



OFFICE OF THE SENATE ETHICS OFFICER

2008-2009
ANNUAL REPORT



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DISCLOSURE



Annual Report of the Senate Ethics Officer 2008-2009

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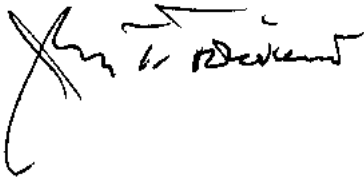
The Honourable Noël Kinsella
Speaker of the Senate
280-F, Centre Block
Parliament Buildings
Ottawa, Ontario
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Dear Mr. Speaker:

It is my honour and pleasure to submit to you the fourth Annual Report of the Senate Ethics Officer, pursuant to section 20.7 of the *Parliament of Canada Act*, R.S.C. 1985, c. P-1, as am. by S.C. 2004, c.7; S.C. 2006, c.9. It covers the period from April 1, 2008 to March 31, 2009.

Through you, I would like to express my sincere appreciation and gratitude to all senators for the cooperation and support they have provided to me and to my office.

Yours sincerely,



Jean T. Fournier
Senate Ethics Officer



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SENATE ETHICS OFFICER'S REMARKS

This is my fourth Annual Report to the Senate, prepared pursuant to section 20.7 of the *Parliament of Canada Act*. It covers the period from April 1, 2008 to March 31, 2009. I wish to thank all senators for their cooperation throughout this last year and, in particular, the 18 new senators whose appointment was announced by the Prime Minister on December 22, 2008. I am gratified when senators tell me they appreciate the work of the office.



As required by the *Conflict of Interest Code for Senators*, each new senator completed and returned to my office a comprehensive confidential disclosure statement, listing the senator's financial and other interests: outside activities, sources of income, assets and liabilities, and federal government contracts. I subsequently met with each senator to explain the role of my office and to discuss his or her obligations under the Code, the details of his or her disclosure statement, as well as the contents of the public disclosure summary, the latter of which I am required to prepare based on each senator's confidential disclosure statement, and to place in the Public Registry where it is available for public inspection.

I received excellent cooperation from new senators and detected on their part a strong commitment to the Senate as an institution and to performing their duties with honour, integrity and respect. I took the opportunity in my meetings with new senators to emphasize the importance of seeking my advice, especially in circumstances in which they are uncertain how to proceed. Difficulties tend to arise when advice is not sought. The most helpful piece of advice I am able to give a new or sitting senator is to ask if in doubt.

“There is little doubt that there is currently considerable public cynicism towards politics and politicians...[T]he public has also become more distrustful of politicians in general. Whether we as a group are in fact less ethical today than in the past is unclear and perhaps irrelevant. What is essential is that we respond to the existing climate by making more efforts than in the past to be, and to be seen to be, men and women of integrity”.

The Honourable Donald H. Oliver, Q.C.,
Senator, March 20, 1997



I would like to take this opportunity to express my appreciation to each member of my staff who has been with the office since the beginning in 2005: Mrs. Louise Dalphy, Administrator and Ethics Advisor; Ms. Deborah Palumbo, Assistant Senate Ethics Officer and General Counsel; Mr. Willard Dionne, Director; and Mr. Jacques Lalonde, Chief Advisor. I am grateful to each and every one of them for their dedication and commitment to the office, especially during the second half of this past year. The pressure resulting from the fall parliamentary timetable, including the dissolution of Parliament on September 7, 2008, the general election held on October 14, 2008, the prorogation of Parliament on December 4, 2008, as well as the appointment of 18 new senators in late December 2008, as noted earlier, placed intense demands on the resources of my small office. That we were able to cope and achieve our objectives in a timely manner is a tribute to their hard work and professionalism.

Finally, and as in past years, I would like to express my appreciation to the Senate Administration for providing my office with quality and timely support services throughout the year in the following areas: security, finance, human resources and information technology. These services were provided on a cost recovery basis, pursuant to a written agreement.



1. THE SENATE CONFLICT OF INTEREST REGIME

(1) Role of the Senate Ethics Officer

I am an independent Officer of the Senate. My mandate is to administer, interpret and apply the *Conflict of Interest Code for Senators*, adopted by the Senate in May 2005 and revised in May 2008. My primary objective is to prevent conflicts of interest before they occur. The main responsibilities of the Senate Ethics Officer are to:

- advise individual senators on a confidential and ongoing basis concerning their obligations under the Code and to assist them in remaining in compliance with the requirements of the Code;
- oversee the ongoing annual disclosure process in which senators are required to disclose their financial and other interests;
- conduct inquiries in order to determine whether a senator has complied with his or her obligations under the Code;
- maintain a Public Registry containing information concerning the financial and other interests of senators that are required to be publicly disclosed under the Code; and
- submit an annual report of the office's activities to the Speaker of the Senate for tabling in the Senate.

My authority derives both from the *Parliament of Canada Act* and the *Conflict of Interest Code for Senators*.

The *Parliament of Canada Act* was amended in 2004, at which time sections 20.1 to 20.7 were added to the legislation. These provisions established the position of Senate Ethics Officer, defined the mandate of the office and provided additional details in this regard. My status, duties and powers are broadly similar to those of the Conflict of Interest and Ethics Commissioner in respect of her responsibilities concerning members of the House of Commons, and to those of provincial and territorial ethics commissioners who administer conflict of interest laws applicable to members of legislative assemblies across the country. I am solely responsible for the interpretation and application of the Code as it relates to individual senators.

There are many provisions of the *Parliament of Canada Act* that clearly demonstrate the importance Parliament attaches to the independence of the Senate Ethics Officer, including the appointment process, the security of tenure, financial autonomy and reporting relationships. For example, I am appointed by the Governor in Council after consultation with the leader of every recognized party in



the Senate and after approval of the appointment by resolution of the Senate. This method of appointment ensures that the Senate Ethics Officer has the broadest support in the Senate, irrespective of party affiliation. The incumbent is appointed for a renewable term of seven years and may be removed from office, only for cause, by the Governor in Council on address of the Senate.

“Collective wisdom is that a person directly and personally involved in a situation is not in the best position to make an objective decision about their involvement, when it is called into question. Hence the practical wisdom on seeking independent advice”.

Gary Crooke, QC
Queensland Integrity Commissioner, Annual Report, 2005-2006

The Senate Ethics Officer has the rank of a deputy head of a department of the Government of Canada and the *Parliament of Canada Act* ensures that I have the control and management of my office independent of the Senate. For example, I am responsible for preparing the estimates of the budget required to operate the office, which are separate and distinct from the estimates of the Senate as a whole. I submit the estimates to the Speaker of the Senate who, after considering them, transmits them to the President of the Treasury Board. They are then laid before the House of Commons with the estimates of the Government for the fiscal year. Three months after the end of each fiscal year, I am required to submit a report of my activities to the Speaker of the Senate, who must table the report in the Senate. These aspects of the *Parliament of Canada Act* confer on my office a status of independence and autonomy and they provide an effective shield against improper or inappropriate influence. In my experience, and this is shared by my counterparts across the country, this independence is essential to the proper functioning of ethics commissioners if they are to have credibility and to retain the confidence of both the public and legislators in the manner in which they discharge their roles.

The *Conflict of Interest Code for Senators*, which I am responsible for administering and interpreting, is a document separate from, but of equal standing to, the *Rules of the Senate*. The Code contains a series of rules of conduct with which senators must comply, as well as an annual disclosure process that includes the public dissemination of information concerning the financials and other interests of senators. The Code also sets out a complaints process whereby I may conduct inquiries into allegations of non-compliance. Section 41 refers explicitly to my



independence. It provides that the Senate Ethics Officer is an independent officer who performs the duties and functions assigned by the Senate under the Code. It also makes explicit that I am independent in interpreting and applying the Code as it relates to an individual senator's particular circumstances.

"It will never be the number of files that we receive that matters but rather the complex and delicate nature of these files".

Dwight L. Bishop
Ombudsman
Province of Nova Scotia

The Senate Code is relatively succinct; there are only 53 sections. But it is the application of the Code to individual cases and in particular circumstances that is most difficult. This is one of the key challenges I face, like my counterparts in other Canadian jurisdictions.

