

OFFICE OF THE SENATE ETHICS OFFICER



Inquiry Report

under the *Ethics and Conflict of Interest Code for Senators*
concerning Senator Victor Oh

February 18, 2020

Executive Summary

This report outlines the findings of the inquiry under paragraph 48(2)(a) of the *Ethics and Conflict of Interest Code for Senators* (“the *Code*”) into the conduct of Senator Victor Oh concerning a trip he took to Beijing and Fujian Province, China, in April 2017. The purpose of the inquiry was to determine whether Senator Oh had failed to comply with his obligations under the *Code* in relation to this trip.

The specific provisions at issue in this case were difficult to determine because Senator Oh withheld information and advanced positions throughout the inquiry that were more favourable to himself than could be supported by the weight of the evidence, particularly concerning his characterization of the purpose of the trip. It became clear as the inquiry progressed that the overarching principle that was at issue in this case was paragraph 2(2)(c) of the *Code*.

Paragraph 2(2)(c)

The rules of conduct under the *Code* flow from the principles of the *Code* that are outlined in section 2. In particular, paragraph 2(2)(c) became relevant in this matter. It provides, in part, that Senators are expected to arrange their private affairs so that “foreseeable real or apparent conflicts of interest may be prevented from arising”. Underlying this principle is the notion that Senators should maintain a clear separation between their public and their private/personal affairs. In this case, the line between Senator Oh’s public affairs and his private affairs was blurred when he failed to keep the personal aspects of his trip separate from the official parts of it. The Senate Ethics Officer concluded that this blurring of the line was not accidental but was deliberate because Senator Oh represented the trip differently to different audiences. This resulted in a failure to uphold the principle in paragraph 2(2)(c) of the *Code*.

Subsection 18(1)

Subsection 18(1) addresses the issue of “sponsored travel”, or travel that is paid for by a third party. The Senate Ethics Officer concluded that the trip was a dual purpose trip. Based on the evidence gathered, this trip was not simply a personal sightseeing journey for Senator Oh and the 21 entrepreneurs and community leaders from the Chinese Canadian community – as asserted at one point by Senator Oh. Instead it became clear that the concept of a broader trade delegation was woven into the planning of the journey from an early stage.

It was concluded, however, that the trip did not qualify as the kind of travel that falls under subsection 18(1) because the sponsor -- Senator Oh’s sister -- paid the

expenses of the trip for purely personal/private reasons, rather than to advance a public interest purpose. Because the trip was not “sponsored travel” within the meaning of subsection 18(1), Senator Oh did not have to file a Statement of Sponsored Travel. The trip would therefore have to be treated as a gift/benefit under section 17(1).

Subsection 17(1)

Subsection 17(1) prohibits Senators from accepting any gift or other benefit that could reasonably be considered to relate to their position as Senators, other than one that is provided as a matter of “courtesy”, “protocol” or “hospitality”. This prohibition applies equally to gifts and benefits from family members.

The weight of the evidence supports the conclusion that a reasonable person could consider that payment of the expenses of this trip was, in part, related to Senator Oh’s position as a Senator by virtue of Senator Oh’s actions (through his Senate office) in the organization and the conduct of the trip. Therefore, Senator Oh violated subsection 17(1) by accepting payment from his sister for this trip.

The *Code* does not prohibit a family member of a Senator from paying for a Senator’s holiday where the trip is of a purely personal nature. But in this case, the trip was not just a private/personal trip but was, in at least equal measure, an official trip because it was also a trade delegation. It would not be unacceptable for a Senator who is on a private trip to have a meeting concerning official business during that trip by reason of that meeting alone. Similarly, it would not be unacceptable for a Senator who is on official business to take some time off during that trip for personal reasons, provided the two parts of the trip are clearly identified and separated and that the Senator does not make use of his or her official title or Senate resources during the private part of his or her trip. However, in this case, Senator Oh mixed a private trip with a public trip related to his position as a Senator and intermingled his private and his public affairs.

The Senate Ethics Officer also concluded that Senator Oh breached subsection 17(1) when he accepted a dinner hosted by Xiamen Airlines. The banquet hosted by Xiamen Airlines was related to Senator’s Oh position as a Senator. It was solicited by his Senate staff and explicitly tied to discussions around the possibility of a direct flight from Xiamen to Toronto. It was concluded that a banquet held in these circumstances cannot be characterized as a matter of “courtesy”, “protocol”, or “hospitality”.

The Senate Ethics Officer also concluded that Senator Oh breached subsection 17(1) when he accepted two dinners hosted by a partner of Pantheon during the trip. The first one was attended by three other representatives of Pantheon as well as about 15 members of the delegation. This dinner would reasonably be viewed as connected with Senator Oh's position as a Senator. This is because the invitation arose out of a meeting this same Pantheon official had with Senator Oh a month or so before the dinners when this official was in Canada to explore the prospect of opening a Vancouver office for Pantheon. Moreover, the prospect of Pantheon opening a Vancouver office was also a subject of discussion at the dinner. It was concluded that the scale and nature of the banquet was much more consistent with it having been hosted by Pantheon for the benefit of a Senator. In the circumstances, this banquet could not be characterized as a matter of "courtesy", "protocol", or "hospitality".

The second dinner, again hosted by this same partner of Pantheon, was attended by Senator Oh and his spouse. Given that this dinner followed shortly after the first dinner, it could not be viewed in isolation. Taken together with the first dinner, this dinner fell outside the scope of a benefit that could be accepted by a Senator as an expression of "courtesy", "protocol" or "hospitality".

Section 8

Section 8 prohibits Senators from acting or attempting to act in any way to further certain private interests in certain circumstances when they are performing their parliamentary duties and functions. With respect to this provision, the Senate Ethics Officer concluded that Senator Oh did facilitate connections between members of the delegation and Canadian and Chinese officials. Having said that, there was no evidence that this was done in an attempt to "further private interests" as that phrase is defined in subsection 11(1). Based on the evidence available in this inquiry, it was not possible to find that any specific business or individual interests were furthered or that there were any attempts to do so in a material way by the interactions with public officials that occurred over the course of the trip. Moreover, no evidence was discovered that Senator Oh furthered or attempted to further his own private interests or that of his spouse.

Conclusion

In conclusion, the Senate Ethics Officer found that:

- Senator Oh breached subsection 17(1) of the *Code* by accepting payment from his sister on account of a trip that had a substantial official component.

- Senator Oh breached subsection 17(1) of the *Code* when he accepted a dinner hosted by Xiamen Airlines during the trip, which is a prohibited gift/benefit under the *Code*.
- Senator Oh breached subsection 17(1) of the *Code* when he accepted two dinners hosted by Pantheon during the trip, which is a prohibited gift/benefit under the *Code*.

The Senate Ethics Officer also concluded that Senator Oh failed to uphold the principle in paragraph 2(2)(c) of the *Code* when he failed to maintain a clear separation between the personal/private part of his trip and the official part of it.

DECISION TO INITIATE INQUIRY

This is my report following an inquiry under paragraph 48(2)(a) of the *Ethics and Conflict of Interest Code for Senators* (“the *Code*”) into the conduct of Senator Victor Oh, a Senator appointed for the Province of Ontario (Mississauga). The inquiry concerns a trip Senator Oh took to Beijing and Fujian Province, China, in April 2017. The purpose of the inquiry was to determine whether Senator Oh has failed to comply with his obligations under the *Code* in relation to this trip.

While on the trip, Senator Oh led a delegation that included Senator Leo Housakos, a Senator appointed for the Province of Quebec (Wellington), and Senator Donald Plett, a Senator appointed for the Province of Manitoba (Landmark), as well as the spouses of each of the three Senators. Other delegates included business and community leaders from the Chinese-Canadian community.

On December 1, 2017, the *Globe and Mail* published a news report by Robert Fife entitled “Beijing Foots Bill for visits to China by Canadian Senators, MPs”. The article noted that none of the three Senators had filed a Statement of Sponsored Travel in relation to the trip and raised questions about who had paid for it. In a follow up report on December 7, 2017, the *Globe and Mail* suggested that the trip had been paid for by Pantheon Asset, Ltd. (“**Pantheon**”), a Chinese investment advisory firm with Canadian operations serving high net worth clients.

Senators are not prohibited from accepting travel sponsored by third parties in certain circumstances. What gave me cause for concern was these three Senators’ failure to file Statements of Sponsored Travel, together with the fact that they made conflicting statements about who had paid for the trip. Accordingly, on January 11, 2018, I initiated a preliminary review of this matter based on the information contained in the earlier mentioned media reports. Having made a preliminary determination under subsection 47(10) of the *Code* that there were reasonable grounds for concern that Senator Oh may have breached his obligations under the *Code*, I instituted this inquiry on March 22, 2018 in order to fully investigate this matter. However, it is important to note that Senators Housakos and Plett are not the subjects of this inquiry.

PROCESS

On November 28, 2017, Senator Oh telephoned my Office in order to raise the fact that he had not filed a Statement of Sponsored Travel in relation to the trip within thirty days of the end of the trip on April 30, 2017 as required under subsection 18(1) of the *Code*. Also on November 28, 2017, Senator Oh filed a Statement of Sponsored Travel in connection with the trip and raised the issue of a breach of the *Code* through the late filing. In a covering letter, Senator Oh acknowledged that he had exceeded the 30 day timeframe for filing a Statement of Sponsored Travel and that he was therefore in breach of the *Code*. Senator Oh also enclosed an itinerary for the trip (including a list of delegates). In other correspondence, he provided social media posts about the trip and the text of remarks that Senator Plett delivered in the Senate on May 2, 2017, reporting to the Senate about the trip.

I wrote to each of the Senators on December 1, 2017 to ask further questions, pursuant to section 46 of the *Code*. This provision allows me to seek further information or clarification from a Senator on a matter that relates to the Senator’s obligations under the *Code*.¹ I received written responses

¹ Section 46 of the *Code* reads as follows:

46. Nothing in this Code prevents the Senate Ethics Officer from asking for further information or clarification from a Senator on a matter that relates to the Senator’s obligations under the Code.

from Senators Housakos and Plett on December 5, 2017, and from Senator Oh on December 8, 2017.

By letter dated January 11, 2018, I advised Senator Oh of my preliminary review in relation to this matter. I informed him that I had reasonable grounds to believe that he had not complied with his obligations under sections 8 and 17 and subsection 18(1) of the *Code* in relation to the trip.

I set out the grounds for believing that Senator Oh may have violated his obligations as follows:

- (1) an article published in the *Globe and Mail* on December 1, 2017 entitled “Beijing Foots Bill for Visits to China by Canadian Senators, MPs”;
- (2) an article published in the *Globe and Mail* on December 7, 2017 entitled “Senate Ethics Watchdog Probes China Trip by Three Conservative Senators”;
- (3) an article published in the *Globe and Mail*, dated December 7, 2017 entitled “Morning Update: Protests over Trump's Jerusalem Decision; Tory Senators’ China Trip under Scrutiny”;
- (4) an article published in the *Globe and Mail*, dated December 15, 2017 entitled “Two Conservative Senators’ Business Venture Linked to China”; and
- (5) an article published on the website “www.hotzhongguo.com”, dated May 8, 2017 entitled “加拿大参议员告诉你，中加经贸进入到蜜月期” (“Canadian Senator Says Trade Between China and Canada entering Honeymoon Period”).

Under subsection 47(9) of the *Code*, I am permitted to base my reasonable grounds that a Senator has not complied with his or her obligations under the *Code* on an unsubstantiated oral or written statement, for example a media report, for the purpose of initiating a preliminary review, but it is not adequate proof of an alleged fact for the purpose of making a finding in a preliminary review.

In accordance with subsection 47(7) of the *Code*, I provided Senator Oh with fifteen days within which to respond to my January 11, 2018 letter. On January 16, 2018, Senator Oh (through his counsel) requested an extension of time until February 2, 2018. I granted his request by letter dated January 22, 2018, pursuant to subsection 47(8) of the *Code*. By letter dated January 30, 2018, Senator Oh again (through his counsel) requested a further extension of time to provide submissions in this matter. By letter dated January 31, 2018, I again granted this request for an extension until February 12, 2018.

Senator Oh provided his response on February 12, 2018. In this letter he submitted that the above-noted media reports were inaccurate. He claimed that the trip had been “purely personal” in nature, that he “did not conduct any business or perform any official duties” on the trip, and he was not “aware of any business conducted on this trip.” He explained that he had never before visited his grandparents’ ancestral home in Fujian Province and that, at the beginning of 2017, his elder sister encouraged him to go and to “invite a couple of close friends and colleagues along to share the happiness and excitement of the visit.” He claimed that his sister had paid for the entire trip for him, his spouse, the two Senate colleagues and their spouses. Senator Oh provided a breakdown of expenses and screenshots of text message conversations with Ms. Huang suggesting the total cost of the trip was somewhere between \$34,058.53 and \$42,000 CAD. He also provided a screenshot of a bank statement for an account that belongs to “Ying Jing H Huang” showing a wire

transfer deposit from an unidentified source in the amount of \$34,982.50 on December 7, 2017. This name appeared on the list of delegates who participated in the trip: “Ms. Ying Jing Huang” is listed as “Vice President of the United Quanzhou Association of Toronto Canada”.

On March 22, 2018, I wrote to Senator Oh to inform him that based on my preliminary review, I had reached the conclusion under paragraph 47(11)(c) of the *Code* that there were sufficient reasonable grounds for concern that Senator Oh may have breached his obligations under sections 8 and 17 and subsection 18(1) of the *Code* and that none of the circumstances in subsection 47(12) were applicable to this case. Accordingly, I informed Senator Oh that I would proceed to the inquiry stage in order to determine whether there was, in fact, any such breach.

The grounds underlying my preliminary determination were as follows:

1. Senator Oh may have been performing parliamentary duties and functions as part of the trip. That this trip was not “purely personal” in nature was suggested by his characterization of the purpose of the trip as including “Promot[ing] Canada China economic cooperation and people to people ties”, as set out in the Statement of Sponsored Travel Senator Oh sent to me on November 28, 2017. That Senator Oh may have been performing parliamentary duties and functions while on the trip was also suggested by the detailed itinerary of the “Delegation to P.R. of China”, which includes meetings with both Canadian and Chinese government officials. Further, according to Senator Oh’s December 8, 2017 letter to me, while they were on the trip, Senators Oh, Housakos and Plett, along with their spouses, all attended meetings with local government officials.
2. In the course of the trip, as well as the lead-up to it, Senator Oh may have been acting or attempting to act in a way that improperly furthered another person’s or entity’s private interests. In particular, there was information suggesting that Senator Oh may have participated in the trip for the purpose of achieving, directly or indirectly, a benefit enumerated in subsection 11(1) of the *Code* for the entities with which the business delegates on the trip were associated. For example, Senator Oh arranged a dinner for the delegation with then Ambassador John McCallum, and the itinerary for the trip suggests this was planned in advance of the delegation’s arrival in China. Similarly, Senator Oh may have used his status as a Senator (and that of Senators Housakos and Plett) to allow the business delegates to access government officials for the purpose of obtaining a private benefit for their businesses. In his December 8, 2017 letter to me, Senator Oh stated that he knew he was “going to be accompanied by an informal collective of entrepreneurs and community leaders from the Chinese Canadian community”.
3. In addition, the expenses related to the trip or parts thereof, as well as those of Senators Housakos and Plett, may have been paid by a third party that is unrelated to Senator Oh. That this may have been the case was suggested by the bank statement Senator Oh provided to me, which he claimed demonstrated that his sister paid for the trip. However, the statement shows that a deposit in the approximate amount of the cost of the trip was made on December 7, 2017 - 10 days after I first spoke with Senator Oh about my concerns related to this trip.

