quality Assurance Systems Inc., the corporation in which you held two shares. Moreover, the relevant excerpts from the *Registre des entreprises du Québec* establish that you were not associated with either Medina Foods Inc. or with Foods with a Conscience Inc., whether as a shareholder or as a director or officer, nor was Medina Quality Assurance Systems Inc. associated with Medina Foods Inc. or Foods with a Conscience Inc. other than by virtue of the fact that Medina Foods Inc. held shares in Medina Quality Assurance Systems Inc. You confirmed this in your written materials, as well as by telephone on October 29, 2015. Ms. Medina also confirmed this in my telephone call with her that same day. In our telephone conversation, you also told me that you were not aware of this contribution agreement until you read about it in the media.

However, I note from the extract in the *Registre des entreprises du Québec* for Medina Foods Inc. that this corporation is also registered under the trade name of “Services assurance qualité Medina”, a name which is almost identical to “Medina Quality Assurance Systems Inc.”. As already stated, “Medina Foods Inc.”/“Services assurance qualité Medina” on the one hand, and “Medina Quality Assurance Systems Inc.” on the other, are separate legal entities and you only had an interest in “Medina Quality Assurance Systems Inc.”, not “Medina Foods Inc./Services assurance qualité Medina”. You confirmed this in writing as well as by telephone with me, as did Ms. Medina in our telephone conversation on October 29, 2015.

With respect to the 2006 project involving CIDA referred to in the article published in the *Journal de Montréal* on June 28, 2015, you explained to me, in our telephone conversation on October 29, 2015, that your only assistance to Ms. Medina in this matter was to suggest to Ms. Medina that she (Ms. Medina) contact CIDA given that the project had international implications, though you did not discuss the matter in any detail. Ms. Medina confirmed this information in our telephone conversation on October 29, 2015. She told me that you did not speak with any CIDA officials on behalf of anyone in respect of this project. I have no evidence that contradicts these statements.

The article published in the *Journal de Montréal* also refers to a contract obtained by the Jewish Community Council of Montreal in 2009 to ensure quality control in respect of the food Air Canada provides. The article indicates that this contract was subcontracted out to one of the Medina corporations. It also notes that one of the three shareholders of Medina Quality Assurance Systems Inc., namely Ms. Rovinescu, is the spouse of Air Canada’s Chief Executive Officer. The article makes no specific allegations in this respect in relation to you, nor did Senator Dagenais in his complaint letter. However, since the article refers to this matter, I have asked you for further information about it. In our telephone call, you told me that you were in no way involved in obtaining this contract or in carrying it out, nor was Medina Quality Assurance Systems Inc. in any way involved. Ms. Medina confirmed this information in our telephone call of October 29, 2015. She added that the Medina company involved in this contract was Medina

Foods Inc. and that neither you nor Medina Quality Assurance Systems Inc., was involved in this matter.

Finally, in terms of your relationship with Ms. Medina, both you and Ms. Medina confirmed in telephone calls that you would not characterize your relationship as a “friendship” but rather as acquaintances that met in the context of your mutual professional activities.

Relevant Provisions of the Code

1. Code in force as of May 18, 2005⁷ (in effect until May 29, 2008)

Use of influence

11. A Senator shall not use or attempt to use his or her position as a Senator to influence a decision of another person so as to further the Senator’s private interests, or those of a family member, or to improperly further another person’s or entity’s private interests.

Confidential disclosure statement: sitting Senators

29.(1) A Senator who holds office on the day this Code comes into force shall, within 120 days after that day, and annually thereafter on or before the date established by the Senate Ethics Officer under subsection (2), file with the Senate Ethics Officer a confidential statement disclosing the information required by section 30.

Contents of confidential disclosure statement

30.(1) Subject to subsection (2) regarding excluded matters, and any Guidelines published by the Senate Ethics Officer under section 9, the confidential disclosure statement shall list:

- (a) any corporations, income trusts and trade unions in which the Senator is a director or officer and any partnerships in which the Senator is a partner, including a description of the activities of each entity;
- (b) [...]
- (c) the nature but not the amount of any source of income over \$2,000 that the Senator has received in the preceding 12 months and is likely to receive during the next 12 months; for this purpose,
 - (i) a source of income from employment is the employer,
 - (ii) a source of income from a contract is a party with whom the contract is made,
 - (iii) a source of income arising from a business or profession is that business or profession, and
 - (iv) a source of income arising from an investment is that investment;
- (d) [...]
- (e) the source, nature and value of any contracts, subcontracts or other business arrangements with the Government of Canada or a federal agency or body that the Senator has by virtue of a partnership or a significant interest in a private corporation that the Senator is able to ascertain by making reasonable inquiries;
- (f) [...]