"In the management of public sector ethics, codes, commissions and cops all have their place...But what works in encouraging political ethics, in sustaining a political system that values political decency? My preference is to avoid cumbersome legal prescription and rule-compliance approaches. Talk is better than chalk..."

Professor John Uhr
Australian National University, 1996
Canberra, Australia

(2) Role of the Committee

The Senate has delegated responsibility to the Standing Committee on Conflict of Interest for Senators to oversee the conflict of interest regime in the Senate and to act as the link between the Senate and the Senate Ethics Officer.

The Committee has an important role to play with respect to any inquiries and investigations that may be undertaken under the Code. It makes recommendations to the Senate concerning sanctions, where it considers them necessary, in cases where a senator has failed to comply with the requirements of the Code. The Senate then is able to act on such recommendations and exercise its constitutional right to discipline its own members by making final determinations in this regard.



The Committee is also responsible for undertaking periodic comprehensive reviews of, and recommending changes to, the Code. In a sense, the Committee is the conscience of the Code. As the person responsible for the administration, interpretation and application of the Code on a day-to-day basis, I bring issues of concern to the Committee's attention and submit proposals to it in order to clarify and strengthen the Code.

Another function of the Committee is to provide "general direction" to the Senate Ethics Officer. (The Procedure and House Affairs Committee of the House of Commons performs a similar function with respect to the Conflict of Interest and Ethics Commissioner in respect of her role concerning Members of the House of Commons.) Last year, I met the Committee on two occasions, once to discuss my submission to the Committee regarding changes to the Code in the context of a mandatory review to be undertaken by the Committee within three years of the coming into force of the Code, and on another occasion, to discuss proposed amendments to the Code. These meetings also covered matters of a general or administrative nature.

The Committee is comprised of five members: two are elected by secret ballot from the caucus of Government senators, two are elected by secret ballot from the caucus of Opposition senators, and these four members elect the fifth by secret ballot. The current members are as follows: the Honourable Serge Joyal, P.C. (the Chair), the Honourable Raynell Andreychuk (the Vice-Chair), the Honourable David Angus, Q.C., the Honourable Sharon Carstairs, P.C., and the Honourable Fernand Robichaud, P.C.

The text of a recent interview in which Senator Joyal commented on the Senate conflict of interest regime and on the respective responsibilities of the Committee and the Senate Ethics Officer is attached to this Report as Appendix E.

(3) The Conflict of Interest Code for Senators

The Code is a set of rules established by senators for senators. As already noted earlier, it was first adopted by the Senate on May 18, 2005. Following a comprehensive review of the Code by the Committee, which resulted in a series of recommendations to the Senate in its Fourth Report, the Senate adopted a number of important amendments to the Code on May 29, 2008.

As noted earlier, the Code sets out a series of rules with which senators are expected to comply and obligations that senators are expected to meet, as well as the respective roles and responsibilities of the Committee and the Senate Ethics Officer in the process. The Code also contains a series of purposes and principles.



These are important because they emphasize that integrity, impartiality and transparency are vital to a democracy.

One of the purposes outlined in section 1 is to “establish clear standards and a transparent system by which questions relating to proper conduct may be addressed by an independent, non-partisan adviser”. Section 2 contains certain principles that serve to guide the interpretation of the various provisions of the Code. One of the principles provides that senators are expected to remain active in their regions and communities while “serving the public interest and those they represent to the best of their abilities”. Such a statement acknowledges the importance of remaining connected to one’s community, while ensuring that the public interest is paramount and takes precedence over a senator’s private interests.

“Conflict of interest in the public sector is the clash of a private interest with a public duty. It involves the potential to further private, personal interest at the expense of fulfilling public duty and acting in the public interest. . . . That people have interests is obvious. People act in and are of the world – they have interests, and this remains so whether they are public officials or private actors. Interests are inescapable for they are the stuff of being human. . . . [W]hat becomes important is not so much their presence as what is done about them when one has interests which clash with duties. Conflicts may be both avoidable and unavoidable and again it is what one does when they arise which is critical.”

Professor Gregory J. Levine, University of Western Ontario, 2007

The Code then builds on these overarching principles through an explicit and succinct set of rules with respect to such matters as gifts and other benefits, sponsored travel, outside activities, declaration of private interests, use of influence, insider information and Government contracts. The Code also sets out annual and ongoing disclosure requirements. The disclosure process is a rigorous one that involves both confidential as well as public disclosure through a public registry of information. As noted earlier, it also includes a series of face-to-face meetings, which usually commence in November of each year and end in March. A document summarizing this disclosure process is found in Appendix F to this Report.



“...[L]egislative ethics provides the preconditions for the making of good public policy. In this respect, it is more important than any single policy because all other policies depend on it”.

*Professor Dennis F. Thompson,
Harvard University, 1995*

(4) Opinions and Advice

Section 42 of the Code explicitly states that individual senators may request written opinions and advice from the Senate Ethics Officer respecting their obligations under the Code. In my view, this is the most important part of my mandate. I prepare numerous written opinions and advice as part of the annual disclosure process concerning a wide variety of matters. Other opinions are unrelated to the annual disclosure process but concern conflict of interest issues that arise throughout the year. Many requests for advice, however, are of a more informal nature through telephone conversations, meetings and e-mail exchanges. These informal discussions offer guidance and information to senators in order to help them to better understand the Code and how it applies in different circumstances. But written opinions and advice are of particular importance since only they are binding in relation to any subsequent consideration of the matter, as long as all the relevant facts that were known to the senator were disclosed to me (subsections 42(2) and (3)). Moreover, a written opinion or advice provided by me to a senator and relied upon by that senator is conclusive proof that the senator has fully complied with his or her obligations under the Code (subsection 42(5)). Most opinions and advice must be kept confidential under the Code. Since my appointment as Senate Ethics Officer, this office has received, on average, between 200 and 300 requests for opinions or advice each year.

“Ethics rules only work if there is broad participation in their drafting, and because the Senate has its own code and its own officer, I think the rules have more credibility, in this chamber than might otherwise be the case... It is the personal counseling of the Senate Ethics Officer that is so important to the success of the conflict of interest regime.”

Professor Ian Greene, York University, 2006



(5) Inquiries and Investigations

Sections 44 to 49 of the Code concern inquiries and investigations carried out where there are issues of non-compliance. I may initiate an inquiry to determine whether a senator has complied with his or her obligations under the Code: (i) at the direction of the Standing Committee on Conflict of Interest for Senators; (ii) at the request of another senator; or (iii) where I have reasonable grounds to believe that an inquiry is warranted and I have obtained the approval of the Committee.

(6) Committee Review

Section 53, the last section of the Code, requires the Committee to undertake a review of the provisions of the Code and its operation once every five years. The Committee is required to submit a report to the Senate on this review, including recommendations respecting changes to the Code.

(7) Other Rules and Laws

There are other rules and laws that senators are expected to comply with in addition to the rules that were brought into effect when my office was established.

For example, section 16 of the *Parliament of Canada Act* prohibits senators from receiving outside compensation, whether directly or indirectly, for services rendered or to be rendered to any person, either by the senator or another person, in relation to any matter before the Senate or the House of Commons or any of their committees; or for the purpose of influencing or attempting to influence any member of either House.

Sections 119, 121 and 122 of the *Criminal Code* are also applicable to senators in light of the Supreme Court of Canada's interpretation of these provisions. Section 119 deals with offences related to bribery. Section 121 concerns frauds on the government and is aimed in part at influence peddling. Section 122 creates offences relating to fraud and breach of trust.

The *Rules of the Senate* also contain conflict of interest rules. Subsection (4) of rule 65 provides that a senator may not vote on any question in which he or she has a pecuniary interest not available to the general public. Subsection (1) of rule 94 provides that a senator who has a pecuniary interest not held in common with the general public in a matter that is referred to a committee is not permitted to sit on that committee.

Finally, some of the rules in the *Senate Administrative Rules*, which came into force on May 6, 2004, and were revised in 2007, relate to the proper allocation and use of Senate resources. Section 6 of Chapter 3:01 of these Rules provides that



Senate resources must only be used for parliamentary functions and for the service of the Senate.