4. If this trip was part of Senator Oh's parliamentary duties and functions, then he failed to file a Statement of Sponsored Travel within thirty days of the end of the trip. Based on the information outlined above, the trip may not have been entirely personal but it may have also arisen from or may have been related to Senator Oh's position as a Senator.

In addition to the above-noted concerns, in the course of the inquiry I grew concerned regarding a further potential violation of the *Code* arising from Senator Oh's trip. If the trip was a personal sightseeing trip as Senator Oh told me, then this would give rise to concerns relating to Senator Oh's use of Senate resources, including his staff, to organize a personal trip. It also grounds a concern that in communicating with Canadian and Chinese officials in China, Senator Oh was taking advantage of his position as a Senator to obtain benefits for his personal sightseeing group, benefits to which ordinary Canadian citizens would not be entitled. In my view, these issues raised concerns under sections 7.1 and 7.2 of the *Code*. On October 30, 2018, I wrote to Senator Oh to inform him of the expanded focus of my inquiry, which would include consideration of these sections.

From May 29, 2018 to October 16, 2019, I conducted interviews of witnesses whom I believed to have information relevant to this inquiry. In particular, on the following dates I interviewed the following individuals:

- May 29, 2018 – Senator Victor Oh (initial interview)
- June 15, 2018 – Senator Leo Housakos
- June 18 and 21, 2018 – Senator Donald Plett
- July 19, 2018 – Colleen Calvert, Director, Global Affairs Canada
- July 24, 2018 – The Hon. John McCallum, then Ambassador of Canada to China
- July 26, 2018 – YingJing Helen Huang, President, United Quanzhou Association of Toronto
- July 30, 2018 – Cindy Termorshuizen, Deputy Head of Mission, Canadian Embassy to China
- August 9, 2018 – Bonita Zhu, Legislative Assistant in the Office of Senator Oh
- August 11, 2018 – Rachael Bedlington, Consul General of Canada in Guangzhou
- August 30, 2018 – Xin Liu, Trade Commissioner, Canadian Trade Office, Xiamen
- September 10, 2018 – JianCheng Ted Zhou, President, Putian Friendship Association
- October 2, 2018 – Yi Ma, Partner, Pantheon Asset Ltd.
- October 15, 2019 and October 16, 2019 – Senator Oh (second interview)

A number of the above witnesses provided me with documentary evidence that I have relied on in conducting this inquiry. Canadian diplomatic officials provided copies of internal emails discussing Senator Oh's trip and emails with his office relating to the organization of the trip. I requested emails from Bonita Zhu, a member of Senator Oh's staff, who provided some of her correspondence relating to the trip. I asked Senator Oh, Ms. Huang, and Mr. Zhou for records of their communications relating to this trip but was told that these records never existed or were no longer available.

I also obtained access to the Senate email accounts for Senator Oh and Bonita Zhu for the time period surrounding the trip in order to examine email exchanges between them and others involved in planning the trip. I first requested these emails on June 12, 2018. This request went before the Standing Senate Committee on Internal Economy, Budgets and Administration. The Committee approved the request on September 19, 2018. I first received access to the emails on

September 20, 2018. A number of the relevant emails were in Mandarin, which required them to be translated. I obtained translations of all the relevant emails by November 29, 2018. I also conducted internet searches, in particular for media articles relating to Senator Oh's trip. Many of these articles were in Mandarin and were translated into English by the Translation Bureau of the Department of Public Services and Procurement Canada.

On October 29, 2018, I wrote to Senator Oh to request further information relating to a wire transfer payment from his sister that Senator Oh claimed was payment for the trip. Senator Oh provided the requested information on November 9, 2018. On December 19, 2018, I wrote to Senator Oh with a number of questions arising from his November 9, 2018 response. Senator Oh provided an initial response on December 26, 2018 and an additional response on February 25, 2019.

On September 4, 2019, I wrote to Senator Oh's sister, Ms. Lay Khim Oh, to inquire about her involvement in the trip. Ms. Oh lives in Singapore, is not a Canadian citizen and does not appear to have any business interests in Canada.

My request for information from her was made pursuant to my power under subsection 48(4) of the *Code*, which grants me the powers "to send for persons, papers and records", which powers may be enforced by the Senate acting on the recommendation of the Standing Senate Committee on Ethics and Conflict of Interest for Senators following a request by me.

I followed up with her on September 5th and September 9th. On September 10th, Ms. Oh wrote to confirm receipt of my email and informed me she would reply shortly. On October 23, 2019, Ms. Oh finally replied to my email; however, she did not respond to most of my questions in this matter and though I had asked that she respond in a sworn affidavit, she did not do so. As such, I was not able to obtain her evidence except to receive confirmation that she had paid for the trip for Senator Oh, his spouse and Senators Housakos and Plett and their spouses.

I then interviewed Senator Oh for a second time on October 15 and October 16, 2019. During this interview, I put to Senator Oh information obtained from the other witnesses, the relevant documents, and news articles.

Senator Oh was provided a number of opportunities to make representations to my Office throughout the preliminary review and this inquiry and he did so as outlined above.

In accordance with the usual practice of my Office, Senator Oh was allowed to review and comment on a partial draft of this report before it was finalized. Specifically, he was provided in draft form the sections entitled Decision to Initiate Inquiry, Process, Findings of Fact, and Senator Oh's Position. I gave Senator Oh this opportunity in order to ensure that he was made fully aware of the facts and allegations against him, to give him a full opportunity to respond, and to ensure that I properly understood the evidence and submissions put forward on his behalf. What was unusual about this matter was the number of meetings with Senator Oh for this purpose. In all, there were five such meetings, held on October 24, 28, 29, 31, and November 6, 2019. I offered the opportunity to meet once; he requested four additional meetings, which I granted. In addition, at the meeting of October 31, 2019, Senator Oh provided a document with a number of further submissions concerning the draft report for my consideration. I carefully reviewed this document and addressed some of these submissions in my report where I thought appropriate.

All evidence that I considered to be relevant or potentially relevant (including all evidence referred to throughout this report) was put to Senator Oh during his interviews or when he reviewed the partial draft report, in order to allow him an opportunity to fully understand and respond to the nature of my concerns.

FINDINGS OF FACT

(1) Assessment of Credibility

During the course of this inquiry, it became clear that there were significant discrepancies between the sworn testimony of Senator Oh and other evidence I heard and documentation I reviewed. In several important respects, Senator Oh's testimony was not supported by the evidentiary record as a whole.

As a result, in order to make findings of fact, I have had to assess the relative credibility of Senator Oh and that of other witnesses. In doing so, I have been mindful of the courts' guidance on this task, particularly the leading decision of *Faryna v. Chorny*.² I have also taken into account the standard judges' jury instruction on credibility assessment.³

There were a number of issues on which Senator Oh's testimony was incomplete or was not supported by the weight of the evidence. His testimony was at times inconsistent with contemporaneous documents and with the testimony of other witnesses. Senator Oh withheld information and documents, and in some instances, advanced versions of events more favourable to himself than can be supported by the weight of the evidence.

The most significant examples relate to the purpose of the trip, the involvement of Senator Oh's staff in the planning of the trip, and questions regarding the existence of records.

(a) Purpose of the Trip

Senator Oh told me in his first interview that the trip was "purely personal" in nature. He stated that:

I would like to clarify regarding the press report concerning my trip to China. It was simply [a] sightseeing tour of the village where my ancestor came from. My great-grandfather left the village some 130 years ago, and I have always wanted to trace my ancestry. In a conversation with my older sister, she suggested that I should visit our ancestr[al] home, as none of our family members have ever been back. She even offered to pay for my trip, and she did. I decided it was something that I should do.

The press has taken it entirely out of context ... They take a simple sightseeing trip and blow it totally out of proportion....I did not carry out any parliamentary duties, official

² *Faryna v. Chorny*, [1951] B.C.J. No. 152 at paras. 10-12 (C.A.).

³ The Honourable Mr. Justice David Watt, *Watt's Manual of Criminal Jury Instructions, Second Edition* (Carswell: Toronto, Ont., 2015) at 267-269. The list of factors to which the questions put to a jury refer includes: honesty; interest (not status) in the proceeding; accuracy and completeness of observations; circumstances of the observations; memory; availability of other sources of information; inherent reasonableness of the testimony; internal consistency and consistency with other evidence; and demeanour.

functions. It is true that while my status as a senator is known, I went simply as a tourist and a private citizen.

Referring to the people who had accompanied him on this trip, Senator Oh further stated: "I won't call it a 'delegation', you know, because we are purely just going home as private citizen[s]".

However, I reviewed emails sent from Senator Oh's office to Chinese and Canadian officials in China in March 2017. The precise language used in these emails varied slightly, but their content was substantially the same. As an example, in an email dated March 17, 2017 to Ambassador McCallum, Ms. Zhu wrote the following:

The Senator wants to reach out to you as he is heading a delegation to Beijing and Fujian, China from April 15-30 mainly for enhancing bilateral trade cooperation purpose. Delegates include Senator Oh, Senator Leo Housakos, Senator Donald Plett and their spouses as well as 20 Chinese Canadian community leaders with roots - like Senator Oh - in Fujian China.

In her interview, Ms. Zhu was initially evasive, but ultimately acknowledged that Senator Oh had directed her to characterize the trip in this manner. Indeed when I later reviewed email correspondence between Ms. Zhu and Senator Oh, I discovered that, on March 15, 2017, Ms. Zhu sent a draft of one such email (an email from her to Consul General Bedlington) to Senator Oh for approval before sending it. When presented with this evidence at his second interview, Senator Oh admitted that he had directed Ms. Zhu to write these emails; however, he argued that he does not involve himself in the details of these matters. Ms. Zhu also wrote similar emails to Chinese officials. On April 6, 2017, she wrote to the International Department of the Central Committee of the Communist Party of China to extend an invitation to meet the delegation to Guo Yezhou and Zhong Weiyun, whose respective titles are "Vice Minister of the International Department of the Communist Party of China" and "Director-General of Bureau VII (North American, Oceanian, and Nordic Affairs)". She wrote that "[Senator Oh] is heading a delegation of two other senators and twenty Canadian-Chinese entrepreneurs to visit Fujian Province, hoping for opportunities of investment in Fujian Province". Ms. Zhu asked for help from Chinese officials in contacting "some entrepreneurs with intention to invest in Canada so that they can ... communicate with our Chinese Canadian entrepreneurs".

Ms. Zhu also corresponded with Chinese business executives. In one email dated March 29, 2017 to executives of Xiamen Airlines, Ms. Zhu wrote:

Senator Oh was very glad to meet you in Vancouver and he looks forward to discussing with you about the possibility of adding the direct route of Toronto – Xiamen by Xiamen Airlines ... The economic and trade delegation of 25 members headed by Senator Oh will arrive in Xiamen in the evening of April 25 and they will leave in the morning of April 28. Hope you could help to organize a cocktail party in Xiamen and invite local leadership, entrepreneurs and relevant parties in the economic and trade circle.

(Email evidence corroborated the testimony of Ms. Liu Xin that Xiamen Airlines ultimately hosted a banquet for Senator Oh and his delegation on April 23 in Xiamen).

In short, Senator Oh changed his characterization of the trip, based on his audience and the prevailing circumstances. The starkest illustration of this is that different versions of the delegate

list were sent to different recipients. One version of the delegate list (“Version 1”) focused on the involvement of the delegates in various community non-profit associations and made no mention of their business connections. A second version of the delegate list (“Version 2”) emphasized their business connections. Version 2 was prepared only in Mandarin. Ms. Zhu sent Version 2 in a letter to the Deputy Director of the All-China Federation of Returned Overseas Chinese on March 30, 2017. Version 1 is more consistent with Senator Oh’s claim that the trip was purely personal in nature, though even this version indicates that the delegation was scheduled to meet with a number of Chinese government officials in what Senator Oh continued to represent as a purely personal trip.

Version 1 of the delegate list was included in the official itinerary for the trip, which is attached as **Appendix A** to this report. For comparison purposes, I also attach a copy of Version 2 of the delegate list as **Appendix B**. A typical example of the difference between the two versions is the description of Zhou Guohua:

(Excerpts from Versions 1 and 2 of the Delegate List)

Version 1: Mr. Guo Hua Zhou, President of Canada China Ice Hockey Association

Version 2: Guohua Zhou: Chairman of the Hockey Cultural Exchange Association of Canada-China. Mr. Zhou was once the President and CEO of Rimbunan Hijau Group (China), which is a Fortune 500 company, and a director and General Manager of Contemporary Eastern Investment Co., Ltd. (000673.SZ), which is listed on the Mainboard of Shenzhen Stock Exchange. He is currently an independent director of Heli Chenguang International Culture & Media Co., Ltd. (836201.OC, listed on China’s New Third Board), the executive director of Share Economy Group Co., Ltd. (01178.HK, listed on the Mainboard of Hong Kong Exchanges), the Chairman of the Board of NCF Media (Beijing) Co., Ltd., the founding partner of Worl-D Asset Management (Hong Kong) Co., Ltd., the Chairman of the Board of Asia Pacific Financial Holdings (Hong Kong) Co., Ltd. and the Chairman of the Board of Internet Media Group Limited (Hong Kong).

It is clear from Version 2 that many delegates on the trip had extensive and wide-ranging business experience, including senior positions in large companies.

Senator Oh provided me with a copy of Version 1 but not Version 2. I discovered Version 2 as a result of obtaining access to Senator Oh’s and Ms. Zhu’s Senate emails. One email dated March 30, 2017 included a letter addressed to the “China Federation of Returned Overseas Chinese” seeking cooperation in planning the trip. This letter included a copy of Version 2. The

fact of the existence and use of such significantly different versions of the delegate list is evidence that Senator Oh changed his characterization of the trip depending on his audience. I am concerned about Senator Oh's actions in providing me with only Version 1 (and not Version 2).

When I asked Senator Oh at his second interview why he had provided my Office with a copy of Version 1 but not Version 2, he stated that he did not think the additional information was important. Senator Oh stated that Version 2 was a longer version of the document that was being used earlier in the planning process. In representations made after reviewing a draft of this report, Senator Oh reiterated that Version 2 was an older version of the document that had been prepared when the trip was conceived as involving a business purpose. He took the position that this version was no longer relevant because in the end the trip was personal. As discussed below, I reject Senator Oh's claim that the trip was purely personal. Moreover, even if the purpose of the trip had shifted, it was incumbent on Senator Oh to make full and fair disclosure to my Office rather than selectively producing only the documents he believed to be most favourable to his interpretation of events.