⁷ *Conflict of Interest Code for Senators*, adopted by the Senate on May 18, 2005.

- (g) information regarding the nature but not the value of any assets and liabilities over \$10,000; and [...]

2. *Code in force as of May 29, 2008⁸ (in effect until October 1, 2012)*

Confidential disclosure statement: sitting Senators

27.(1) Every Senator shall file annually, on or before the date applicable to the Senator as established by the Senate Ethics Officer under subsection (2), a confidential disclosure statement disclosing the information required by section 28.

Contents of confidential disclosure statement

28.(1) Subject to subsection (2) regarding excluded matters, and any Guidelines published by the Senate Ethics Officer under section 43, the confidential disclosure statement shall list:

- (a) any corporations, income trusts and trade unions in which the Senator is a director or officer and any partnerships in which the Senator is a partner, including a description of the activities of each entity;
- (b) [...]
- (c) the nature but not the amount of any source of income over \$2,000 that the Senator has received in the preceding 12 months and is likely to receive during the next 12 months; for this purpose,
 - (i) a source of income from employment is the employer,
 - (ii) a source of income from a contract is a party with whom the contract is made,
 - (iii) a source of income arising from a business or profession is that business or profession, and
 - (iv) a source of income arising from an investment is that investment;
- (d) [...]
- (e) the source, nature and value of any contracts, subcontracts or other business arrangements with the Government of Canada or a federal agency or body that the Senator has by virtue of a partnership or a significant interest in a private corporation that the Senator is able to ascertain by making reasonable inquiries;
- (f) [...]
- (g) information regarding the nature but not the value of any assets and liabilities over \$10,000; and [...]

Issues

- (a) Did you fail to disclose to my office the assets you held in Medina Quality Assurance Systems Inc.
 - (i) from May 18, 2005 until May 29, 2008, contrary to subsection 29(1) and paragraph 30(1)(g) of the 2005 code; and/or
 - (ii) from May 29, 2008 until March 30, 2012 (when the corporation was dissolved), contrary to subsection 27(1) and paragraph 28(1)(g) of the 2008 code?
- (b) Did you fail to disclose a position you held within Medina Quality Assurance Systems Inc.

⁸ *Conflict of Interest for Senators*, adopted by the Senate on May 29, 2008.

- (i) from May 18, 2005 until May 29, 2008, contrary to subsection 29(1) and paragraph 30(1)(a) of the 2005 code; and/or
 - (ii) from May 29, 2008 until March 30, 2012 (when the corporation was dissolved), contrary to subsection 27(1) and paragraph 28(1)(a) of the 2008 code?
- (c) Did you fail to disclose income you received from Medina Quality Assurance Systems Inc.
- (i) from May 18, 2005 until May 29, 2008, contrary to subsection 29(1) and paragraph 30(1)(c) of the 2005 code; and/or
 - (ii) from May 29, 2008 until March 30, 2012 (when the corporation was dissolved), contrary to subsection 27(1) and paragraph 28(1)(c) of the 2008 code?
- (d) Did you fail to disclose a contract, subcontract, or other business arrangement between Medina Quality Assurance Systems Inc. and the Government of Canada or a federal agency or body
- (i) from May 18, 2005 until May 29, 2008, contrary to subsection 29(1) and paragraph 30(1)(e) of the 2005 code; and/or
 - (ii) from May 29, 2008 until March 30, 2012 (when the corporation was dissolved), contrary to subsection 27(1) and paragraph 28(1)(e) of the 2008 code ?
- (e) Did you, contrary to section 11 of the 2005 code, use or attempt to use your position as a senator to influence any decision of CIDA officials, in order
- (i) to further your own private interests in Medina Quality Assurance Systems Inc., or
 - (ii) to improperly further Ms. Medina's private interests in any of the corporations with which she was associated?