The provisions referred to above in the *Criminal Code*, the *Rules of the Senate* and the *Senate Administrative Rules*, and section 16 of the *Parliament of Canada Act*, do not come within the purview of the Senate Ethics Office.



2. THE YEAR IN REVIEW

(1) Opinions and Advice

As noted earlier, I consider the advisory function to be the most important aspect of my mandate. I provide confidential advice and opinions to individual senators on an on-going basis in order to assist them in remaining in compliance with the requirements of the Code. Having access to an outside and independent opinion that is confidential allows senators to ask before acting, particularly in those grey areas that often lead to problems for those who have entered public life. While each senator is responsible for arranging his or her affairs in such a way as to prevent any foreseeable real or apparent conflicts of interest, if a senator has any doubt about whether there may be a conflict or a perceived conflict, the senator is encouraged to consult me on a confidential basis to resolve the matter.

To this end, I have made myself available to senators for advice and guidance throughout the year. My approach is preventative, not punitive. The focus is not on addressing conflicts of interest once they have arisen, but rather on preventing them from arising. Like my counterparts in other Canadian jurisdictions, I continue to believe that preventing conflicts from arising is preferable to conducting formal inquiries and investigations that are time-consuming and expensive, and that it is in the public interest to avoid conflicts rather than to attempt to deal with them once they have already arisen. As the old saying goes, "an ounce of prevention is worth a pound of cure". The emphasis on prevention and education is one of the distinguishing characteristics and recognized strengths of the Canadian model of parliamentary ethics.

"In a sense the creation of conflict of interest or ethics offices or commissions can be compared to preventative medicine, as distinct from treating disease after its outbreak. One by one, bad apples always get rooted out. If the preventative medicine program does effective work, bad apples should be rare and hopefully, non-existent (sic)."

The Honourable E.N. (Ted) Hughes,
Former Commissioner of Conflict of Interest of British Columbia, Annual Report, 1991-92

This past year, I provided over 200 opinions and advice, both formal and informal, of varying degrees of complexity. I intend to continue to emphasize prevention by providing sound and timely opinions to senators and by meeting with individual senators at least once a year, whenever possible. Another one of my priorities is to



continue to improve the office website so that it may provide a useful tool for senators and their staff, as well as a source of information for the general public. This year, there were 7,300 visits to our website located at the following address: www.parl.gc.ca/seo-cse. Moreover, the office's last two Annual Reports provide some examples of specific scenarios that are intended to help the reader in better understanding the advisory function and how the Code works in practice. The main areas in relation to which senators sought advice this past year include: activities outside their official parliamentary duties, sponsored travel, gifts and other benefits, declaration of private interests, and disclosure requirements.

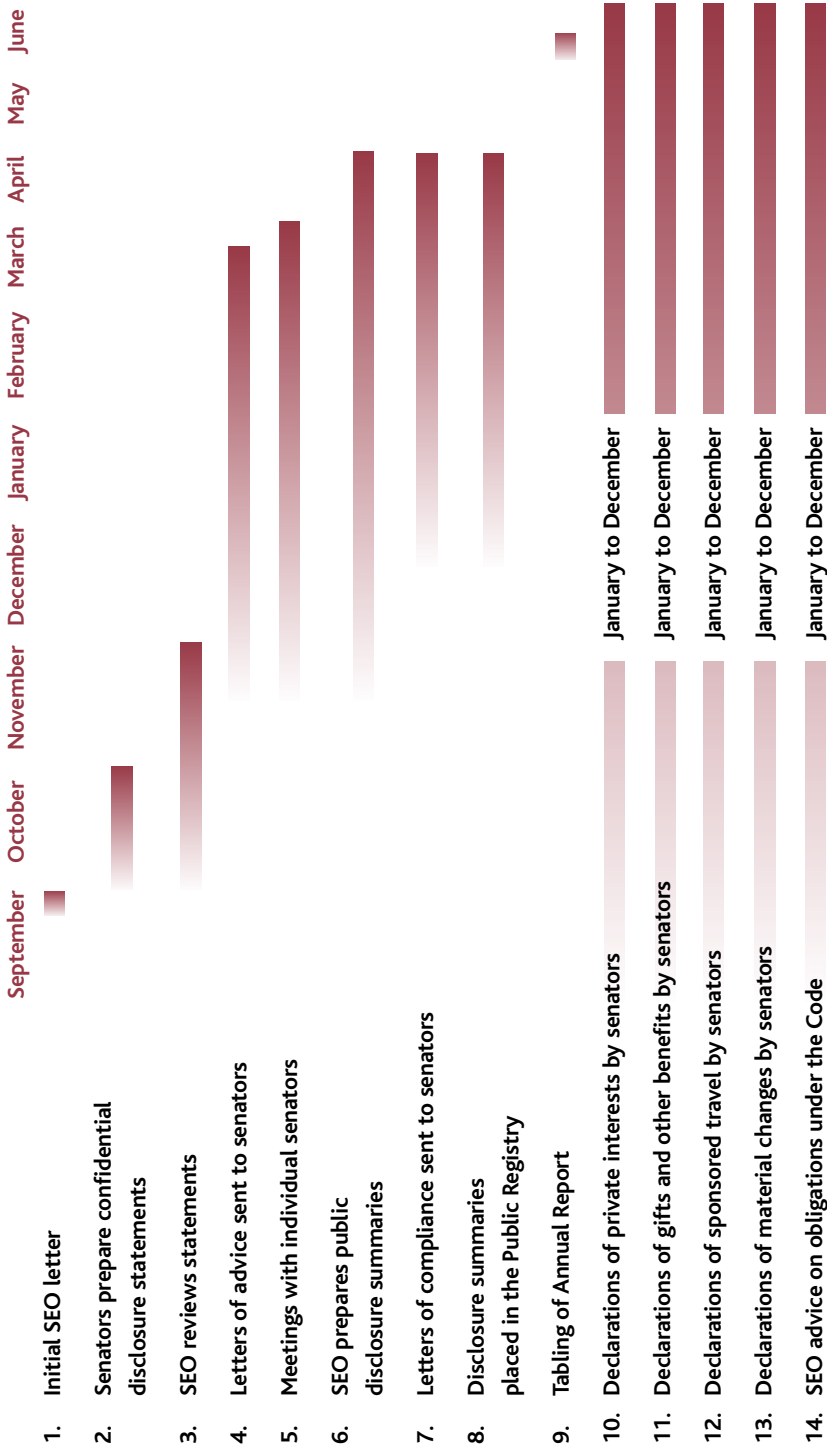
(2) Annual Disclosure Process

The annual disclosure process generally begins in the fall of each year when Parliament resumes after the summer recess. There were significant delays in completing the disclosure process this year due to circumstances beyond the office's control.

However, at the time of writing of this Report, all senators were in compliance with the requirements of the Code. They had completed and returned their confidential disclosure statements, and their public summaries had been placed in the Public Registry, along with any statements regarding gifts and other benefits, sponsored travel, material changes, declarations of private interests, and letters of opinion concerning federal Government contracts. I wish to express my appreciation to all senators and their staff for their cooperation in advancing the process. While I met with each new senator at least once, it was not possible for me to meet with all sitting senators this year given the delays in the process due to the unusual parliamentary cycle this past year. Having said that, and as I noted in my previous Annual Reports, face-to-face meetings, at least once a year, are extremely valuable both for individual senators and for myself in the discharge of my duties and responsibilities. Along with my counterparts in other jurisdictions, I have found that these meetings are not only helpful in the context of the disclosure process, but they also provide an opportunity for senators to raise and discuss questions and concerns regarding other obligations that they are required to meet under the Code. These meetings allow for a constructive mutual exchange and provide an opportunity for senators to signal matters that may be coming forward that could be problematic. Moreover, a face-to-face meeting to discuss a complex issue, regardless of its duration, is often the most effective and efficient way to elicit the facts and information required for a proper resolution of the matter.