When I asked Senator Oh what he knew about the Chinese business connections of the delegates, he replied as follows:

Q. Do you know if any of those people have any commercial, trade, or business interests in China?

A. No idea, you know, I ---

Q. No idea?

A. And I never -- no idea, no.

When I asked Senator Oh who was present at a dinner attended by the delegates, he answered as follows:

[T]o be honest, when I -- when we were at the dinner, it's not a big group. It's only three table. And a lot of young people. You know, I -- to me, that doesn't look like, you know, tycoons or anyone. You know, a lot of young people there ... And the people there, they were almost like all a lot of looks like university student to me.

In his second interview, I put the contradiction to Senator Oh between the descriptions of the business affiliations of the delegates set out in Version 2 and his description of the participants to me. Senator Oh stated that his reference to university students referred specifically to the attendees at a dinner in Xiamen towards the end of the trip and he stated that most of the delegates had left the trip by that time. Senator Oh also maintained that he was unaware of many of the specific business affiliations of the delegates, although he admitted that he understood that a number of the delegates were businesspeople. Yet he also admitted that Ms. Zhu from his office would not have sent a letter to the All-China Federation of Returned Overseas Chinese with the attached delegate list (Version 2) without his authority. As such, it is difficult to reconcile this with his position that he was not aware of the business connections of the delegates.

Given that Senator Oh had seen Version 2 of the delegate list, on a balance it is more likely than not that Senator Oh was familiar with the delegates' Chinese business connections, even if he was unable to recall all the specific details of those connections.

(b) Involvement of Senate Staff

In his initial interview, Senator Oh at first stated that his Senate staff had not been involved in planning the trip. Indeed, he explained that it would have been impossible for his staff to participate in the planning of the trip because they lacked any knowledge of Fujian Province. When pressed, he acknowledged that his staff may have helped “with one or two things”. In his second interview, Senator Oh admitted that his staff had in fact been involved in the planning of the trip.

In fact, Ms. Zhu told me that she had been involved in several aspects of the trip. She helped to prepare the itinerary for the trip and arranged visas for the Senators and their spouses. Her emails show that she was intimately involved in planning the trip. She corresponded extensively with Canadian and foreign officials in order to schedule official meetings. She attempted to coordinate a forum on Canada-China trade in Fujian Province, though this idea never came to fruition. While Senator Oh was in China, Ms. Zhu continued to be involved in coordinating event logistics from Ottawa.

In his first interview, when Senator Oh was asked why he had involved his Senate staff in the preparation of an itinerary for an ostensibly personal trip, he stated that the itinerary was “for [his] personal use”. But the other Senators informed me that a copy of the itinerary was provided to each of them. Moreover, I reviewed emails which showed that the itinerary had been forwarded to Chinese and Canadian officials in China by Ms. Zhu. I find Senator Oh’s suggestion that such a document would be prepared for his personal use to be implausible and inconsistent with the evidence. When, in his first interview, it was put to Senator Oh that the itinerary must have been sent to other delegates, he stated “I can’t remember that we send this agenda out to any of the delegates”. I do not accept Senator Oh’s testimony on this point. It is obvious that the itinerary was prepared for purposes that included being shared with the delegates. The very fact that an English translation of the itinerary was prepared belies Senator Oh’s claim that the itinerary was only for his personal use. In fact, Ms. Zhu told me that Senator Oh had asked her to translate the itinerary into English for the benefit of the other Senators. When I put this evidence to Senator Oh during his second interview, he admitted that it was likely that the itinerary had been shared with others.

(c) Existence of Records

I asked Senator Oh if records of his communications existed with the trip’s main organizers. He told me that these records did not exist because he had communicated with the organizers by telephone. When I interviewed Ms. Zhu, Ms. Liu, Ms. Huang, and Mr. Zhou, they each told me that the communications had occurred primarily over WeChat, a social media platform. In fact, both Ms. Zhu and Ms. Huang testified that they communicated with Senator Oh *via* WeChat about the trip. Unfortunately, for various reasons these witnesses were unable to provide copies of the WeChat exchanges. Ms. Huang told me that she had lost her copies when she changed phones. Mr. Zhou and Ms. Zhu told me that WeChat message history is automatically deleted after a certain period of time (six months or one year) and so was no longer available. Ms. Liu told me that the message history was inaccessible because the relevant WeChat group had been deleted shortly after the trip. In these circumstances, Senator Oh’s failure to mention the WeChat messages is very concerning.

When I raised these inconsistencies with Senator Oh, he changed his position. He accepted that there were emails sent by his staff regarding the planning of the trip. He stated that he did not

review all such emails. With respect to WeChat, Senator Oh stated that he had been involved in some "casual" WeChat discussions to plan the trip but that he did not consider this to be significant. He stated that he no longer had his copies of the WeChat as they had been lost when he changed phones.

After reviewing a draft of this report, Senator Oh stated that WeChat is commonly used in the Chinese-Canadian community and that its use is consistent with the casual approach to planning a personal trip. This response does not explain or justify his failure to disclose the existence of these messages at a time when they might still have been recoverable. Furthermore, the fact that he did not think these documents were significant is not a justification for failing to provide them; it is not the responsibility of Senator Oh to determine what is or is not significant in this inquiry.

As discussed below, the then Canadian Ambassador to China, the Hon. John McCallum attended a dinner with the delegation on April 17, 2017 in Beijing. I asked Senator Oh how he had contacted the Ambassador. Senator Oh told me that he had personally called the Ambassador's office to extend the invitation. He made no mention of an email invitation. When I reviewed the emails I obtained from the Canadian Embassy in Beijing and from Ms. Zhu, I discovered that Ms. Zhu had sent email invitations to the Ambassador, both directly and through the Deputy Head of Mission, Cynthia Termorshuizen. The emails do not refer to such a phone call. It was Ms. Zhu's evidence that she sent these emails at Senator Oh's direction. The March 15, 2017 email noted above shows that Ms. Zhu sent to Senator Oh for his approval a draft of a similar email addressed to another official. When I confronted Senator Oh with this inconsistency during his second interview, he changed his position. He stated that he believed he may have spoken with a staff person by phone rather than Ambassador McCallum himself. From all of this I conclude that Senator Oh was aware of these email exchanges and minimized the involvement of his Senate staff in organizing the trip.

When I asked Senator Oh in his first interview whether he had contacted Canadian officials in China to assist in the trip, he denied having done so:

Q. Did you seek the help of Global Affairs to organize, to -- or to get information in relation to the trip?

A. No.

Q. And is your answer the same both for government officials who are physically located in China and those who are physically located in Ottawa or in Canada?

A. No, I didn't -- I didn't -- I didn't ask Global Affairs to help with the planning or anything.

Q. No, okay.

A. Yeah.

Q: Do you know if the three other organizers -- any of the three organizers contacted Global Affairs or ---

A: I don't think so, you know. Yeah, because we were all -- our is a private trip.

As noted above, Senator Oh directed Ms. Zhu to write to the Canadian Embassy in Beijing and the Canadian Consulate in Guangzhou to seek assistance in planning the trip. I put this information to

Senator Oh in my letter of October 30, 2018. In his response dated November 14, 2018, Senator Oh stated:

In the initial planning stage, my staff did contact the Canadian Embassy in Beijing and the Canadian Consulate in Guangzhou regarding my trip to Fujian. However, nothing official was organized prior to our departure. We were therefore clear when we set off that the trip would be a personal one in nature without involving my public duties.

In my opinion, this characterization does not match the evidence. For the reasons outlined below, the trip retained an official dimension through to its conclusion.

In representations made after he had reviewed a draft of this report, Senator Oh provided a different explanation for his inconsistent evidence on this point. He said that he misunderstood the question as referring only to “Global Affairs Canada” personnel in Ottawa and not including its overseas staff. There is nothing in the question that limited the scope of the question in this way. Given the nature of my inquiry, if Senator Oh was confused about the scope of a question, he should have asked for clarification or erred on the side of greater disclosure in response.

Overall, I found Senator Oh’s testimony to be incomplete and inconsistent. He withheld evidence and, on a number of significant points, his testimony did not match the weight of the evidence.

(2) Biographical Background: Senator Oh

Senator Oh was appointed to the Senate in January 2013. He is a prominent member of the Chinese-Canadian community and is involved in a number of community groups that promote ties between Canada and China. From the time of his appointment to the Senate until the present time, Senator Oh has held a number of positions in various organizations, including the following:

- Advisory board member of the Canadian Multicultural Council – Asians in Ontario;
- Honorary Chairman of the United Quanzhou Association of Toronto Canada;
- Honorary advisor of Xiamen Overseas Chinese Society of Canada;
- Honorary Chair of the Hockey Cultural Exchange Association of Canada-China;
- Honorary Patron of the Canada Confederation of Shenzhen Associations;
- Honorary President of the Chinese Business Association of Newfoundland and Labrador;
- Honorary Chairman of the Chinese Business People and Professionals of Montreal;
- Honorary Patron of the Alliance of Shanxi Merchants Association of Canada;
- Honorary Patron of the Canadian Association of Industry and Commerce;
- Honorary President of the Canadian Association of Chinese Reporter;
- Honorary Advisor of the Chinese Enterprises Society of Canada;
- Honorary position, Jiangsu International Business Council of Canada; and
- Director, Signal Hill Management, a company that engaged in consulting.

The above activities are outside Senator Oh’s activities in the Senate. Senators are required to disclose these outside activities to my Office annually and they are made public in each Senator’s public disclosure file located on my Office’s website.

(3) Origins and Purpose of the Trip

Though Senator Oh's family traces its origins to Fujian Province, China, the Senator was born in Singapore and, prior to April, 2017, had never visited Fujian Province. There is an active community of Chinese-Canadians with origins in Fujian Province. Senator Oh told me that various members of this community had encouraged him to take a trip to Fujian Province for years. In early 2017, Senator Oh decided that he would take such a trip.

Among other roles, Senator Oh is the Vice-Chair of the Canada-China Legislative Association ("CCLA"). He frequently travels to China under the auspices of the CCLA or on other business. However, the April 2017 trip was not sponsored or commissioned by the CCLA or any other official body. At the time of the trip, Senator Oh was a member of the Senate Committee on Foreign Affairs and International Trade.

There was conflicting evidence about the purpose of the trip, as already noted earlier. Senator Oh represented the purpose of the trip in different ways at different times. In the course of this inquiry, he claimed it was a purely personal sightseeing trip to pay tribute to his ancestral village. On other occasions, for example, in the official correspondence from his office to overseas contacts, including contacts with Global Affairs Canada, he described it as a trade delegation of business and community leaders. Given Senator Oh's obligations under the *Code*, the characterization of the trip has significant consequences.

Senators Housakos and Plett testified that, when Senator Oh initially contacted them and asked them to participate in the trip, he explained to them that the trip was primarily a personal trip to return to his ancestral home and that Senators Housakos and Plett were being invited as his honorary guests. When asked who would cover the costs of the trip at the time the two Senators had been approached, he told them that he would "take care of it".

However, at around the same time (March 2017), Senator Oh directed his Senate staff to contact the Canadian Embassy in Beijing and the Canadian Consulate General in Guangzhou, as well as Chinese officials, to inform them that he was leading a "delegation to Beijing and Fujian, China from April 15-30, 2017 mainly for enhancing bilateral trade cooperation purpose". In fact, Senator Oh's office had multiple conversations with Canadian and Chinese officials over a certain period of time concerning this trip.

During his second interview, I asked Senator Oh why he was describing the trip as a personal trip to Senators Plett and Housakos around the same time his staff was describing the trip as a trade delegation. Senator Oh stated that he was not completely clear on the timeline, but that, though the trip initially had a trade delegation character, it lost this early in the planning process.

When asked during her interview whether the Embassy officials had ever been informed by Senator Oh or anyone else that the trip was purely personal in nature, Ms. Cindy Termorshuizen, Deputy Head of Mission, Canadian Embassy to China, told me that she had never been informed of that fact. She testified as follows:

No, because we you know likely wouldn't have provided the -- well we wouldn't have engaged in the way we did. You know it was conveyed to us that this was a delegation that you know was here to, I mean the email is quite clear, was here to promote Canada-

China trade relations and you know we were asked for specific assistance. So that certainly wouldn't have been my perception that it was a personal visit.

A tweet posted from the account of Senator Housakos during the course of the trip on April 23, 2017, stated "Pleased to be part of this trade delegation @SenatorVictorOh @DonPlett".

Consistent with this characterization, I have reviewed multiple Chinese language news reports published at or around the time of the trip. These articles refer to Senator Oh leading a trade delegation, though they also refer to the fact that the delegation is returning to its ancestral roots. The Hot China News article described the trip as being an "ancestral roots trade delegation". Numerous witnesses confirmed this description.

When the Senators returned to Canada, Senator Plett reported on the trip in the Senate, on May 2, 2017. He said:

Colleagues, 10 days ago Senator Housakos and I, along with our wives Demi and Betty, had the honour of accompanying...Victor, as he and his wife, Rosabela, returned for the very first time to Fujian province and his ancestral home on top of [a] mountain.

Senators Housakos and Plett each filed a Statement of Sponsored Travel with my Office on November 28, 2017, both of which stated that the purpose of the trip was "Fostering economic and cultural ties between Canada and China; Honourary Guests for Ancestral visit of Senator Victor Oh". Senator Oh's Statement of Sponsored Travel, filed the same day, listed the purposes of the trip as "1 - First ancestral visit after Senator Oh's grandparents immigrated to Singapore 130 years ago. 2 - Promote Canada China economic cooperation and people to people ties."

Ms. Huang testified that she would not have become involved in the planning of this trip if Senator Oh had not been a Senator.

I find that the trip in fact possessed a dual purpose. While initially, the idea for going on the trip was consistent with the personal purpose of Senator Oh visiting his ancestral home, the trip evolved into a trade delegation from an early stage of planning.

Having said that, I did not discover evidence from which I could conclude that Senator Oh engaged in business dealings during the course of the trip. Senator Oh was a director of a corporation registered in Newfoundland and Labrador as Signal Hill Management, a company that engaged in consulting, along with three other directors. While that company was founded in April 2017, and Senator Oh was on its board from April 5, 2017 to May 1, 2017, I found no evidence that Senator Oh played an active role in its operations before he resigned from the board, apparently in May 2017. Similarly, I did not discover any evidence that his involvement with Signal Hill Management was linked to the trip.

(4) Delegate Selection and Organization of the Trip

The delegation consisted of a group of 21 members, although individuals joined and left the group at different points throughout the trip.