Analysis

The allegations in relation to this matter must be examined in the context of the code of conduct for senators that was in force at the time that Medina Quality Assurance Systems Inc. was in existence. As noted in my findings of fact, this corporation was incorporated on November 5, 2003 and was dissolved on March 30, 2012. The first code of conduct for senators was adopted on May 18, 2005.⁹ A revised code was adopted by the Senate on May 29, 2008,¹⁰ which remained in force until October 1, 2012. Therefore, your obligations under the 2005 code and those under the 2008 code are relevant to the matters at hand.

Subsection 29(1) of the 2005 code required senators to disclose, on an annual and confidential basis, a number of interests to the Senate Ethics Officer. This list of interests was found in subsection 30(1) of that code. The list included positions that senators held in corporations and partnerships, any assets valued at over \$10,000, any income received in the last 12 months exceeding \$2,000, any income expected to be received in the next 12 months exceeding \$2,000, and the source, nature and value of any contracts, subcontracts or other business arrangements

⁹ *Conflict of Interest Code for Senators*, adopted by the Senate on May 18, 2005.

¹⁰ *Conflict of Interest Code for Senators*, adopted by the Senate on May 29, 2008.

that a senator had with the Government of Canada or a federal agency or body by virtue of a partnership or a significant interest in a private corporation.

On the basis of this information, the Senate Ethics Officer was required to prepare a summary that would be made available to the public. The list of interests required to be made public was found in subsection 33(1) of the 2005 code. This included positions that senators held in corporations, partnerships, income trusts and trade unions. It also included federal government contracts. However, with respect to income and assets, under the 2005 code, only those that the Senate Ethics Officer had determined could relate to a senator's parliamentary duties and functions or could otherwise be relevant were to form part of the public disclosure summary of a senator.¹¹ Obviously, if the interest in question was not required to be disclosed confidentially to the Senate Ethics Officer, it was also not required to be disclosed publicly as part of the senator's public disclosure summary.

On May 29, 2008, though the Senate adopted a number of amendments to the code of conduct of 2005, the provisions on disclosure referred to above remained, in substance, identical to those that existed in 2005.

(a) Disclosure of Assets

According to a letter from Mr. Cossette, counsel from the law firm Cossette Dolan Avocats, dated March 12, 2015, who examined the corporate records of the corporation, you held two common shares of Medina Quality Assurance Systems Inc. The financial statements confirm that each common share was initially valued at \$1.00, though at the time of dissolution of the corporation, these shares were of no value due to the corporation's deficits.

Paragraph 30(1)(g) of the 2005 code of conduct required senators to disclose to the Senate Ethics Officer, on a confidential basis, any assets valued at over \$10,000. Since the value of the two shares you held in Medina Quality Assurance Systems Inc. did not exceed \$10,000 at any point in time, you were not required to disclose these assets from May 18, 2005 until May 29, 2008. And, of course, the public disclosure of these assets was also not required given that, as already noted above, the public summary is based on the confidential disclosure of information to the Senate Ethics Officer.

As already noted earlier, a revised code came into force on May 29, 2008. This was the code that was in force between May 29, 2008 and October 1, 2012, at which time a number of amendments were again adopted by the Senate. Medina Quality Assurance Systems Inc. was dissolved on March 30, 2012. As such, the 2008 code is the only other code of conduct that is relevant to these circumstances and, as already noted above, while the numbers of the provisions concerning the disclosure requirements were altered in 2008, in substance the disclosure requirements remained the same as those in 2005. In other words, under paragraph 28(1)(g) of the 2008 code, senators were only required to disclose to the Senate Ethics Officer those assets valued at over \$10,000. Again, since the shares you held were valued at under \$10,000

¹¹ Since October 1, 2012, any assets valued at over \$10,000 are required to be listed in the public disclosure summaries of Senators. There is no longer a requirement to meet the relevancy test.

throughout the period in which you held them, they were not required to be disclosed to the Senate Ethics Officer and, consequently, were not required to be disclosed publicly either.

As such, I have no reasonable grounds for concern that you breached subsection 29(1) and paragraph 30(1)(g) of the 2005 code or subsection 27(1) and paragraph 28(1)(g) of the 2008 code.

(b) Disclosure of Positions within Entities

Under paragraph 30(1)(a) of the 2005 code and under paragraph 28(1)(a) of the 2008 code, senators were required to disclose to the Senate Ethics Officer any positions they held in any corporations, income trusts or trade unions, whether as directors, officers or partners. These provisions did not explicitly refer to the term 'advisor'. However, both you and Ms. Medina told me in telephone conversations on October 29, 2015 that you never held a position within Medina Quality Assurance Systems Inc. at any point in time as an advisor. As such, even if paragraph 30(1)(a) of the 2005 code and paragraph 28(1)(a) of the 2008 code required such disclosure, you did not disclose any such position because you did not hold one.