OVERVIEW OF THE SENATE DISCLOSURE PROCESS





(3) Inquiries and Investigations

This year, as in past years, no formal complaints were made against any one senator. This, in my view, reflects well on senators and on the work of my office. Along with my counterparts in other jurisdictions, I see a clear correlation between the number of requests for opinions and advice and the number of inquiries that are undertaken – the more requests for opinions and advice and the more emphasis is placed on prevention and education, the less need for inquiries and the fewer the allegations that senators have breached the provisions of the Code. The number of inquiries undertaken by ethics commissioners in Canada over the last five years is set out in a table as Appendix G to this Report. As the table demonstrates, in most Canadian jurisdictions, inquiries are a rare occurrence.

(4) Budget

The office's Main Estimates for the year 2008-2009 is \$791,000. The total for this year (2009-2010) is \$806,000.

Our financial statements for the year 2008-2009 were audited by the firm van Berkomp & Ritz Chartered Accountants. I am pleased to report that we received a favourable report on the audit. The result of the audit is contained in Appendix H to this Report.

(5) Outreach and External Activities

As I have noted in the past, our ties with practitioners, academics, other professionals and organizations that are involved in conflict of interest issues, both in Canada and abroad, are invaluable to the office. Through these exchanges, we are able to compare different conflict of interest and ethics models, to identify the strengths in our system, and to consider ways of improving it.

I was invited to make a presentation to a group of participants of the Parliamentary Officers' Study Program on May 14, 2008 and again on February 11, 2009. This Program is hosted by the Senate, the House of Commons and the Library of Parliament and it offers participants the opportunity to observe, discuss and exchange views with senior Canadian parliamentary officials on the various procedural, administrative and research services provided to parliamentarians.



On September 11 and 12, 2008, I participated in the annual meeting of the Canadian Conflict of Interest Network (CCOIN). This meeting was held in Quebec City. CCOIN is an informal organization that is comprised of the various federal, provincial and territorial ethics, conflict of interest and integrity commissioners and officers in Canada. As in past years, the annual meeting of the association, as well as the ongoing exchanges among members throughout the year, provided an opportunity to share thoughts and views on matters of common interest. They were also opportunities to seek advice from colleagues on more complex issues and to exchange information on similarities and differences between the various ethics and conflict of interest regimes across the country.

In October and December 2008, I made presentations to students at York University and the University of Ottawa on the Senate conflict of interest regime from a comparative perspective.

From December 7 to 10, 2008, I attended the annual conference hosted by the Council of Governmental Ethics Laws (COGEL), which was held in Chicago, Illinois. COGEL is an organization that is rooted primarily in the United States. Membership is drawn principally from the U.S. and Canada, although there are some European, Australian and Latin American members as well. The organization is a professional body for government agencies, organizations and individuals with responsibilities or interests in governmental ethics, elections, campaign finance, lobby laws and freedom of information. Its goal is to ensure that ethics professionals are able to connect with others in the field and to keep them apprised of any new developments in the area that might be of interest. This past year, I was asked to co-chair a panel entitled, 'Ethics Update' with Mr. David Freel, Executive Director, Ohio Ethics Commission, and Ms. LeeAnn Pelham, Executive Director, City of Los Angeles Ethics Commission. My presentation was entitled: "Recent Developments in Canadian Parliamentary Ethics: A Perspective from the Senate".

Following my presentation in Chicago, I was invited by the United States Senate, along with two other Canadian colleagues, to meet with the Secretary of the Senate, Nancy Erickson, and other senior officials of both the US Senate Ethics Committee and the Committee on Standards of Official Conduct. The purpose of the visit was to share information regarding ethics administration and compliance issues, as well as the regulation of lobbying activities in both countries, the latter subject being of particular interest to my Canadian colleagues. I was also invited to meet with members and staff of the recently established Office of Congressional Ethics, an independent, non-partisan investigative entity charged with reviewing allegations of misconduct against Members of the House of Representatives and staff. There was a great deal of interest expressed in the Canadian model of parliamentary ethics and in the Senate regime in particular.



(6) Amendments to the Code and Looking Forward

“Progress is impossible without change, and those who cannot change their minds cannot change anything”.

George Bernard Shaw

Another priority this year was the implementation of the amendments to the Code that were adopted by the Senate in May 2008. As noted earlier, last year the Committee conducted a comprehensive review of the provisions of the Code. In my view, this is one of the Committee’s most important functions under the Code. The purpose of the review was to re-examine the Code’s provisions and to identify areas upon which improvements could be made. A copy of the Committee’s Report may be found in Appendix I to my Annual Report of last year (2007/08).

In terms of follow-up, the office prepared information for senators regarding the amendments to the Code and modified the various disclosure forms to reflect the recent changes. These were subsequently approved by the Committee in accordance with the Code.

One of the most important amendments adopted by the Senate was the addition of a new provision making specific reference to my independence. While in practice, my independence was never an issue, I recommended that the Committee make this point explicit in the Code, not only to emphasize its importance, but also to address any perception that I was not independent, particularly in respect of the opinions and advice I provide to individual senators.

Another important amendment involved the area concerning declarations of private interests. In most conflict of interest regimes in Canada, legislators must make some form of public declaration where they have a private interest in a matter before the legislature, or one of its committees. The Senate is no exception. Under the previous version of the Code, senators were required to make a declaration either in the full Senate or in committee, depending on where the issue first arose. This is still the case under the revised Code. However, the Code was amended to provide that senators are not only not permitted to debate any matter in which they have a private interest but, if the matter is before a committee, they must also withdraw from the proceedings altogether. And, of course, they are not permitted to vote in such circumstances.



Another amendment ensures that, where I am of the view that a meeting with a senator is required concerning an issue that has arisen in the context of the annual disclosure process, I may require that a meeting take place. This was an important change since, as noted earlier, (and this view is shared by most of my provincial and territorial counterparts), a face-to-face meeting with individual senators is often the most effective way of resolving a matter. It is an opportunity to obtain additional information about a senator's financial circumstances, to clarify any inconsistencies or ambiguities in the senator's confidential disclosure statement, and to discuss any measures that the senator is required to take to meet his or her obligations under the Code.

In recent months, I have had the opportunity to look more closely at certain provisions of the Code that were not addressed during the recent review, namely those relating to inquiries and investigations, and those relating to the disclosure of information. One issue which, in my view, should be examined, is that inquiry reports of the Senate Ethics Officer are not tabled in the Senate and made available to the public as is the case in most other Canadian jurisdictions. Another is that the Senate Ethics Officer cannot initiate an inquiry on his or her own initiative without the approval of the Standing Committee on Conflict of Interest for Senators. Although this power is used infrequently in other Canadian jurisdictions, it is available to most ethics commissioners in case it is required. In the area of disclosure, outside activities of family members (for example sitting on the boards of for-profit and not-for-profit corporations) are not disclosed by senators nor are the holdings of family members even where these are significant in any one company or sector of the economy. Yet such disclosure is required in provincial and territorial jurisdictions, as well as in the Senate and House of Representatives in the United States, in the House of Lords in the United Kingdom and in both the Senate and the House of Representatives in Australia. Having this information would greatly assist me in advising senators concerning real, apparent or potential conflicts of interests. In the Senate, the only disclosure that is required of family members of senators under the Code concerns contracts with the federal government.

“To achieve a high degree of independence from both executive and parliamentary interference, [parliamentary] agencies require: ...operational freedom to initiate their own inquiries.”

Professor Paul Thomas
University of Manitoba, 1998



I have advised the Committee that, in my view, an early review of the provisions related to these two areas would be desirable and need not wait until the next formal review of the Code in 2013. The Senate has done a great deal over the last five years to improve and strengthen its procedures and rules concerning conflicts of interest. In my view, the Senate conflict of interest regime rests on a solid foundation. As already noted earlier, there have been no allegations of impropriety against a senator since the adoption of the Code in 2005. This reflects well on the high standards of conduct in the Senate and on the work of the office. Moreover, the Senate conflict of interest regime bears favourable comparison with those of the Upper Houses in certain countries with which Canada often compares itself, namely the United Kingdom, the United States and Australia. In these countries, each House controls its own ethics rules and procedures. For example, in Australia, each House has its own register of interests, a Registrar to administer it and a committee to oversee and monitor it. These arrangements were established by the House of Representatives in 1984 and by the Senate in 1994.