Senator Oh invited Senators Housakos and Plett and their spouses to join him and his spouse on the trip. All three Senators agreed that the reason for the invitation was that they had become good friends working together in the Senate. Senators Housakos and Plett also acknowledged that it

would add to the prestige of the trip for Senator Oh to be accompanied by his Senate colleagues. However, it seems to me that the invitation of Senators Housakos and Plett had as much to do with their official positions in the Senate – Senator Housakos as former Speaker, and Senator Plett, as Opposition Whip. Senator Oh certainly emphasized these positions in his communications regarding the trip, including in Version 2 of the delegate list. However, Senators Housakos and Plett were not involved in the organization of the trip.

The other members of the delegation were members of the Chinese-Canadian Community with roots in Fujian Province. Most of these individuals were based in Toronto, although some were based in Vancouver. In his letter to my Office dated December 8, 2017, Senator Oh described these individuals as “a collective of entrepreneurs and community leaders from the Chinese Canadian community who traced their roots to Fujian”.

In his interview with me, Senator Housakos said that most of the delegates from the Chinese-Canadian community were small business owners. That characterization is not accurate. Version 2 of the delegate list discloses that many of the delegates have significant leadership roles in large business enterprises. At least one of them, Ted Zhou, is involved in a multi-billion dollar enterprise that operates in both Canada and China.

In his first interview, Senator Oh told me that he did not have first hand knowledge of who invited the Chinese-Canadian community delegates on the trip. He told me that he had understood that Ms. Huang had decided who to invite. Ms. Huang explained in her interview that she had simply informed members of the Fujianese community in Canada of the upcoming trip and that those who were interested in joining had done so. Given the profile of the delegates as set out in Version 2 of the delegate list, I find this explanation implausible. The criteria for selecting the delegates were not clear to me from the evidence.

In his first interview, Senator Oh testified that Ms. Huang, Ted Zhou, and Xiong Su were involved in planning aspects of the trip but he expressed uncertainty over the details of their involvement because he was not involved in the planning process. In his second interview, Senator Oh told me that the Quanzhou Association had decided who the delegates would be. As discussed above, given that Senator Oh had personally directed his Senate staff to organize parts of the trip, this would have been relevant information for him to provide when describing who had had organized the trip. He knew that his Senate staff had been involved in planning aspects of the trip but did not mention this.

As I explained above, I was unable to obtain relevant communications showing how the trip had been organized. It has been difficult to reconstruct how exactly the trip was organized without access to those communications. Precisely who compiled the itinerary for the trip is not entirely clear. It appears that, at one point, Ms. Huang relayed the necessary information concerning the agenda for the trip to one of Senator Oh’s staff members, who typed it up as a Word document.

One particularly significant aspect of the trip was that the delegates met with Canadian diplomatic officials. I interviewed a number of Canada’s officials in China for this inquiry. Canadian diplomatic missions routinely provide support to Canadian Parliamentarians who are overseas. Indeed, there is a guideline published by Global Affairs Canada that outlines some of the supports that are typically offered to visiting Parliamentarians.⁴ It is also common for Parliamentarians who

⁴ Global Affairs Canada, “Official Visits Service Standard Guidelines”, online: <<http://www.international.gc.ca>>.

are overseas for personal reasons to arrange to have official meetings there. In particular, Canadian diplomats offer briefings to visiting Parliamentarians where this can further commercial or other interests but they do not provide much more assistance or support when parliamentarians are abroad for primarily personal reasons.

In mid-March 2017, Ms. Zhu first emailed Canadian diplomats located in the Beijing and Guangzhou diplomatic missions. (The Consulate General in Guangzhou is responsible for Fujian Province). From my interview with Ms. Zhu and my review of her correspondence with these officials, it is clear that she was involved in arranging meetings between Canadian officials in Beijing and Fujian Province and Senator Oh's delegation. These meetings were initially conceived as being relatively formal, such as briefings or trade forums, but ultimately they appear to have been more in the nature of informal dinners.

(5) Conduct of the Trip

Senator Oh provided me with an itinerary of the trip that was provided to the delegates in China. I have included this document as **Appendix A** to this report. I heard evidence that the activities that were actually carried out varied in minor ways from those described in this itinerary. That said, those discrepancies are not material to my analysis of the issues and I do not propose to review them here.

The trip took place from April 15-29, 2017. The two focal points of the trip were Beijing and Fujian Province. A motor coach was hired to take the delegation through multiple cities and towns along the way to their ultimate destination, Senator Oh's ancestral village in Anxi County.

I interviewed some of the delegates. Their evidence supported the conclusion that much of their time on the trip was spent on leisure and sightseeing activities. The itinerary highlights a number of meetings with Canadian and local government officials, and appears to be a focal point for the trip, but a fair amount of time was dedicated to more traditional tourist activities and cultural events.

The delegation arrived in Beijing on April 16, 2017. The following night, a dinner for the delegation was attended by then Ambassador John McCallum. I interviewed Ambassador McCallum for this inquiry. He confirmed that he was friends with the visiting Senators from his time as a Member of Parliament and that he wanted to meet with them when he learned that they would be visiting Beijing. He attended a portion of the event with a number of his staff. Due to conflicting commitments, Ambassador McCallum was only there for about half an hour. He gave remarks welcoming the delegation to China and did not remain for the dinner itself.

The delegation met with a number of local government officials at the various stops along the route to Senator Oh's ancestral village. These meetings were primarily with municipal level officials, although the delegation also met some provincial officials and an official with the Canada-China Legislative Association.

The trip culminated in a homecoming event focussed on Senator Oh's ancestral village in Anxi County. A number of cultural and spiritual events were held to mark Senator Oh's return to the village where his grandparents had lived before emigrating to Singapore. The Senators arrived on April 23, 2017, spending a single day there during the two week trip. A mountain pathway to the home of Senator Oh's grandparents had been paved several days before their arrival in Senator

Oh's honour. Trees were planted in honour of each of the Senators. The village's residents greeted the Senators with firecrackers.

On his return to Ottawa, Senator Plett delivered remarks to the Senate that described the activities of the day as follows:

Colleagues, 10 days ago Senator Housakos and I, along with our wives Demi and Betty, had the honour of accompanying Mr. Oh's great grandson, Victor, as he and his wife, Rosabela, returned for the very first time to Fujian province and his ancestral home on top of this mountain.

We, of course, were driven up the mountain in a modern bus, albeit on a very winding road. We then walked the last half a kilometer on the same path that Mr. Oh and his family had walked down 130 years ago. The path had been paved for us, just two days prior to our arrival. There were no cement trucks or cement mixers anywhere in sight. Indeed, all of the concrete had been mixed and carried up the mountain by hand.

Here Senator Oh received a hero's welcome as most of the village was there to greet him. The fireworks were something to behold. Senator Oh was honoured and revered like no one I had ever seen. He was truly their hero. He was a Canadian senator, appointed on merit, and he was one of theirs. After a great meal and a ceremony, Senators Oh, Housakos and I planted a tree in Senator Oh's honour, a tree that we are told will live for hundreds and maybe thousands of years.

From here we travelled a couple of hours to a tree plantation. Again, Senator Oh was the hero. The local people had built a giant wooden structure, under which we again had tea. After tea, we moved to the plantation where three signs were erected, one for each of us - Senator Oh, Senator Housakos and me. They had three rows of tea shrubs laid out for us, and we were asked to plant these shrubs.

Senator Plett's description of the day's events is consistent with the evidence I heard on this inquiry, subject only to minor qualifications.

Photographs of the tea-planting ceremony depicted signs identifying the event's organizer as "Quanzhou Chamber of Commerce in Canada". In her interview, Ms. Huang denied that this group had sponsored the tea-planting event and stated that the costs involved in the event were minimal.

On April 25, 2017, the delegation met with Canadian trade officials in Xiamen. Ms. Xin Liu, a Trade Commissioner from the Canadian Trade Office in Xiamen and Duane Robson, a Senior Trade Commissioner at the Consulate General in Guangzhou, both attended. This event had originally been proposed as a briefing, but when Ms. Liu and Mr. Robson arrived they discovered that it was a dinner.

One particular issue regarding the conduct of the trip regards the involvement of Pantheon. Pantheon is an investment firm whose clients are high net worth individuals, including those in the Chinese-Canadian community. On May 8, 2017, an article entitled "Canadian Senator Says Trade Between China and Canada Entering Honeymoon Period" was published in Mandarin by Hot China News. This article suggested that Pantheon had sponsored the entire trip. The article reads in part:

In April of 2017, Pantheon Asset, China's leading multi-family office, invited a delegation headed by Victor Oh, member of the Senate of Canada, Leo Housakos, former speaker of the Senate, and Senator Don Plett to take part in in-depth exchanges in both Xiamen and Beijing with Pantheon's Chinese family business members. The accompanying party, consisting of over twenty people, included the Canadian Businessmen of Fujian Origin Trade Delegation and others. This is Pantheon's first effort at visits between families in both China and Canada since it established its Vancouver office in early April. [*Emphasis added*]

Subsequent media reports repeated the suggestion that the trip had been paid for by Pantheon.

The Hot China News article stated that Pantheon had opened a Canadian office in Vancouver earlier in April 2017. However, in my interview with Ms. Ma, a partner in Pantheon, she informed me that she had travelled to Vancouver in or around March or April 2017 with a view to opening a Vancouver office for Pantheon but that no such office had been opened as of the date of my interview with her. On this earlier trip to Canada, Ms. Ma had also visited Toronto and Ottawa and this is when she first met Senator Oh through her father, who was a friend of Senator Oh. Ms. Ma stated that she informed Senator Oh that the reason for her trip to Canada was to explore the possibility of opening a Vancouver office for Pantheon. Senator Oh stated in his second interview that he recalled meeting Ms. Ma in Ottawa and Toronto but did not recall her informing him of the purpose for her trip. I see no reason to doubt Ms. Ma's testimony that she did inform Senator Oh of the reason for her trip. Indeed, it seems only natural that she would have explained the reason for her trip in the circumstances of their meeting.

The Hot China News article also stated that "When Pantheon Asset announced in early April that it was establishing a Vancouver office, Senator Oh expressed his enthusiastic support for this major decision by Pantheon and had an in-depth dialogue with Pantheon's partners about interaction between families in Canada and China." Senator Oh denies that he offered support for the opening of a Vancouver office by Pantheon and also argued that the media articles concerning this trip were "fake news".

Based on the information available to me, Pantheon's only role in the trip appears to have been that Ms. Ma paid for two dinners held towards the end of the trip: one in Xiamen on April 25, and another in Beijing on April 27. Ms. Ma testified that she personally paid for these dinners, although other Pantheon partners were present at the dinner in Xiamen. Senator Oh told me that he knew Ms. Ma's family and that she had become involved in the trip through that personal connection. He told me that he did not know of her affiliation with Pantheon until after December 2017. However, and as already mentioned above, Ms. Ma testified that when she met Senator Oh in Canada in March or April 2017, she told him that she was in Canada to explore the possibility of Pantheon opening an office in Vancouver. As noted earlier, I accept Ms. Ma's testimony on this point.

Ms. Liu, the Senior Trade Commissioner in Xiamen, attended the April 25 dinner in Xiamen. She described the dinner as having been hosted by an asset management company and that its employees were present. Based on the Hot China News article, this asset management company was Pantheon. Senator Oh is quoted as speaking in support of Pantheon's proposed Vancouver office.

As explained in detail below, Senator Oh disputes that these dinners were paid for by Pantheon. He insists that they were paid for by Ma Yi in her personal capacity. As explained in detail below, I cannot accept Senator Oh's position on this issue. Other Pantheon employees were present. The Hot China News article reports discussion of matters related to Pantheon at one of the dinners. The evidence in this inquiry suggests that the dinners were paid for by Ma Yi personally not by Pantheon funds. But that is not the relevant question. The circumstances indicate that the dinners were held not because of Senator Oh's personal connection to Ma Yi's family, but rather as an attempt to generate goodwill for Pantheon.

The evidence does not establish that Pantheon paid for the trip beyond these two dinners. I return to the propriety of Senator Oh accepting dinners sponsored by Pantheon below.

(6) Payment for the Trip

The vast majority of the travel expenses of Senators Oh, Housakos, and Plett, and their spouses, were paid for by others. Precisely who paid for these expenses is one of the issues that attracted attention to this trip in the first place. Senator Housakos originally gave conflicting accounts to the media about who had paid for the trip, first suggesting that it had been paid for by the government of China and a trade association in Canada, and later stating that it was paid for by Senator Oh's family. Despite my requests of Senator Oh and several other witnesses, I have not been provided any invoices or receipts for this trip. Whether this is the result of poor record-keeping or is due to some other cause, I have encountered substantial difficulty in determining precisely who paid for what.

According to Ms. Huang, the trip's principal organizer, she advanced the funds needed to initially pay for airfare, accommodations, certain meals, and ground transportation for the Senators and their spouses. However, in his Statement of Sponsored Travel filed with my Office on November 28, 2017, Senator Oh claimed that his sister had already paid the costs of the trip. The evidence shows that she had not yet done so at that time. The transfer of funds from Senator Oh's sister to Ms. Huang's account only appears to have taken place on December 7, 2017. According to the "Breakdown of Expenses" document provided by Senator Oh, discussed below, the round trip airfare cost is approximately \$4400 CAD per passenger. The cost of accommodations ranged from city to city. In Fuzhou, a hotel room cost approximately ¥200 RMB, whereas in Beijing it would cost approximately ¥400 RMB. The total cost of accommodation was ¥22,500 RMB for the Senators and their spouses. The total cost of meals is more difficult to ascertain because different people paid for them. The portion of food costs being tracked by Ms. Huang was ¥14,400.00 RMB for the Senators and their spouses. Their share of the motor coach charter was apparently ¥2,400.00. In an email to my Office of October 23, 2019, Senator Oh's sister, Ms. Lay Khim Oh, confirmed that she did in fact pay for the trip and she did so "as a small token of [her] love" for her brother.

There was some suggestion in early media reports that the trip was sponsored either by the government of the People's Republic of China, by a trade group based in Canada, or by Pantheon. Indeed, and as already mentioned, Senator Housakos's office initially told a reporter that it was sponsored travel, partly paid for by China and a trade group based in Canada.

My inquiry has not found evidence to support these assertions. It appears that individual meals along the way may have been paid for by local governments. Beyond this, I did not find any evidence that the trip was paid for by the Chinese government or a trade association. As noted

above, Ms. Ma, a partner of Pantheon picked up the cost of two meals for the delegation but did not pay for the trip beyond that and an airline, Xiamen Air, paid for a banquet.

Senator Oh provided me with a screenshot of a bank statement of a bank account belonging to Ms. Huang. This screenshot shows that the amount of \$34,982.50 was transferred to this account, though the source of the funds is not clear from the statement. Senator Oh also provided a transfer slip from the United Overseas Bank made out to Lay Khim Oh (Senator Oh's sister) stating that "We wish to inform you that we have effected the following remittance and debited your A/C [account number] for remittance: CAD \$35,000". This transfer slip is dated December 7, 2017 and shows Ms. Huang's TD account as the payee.