You also confirmed that you never held a position as a director, officer or partner in this corporation, a statement which is corroborated by the excerpts from the Registre des entreprises du Québec, as well as by Ms. Medina.

In light of the above, I have no reasonable grounds for concern that you breached subsection 29(1) and paragraph 30(1)(a) of the 2005 code or subsection 27(1) and paragraph 28(1)(a) of the 2008 code.

(c) Disclosure of Income

Paragraph 30(1)(c) of the 2005 code and paragraph 28(1)(c) of the 2008 code required senators to disclose to the Senate Ethics Officer any income they received in the last 12 months and any income they expected to receive in the next 12 months that exceeded \$2,000.

Your income tax statements of investment income for the relevant years establish that you did not receive any dividends from Medina Quality Assurance Systems Inc. Moreover, and as already noted above, since the evidence establishes that you did not hold any position within the corporation, whether as a director, an officer or an advisor, you would not have received directors' fees or any other form of remuneration as an employee of the corporation. You confirmed these facts to me in our telephone call on October 29, 2015. Ms. Medina did so as well in a telephone call with me that same day. As such, you did not report any income in respect of this corporation under paragraph 30(1)(c) of the 2005 code or under paragraph 28(1)(c) of the 2008 code.

In light of the above, I have no reasonable grounds for concern that you breached subsection 29(1) and paragraph 30(1)(c) of the 2005 code or subsection 27(1) and paragraph 28(1)(c) of the 2008 code.

(d) Disclosure of Contracts, Subcontracts, or other Business Arrangements with the Government of Canada or a federal agency or body

Under paragraph 30(1)(e) of the 2005 code, and under paragraph 28(1)(e) of the 2008 code, senators were required to disclose the source, nature and value of any contracts, subcontracts or other business arrangements with the Government of Canada or a federal agency or body that the senator had by virtue of a partnership or a significant interest in a private corporation.

You have told me that Medina Quality Assurance Systems Inc. has never been a party, whether directly or indirectly, to a contract, subcontract, or other business arrangement with the Government of Canada or any federal agency or body. This was confirmed by Ms. Medina. Since I have no evidence to the contrary, I accept the evidence provided by both you and Ms. Medina.

Since Medina Quality Assurance Systems Inc. was never a party, whether directly or indirectly, to a contract, a subcontract, or other business arrangement with the Government of Canada or a federal agency or body, you did not have an interest to disclose in this regard under paragraph 30(1)(e) of the 2005 code or under paragraph 28(1)(e) of the 2008 code.

There appears to have been some confusion in this respect because Medina Foods Inc. and Foods with a Conscience Inc. were both listed as receiving consulting fees in Annex B of a contribution agreement between the Government of Canada and the Jewish Community Council of Montreal signed in 2011 and referred to in my findings of fact. However, “Medina Foods Inc.” and “Foods with a Conscience Inc.” are separate legal entities from “Medina Quality Assurance Systems Inc.”, the corporation in which you held two shares. “Medina Quality Assurance Systems Inc.” does not have an interest in either “Medina Foods Inc.” or “Foods with a Conscience Inc.”, nor do you have any interest in either “Medina Foods Inc.” or “Foods with a Conscience Inc.” In fact, the income tax returns of “Medina Quality Assurance Systems Inc.” for the period in which this contribution agreement was first in effect until the dissolution of “Medina Quality Assurance Systems Inc.”, i.e. from September 8, 2011 to March 30, 2012, demonstrate that this corporation did not generate any income during this time. This establishes that “Medina Quality Assurance Systems Inc.” could not have benefitted from this agreement with the Government of Canada.