In the Westminster model, the practice of each chamber determining what ethics rules will apply to its members and how they will be administered derives from long-standing parliamentary tradition and law. In particular, the independence of each House in deciding matters related to it is protected through the well-recognized privilege of each House of Parliament to regulate its own internal affairs and, as part of this privilege, the right to regulate the conduct of its own members. In the United States, the authority of each chamber to determine its own rules and to punish its members is explicitly referred to in Article 1 of the United States Constitution.

As Canadians expect a rising level of ethical conduct from their parliamentarians, there will always be more that could be done to improve on the existing rules. In its Third Report to the Senate on May 11, 2005, the Senate Standing Committee on Rules, Procedures and the Rights of Parliament wrote: "...[T]he *Conflict of Interest Code for Senators* is a work in progress. It is our Code, and only time and experience will tell if the choices reflected in this draft were the best possible. If not, we will have the opportunity to revisit it. Indeed, the Code itself mandates a thorough review after three years by its designated committee and, of course, the Senate may make changes at any time...". I share this Committee's view. A code is always a work in progress and adjustments and improvements should be considered whenever necessary. The Senate conflict of interest regime would benefit from further changes in these two areas and this, in turn, would enhance credibility in the regime and, in the Senate more generally.



KEY OBLIGATIONS OF SENATORS UNDER THE CONFLICT OF INTEREST CODE

- Senators may not act in any way to further their **private interests**, or those of their family members, or to improperly further another person's or entity's private interests when performing parliamentary duties and functions (section 8).
- Senators may not use their position to **influence** a decision of another person in order to further their own private interests, or those of their family members, or to improperly further another person's or entity's private interests (section 9).
- Senators may not use **information** that is generally not available to the public to further their own private interests, or those of their family members, or to improperly further another person's or entity's private interests (section 10).
- Senators are expected to make a **declaration**, orally or in writing, when they have reasonable grounds to believe that they or their family members have a private interest that might be affected by a matter that is before the **Senate** or a **committee** of the Senate in which they are members (subsection 12(1)). They **may not participate** in debate on that matter, **nor** are they **permitted to vote**, though they may abstain (subsections 13(1) and (2) and section 14). In the case of committees, senators **must also withdraw** from the proceedings (subsection 13(2)). With respect to senators who are only participating in committee proceedings, but are not formal members, they too must refrain from participating in debate on any matter in which they have reasonable grounds to believe they have a private interest and they too must withdraw from the proceedings in question (subsection 13(3)).
- Senators may not accept, nor may a family member accept, any **gift** or other **benefit** that could reasonably be considered to relate to their position, except as permitted under the Code. Gifts, benefits and sponsored travel that are acceptable under the Code must be declared to the Senate Ethics Officer if they exceed \$500.00 in value (sections 17 and 18) and these must be publicly declared pursuant to paragraph 31(1)(i).

continued on page 20



KEY OBLIGATIONS OF SENATORS UNDER THE CONFLICT OF INTEREST CODE (CONTINUED)

- Senators may not be parties to, or have interests in corporations or partnerships that are parties to, **contracts with the Government of Canada** under which they receive a benefit, unless specifically authorized by the Senate Ethics Officer (sections 20-26).
- Senators are expected to **disclose** their private interests to the Senate Ethics Officer on an annual basis and those interests required to be publicly disclosed under the Code are then placed on the public record (sections 27-34).
- Senators must report to the Senate Ethics Officer any **material change** to the information in their confidential disclosure statements, within the prescribed time (subsection 28(4)).
- Senators must cooperate with the Senate Ethics Officer with respect to any **inquiry** (subsection 44(12)).

APPENDICES

2008-2009

APPENDIX A

2008-2009



APPENDIX A

OVERVIEW OF THE CONFLICT OF INTEREST CODE FOR SENATORS

The *Conflict of Interest Code for Senators* was adopted by the Senate on May 18, 2005 as a document separate from, but of equal standing to, the *Rules of the Senate*. Recent amendments were made to its provisions in 2008 as a result of a review required under section 53 of the Code. These changes were adopted by the Senate on May 29, 2008.

The Code outlines a series of rules that are aimed at fostering transparency, accountability and public confidence in the Senate. These rules apply in addition to the already existing rules and laws governing the conduct of senators.

What follows is a short description of some of the more important aspects of the Code in order to illustrate the nature of the obligations that senators are expected to meet, as well as the responsibilities of the Senate Ethics Officer in the process.

A. Purposes (section 1)

The term "conflict of interest" is not explicitly defined in the Code, but the motivation for adopting a code of conduct is clearly set out in section 1. First, the Code is intended to maintain and enhance public confidence and trust in the integrity of senators and of the Senate. Canadians expect their representatives to make decisions that are in the public interest, rather than in their own private interests.

Second, the Code is intended to provide greater certainty and guidance for senators in dealing with foreseeable, real or apparent conflicts. This is important as a matter of fairness. Conflicts of interest may arise inadvertently despite the best of intentions. Indeed, situations may arise in which there is no real conflict, but rather there is only an apparent conflict. However, the appearance of a conflict may be just as damaging to one's reputation as a real conflict. Having a clear set of rules and standards is helpful in raising awareness with respect to, not only what would be a real conflict, but also what could be perceived as a conflict.

The third purpose of the Code builds on the second purpose already discussed above in that it refers to the establishment of clear standards on which to measure conduct. But it also highlights the importance of having a transparent system where questions may be addressed by an independent, impartial adviser. The model, in which an independent officer is charged with the responsibility of

administering and applying a set of rules that is outlined, either in a code of conduct or in legislation, has been in place for many years and has worked successfully in Canadian provinces and territories.

Sometimes referred to in international circles as the "Canadian" parliamentary ethics model, it has proven to be an effective system because it provides objectivity and credibility to ethics regimes. It is also important because conflict of interest questions are often complex. They are not always easy to resolve and they often require a great deal of time and thought in order to find the best solutions. Having an impartial adviser who reviews these questions and issues on a daily basis and applies a common set of rules and standards to all senators is both in the public interest, as well as in the interests of the Senate as an institution.

B. Principles (section 2)

The Code also contains certain principles set out in section 2 that serve to guide the interpretation of the various provisions of the Code. These principles read as follows:

2. (1) 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.

(2) The Senate further declares that this Code shall be interpreted and administered so that Senators and their families shall be afforded a reasonable expectation of privacy.

The first principle is an important one given the unique role the Senate plays in Canada's constitutional framework. The Senate's one hundred and five members are summoned by the Governor General on the advice of the Prime Minister. They are expected to represent regional interests and to reconcile the national interest



with regional aspirations. In order to do so, it is key for them to foster a better understanding of the issues that affect the regions they represent. They are able to do so by remaining connected to their communities and regions. Moreover, senators come from various backgrounds, professions and fields of expertise. This diversity enhances the knowledge and experience they are able to bring to their examination of public policy issues and it is one of the strengths of the Senate.

It is important to note that, unlike Cabinet ministers, senators do not control the public finances and they are constitutionally limited in this regard. As such, there are more restrictions that apply to Cabinet ministers in terms of their outside activities. By contrast, and as already noted above, senators are not only permitted, but they are expected, to continue to be involved and active in their communities and regions in order to better represent regional interests.

Having said that, these outside activities may give rise to situations in which a conflict, or the appearance of a conflict, may develop between a senator's private activities and the public interest. In such cases, paragraph (c) of the principles is important; it indicates that any such conflict or apparent conflict is to be resolved in favour of the public interest.

The second principle outlined in the Code provides that senators are expected to fulfill their public duties while upholding the highest standards in order to avoid conflicts of interest. This recognizes the trust that Canadians have placed in their parliamentarians as they carry out their duties and functions, as well as the high standards that Canadians expect of them.

The third principle makes reference to apparent conflicts. Senators are expected to arrange their private affairs so that, not only real, but also apparent conflicts may be prevented from arising.

The principles of the Code strike a delicate balance between permitting senators to play the unique constitutional role they were intended to play, while ensuring that their private affairs and outside activities do not take precedence over the public interest where these two come into conflict.