This payment was made after the publication of media reports about the trip. As I noted in my preliminary determination letter of March 22, 2018, the timing of this payment gave rise to a concern as to whether it had always been intended that Senator Oh's sister would pay for the trip. I found it remarkable that such a significant payment was made so long after the trip had occurred and only after media reports questioned who had paid for the trip.

Having reviewed the evidence I have available to me, it appears that the payment for the vast majority of the expenses of the trip for Senators Oh, Housakos, and Plett, and their spouses, were covered by Senator Oh's sister, albeit that the evidence supporting this conclusion arose only after I began investigating this matter.

Senator Oh was insistent that it had always been the intention that his sister would pay these expenses. Ms. Huang's evidence was consistent with Senator Oh's version of events. She told me that Senator Oh had first informed her in or around July 2017 that his sister would be reimbursing her.

Senators Housakos and Plett were not able to corroborate Senator Oh's assertion that it was always intended that his sister pay for the trip. In fact, both testified that neither of the two had any notion that Senator Oh's sister was in any way involved in this trip. When asked what Senator Oh told them about who would be paying the costs of the trip, they both told me that Senator Oh told them (at the time he extended the invitation to them) that he would take care of the expenses for the trip and that they would be covered without providing further details. In fact, both Senators Housakos and Plett assumed at one point or another that an association had paid the expenses and that Senator Oh would file sponsored travel forms on their behalf because, as Senator Plett told me, Senator Oh was "the head of the delegation". They only discovered that Senator Oh's sister had paid the travel costs after the media began making inquiries about the trip and who had paid for it.

Having canvassed the issues surrounding payment for the cost of the trip as it related to Senator Housakos and Plett, I am satisfied that, though Senator Oh's sister ultimately paid for the costs of their trip as well as those of their spouses, they were not aware of this fact when they accepted the invitation to join Senator Oh nor were they aware of it until after the trip and until I had begun looking into this matter and they asked Senator Oh about it.

During my preliminary review of this matter, in correspondence dated February 12, 2018, Senator Oh provided me with a document entitled "Balance Sheet" which provided a breakdown of the main categories of expenses for the trip. In her interview, Ms. Huang confirmed for me that she prepared this document and sent it to Senator Oh on May 9, 2017 (in other words, shortly after the conclusion of the trip). This document showed the total cost of the trip as being \$42,000 CAD.

Ms. Huang explained that this was a preliminary amount that had not yet been finalized. Among other things, she was seeking reimbursement from other delegates and awaiting final bills from some of the hotels.

Ms. Huang wrote a letter to my Office on April 30, 2018, in which she informed me:

Senator Oh had been pressing me repeatedly for a finalized accounting. Only in early December, following my return from China, did I manage to work on a final settlement of accounts ... I would like to offer my deepest apologies for the needless problems I created for Senator Oh because of my negligent delay in settling his travel expenses.

In short, Ms. Huang took responsibility for the delay in the preparation of the final account for the trip. In her interview, she reiterated that Senator Oh had repeatedly asked her to provide a final account but that she had not done so. This evidence is consistent with Senator Oh's testimony on this point. He explained that part of the delay arose because his sister would be making a bank transfer from overseas, and they wanted everything finalized first so that only one transfer would be necessary.

Ms. Huang ultimately provided final numbers to Senator Oh's staff in November 2017. Senator Oh's staff prepared the "Breakdown of Expenses" that showed the main categories of expenses for the trip. The total amount charged to Senator Oh was \$35,000 CAD (rather than the \$42,000 calculated in the preliminary estimate in the "Balance Sheet" document from May 2017). Senator Oh and Ms. Huang were only able to account for this discrepancy in vague and general terms by referring to the fact that the initial quote had only been preliminary in nature.

Ms. Huang did not retain any invoices or receipts or other supporting documentation to substantiate the amounts listed in the "Breakdown of Expenses". She informed me in her interview that she left these documents in China and they may no longer exist. This has made it impossible to confirm the precise cost of the trip. However, the figures provided appear to be reasonable to me in light of all of the evidence I heard about the trip. I have no basis to challenge the figures stated in the "Breakdown of Expenses" document as being a reasonable estimate of the costs incurred.

No one I interviewed in the course of this inquiry was able to provide a satisfactory explanation of the circumstances surrounding the paving of the mountain path in Senator Oh's ancestral village. For the reasons discussed below, in order to address the issues raised in this inquiry I do not believe it is necessary for me to determine who paid to pave the path.

SENATOR OH'S POSITION

Senator Oh maintains that this trip was purely personal in nature and that, to that extent, it was not strictly necessary to file a Statement of Sponsored Travel. While he did file a Statement of Sponsored Travel, his position is that this was done out of an abundance of caution and was not strictly required. This, however, was inconsistent with what he said earlier in his letter of November 28, 2017 to me stating that he realized that he had exceeded the 30 day timeframe for filing a sponsored travel form and that he was in breach of the *Code* because of this fact.

Senator Oh wrote as follows in his letter to my Office of December 8, 2017:

We did meet with government officials on this trip aside from those identified in the itinerary which we provided to you. However, we did not meet with them in an official

capacity but rather during courtesy meetings or social gatherings. Please refer to my answer in question number 17 for additional details.

...

We met various foreign government officials during welcome dinners organized by them as per local custom. It is standard practice for government officials in China to host visiting officials from other countries in such a way and it is a sign of disrespect to decline - whether one is travelling in an official or unofficial capacity.

Similarly, in his letter to my Office of February 12, 2018, Senator Oh wrote:

Though I happened to invite two Senators as my guests on this ancestral visit and we did meet up with various government officials, the functions were social in nature, and no official businesses were discussed. We were not asked to perform any activity in an official capacity. To the best of my knowledge and belief, our engagements had nothing to do with parliamentary business, committee studies or any other related activities of the sort.

In his second interview, Senator Oh testified that, initially, he had in fact hoped the trip would not only be a personal trip but also involve an official trade component. He explained that this part of the trip did not take place since he was advised by the Consulate in Xiamen not to proceed with it because a similar event had already just taken place.

Senator Oh stated in his February 12, 2018 letter that Pantheon had not paid for any part of the trip, although he acknowledged that Ma Yi had paid for two dinners. Because it was of such a “deeply personal nature and paid for by a family member”, he did not believe he had to declare the trip as sponsored travel.

With respect to the personal elements of his trip, he described his visit to his ancestral village. He reiterated that he had not been informed prior to his arrival of the village’s plan to pave a mountain path for him and Senators Housakos and Plett to travel on.

Senator Oh acknowledged that while he and Senators Housakos and Plett met with various government officials during this trip, the functions were “social in nature,” “no official government businesses were discussed,” and he was “not asked to perform any activity in an official capacity.”

Senator Oh described having attended a dinner while in Beijing with then Ambassador John McCallum, whom he described as a longtime friend. He referred to a list of Canadian and foreign government officials with whom he met. He acknowledged that he met with Duane Robson, a Senior Trade Commissioner with the Canadian Consulate General in Guangzhou, as well as with various local government officials during welcome dinners. He emphasized that in Chinese culture and tradition, it is considered rude to decline an invitation.

On November 14, 2018, Senator Oh provided his response to my letter of October 30, 2018 notifying Senator Oh of the expansion of this inquiry to include consideration of sections 7.1 and 7.2 of the *Code*. Senator Oh acknowledged that his staff had emailed Canadian officials in the early planning stages of the trip but that nothing formal had been organized and that as a result, by the time the trip began it no longer involved his official duties. Senator Oh maintained that he has always conducted himself with the dignity and integrity inherent to his position as a Senator.

As previously noted, Senator Oh reviewed a draft of the first part of this report in five meetings held on October 24, 28, 29, 31, and November 6, 2019. He made written and oral representations about the draft. Senator Oh's position is that this report is incomplete. He accepts some of the facts set out in the report but disputes others and believes the report portrays the underlying events in a misleading manner. He alleges that this report places undue weight on uncorroborated newspaper articles that have not been fact checked. In fact, I cannot and will not draw conclusions in an inquiry report solely on the basis of uncorroborated media reports. While media reports initially drew attention to this issue and resulted in my preliminary review, the underlying factual findings are based on extensive witness interviews and a review of all of the relevant documents that have been produced.

Towards the end of the process, Senator Oh alleged that this inquiry has been tainted by racial bias against him. He maintains that this inquiry would never have taken place if his ancestry was British or European. The Senate Ethics Officer conducts inquiries and makes findings on the basis of facts and evidence. The findings made in this report speak for themselves respecting the legitimate bases for concern about Senator Oh's conduct. These concerns have nothing to do with race. The *Code* applies equally to all Senators irrespective of their background and ancestry.

Senator Oh notes that while he did not initially file a Statement of Sponsored Travel, he had not tried to conceal the fact of his trip. He relies on the fact that Senator Plett made a speech in the Senate Chamber about the trip upon their return.

Senator Oh took issue with the references to Ma Yi and Pantheon. He claims that there had only been "two dinners" that did "not amount to anything". He also argued that Ma Yi did not "have anything to do with the trip", was not involved in its planning and that she paid for two dinners, one of which was attended by Senator Oh and his wife (and not the other members of the delegation). He insists that the dinners were private dinners paid for by Ma Yi because of Senator Oh's friendship with her parents. He denies that either dinner was paid for by Pantheon. Similarly, he denies that Xiamen Airlines hosted a dinner for the delegation. For reasons explained elsewhere in this report, I do not accept Senator Oh's evidence on these points.

Senator Oh objected to the use of the word "banquet" for what he believes would be more fairly described as simply a "dinner". However, "banquet" was the word used by multiple witnesses who attended the dinners and was also how the dinners were described in contemporaneous media reports.

Similarly, Senator Oh objected to the use of the word "meetings" to describe his encounters with government officials, which he believes should be called "courtesy calls". He also characterizes the officials as being minor officials, such as leaders of municipal governments. He also denied that any local government officials paid for any meals.

RELEVANT PROVISIONS OF THE *CODE*

The following are the provisions of the *Code* that are relevant to this matter:

Principles

(2) Given that service in Parliament is a public trust, the Senate recognizes and declares that Senators are expected

(a) to remain members of their communities and regions and to continue their activities in those communities and regions while serving the public interest and those they represent to the best of their abilities;

(b) to fulfil their public duties while upholding the highest standards so as to avoid conflicts of interest and maintain and enhance public confidence and trust in the integrity of each Senator and in the Senate; and

(c) to arrange their private affairs so that foreseeable real or apparent conflicts of interest may be prevented from arising, but if such a conflict does arise, to resolve it in a way that protects the public interest.

Definitions

3.(1) The following definitions apply in this Code.

“parliamentary duties and functions” means duties and activities related to the position of Senator, wherever performed, and includes public and official business and partisan matters.

Assisting the public

4. Senators are encouraged to continue to assist members of the public as long as their actions are consistent with their obligations under this Code.

General conduct

7.1 (1) A Senator’s conduct shall uphold the highest standards of dignity inherent to the position of Senator.

Idem

(2) A Senator shall refrain from acting in a way that could reflect adversely on the position of Senator or the institution of the Senate.

Conduct: parliamentary duties and functions

7.2 A Senator shall perform his or her parliamentary duties and functions with dignity, honour and integrity.

Furthering private interests

8. When performing parliamentary duties and functions, a Senator shall not act or attempt to act in any way to further his or her private interests or those of a family member, or to improperly further another person's or entity's private interests.

Clarification: furthering private interest

11. (1) In sections 8 to 10, furthering private interests of a person or entity, including the Senator's own private interests, means actions taken by a Senator for the purpose of achieving, directly or in-directly, any of the following:

- (a) an increase in, or the preservation of, the value of the person's or entity's assets;
- (b) the elimination or a reduction in the amount of the person's or entity's liabilities;
- (c) the acquisition of a financial interest by the person or entity;
- (d) an increase in the person's or entity's income from a contract, a business or a profession;
- (e) an increase in the person's income from employment;
- (f) the person becoming a director or officer in a corporation, association, trade union or not-for-profit organization; or
- (g) the person becoming a partner in a partnership.

Prohibition: gifts and other benefits

17. (1) Neither a Senator, nor a family member, shall accept, directly or indirectly, any gift or other benefit, except compensation authorized by law, that could reasonably be considered to relate to the Senator's position.

Exception

(2) A Senator, and a family member, may, however, accept gifts or other benefits received as a normal expression of courtesy or protocol, or within the customary standards of hospitality that normally accompany the Senator's position.

Statement: sponsored travel

18. (1) Notwithstanding subsection 17(1), a Senator may accept, for the Senator and guests of the Senator, sponsored travel that arises from or relates to the Senator's position. If the travel costs of a Senator or any guest exceed \$500 and are not paid personally by the Senator or the guest, and the travel is not paid through the programs for international and interparliamentary affairs of the Parliament of Canada, by the Senate, the Government of Canada or the Senator's political party, the Senator shall, within 30 days after the end of the trip, file a statement with the Senate Ethics Officer.

ISSUES

I must address the following issues in order to determine whether Senator Oh complied with his obligations under the *Code* in connection with the trip:

Subsection 18(1) – Failure to File Statement of Sponsored Travel

- a. Was the trip a purely personal trip, an official visit, or a combination of both?
- b. Did the trip fall outside the scope of subsection 18(1) because it combined both personal and official aspects?
- c. Is sponsored travel caught by subsection 18(1) where the travel involves official business but the sponsor is paying the expenses for personal/private reasons, rather than to advance a public interest purpose ?

Section 17 – Prohibited Gifts and Benefits

- a. Did Senator Oh fail to comply with subsection 17(1) in accepting payment for the trip from his sister?
- b. Did Senator Oh fail to comply with subsection 17(1) in connection with the banquets held in his honour?
- c. Did Senator Oh fail to comply with subsection 17(1) in connection with the paving of the mountain road in his honour?

Section 8 – Furthering Private Interests

In the course of the trip, or in the lead up to it, was Senator Oh acting or attempting to act in a way that furthered his own interests, or those of his spouse, or that improperly furthered the interests of any of the organizations with which the business delegates on the trip were affiliated or any other person or entity?

Sections 7.1 and 7.2 – Undignified and Dishonourable Conduct of Parliamentary Duties

Did Senator Oh fail to comply with section 7.1 and/or 7.2 by using his position as a Senator to obtain advantages for a private sightseeing group?

ANALYSIS

Principles – Paragraph 2(2)(c)

The rules of conduct under the *Code* flow from the principles of the *Code* that are outlined in section 2 and though a failure to uphold a principle is not a technical breach of the *Code*, they are an important aspect of the *Code* because they assist in the interpretation of it and they are meant to guide Senators in their understanding of the rules.

In particular, paragraph 2(2)(c) became relevant in this matter. It provides, in part, that Senators are expected to arrange their private affairs so that foreseeable real or apparent conflicts of interest may be prevented from arising. Underlying that principle is the notion that Senators should maintain a clear separation between their public affairs and their private/personal lives.