It is noteworthy that further confusion seems to have stemmed from the fact that, in the extract from the *Registre des entreprises du Québec* relating to Medina Foods Inc., this corporation is also registered under alternate trade names, one of which includes “Services assurance qualité Medina”. This name is almost identical to that of the corporation in which you held shares, i.e. Medina Quality Assurance *Systems* Inc. (and in French, “*Systèmes d’assurance de qualité Medina inc.*”), with the exception of one word: “services” instead of “systèmes”. Indeed, in the article published on June 28, 2015 in the *Journal de Montréal*, the names of “Medina Quality Assurance Systems Inc.” and “Services assurance qualité Medina” seem to be used interchangeably, though they are two distinct legal entities. The only association between these two entities is that “Services assurance qualité Medina” owns shares of “Medina Quality Assurance Systems Inc.” and Ms. Medina held interests in both of these. You, however, only had an interest -- and a very minor one -- in “Medina Quality Assurance Systems Inc.”, which does

not have any interest in "Services assurance qualité Medina". "Services assurance qualité Medina". -- not "Medina Quality Assurance Systems Inc." -- is the entity that is listed in Annex B of the said contribution agreement (albeit under the name "Medina Foods Inc."), though the two names are almost identical.

In light of the above, I have no reasonable grounds for concern that you breached subsection 29(1) and paragraph 30(1)(e) of the 2005 code or subsection 27(1) and paragraph 28(1)(e) of the 2008 code.

(e) Use of Influence

In the 2005 code, senators were prohibited, under section 11, from using or attempting to use their position as senators to influence a decision of another person so as to further their own private interests, their family members' private interests, or to improperly further another person's or entity's private interests. The matters concerning the project in Barbados involving CIDA transpired in 2006, at which time the 2005 code was in force. As such, the 2005 code applies in respect of the allegations related thereto.

You have told me in a telephone conversation on October 29, 2015 that the extent of your involvement in this project was to suggest to Ms. Medina that she (Ms. Medina) contact CIDA given the international implications of the project in question. This evidence was corroborated by Ms. Medina's evidence provided to me by telephone that same day. A suggestion to contact a government department or government agency alone, without any attempt on your part to contact CIDA officials, cannot reasonably be seen as influencing or attempting to influence the decisions of officials within that department or agency. More is required in order to establish this.

There is no evidence that you used or attempted to use your position as a senator to influence CIDA officials in any way in order to assist either Medina Quality Assurance Systems Inc. or Ms. Medina. Absent any such evidence, I have no reasonable grounds for concern that you breached section 11 of the 2005 code.

Conclusion

In light of the above, I am of the view that an inquiry into this matter is not warranted since, based on the evidence before me, I have found no reasonable grounds for concern that you have breached your obligations under the codes that were in force during the time of the above events, i.e. the 2005 and the 2008 codes of conduct. As such, this matter properly falls within paragraph 47(11)(a) of the *Code*.

In summary, based on the evidence I have before me, you did not fail to disclose to my office the assets you held in Medina Quality Assurance Systems Inc. from May 18, 2005 until May 29, 2008, nor did you fail to do so from May 29, 2008 until March 30, 2012 (when the corporation was dissolved), since the shares you held in this corporation were valued at less than \$10,000 during the time period in which you held those shares.

Again, based on the evidence I have before me, you did not fail to disclose a position you held within Medina Quality Assurance Systems Inc. from May 18, 2005 until May 29, 2008, nor from May 29, 2008 until March 30, 2012 (when the corporation was dissolved), since you did not hold a position in this corporation.

Similarly, you did not fail to disclose income from Medina Quality Assurance Systems Inc. from May 18, 2005 until May 29, 2008, nor from May 29, 2008 until March 30, 2012 (when the corporation was dissolved), since you did not receive any income from this source.

I have no evidence that you failed to disclose a contract, subcontract, or other business arrangement between Medina Quality Assurance Systems Inc. and the Government of Canada or any federal agency or body from May 18, 2005 until May 29, 2008, nor from May 29, 2008 until March 30, 2012 (when the corporation was dissolved). In fact, the evidence suggests the contrary. It demonstrates that Medina Quality Assurance Systems Inc. did not have an interest in any contract with the federal government or a federal agency or body during its existence.

Finally, there is no evidence that you used or attempted to use your position as a senator to influence any decision of CIDA officials in order to further your own private interests in Medina Quality Assurance Systems Inc. or to improperly further Ms. Medina's private interests in any of the corporations with which she was associated, since your only involvement in this matter was to suggest to Ms. Medina that she contact CIDA.

As such, I will not be proceeding with an inquiry into this matter.

Sincerely,



Lyse Ricard

c.c. Senator Jean-Guy Dagenais
Standing Senate Committee on Conflict of Interest for Senators