C. Opinions and Advice (section 42)

The Senate Ethics Officer provides opinions and advice to senators regarding their obligations under the *Conflict of Interest Code for Senators* pursuant to section 42. Although the Code requires that these opinions and advice be kept confidential, they may be made public by the senator to whom they were given, or by the Senate



Ethics Officer with the senator's written consent (subsection 42(4)). Moreover, some opinions related to contracts with the federal government must be made public under section 31 of the Code.

The importance of this advisory function should not be underestimated. While each senator is responsible for arranging his or her affairs in such a way as to prevent any foreseeable real or apparent conflicts of interest, if a senator has any doubt about whether there may be a conflict or a perceived conflict, the senator is encouraged to consult the Senate Ethics Officer on a confidential basis to resolve the matter. This approach is preventative, not punitive. The focus is not on addressing conflicts of interest once they have arisen, but rather on preventing them from arising.

D. Rules of Conduct

(a) Private Interests (sections 8 to 16)

In the performance of their parliamentary duties and functions, senators are prohibited from acting or attempting to act in any way to further their private interests, or those of a family member, or to improperly further another person's or entity's private interests (section 8). Moreover, they are not to use or attempt to use their position to influence the decisions of others in order to further these same interests (section 9).

The use of, attempt to use, and the conveying of, information that is not generally available to the public to further these private interests is also prohibited (section 10).

The Code sets out what is covered by the phrase "furthering private interests" (section 11). It includes taking action to increase or preserve the value of assets, to eliminate or reduce liabilities, and to become a director or officer in a corporation or organization. However, it excludes, for example, matters of general application and those that apply to a broad class of the public.

A senator is expected to declare, orally or in writing, the general nature of a private interest where the senator has reasonable grounds to believe that he or she or family members has such an interest in a matter that is before the Senate, or a Senate committee of which the senator is a member. Moreover, the senator is not permitted to participate in debate or to vote on the matter and, in the case of committee matters, the senator must withdraw from the proceedings in question (subsections 12(1), 13(1), (2) and section 14).



A senator who is only participating in a committee proceeding but is not a member of the committee is also prohibited from participating in debate on a matter in which he or she has reasonable grounds to believe he or she has a private interest that might be affected by the matter before the committee. In such cases, the senator must also withdraw from the proceedings in question (subsection 13(3)).

Where a senator made a declaration of a private interest out of an abundance of caution, but he or she later determines that the declaration was in fact unnecessary, he or she may retract the declaration in accordance with the rules provided under the Code for doing so (subsection 12(7)).

(b) Gifts and Sponsored Travel (sections 17 and 18)

Senators and their family members are not permitted to accept any gifts or benefits that could reasonably be considered to relate to the senator's position (subsection 17(1)). An exception is made for gifts or benefits that are expressions of courtesy, protocol or that are within the customary standards of hospitality that generally accompany a senator's position (subsection 17(2)). However, even if the gift or benefit falls under the exception, if its value exceeds \$500.00, or if the total value received from one source in one year exceeds \$500.00, then the senator must file a statement with the Senate Ethics Officer disclosing the nature, value, and source of the gifts or benefits, and the circumstances under which they were received (subsection 17(3)).

This disclosure must occur within thirty days after the receipt of the gift or benefit, or within thirty days after the value of all such gifts or benefits received from the same source in a one year period exceeds \$500.00, as the case may be (subsection 17(3)).

A senator and guests of the senator may, however, accept sponsored travel that relates to the senator's position. Where the cost of any such travel exceeds \$500.00, and where the travel is not paid for by the senator, or the guests, or through any international and interparliamentary affairs programs recognized by the Parliament of Canada, the Senate, the Government of Canada, or the senator's political party, the trip must, however, be disclosed to the Senate Ethics Officer within thirty days after the end of the trip (section 18).

(c) Government Contracts (sections 20 to 26)

A senator may not be a party, directly or indirectly, to a contract or other business arrangement with the federal government or any federal agency or body under which the senator receives a benefit. There are two exceptions to this rule: (1) the



contract or arrangement is in the public interest due to special circumstances; and (2) the contract or arrangement is unlikely to affect the senator's obligations under the *Conflict of Interest Code for Senators*. In the case of either exception, the Senate Ethics Officer must provide a written opinion regarding the matter (section 20). Participation in federal government programs is also permissible if certain conditions are met (section 23).

A senator may own securities in a public corporation that has contracts with the federal government or any federal agency or body unless the interest is so significant that the Senate Ethics Officer is of the view that it is likely to affect the senator's obligations under the Code (subsection 21(1)). Again, there is a public interest exception in the case of interests in a public corporation (subsection 21(2)) and participation in a federal government program is not considered to be a contract (subsection 21(3)). Moreover, a senator may comply with the Code by placing the securities in a trust under such terms as are set by the Senate Ethics Officer (subsection 21(4)).

A senator is prohibited from having an interest in a partnership or a private corporation that is a party, directly or through a subcontract, to a contract or other business arrangement with the federal government or any federal agency or body under which the partnership or corporation receives a benefit. Again, the two exceptions outlined above (i.e., public interest and obligations not affected under the Code) apply (section 22). Participation in federal government programs is also permissible provided certain conditions are met (section 23). Finally, such an interest is permissible if a trust, with certain specified conditions, is established (section 24).

(d) Disclosure Process (sections 27 to 34)

The *Conflict of Interest Code for Senators* requires each senator to submit to the Senate Ethics Officer an annual confidential disclosure statement listing sources of income, assets, liabilities, outside activities, and government contracts pursuant to sections 27 and 28. All sitting senators are required to file annually on or before a date to be established by the Senate Ethics Officer with the approval of the Standing Committee on Conflict of Interest for Senators (subsections 27(1) and (2)). Newly appointed senators are required to submit the statements within one hundred and twenty days after being summoned to the Senate (subsection 27(3)).

The Senate Ethics Officer reviews the information, advises individual senators on possible conflicts, or apparent conflicts, and then recommends measures, if necessary, to ensure senators are in compliance with the provisions of the Code.



Senators must continue to remain in compliance with the Code at all times. This is done by reporting to the Senate Ethics Officer any material changes to the information provided in their confidential disclosure statements within sixty days of any such change occurring (subsection 28(4)). Moreover, and as already noted earlier, an annual review of the senators' confidential disclosure statements and compliance arrangements is conducted by the Senate Ethics Officer (subsection 27(1)).

Based on the information contained in the confidential disclosure statement and any other additional information provided that may be relevant, the Senate Ethics Officer must prepare a public disclosure summary related to each senator (section 30). These summaries are then made available for public inspection at the Office of the Senate Ethics Officer (subsection 33(1)).

E. Inquiries

The Senate Ethics Officer may initiate an inquiry to determine whether a senator has complied with his or her obligations under the *Conflict of Interest Code for Senators*: (i) at the direction of the Standing Committee on Conflict of Interest for Senators (subsection 44(1)); (ii) at the request of another senator (subsections 44(2) to (6)); and (iii) where the Officer has reasonable grounds to believe that an inquiry is warranted and has obtained the approval of the committee (subsections 44(7) to (9)).

Inquiries are confidential (subsection 44(11)) and senators are required to cooperate with the Senate Ethics Officer (subsection 44(12)). The Senate Ethics Officer has the power to send for persons, papers, and records, for the purpose of an inquiry (subsection 44(13)).

Once an inquiry is completed, the Officer is required to prepare a report that includes the Officer's recommendations to the Standing Committee on Conflict of Interest for Senators (section 45), which may then report to the Senate (subsections 46(4),(5),(6),(7) and (8)). Any appropriate action or sanctions would be determined by the Senate.

F. Committee Review

The Standing Committee on Conflict of Interest for Senators is required to undertake a review of the provisions of the *Conflict of Interest Code for Senators* and its operation every five years thereafter. The Committee is required to submit a report to the Senate on this review, including recommendations respecting changes to the Code (section 53).

APPENDIX B

2008-2009



APPENDIX B

MANDATE AND INDEPENDENCE OF THE SENATE ETHICS OFFICER

The office of the Senate Ethics Officer was established under the *Parliament of Canada Act* (sections 20.1 to 20.7) and the duties and functions of the Senate Ethics Officer are set out under the *Conflict of Interest Code for Senators*.