In this case, the line between Senator Oh's public affairs and his private affairs was blurred when he failed to keep the personal aspects of his trip separate from the official parts of it. In fact, this blurring of the line was not accidental or unintentional but rather was deliberate since he was representing the trip differently depending upon the audience. This resulted in a failure to uphold the principle in paragraph 2(2)(c) of the *Code*.

Subsection 18(1) – Failure to File Statement of Sponsored Travel

a. Was the trip a purely personal trip, an official visit, or a combination of both?

One of the essential questions in this inquiry has been whether Senator Oh's trip was personal or official⁵ in nature. In other words, whether it was an official trade delegation, as Senator Oh represented at the time of the trip to Canadian diplomats and Chinese officials, or whether it was a purely personal sightseeing trip as he now maintains. This question is relevant both to my analysis of subsection 18(1) and subsection 17(1) below. The evidence on this issue was intricate and at times inconsistent, in part due to Senator Oh's shifting characterizations of the trip depending on his audience and the prevailing circumstances.

To be clear, it is quite possible for a trip taken by a Senator to have both a personal and an official aspect. There is nothing inappropriate in a Senator taking some time out of a personal trip to take meetings that relate to his or her official role and indeed it may be more efficient for the taxpayer to do so. Similarly, a Senator is entitled to take time out of an official visit for personal pursuits. It is essential for a Senator who combines personal and official business to ensure that the two dimensions are clearly demarcated. This strict demarcation is necessary to ensure that Senate resources are not diverted to personal sightseeing trips and to ensure that Senators do not receive unacceptable benefits that relate to their positions.

Subsection 18(1) applies to "sponsored travel that arises from or relates to the Senator's position". Having carefully reviewed the evidence outlined above, it is my view that this trip was both personal and official in nature. I accept Senator Oh's initial explanation to me that the trip was originally conceived as a personal journey to his ancestral home. This characterization of the trip

⁵ In this report, where the term "official" is used in the characterization of the nature of the trip, it is meant to refer to the parliamentary duties and functions of Senators, which includes public and official business. See also, the definition of "parliamentary duties and functions" in subsection 3(1) of the *Code*.

featured prominently in contemporaneous media reports of the trip and in contemporaneous social media postings by Senators Housakos and Plett.

I accept that the genesis of the trip grew out of Senator Oh's desire to visit his ancestral home and was personal in nature. However, at the very early stages, the nature of the trip evolved to include dual aspects as a personal and official trip. While the cultural and sightseeing events, including the one day of the two week trip dedicated to visiting Senator Oh's ancestral home, remained part of the itinerary, a substantial component of the trip comprised matters that cannot realistically be characterized as purely personal.

I pause to reiterate that I reject the argument advanced by Senator Oh in his second interview, where he claimed that the trip had originally had an official component but that the decision was taken early in the planning process to abandon that idea and that in the end the trip was purely personal. This explanation is not consistent with the documents that I have reviewed, which included real time communications throughout the trip between Senator Oh's Senate staff and Canadian diplomatic officials in China. As explained below, the trip retained an official component at all material times.

The following factors support my conclusion that the trip, in part, was related to or arose from Senator Oh's position as a Senator:

- There were numerous meetings and dinners with Canadian and Chinese officials, as well as corporate officials. These meetings and dinners were planned from the outset of the trip to Beijing and in multiple cities across Fujian Province. In other words, this was not limited to a chance meeting with an official who happened to be in the same place at the same time as Senator Oh's delegation;
- Senator Oh declined suggestions by Canadian diplomats for private meetings with the Senators. For instance, he insisted that any meeting with Ambassador McCallum take place with the entire delegation;
- There was considerable local media attention paid to the trip at the time. This media coverage suggested that the trip was not a purely personal one. In fact, in her testimony, Ms. Huang told me that she had paid some of the media to publish certain articles about the events of the trip, the costs of which were later invoiced to Senator Oh;
- The characterization of the trip as a bilateral trade delegation by Ms. Zhu in her communications with Canadian diplomatic officials, Chinese and corporate officials;
- The fact that Senator Oh was accompanied by a delegation comprised of individuals who were not just members of not-for-profit associations, but who also had diverse business backgrounds;
- The involvement of Senator Oh's Senate staff in planning the trip; and
- Ms. Huang's testimony in which she stated that she would not have become involved in the planning of this trip if Senator Oh had not been a Senator.

These facts show that the trip was not simply a personal sightseeing journey; a personal sightseeing journey would not have included any of these elements. Instead, the concept of a broader trade delegation was woven into the planning of the journey from an early stage. In short, I conclude that this was a dual purpose trip, with both a personal and an official component.

b. Did the trip fall outside the scope of subsection 18(1) because it combined both personal and official aspects?

Subsection 18(1) refers to “sponsored travel that arises from or relates to the Senator’s position”. The *Code* does not specifically address the situation at hand, where the trip combines both personal and official business. This requires me to determine whether such travel can be said to “arise[s] from or relate to” a Senator’s position such that subsection 18(1) applies.

The phrase “arises from or relates to” is very broad and signals a clear intention that Senators must take a broad approach to disclosing sponsored travel that is connected to their role as a Senator.

On the other hand, the *Code* should not be interpreted in such a manner that it would impose unnecessary bureaucratic obligations on Senators that could be seen to discourage legitimate sponsored travel. I understand that it is common for Canadian Parliamentarians to meet with official contacts who may happen to be in the same place that the Senator travels for personal reasons. Similarly, I heard from Ms. Termorshuizen at the Canadian Embassy in Beijing that Canadian diplomats frequently provide briefings to parliamentarians who happen to be passing through. She explained that Canadian diplomats offer these briefings:

because we think it’s in the Government of Canada’s interest for Members of Parliament or Senators of any party to have a broad understanding of the Canada-China relationship, where it’s at, any sensitivities.

To be clear, I am not suggesting that the mere fact that a Senator meets with a public official while on holiday converts a personal trip into official business. I do not read subsection 18(1) as applying to incidental official business conducted while a Senator is travelling for reasons unrelated to the Senate. For subsection 18(1) to apply, the official component of a trip must rise beyond being merely incidental and must constitute a substantial component of the trip. In this case, it is not the mere fact that Senator Oh met with public officials while overseas, but the entire constellation of factors above that supports my conclusion that the trip was at least as much an official trade delegation as it was a personal sightseeing trip. In conclusion, even though the trip combined both personal and official aspects, it involved a sufficient nexus with official Senate business to bring it within the scope of subsection 18(1) of the *Code*.

c. Is sponsored travel caught by subsection 18(1) where the travel involves official business but the sponsor is paying the expenses for personal/private reasons, rather than to advance a public interest purpose?

Though I have concluded above that the trip combined personal and official purposes and that such a trip paid for by a third party could still fall within the scope of subsection 18(1) if it has a sufficient nexus with official business, I do not believe this is the sort of scenario that is intended to be captured by subsection 18(1).

Subsection 18(1) applies to sponsored travel (travel costs paid for by a third party) that in some way relate to the office of Senator and the Senator’s parliamentary duties and functions. This

means that there should be a legitimate public interest on the part of the sponsor that would justify the sponsor paying the expenses related to the trip. In other words, the travel must be understood as furthering that public interest, broadly speaking.

This interpretation is informed by the scheme of the *Code*. Subsection 18(1) of the *Code* provides in part:

18. (1) Notwithstanding subsection 17(1), a Senator may accept, for the Senator and guests of the Senator, sponsored travel that arises from or relates to the Senator's position. If the travel costs of a Senator or any guest exceed \$500 and are not paid personally by the Senator or the guest, and the travel is not paid through the programs for international and interparliamentary affairs of the Parliament of Canada, by the Senate, the Government of Canada or the Senator's political party ... [*emphasis added*]

The underlined text provides an indication of the types of travel that the drafters of the *Code* had in mind. Subsection 18(1) applies to the sort of travel that would typically be paid for by the programs for international and interparliamentary affairs of the Parliament of Canada, the Senate, the Government of Canada or the Senator's political party, but that is paid for by a third party that is not one of those listed entities. The type of sponsored travel that Senators are permitted to accept under subsection 18(1) is broad in that it allows Senators to accept travel benefits provided by private entities. But the reference to official programs demonstrates the general type of travel that subsection 18(1) contemplates: there must be a legitimate public interest being pursued by the travel.

If the trip is simply a benefit paid for by a third party and the sponsor does not have a legitimate public interest in sponsoring the travel but rather is sponsoring the trip for a purely personal or private purpose, the travel would not fall under subsection 18(1).

This interpretation is supported by the structure and purpose of the *Code*. Subsection 17(1) imposes a strict prohibition on the acceptance of gifts or benefits related to a Senator's position. In other words, Senators should not receive gifts or benefits related to their position except for the modest exception recognized in subsection 17(2), i.e., gifts and benefits received as a normal expression of courtesy or protocol, or that are within the customary standards of hospitality that normally accompany a Senator's position. Subsection 18(1) is an exception to the general prohibition in subsection 17(1); subsection 17(1) applies notwithstanding subsection 18(1) that allows Senators to accept the benefit of sponsored travel (though they must file a Statement of Sponsored Travel where this benefit exceeds \$500 in value). If "sponsored travel" were taken to mean any travel that arises from or is related to a Senator's position that is paid for by a third party, notwithstanding that the travel was not sponsored for a legitimate public purpose, a Senator would be free to accept benefits in the form of luxury vacations paid for by third parties. This is clearly not what the *Code* intended. The *Code* relaxes the stringency of subsection 17(1) in order to promote forms of travel that concern the public interest. It is not intended to create a loophole through which third parties can provide otherwise prohibited benefits to a Senator by reason only that he or she is a Senator.

Applying the above framework to the trip taken by Senator Oh's delegation, it follows that this trip does not qualify as the kind of travel that is caught by subsection 18(1). Senator Oh's sister did not sponsor the trip to further a legitimate public interest, but rather sponsored it as a purely private and personal matter, i.e. to support her brother in visiting their ancestral home with two other Senators in order to bring honour to the family. The fact that I have found that Senator Oh

did conduct a substantial amount of official business on this trip does not change the fact that this trip was sponsored by his sister for a purely private purpose taken from her perspective. There was no evidence that she had any public interest in sponsoring this trip. In fact, by her own admission, her interest in the trip was entirely personal. In an email dated October 23, 2019, Senator Oh's sister, Ms. Lay Khim Oh, wrote as follows: "I suggested to my brother, Senator Oh that he should visit our ancestral home in Fujian, China, when he has the time and chance to do so. I also agreed to pay for the trip. I subsequently paid for the trip when he gave me the bill." Later on in that same email, she refers to the trip as "a personal trip to visit one's ancestral home".

Since the trip does not qualify as the kind of travel caught by subsection 18(1), Senator Oh did not have to file a Statement of Sponsored Travel.

Given my conclusion that this trip was not caught by subsection 18(1), it falls to be treated instead as a "benefit" under subsection 17(1).

Section 17 – Prohibited Gifts and Benefits

a. Did Senator Oh fail to comply with subsection 17(1) in accepting payment for the trip from his sister?

As I concluded above, the benefits provided by Ms. Oh do not qualify as the type of travel contemplated under subsection 18(1) and so do not qualify for the more lenient treatment given to sponsored travel under that provision.

This leaves subsection 17(1); it prohibits a Senator and their family members from accepting, directly or indirectly, any gift or other benefit, except compensation authorized by law, that could reasonably be considered to relate to the Senator's position.

The relevant factors under subsection 17(1) are not identical to those under subsection 18(1). The only consideration under subsection 17(1) is whether the benefits that Senator Oh's sister bestowed on Senator Oh could reasonably be considered to relate to his position as a Senator. Subsection 17(1) is not concerned with who provided the gift or benefit, nor is it concerned with the reason the gift or benefit was provided. It is only concerned with whether a reasonable person could consider the benefit provided to be related to the Senator's position. Under subsection 17(1), a Senator cannot receive a gift or benefit from his or her family member in his or her capacity as a Senator just as he or she cannot receive a gift or other benefit from someone who is not a family member.

I considered the meaning of the phrase "arises from or relates to the Senator's position" under subsection 18(1) above. In my view, the same analysis applies under subsection 17(1). The fact that the trip had an official component as one of its dual purposes is sufficient to trigger the operation of subsection 17(1). The evidence demonstrated that the official components of the trip were an important part of the trip and were part and parcel of the benefit being bestowed by Senator Oh's sister on the Senators and their spouses. The trip was tied to the position of Senator Oh as a Senator, irrespective of what Senator Oh's sister intended by the benefits.

Indeed, Senator Plett testified that he believed he would not have been invited had he not been a Senator. He stated:

So, I certainly would believe, had I not been a senator, that he [Senator Oh] would not have invited me. So, certainly, I would say that, in his community, it probably added some flare to it, maybe, that a couple of senators were travelling with him, but I think that I would consider myself as one of Senator Oh's --- in the Senate, certainly, one of his closest friends and colleagues.

And later on in his testimony, he stated:

We wouldn't be friends if I wasn't a senator and he wasn't a senator, but the fact of the matter is, now we are friends, and I believe that the invitation he extended to me was more as a friend.

....

So, did that add -- in Senator Oh's mind and in his family's mind, did it add some flare to this trip that he had a couple of senators? Senator Housakos used to be the Speaker in the Senate. I was the whip. Did that add some flare to his trip? I'm sure it did.

Wherever we travelled we had signs of "Welcome" to Senator Oh, Senator Housakos and Senator Plett. It was a big deal. We were treated like kings where we went.

So, did it do something? Yes, I think it did, because I'm sure that Senator Oh has some friends that aren't in the Senate that weren't invited.

I am of the view that the weight of the evidence supports the conclusion that a reasonable person could consider that payment of the expenses of this trip were related to Senator Oh's position as a Senator by virtue of Senator Oh's actions (through his Senate office) in the organization and the conduct of the trip.

Moreover, the exception in subsection 17(2) for normal expressions of courtesy, protocol, and hospitality is not relevant in this case. In most cases, this exception would apply to a token of expression of appreciation or complimentary hospitality in the context of some official interaction with the donor. In this case, there was no official interaction with the donor (Senator Oh's sister) and any of the recipients (Senators Oh, Housakos and Plett and their respective spouses) of the travel and related benefits.

I therefore conclude that Senator Oh violated subsection 17(1) by accepting payment from his sister on account of the trip.

Again, I wish to emphasize that I am not saying that a family member can never pay for a Senator's holiday. The unusual and distinguishing feature of this case is that the trip was not just a private/personal trip, but was in at least equal measure an official trade delegation. I should also point out that it would not be unacceptable for a Senator who is on a private trip to have a meeting concerning official business during that private trip by reason of that meeting alone. Similarly, it would not be unacceptable for a Senator who is on official business to take some time off during that trip for personal reasons, provided the two parts of the trip are clearly identified and separated and that the Senator does not make use of his or her official title or Senate resources during the

private part of his or her trip. However, in this case, Senator Oh mixed a private trip with an official trip related to his position as a Senator and intermingled his private and his public affairs.

b. Did Senator Oh fail to comply with subsection 17(1) in connection with the banquets held in his honour?