The primary responsibility of the Officer is to administer, interpret and apply the Code. The most important aspect of his mandate is his advisory function. In this regard, the Senate Ethics Officer provides advice and opinions to senators on an ongoing basis in order to assist them in remaining in compliance with the Code.

A. The Appointment of the Senate Ethics Officer

The Senate Ethics Officer is an independent Officer of the Senate, appointed pursuant to section 20.1 of the *Parliament of Canada Act*. The appointment is made by the Governor in Council after consultation with the leader of every recognized party in the Senate and after approval of the appointment by resolution of the Senate. This method of appointment ensures that the incumbent has the broadest support of the Senate irrespective of party affiliation. Pursuant to subsection 20.2(1) of the Act, he or she is appointed for a renewable term of seven years and may be removed from office, only for cause, by the Governor in Council on address of the Senate. The Senate Ethics Officer has the rank of a deputy head of the Government of Canada and has the control and management of his or her office (subsections 20.4(1) to (5)).

B. The Senate Ethics Officer's Budget

The Senate Ethics Officer operates the office independently of the Senate and its Standing Committee on Internal Economy, Budgets and Administration (subsections 20.4(6) to (8) of the *Parliament of Canada Act*). The Officer has the responsibility for preparing the estimate of the sums required to pay the charges and expenses of the office. This estimate is separate from the estimates of the Senate.

The Speaker of the Senate, after considering the estimate, transmits it to the President of the Treasury Board who then lays it before the House of Commons with the estimates of the government for the fiscal year. The Senate only reviews the Officer's proposed budget as part of the annual review of the Main Estimates.



These aspects of the *Parliament of Canada Act* confer on the Officer a status of independence and autonomy and they provide an effective shield against improper or inappropriate influence.

C. The Senate Ethics Officer and the Standing Committee on Conflict of Interest for Senators

The *Parliament of Canada Act* provides that both the Senate Ethics Officer and the Conflict of Interest and Ethics Commissioner (the latter of whom is responsible for members of the House of Commons and public office holders) carry out their duties and responsibilities under the general direction of a committee of each House of Parliament that is designated or established for that purpose. On June 6, 2005, the Senate established the Standing Committee on Conflict of Interest for Senators.

While the Senate Ethics Officer is accountable to the Committee, he is expected to act independently in the discharge of his responsibilities, including advising individual senators on their obligations under the Code, considering and investigating complaints, and submitting inquiry reports to the Committee for the Senate's final determination. With respect to his advisory, disclosure and inquiry functions, the Senate Ethics Officer is ultimately responsible to the Senate and, through his Annual Report, to the public as well.

On the other hand, the Committee is responsible to the Senate for the overall effectiveness of the system. It has an important role to play with respect to any inquiries and investigations that may be undertaken under the Code. Through the Committee, the Senate retains its right to discipline its own members by making final determinations regarding sanctions or penalties where senators have violated the provisions of the Code. The Committee is also responsible for undertaking periodic reviews of, and recommending to the Senate changes to, the Code.

D. Annual Report

Under section 20.7 of the *Parliament of Canada Act*, the Senate Ethics Officer is required, within three months after the end of each fiscal year, to submit a report of his activities to the Speaker of the Senate, who must table the report in the Senate.

APPENDIX C



2008-2009



APPENDIX C

Relevant Excerpts from the Parliament of Canada Act, R.S.C. 1985, c. P-1, as am. by S.C. 2004, c.7; S.C. 2006, c. 9, sections 20.1 to 20.7

SENATE ETHICS OFFICER

Appointment	20.1 The Governor in Council shall, by commission under the Great Seal, appoint a Senate Ethics Officer after consultation with the leader of every recognized party in the Senate and after approval of the appointment by resolution of the Senate.
Tenure	20.2 (1) The Senate Ethics Officer holds office during good behaviour for a term of seven years and may be removed for cause by the Governor in Council on address of the Senate. He or she may be reappointed for one or more terms of up to seven years each.
Interim appointment	(2) In the event of the absence or incapacity of the Senate Ethics Officer, or if that office is vacant, the Governor in Council may appoint any qualified person to hold that office in the interim for a term not exceeding six months, and that person shall, while holding office, be paid the salary or other remuneration and expenses that may be fixed by the Governor in Council.
Remuneration	20.3 (1) The Senate Ethics Officer shall be paid the remuneration set by the Governor in Council.
Expenses	(2) The Senate Ethics Officer is entitled to be paid reasonable travel and living expenses incurred in the performance of his or her duties or functions while absent from his or her ordinary place of residence, in the case of a part-time appointment, and ordinary place of work, in the case of a full-time appointment.
Functions – part-time	(3) In the case of a part-time appointment, the Senate Ethics Officer may not accept or hold any office or employment – or carry on any activity – inconsistent with his or her duties and functions under this Act.



Functions – full-time	(4) In the case of a full-time appointment, the Senate Ethics Officer shall engage exclusively in the duties and functions of the Senate Ethics Officer and may not hold any other office under Her Majesty or engage in any other employment for reward.
Deputy head	20.4 (1) The Senate Ethics Officer has the rank of a deputy head of a department of the Government of Canada and has the control and management of the office of the Senate Ethics Officer.
Powers to contract	(2) The Senate Ethics Officer may, in carrying out the work of the office of the Senate Ethics Officer, enter into contracts, memoranda of understanding or other arrangements.
Staff	(3) The Senate Ethics Officer may employ any officers and employees and may engage the services of any agents, advisers and consultants that the Senate Ethics Officer considers necessary for the proper conduct of the work of the office of the Senate Ethics Officer.
Authorization	(4) The Senate Ethics Officer may, subject to the conditions he or she sets, authorize any person to exercise any powers under subsection (2) or (3) on behalf of the Senate Ethics Officer that he or she may determine.
Salaries	(5) The salaries of the officers and employees of the office of the Senate Ethics Officer shall be fixed according to the scale provided by law.
Payment	(6) The salaries of the officers and employees of the office of the Senate Ethics Officer, and any casual expenses connected with the office, shall be paid out of moneys provided by Parliament for that purpose.
Estimates to be prepared	(7) Prior to each fiscal year, the Senate Ethics Officer shall cause to be prepared an estimate of the sums that will be required to pay the charges and expenses of the office of the Senate Ethics Officer during the fiscal year.
Inclusion in Government estimates	(8) The estimate referred to in subsection (7) shall be considered by the Speaker of the Senate and then transmitted to the President of the Treasury Board, who shall lay it before the House of Commons with the estimates of the government for the fiscal year.



- Duties and functions** **20.5 (1)** The Senate Ethics Officer shall perform the duties and functions assigned by the Senate for governing the conduct of members of the Senate when carrying out the duties and functions of their office as members of the Senate.
- Privileges and immunities** (2) The duties and functions of the Senate Ethics Officer are carried out within the institution of the Senate. The Senate Ethics Officer enjoys the privileges and immunities of the Senate and its members when carrying out those duties and functions.
- General direction of committee** (3) The Senate Ethics Officer shall carry out those duties and functions under the general direction of any committee of the Senate that may be designated or established by the Senate for that purpose.
- Conflict of Interest Act*** (4) For greater certainty, the administration of the *Conflict of Interest Act* in respect of public office holders who are ministers of the Crown, ministers of state or parliamentary secretaries is not part of the duties and functions of the Senate Ethics Officer or the committee.
- Clarification – powers, etc., of the Senate** (5) For greater certainty, this section shall not be interpreted as limiting in any way the powers, privileges, rights and immunities of the Senate or its members.
- No summons** **20.6 (1)** The Senate Ethics Officer, or any person acting on behalf or under the direction of the Senate Ethics Officer, is not a competent or compellable witness in respect of any matter coming to his or her knowledge as a result of exercising any powers or performing any duties or functions of the Senate Ethics Officer under this Act.
- Protection** (2) No criminal or civil proceedings lie against the Senate Ethics Officer, or any person acting on behalf or under the direction of the Senate Ethics Officer, for anything done, reported or said in good faith in the exercise or purported exercise of any power, or the performance or purported performance of any duty or function, of the Senate Ethics Officer under this Act.