As outlined above, Senator Oh's delegation was treated to multiple meals and banquets over the course of the trip. Refreshments were provided by local governments. Others were paid for by others, including Ms. Huang, Ms. Ma Yi and Xiamen Airlines. Senator Oh testified that this was in accordance with local customs of hospitality. I agree with this explanation with respect to the local governments given that I have found that his trip had a dual purpose which included public business. As already noted above, when a Senator is on official business, under subsection 17(2), he or she may accept certain gifts or benefits that are a normal expression of courtesy or protocol, or that are within the customary standards of hospitality that normally accompany a Senator's position. I find that subsection 17(2) applies to those meals.

However, a different approach must be taken to the dinners hosted by Xiamen Airlines and Ma Yi of Pantheon. In general, a stricter approach is needed when assessing whether a benefit conferred by a private business falls within the customary standards of hospitality. There are some circumstances in which a business could legitimately pay for a Senator's meal expenses but this is a different scenario. The meals in question were dinners in honour of Senator Oh.

Three dinners give me cause for concern. The first dinner was a banquet hosted by Xiamen Airlines on April 23 in Xiamen. The banquet was attended by 30-40 guests, including the president of Xiamen Airlines and a number of its mid-level management, the Senators and their spouses, and other members of the delegation.

This banquet is troubling in light of the email of Ms. Zhu to executives of Xiamen Airlines dated March 29, 2017 and referred to earlier in this report. Ms. Zhu wrote that Senator Oh was glad to meet them in Vancouver and was looking forward to discussing the possibility of adding the direct route of Toronto – Xiamen by Xiamen Airlines. She went on to write that she hoped that they would help to organize a cocktail party in Xiamen while the delegation was there on April 25 and invite local leadership, entrepreneurs and others in the economic and trade circle.

There can be no doubt that this banquet related to Senator Oh's position. It was solicited by his Senate staff and explicitly tied to discussions around the possibility of a direct flight from Xiamen to Toronto. In my view, a banquet held in these circumstances cannot be characterized as a matter of courtesy, protocol, or hospitality for two reasons. First, the banquet was solicited by Senator Oh's staff. An expression of hospitality is not something that will generally be solicited by a Senator. Second, the circumstances suggest that the purpose of the dinner was to advance discussions regarding a new flight path.

The second dinner was a banquet hosted by Pantheon on April 25 at a Chinese restaurant in Xiamen. The banquet was attended by three representatives of Pantheon including Ms. Ma, who is a partner of Pantheon. Ms. Ma has held senior roles in human resources and administration at Pantheon. In addition to the Pantheon representatives, the dinner was attended by about 15 members of the delegation. The dinner was paid for by Ms. Ma personally. While the dinner was paid for by Ms. Ma, I nonetheless consider this to be a dinner that was hosted by Pantheon. Ms. Liu, the Canadian Trade Commissioner in Xiamen, attended the dinner and described it as being

hosted by Pantheon. There were multiple Pantheon representatives in attendance. Ms. Ma acknowledged that the issue of Pantheon opening a Vancouver office arose at the dinner and that Senator Oh spoke, at least in general terms, about what support he could offer for this proposal, though I found no evidence that Senator Oh actually provided any support. Information about the dinner was provided to the media and the Hot China News article describes the event as being hosted by Pantheon. Regardless of whether the dinner was paid for by Ms. Ma personally or Pantheon, it was in substance a dinner hosted by Pantheon.

In my view, this dinner would reasonably be viewed as connected with Senator Oh's position as a Senator. The invitation arose out of Ms. Ma's meeting with Senator Oh a month or so before the Pantheon dinners when she was in Canada to explore the prospect of opening a Vancouver office for Pantheon. Senator Oh told me in his first interview that he was unaware of Ms. Ma's connection to Pantheon until after the trip had already taken place. But Ms. Ma told me that when she first met Senator Oh on her trip to Ottawa, she told him the reason she was in Canada was to explore the possibility of opening a Vancouver office for Pantheon. She told me that the prospect of Pantheon opening a Vancouver office was also a subject of discussion at the dinner. Her account is corroborated by the Hot China News article. It is also corroborated by the testimony of Ms. Liu, who testified that the dinner in Xiamen on April 25 was hosted by Pantheon. Finally, Ms. Ma's account was also corroborated by Senator Housakos who testified that, at one of the dinners, Ms. Ma spoke with him about Pantheon's possible expansion into Canada. Senator Housakos testified:

She [Ms. Ma] told me they were primarily based in China. She told me how it was her dad's – her dad who started the company... They were expanding... in Canada... And, like, I... I'm just going on memory, and I haven't even verified on the company --- either she mentioned they had an office in Toronto, wanted to expand to Vancouver, [or] had an office in Vancouver and, wanted to expand to Toronto.

While I accept that she also had a personal connection to Senator Oh through her father, she had never met Senator Oh before the meeting in Canada a month or so before the Pantheon dinners. The scale and nature of the banquet is much more consistent with it having been hosted by Pantheon for the benefit of a Senator rather than by Ms. Ma for the benefit of a family friend. In the circumstances, this banquet cannot be characterized as a matter of protocol, courtesy, or hospitality.

The third dinner was a dinner hosted by Ms. Ma in Beijing on April 27. This dinner was attended by Senator Oh and his spouse and other friends of Ms. Ma (who were not Pantheon employees). Ms. Ma explained that she hosted this dinner owing the personal connection between Senator Oh and her father.

This dinner is much more readily viewed as a private dinner hosted by Ms. Ma for the benefit of a family friend. If this were the only dinner that had taken place, I would not have concerns about it. However, given that it followed shortly after the April 25 dinner, I find it cannot be viewed in isolation. Taken together with the April 25 dinner, it seems to me that this dinner falls outside the scope of a permissible benefit that could be accepted by a Senator.

In conclusion, I am of the view that Senator Oh breached subsection 17(1) when he accepted the dinner hosted by Xiamen Airlines and the two dinners hosted by Ms. Ma.

c. Did Senator Oh fail to comply with subsection 17(1) in connection with the paving of the mountain road in his honour?

As noted above, it seems that local villagers paved a path in honour of Senator Oh's homecoming. I accept Senator Oh's testimony that he did not have any advance information that this was being done and no one I have interviewed has been able to quantify the value of this ceremonial gift. In my opinion, section 17 is not applicable here. I note that subsection 17(1) refers to the "accepting" of a gift by a Senator. It is difficult to say that Senator Oh "accepted" this road or how he could have declined it once it was paved. Without saying that a tribute or monument could never fall within the scope of section 17, I do not believe that this is the sort of gift or benefit that is contemplated by the *Code*.

Section 8 –Furthering Private Interests

In the course of the trip, or in the lead up to it, was Senator Oh acting or attempting to act in a way that furthered his own private interests, or those of his spouse, or that improperly furthered the interests of any of the organizations with which the business delegates on the trip were affiliated or any other person or entity?

One of the areas of concern I outlined in my preliminary determination letter was the appearance that Senator Oh's trip had been paid for, in whole or in part, by third parties in exchange for his facilitation of access to Canadian or foreign officials. I have not found evidence to substantiate that such an exchange actually occurred.

As noted above, the only evidence I have available to me on the issue of who paid the expenses for Senator Oh and his spouse suggests that Senator Oh's sister paid for the majority of the expenses associated with the trip. This evidence, referred to earlier, is a document that was provided to me by Senator Oh that appears to be a wire transfer to a bank account belonging to Ms. Helen Huang stating that a transfer in the amount of \$34,982.50 occurred. Senator Oh also provided a transfer slip from the United Overseas Bank made out to Lay Khim Oh (Senator Oh's sister) stating that "We wish to inform you that we have effected the following remittance and debited your A/C [account number] for remittance: CAD \$35,000". This transfer slip is dated December 7, 2017 and shows Ms. Huang's TD account as the payee.

While Senator Oh clearly did facilitate connections between members of the delegation and Canadian and Chinese officials, I did not discover any evidence that this was done in an attempt to "further private interests". That phrase is mentioned in section 8 and defined in subsection 11(1) by reference to situations such as increasing an entity's assets or income. Based on the evidence available to me in this inquiry, I was not able to find that any specific business or individual interests were furthered or that there were any attempts to do so in a material way by the interactions with public officials that occurred over the course of the trip.

Turning now to Senator Oh and his spouse, did he further or attempt to further his own private interests and/or those of his spouse during the course of this trip? Again, I did not discover any evidence that Senator Oh furthered or attempted to further his own private interests or that of his spouse as that phrase is defined in subsection 11(1) of the *Code*.

Sections 7.1 and 7.2 –Undignified and Dishonourable Conduct of Parliamentary Functions

Did Senator Oh fail to comply with sections 7.1 and/or 7.2 by using his position as a Senator to obtain advantages for a private sightseeing group?

In my letter of October 30, 2018 to Senator Oh, I explained that I was expanding this inquiry to include consideration of sections 7.1 and 7.2 of the *Code*. Of particular concern to me was that if Senator Oh's testimony was correct and the trip was purely personal in nature, this would give rise to concerns relating to Senator Oh's use of Senate resources, including his staff, to organize a personal trip. It also grounded a concern that in communicating with Canadian and Chinese officials in China, Senator Oh was taking advantage of his position as a Senator to obtain benefits for his personal sightseeing group, benefits to which ordinary Canadian citizens would not be entitled. My letter did not particularize any other concerns under sections 7.1 and 7.2 of the *Code*.

One focus of concern is the involvement of Ms. Zhu in organizing the trip. While Senator Oh denied or minimized her involvement, it is clear from my review of her correspondence and my interview with her that she played a significant role in organizing this trip. It would obviously not be appropriate for a Senator to use Senate staff to plan logistics for personal travel.

It appeared to me from my discussion with Canadian diplomatic officials that they felt obliged to try to accommodate Senator Oh's request for support due to his status as a Senator despite the fact that supporting this trip would not have been a priority had no Senators been involved. While Ms. Zhu indicated that the delegates would pick up the costs of one of the proposed events (a reception with Ambassador McCallum at the official residence), the reality is that such events impose on the time and energy of Canadian officials beyond the financial costs of entertainment.

Subsection 7.1(1) of the *Code* provides that "A Senator's conduct shall uphold the highest standards of dignity inherent to the position of Senator". Subsection 7.1(2) states that "A Senator shall refrain from acting in a way that could reflect adversely on the position of Senator or the institution of the Senate". Section 7.2 of the *Code* provides that "A Senator shall perform his or her parliamentary duties and functions with dignity, honour and integrity". The term "Parliamentary duties and functions" is broadly defined in subsection 3(1) as "duties and activities related to the position of Senator, wherever performed, and includes public and official business and partisan matters".

If I had accepted Senator Oh's initial testimony that the trip was purely personal in nature, his use of Senate staff to organize the trip and the fact that he held it out as an official trade delegation would both be serious issues for concern under sections 7.1 and 7.2. However, I concluded in my analysis above that I did not accept Senator Oh's statement that this was purely a personal sightseeing trip. Instead, I found that the trip had a significant official component from an early stage in its planning through to its conclusion. As a result, I do not believe that sections 7.1 or 7.2 were engaged in the manner described above.

That being said, I remain troubled by the discrepancy between how Senator Oh described the trip to me in the context of this inquiry (as a personal sightseeing trip) and how Ms. Zhu, acting at his direction, characterized it to Canadian diplomatic officials (as a bilateral trade delegation).

Other Issues

In my analysis of Senator Oh's credibility, I identified a number of areas where I had concluded that Senator Oh's testimony in this inquiry had been incomplete or where he had withheld information. These findings have affected his credibility and meant that I have placed less weight on his testimony than I otherwise would have. His conduct also raises questions about his integrity.

As I noted, Senator Oh also advanced positions that were more favourable to himself than could be supported by the weight of the evidence, particularly concerning his characterization of the purpose of the trip depending upon the audience, and the involvement of his Senate staff. Other issues that are of great concern to me are the points on which it appears that Senator Oh was misleading. The starkest example of this was in the fact that he provided me with Version 1 but not Version 2 of the delegate list. Version 2 clearly lists the business connections of the delegates and is much less favourable to Senator Oh's position that the trip was purely personal in nature. He misled me about the existence of any email communications, stating that all discussions relating to the organizing of the trip had occurred by telephone. When I specifically asked him whether he knew of the business connections of the delegates, he stated that he did not, an answer plainly contradicted by the contents of Version 2 of the delegate list.

In my view, Senator Oh's conduct in deliberately withholding information in this inquiry is the type of conduct that did not uphold the highest standards of dignity inherent to the position of Senator and that would undermine public confidence in the office of Senator and in the Senate as a whole, as discussed in the Office of the Senate Ethics Officer's *Inquiry Report under the Ethics and Conflict of Interest Code for Senators Concerning Senator Don Meredith*.⁶ The public must have confidence that members of the Senate will act with the highest degree of dignity, integrity and candour, particularly in relation to investigations by my Office into potential violations of the *Code*.

However, I am constrained from finding that Senator Oh breached sections 7.1 or 7.2 of the *Code* in this case. The process does not permit those findings because the allegation of misleading the inquiry was not brought to Senator Oh's attention when the focus of the inquiry was expanded on October 30, 2018, although reference was then made to sections 7.1 and 7.2 in connection with improperly trading on his office as Senator to arrange benefits for private individuals who were touring with him on a personal trip and using Senate resources in order to do so. The issue of misleading the inquiry was not advanced at the time the inquiry was expanded to include sections 7.1 and 7.2 because I was only able to come to this conclusion after my last meeting with Senator Oh on November 6, 2019. Accordingly, Senator Oh's lack of candour may only be addressed as an aggravating factor by the Committee in its consideration of sanctions and penalties.

⁶ The Office of the Senate Ethics Officer, *Inquiry Report under the Ethics and Conflict of Interest Code for Senators Concerning Senator Don Meredith* (March 9, 2017) at pp. 5-7, online: <<http://sen.parl.gc.ca>>.

CONCLUSIONS

As already outlined above, I am of the view that Senator Oh breached subsection 17(1) of the *Code* by accepting benefits that are prohibited, namely payment from his sister for the trip, two dinners hosted by Pantheon, and a dinner hosted by Xiamen Airlines. I regard his actions in attempting to mislead my inquiry and Senator Oh's deliberate blurring of his status as a Senator and his private affairs as distinct and significant aggravating factors for the purposes of assessing sanctions and penalties. The failure to maintain a clear separation between his public activities and his private activities is also the reason for his failure to uphold the principle in paragraph 2(2)(c) of the *Code*.

Ordinarily, where I make a finding that a Senator has breached his or her obligations under the *Code*, as I have here, subsection 48(14) of the *Code* would require me to indicate whether remedial measures to my satisfaction have been agreed to by the Senator, whether the Senator did not agree to remedial measures that would have been to my satisfaction and what those measures were, or whether remedial measures were either not necessary or not available. It would have been pointless to enter into a discussion with Senator Oh concerning remedial measures since I am of the view that none are available in this matter.

GENERAL OBSERVATIONS

I have already said that this report is not about Senators Housakos and Plett. But this report does leave the question about their compliance with the *Code* unanswered.

Senators Housakos and Plett went on this trip without being clear about who had paid for it, as was mentioned earlier. Neither filed a Statement of Sponsored Travel until much later, on November 28, 2017. This raises the question of whether they acted with reasonable diligence in discharging their own obligations under the *Code*. As explained above, the identity of the sponsor of a trip is an important factor in determining whether the trip qualifies as permissible sponsored travel.

Senators Housakos and Plett told me that they each asked Senator Oh who was paying for the trip. Senator Oh told them that it was being "taken care of" for them. Senators Housakos and Plett each told me that they had assumed that the trip was being paid for by a Fujian community organization based in Toronto or a similar third party association. In other words, they considered the trip to be a routine form of sponsored travel. As both Senators Housakos and Plett explained, the trip was similar to the types of travel that is sponsored by other associations. Their assumption in this regard was not unreasonable in the circumstances of this case. As I explain above, the trip had a significant official component. It is an unusual fact about this case that Senator Oh's sister paid for a trip with an official component and this occurred because Senator Oh mixed a private trip with an official one. Senators Housakos and Plett could not be expected to know this.

Senator Oh was the one who organized the trip and invited the other Senators to join him. Senators Housakos and Plett did not organize the trip. Given how the trip was organized, their explanation regarding their understanding of its nature, and the fact that Senator Oh told them he would take care of things, I do not believe it would be useful or productive to prolong this matter to examine their involvement any further. In the particular circumstances of this case, I find that their misunderstanding was not unreasonable.

I would, however, like to take this opportunity to remind all Senators that their obligations under the *Code* require them to exercise due diligence at all times, including in satisfying that they understand who is paying for their travel.

I would also like to take this opportunity to make some important observations. Senators are responsible and accountable each individually for their obligations under the *Code*. They may certainly ask for assistance from Senators and others but they cannot delegate their obligations to them. These obligations are held individually, not collectively. If they are uncertain about how the rules apply to their particular situations, they are expected to contact my Office and seek advice in order to inform themselves, rather than rely on other Senators to make decisions concerning their obligations under the *Code*.

There is no rule against a family member paying for a Senator's purely personal travel. However, as a general rule, it follows from subsections 17(1) and 18(1) of the *Code* that a Senator may not permit a family member to pay for official travel.

I would also note that a great amount of confusion and delay has been caused in this case by the failure of Senator Oh to maintain records that would provide some evidence as to who paid for the trip, how much they paid, when the payments were made, and any agreements concerning reimbursements. Senators are expected to keep proper records, including receipts, of travel expenses that are incurred on their behalf.

Finally, it is important for Senators to be aware for the future that a deliberate failure to cooperate during an inquiry is directly related to a Senator's obligations to uphold the highest standards of dignity in section 7.1 and to act with integrity, honour and dignity when acting in the course of their parliamentary duties and functions, as is required by section 7.2.

Pierre Legault
Senate Ethics Officer

February 18, 2020

APPENDIX A

Delegation to P. R. of China, April 15-30, 2017

Featured cities:

1. Beijing, 2. Fuzhou, 3. Putian, 4. Quanzhou, 5. Anxi and 6. Xiamen.
(Please see attached maps for reference)

Itinerary

1. April 15 • Departure from Toronto
2. April 16 • Arrival in **Beijing**
3. April 17 • Dinner with Ambassador McCallum and Embassy officials
4. April 18 • Departure from Beijing to **Fuzhou** - capital city of Fujian Province
5. April 19 • Meeting with Fuzhou municipal government leader
6. April 20 • Departure from Fuzhou to **Putian**
 - Visiting Putian economic zone
7. April 22 • Visiting Matsu temple and attending other cultural activities
 - Departure from Putian to **Quanzhou**
 - Meeting with municipal government leader
8. April 23 • Worshipping ancestors in **Anxi** - Senator Oh
 - Returning to Quanzhou
9. April 24 • Attending cultural activities in Quanzhou
10. April 25 • Departure from Quanzhou to **Xiamen**
 - Meeting with municipal government leader
11. April 26 • Attending cultural activities in Xiamen
April 27 • Attending Canada-China Economic and Trade Reception in Xiamen

Delegation to P. R. of China, April 15-30, 2017

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| 12. | April 28 | • Departure from Xiamen to Beijing
• Meeting with CCLA Chair Hon. CHI Wanchun |
| 13. | April 29 | • Attending cultural activities in Beijing |
| 14. | April 30 | • Departure from Beijing to Toronto |

Delegates:

1. Senator, Hon. Victor Oh and Mrs. Oh - Rosa Chiu
2. Senator, Hon. Leo Housakos and Mrs. Housakos - Demi Papapanagiotou
3. Senator, Hon. Donald Neil Plett and Mrs. Betty Plett
4. Mr. GuoHua Zhou, President of Canada China Ice Hockey Association
5. Mr. YuMing Guo, Vice President of Confederation of Toronto Chinese Canadian Organizations (CTCCO)
6. Mr. XuCai Xu, Honorary Chairman of the Chinese Enterprises Society of Canada
7. Mr. JianCheng Zhou, President of Canada China Economic & Culture Exchange Association
8. Mr. WenSheng Zhang, Director of Canada China Ice Hockey Association
9. Mr. TianGuo Hong, Founding Chairman of the Association of United Chinese Financial Professionals
10. Mr. XiaoHua Cai, Honorary Chairman of the United Quanzhou Association of Toronto Canada
11. Mr. Hanshui Zheng, Honorary Chairman of the United Quanzhou Association of Toronto Canada
12. Mr. ZhiWei Lin, President of the United Quanzhou Association of Toronto Canada
13. Mr. Fan Zhang, Honorary Chairman of the United Quanzhou Association

Delegation to P. R. of China, April 15-30, 2017

of Toronto Canada

14. Mr. BinNing Lin, President of the Quanzhou Chamber of Commerce in Canada
15. Mr. JianYi Tan, President of the Xiamen Overseas Chinese Society Of Canada
16. Mr. GuoNing Weng, Vice President of Confederation of Toronto Chinese Canadian Organizations (CTCCO)
17. Mr. Ying Yang, Vice President of the Xiamen Enterprises and Entrepreneurs Association
18. Mr. KaiJun Chen, Vice President of the Canada China Chamber of Industry and Commerce
19. Ms. YingJing Huang, Vice President of the United Quanzhou Association of Toronto Canada
20. Mr. JianJun Jia, Delegation assistant, Vice President of the Canadian Association of Chinese Reporters
21. Mr. Xiong Su, Honorary Chairman of the United Quanzhou Association of Toronto Canada, Co-Chair of the Canada Confederation of Shenzhen Associations

APPENDIX B

[TRANSLATION FROM MANDARIN TO ENGLISH]

Names and Brief Introduction of Delegation Members:

1. Senator the Honourable Victor Oh and his wife, Rosa Chiu:

The family of Mr. Oh has its origin in Anxi County of Fujian Province in China, he was born in Singapore, and he was once chosen as one of the “Canada Top 25 Immigrants by “Canadian Immigration Magazine”. Mr. Oh is currently member of the Senate Committee on Foreign Affairs and International Trade, the Senate Committee on Agriculture and Forestry and the Senate Committee on Aboriginal Affairs. At the same time, he also holds positions in multiple friendly parliamentary associations. He was once the Co-Chairman of Canada-China Legislative Association, committed to promote the exchange between Canada and China especially in the political, economic trade and cultural fields. As the head of the Canadian delegation, Senator Oh successfully moderated the 24th Asia-Pacific Parliamentary Forum in 2016. His wife, Rosa Chiu, is a Chinese immigrant from Hong Kong and currently engaged in community organizations affairs and investments.

2. Senator the Honourable Leo Housakos and his wife, Demi Papapanagiotou:

Mr. Housakos is from Quebec, Canada and he is the former Speaker of the Senate of Canada. Mr. Housakos is currently the chairperson of the Senate Committee on Internal Economy, Budgets and Administration, the chairperson of the Subcommittee of Communications and a member of the Senate Committee on Foreign Affairs and International Trade. He was appointed as a Senator of Canada in 2008 and then as the Speaker of the Senate of Canada in 2015 by the then Prime Minister Harper. He was once the President of Terreau and also Quadvision International and was appointed to the Board of Directors of Via Rail Canada in 2007. His wife, Demi, is a registered respiratory therapist in a hospital.

3. Senator the Honourable Donald Neil Plett and his wife, Betty Plett:

Mr. Donald Neil Plett comes from Manitoba, Canada and he was appointed to be a Senator of Canada by the then Prime Minister Harper in 2009. Before that, he was engaged in his family business in Manitoba. Mr. Plett is a key figure in the Conservative leadership team in the Senate and also a member of the Senate Committee on Legal and Constitutional Affairs and the Senate Committee on Agriculture and Forestry. He is also the chairperson of the Advisory Working Group, studying and recommending changes to the Senate’s administrative rules. He is married to his wife, Betty, and they have 4 children.

4. Xingyong Lin:

Chairman of the Confederation of Toronto Chinese Canadian Organizations and the Chairman of the Board and CEO of Canada Blue Sky Corporation.

5. Guohua Zhou:

Chairman of the Hockey Cultural Exchange Association of Canada-China. Mr. Zhou was once the President and CEO of Rimbunan Hijau Group (China), which is a Fortune 500 company, and a director and General Manager of Contemporary Eastern Investment Co., Ltd. (000673.SZ), which is listed on the Mainboard of Shenzhen Stock Exchange. He is currently an independent director of Heli Chenguang International Culture & Media Co., Ltd. (836201.OC, listed on China's New Third Board), the executive director of Share Economy Group Co., Ltd. (01178.HK, listed on the Mainboard of the Hong Kong Exchanges), the Chairman of the Board of NCF Media (Beijing) Co., Ltd., the founding partner of Worl-D Asset Management (Hong Kong) Co., Ltd., the Chairman of the Board of Asia Pacific Financial Holdings (Hong Kong) Co., and the Chairman of the Board of Internet Media Group Limited (Hong Kong).

6. Yuming Guo:

Vice Chairman of the Confederation of Toronto Chinese Canadian Organizations, Vice Chairman of the Canada Confederation of Fujian Associations, Vice Chairman of the Overseas Chinese Businessmen Federation of Fujian Province, Overseas Advisor of Qingdao Federation of Returned Overseas Chinese, President of Canada Markham Investment Group & Chairman of the Board of Qingdao Lanting Property Company Limited.

7. Kai Chen:

Chairman of Fujian Enterprises Association of Canada, Chairman of Fujian Community Association of Canada, Chairman of the Board of Sunny Group of Canada & Chairman of the Board of Sunny Development Holdings Inc.

8. Xucai Xu:

The 4th, 5th and current honorary Chairman of the Chinese Enterprises Society of Canada, an entrepreneur from Vancouver.

9. Jiancheng Zhou:

Honorary Chairman of Chinese Canadians for China's Reunification, Chairman of the Canada-China Economic Trade & Culture Exchange Promotion Alliance, Chairman of Putian-Xianyou Association of Canada and Canada Putian Chamber of Commerce, Chairman of the Board of Evertrust Development Group of Canada & Chairman of the Board of Eastwill Group.

10. Wensheng Zhang:

President of the Hockey Cultural Exchange Association of Canada-China, General Manager of Beijing Airport Tianrui Properties Investment Co., Ltd. & Chairman of the Board of Beijing Gold Concord Group Co., Ltd.

11. Tianguo Hong:

Founding Chairman of the Association of United Chinese Financial Professionals, 2nd Chairman, 3rd Honorary Chairman and 4th Permanent Honorary Chairman of Quanzhou Friendship Society of Canada, the founder of Heavenly Resources Financial Inc. of Canada & Director of Trinity Financial Services Inc.

12. Xiaohua Cai:

Permanent Honorary Chairman of the United Quanzhou Association of Toronto Canada & Hong Kong Goldstar (China) Co., Ltd.

13. Zhiwei Lin:

Chairman of the United Quanzhou Association of Toronto, Canada, Chairman of Cantrust Group of Canada & Chairman of the Board of Xiamen Taijia Import & Export Trade Co., Ltd.

14. Fan Zhang:

Permanent Honorary Chairman of the Quanzhou Association of Toronto Canada & Chairman of the Board of Quanzhou Rushihui Cultural Artworks Investment Co., Ltd.

15. Bingning Lin:

Chairman of Quanzhou Chamber of Commerce in Canada, Chairman of the Board of Shanghai Huaning Sport Products Co., Ltd. And Quanzhou Huaning Sport Products Co., Ltd. & Chairman of the Board of Global Education Alliance of Canada.

16. Jianyi Tan:

Chairman of Xiamen Overseas Chinese Society of Canada and Xiamen Economic and Trade Center of Canada & Chairman of the Board of Canada Quanmao Business International Co., Ltd.

17. Guoning Weng:

Vice Chairman of the Confederation of Toronto Chinese Canadian Organizations, Chairman of Southern Fujian Business Association of Canada, Vice Chairman of Xiamen Federation of Industry

and Commerce, Chairman of the Board of Fujian Business International Group of Canada & Chairman of the Board of Rongbang Holding Co., Ltd.

18. Ying Yang:

Member of the Chinese Enterprises Society of Canada, Chairman of Xiamen Enterprises and Entrepreneurs Federation, Head of Xiamen Entrepreneurs Ensemble, Vice Chairman of Xiamen Association of Enterprises with Foreign Investment, member of the 10th, 11th, and 12th Xiamen Municipal Committee of CPPCC & Chairman of the Board of Xiamen Shengbo Haiyi Cultural Communication Co., Ltd.

19. Kaijun Chen:

Vice Chairman of the Canada-China Chamber of Industry and Commerce Association, Honorary Chairman of Quanzhou Friendship Society of Canada, Vice Chairman of the China Federation of Overseas Chinese Entrepreneurs, Managing Director of Jimei University, Chairman of Xiamen Quangang Chamber of Commerce, Chairman of the Board of Xiamen Lingsheng Industrial Co., Ltd. & Chairman of the Board of Holworth (Xiamen) Information Technology Co., Ltd.

20. Yingjin Huang:

Director of Finance Division of Canada Confederation of Fujian Associations, Vice Chairman of the United Quanzhou Association of Toronto Canada & Vice Chairman of the Board of Canada Blue Sky Corporation.

21. Jianjun Jia:

Special Assistant to the delegation headed by Senator Victor Oh, 4th Chairman of Chinese Media Professional Association – Toronto, Vice Chairman of Canadian Association of Chinese Reporters & CEO of Maple Bridge Media Canada.

22. Xiong Su:

Permanent Honorary Chairman of the United Quanzhou Association of Toronto Canada, Permanent Honorary Chairman of Quanzhou Chamber of Commerce in Canada, Co-Chairman of Canada Confederation of Shenzhen Associations & Permanent Honorary Chairman of Quanzhou (Shenzhen) Chamber of Commerce.