- Clarification (3) The protection provided under subsections (1) and (2) does not limit any powers, privileges, rights and immunities that the Senate Ethics Officer may otherwise enjoy.
- Annual report **20.7** (1) The Senate Ethics Officer shall, within three months after the end of each fiscal year, submit a report on his or her activities under section 20.5 for that year to the Speaker of the Senate, who shall table the report in the Senate.
- Confidentiality (2) The Senate Ethics Officer may not include in the annual report any information that he or she is required to keep confidential.

APPENDIX D

2008-2009



APPENDIX D

CONFLICT OF INTEREST CODE FOR SENATORS

PURPOSES

Purposes

1. The purposes of this Code are to
 - (a) maintain and enhance public confidence and trust in the integrity of Senators and the Senate;
 - (b) provide for greater certainty and guidance for Senators when dealing with issues that may present foreseeable real or apparent conflicts of interest; and
 - (c) establish clear standards and a transparent system by which questions relating to proper conduct may be addressed by an independent, non-partisan adviser.

PRINCIPLES

Principles

2. (1) 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.

Privacy

- (2) The Senate further declares that this Code shall be interpreted and administered so that Senators and their families shall be afforded a reasonable expectation of privacy.



INTERPRETATION

Definitions

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

“Committee”

« *Comité* »

“Committee” means the Committee designated or established under section 35.

“common-law partner”

« *conjoint de fait* »

“common-law partner” means a person who is cohabiting with a Senator in a conjugal relationship, having so cohabited for at least one year.

“Intersessional Authority”

« *autorité intersessionnelle* »

“Intersessional Authority on Conflict of Interest for Senators” means the committee established by section 38.

“parliamentary duties and functions”

« *fonctions parlementaires* »

“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.

“Senate Ethics Officer”

« *conseiller sénatorial en éthique* »

“Senate Ethics Officer” means the Senate Ethics Officer appointed under section 20.1 of the *Parliament of Canada Act*.

“spouse”

« *époux* »

“spouse” means a person to whom a Senator is married but does not include a person from whom the Senator is separated where all support obligations and family property have been dealt with by a separation agreement or by a court order.



Family members

(2) The following are the family members of a Senator for the purposes of this Code:

- (a) a Senator's spouse or common-law partner; and
- (b) a child of a Senator, a child of a Senator's spouse or common-law partner, or a person whom a Senator treats as a child of the family, who
 - (i) has not reached the age of 18 years, or
 - (ii) has reached that age but is primarily dependent on a Senator or a Senator's spouse or common-law partner for financial support.

ACTIVITIES AND JURISDICTION PRESERVED

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.

Carrying on activities

5. Senators who are not ministers of the Crown may participate in any outside activities, including the following, as long as they are able to fulfil their obligations under this Code:

- (a) engaging in employment or in the practice of a profession;
- (b) carrying on a business;
- (c) being a director or officer in a corporation, association, trade union or not-for-profit organization; and
- (d) being a partner in a partnership.

Existing committee jurisdiction

6. Nothing in this Code affects the jurisdiction of the Standing Senate Committee on Internal Economy, Budgets and Administration.

Role of the Speaker

7. Procedural matters referred to in this Code that are expressly provided for in the *Rules of the Senate* are under the jurisdiction and authority of the Speaker rather than the Senate Ethics Officer.



RULES OF CONDUCT

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.

Use of influence

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

Use of information

10. (1) If as a result of his or her position, a Senator obtains information that is not generally available to the public, the Senator shall not use or attempt to use the information to further the Senator's private interests, or those of a family member, or to improperly further another person's or entity's private interests.

Conveying information

(2) A Senator shall not convey or attempt to convey information referred to in subsection (1) to another person if the Senator knows, or reasonably ought to know, that the information may be used to further the Senator's private interests, or those of a family member, or to improperly further another person's or entity's private interests.

Clarification: furthering private interests

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 indirectly, 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 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.

**Clarification: not furthering private interests**

(2) A Senator is not considered to further his or her own private interests or the private interests of another person or entity if the matter in question

- (a) is of general application;
- (b) affects the Senator or the other person or entity as one of a broad class of the public; or
- (c) concerns the remuneration or benefits of the Senator as provided under an Act of Parliament or a resolution of the Senate or of a Senate committee.

Declaration of a private interest: Senate or committee

12. (1) If a Senator has reasonable grounds to believe that he or she, or a family member, has a private interest that might be affected by a matter that is before the Senate or a committee of which the Senator is a member, the Senator shall, on the first occasion at which the Senator is present during consideration of the matter, make a declaration regarding the general nature of the private interest. The declaration can be made orally on the record or in writing to the Clerk of the Senate or the Clerk of the committee, as the case may be. The Speaker of the Senate shall cause the declaration to be recorded in the Journals of the Senate and the Chair of the committee shall, subject to subsection (4), cause the declaration to be recorded in the Minutes of Proceedings of the committee.

Subsequent declaration

(2) If a Senator becomes aware at a later date of a private interest that should have been declared under subsection (1), the Senator shall make the required declaration forthwith.

Declaration recorded

(3) The Clerk of the Senate or the Clerk of the committee, as the case may be, shall send the declaration to the Senate Ethics Officer who, subject to subsection (4) and paragraph 31(1)(h), shall file it with the Senator's public disclosure summary.

Where declaration *in camera*

(4) In any case in which the declaration was made during an *in camera* meeting, the Chair of the committee and Senate Ethics Officer shall obtain the consent of the subcommittee on agenda and procedure of the committee concerned before causing the declaration to be recorded in the Minutes of Proceedings of the committee or filing it with the Senator's public disclosure summary, as the case may be.



Further declaration

(5) A declaration made in camera that, in compliance with subsection (4), has been neither recorded nor filed with the Senator's public disclosure summary is only valid in respect of the proceeding during which the declaration was made or the matter that the declaration concerned was discussed, and the Senator shall make a further declaration at the first possible opportunity.

Declaration of a private interest: other circumstances

(6) In any circumstances other than those in subsection (1) that involve the Senator's parliamentary duties and functions, a Senator who has reasonable grounds to believe that he or she, or a family member, has a private interest that might be affected shall make an oral declaration regarding the general nature of the private interest at the first opportunity.

Declaration of retraction

(7) A Senator may, by declaration made under this section, retract a previous declaration, in which case the Senator may participate in debate or other deliberations and vote on the matter in respect of which the previous declaration was made.

Debate in the Senate

13. (1) A Senator who has made a declaration under section 12 regarding a matter that is before the Senate may not participate in debate or any other deliberations in the Senate with respect to that matter.

Debate in committee where Senator is member

(2) A Senator who has made a declaration under section 12 regarding a matter that is before a committee of the Senate of which the Senator is a member may not participate in debate or any other deliberations in the committee on the matter, and must withdraw from the committee for the duration of those proceedings, but the Senator need not resign from the committee.

Debate in committee where Senator is not member

(3) A Senator who has reasonable grounds to believe that he or she, or a family member, has a private interest that might be affected by a matter that is before a committee of the Senate of which the Senator is not a member may not participate in debate or any other deliberations in the committee on the matter, and must withdraw from the committee for the duration of those proceedings.



Debate where Senator has not yet declared

(4) A Senator who is required by section 12 to make a declaration but has not yet done so may not participate in debate or any other deliberations on the matter and, in the case of committee proceedings, the Senator must withdraw from the committee for the duration of those proceedings.

Prohibition on voting

14. A Senator who has made a declaration under section 12, or a Senator who is required to make such a declaration but has not yet done so, may not vote on the matter but may abstain.

Procedure

15. If a Senator reasonably believes that another Senator has failed to make a declaration of a private interest as required by section 12 or has failed to comply with section 13 or 14, the matter may be raised with the Senate Ethics Officer.

Clarification: having a private interest

16. For the purpose of sections 12 to 14, private interest means those interests that can be furthered in subsection 11(1), but does not include the matters listed in subsection 11(2).

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: gift or other benefit

(3) If a gift or other benefit that is accepted under subsection (2) by a Senator or his or her family members exceeds \$500 in value, or if the total value of all such gifts or benefits received from one source in a 12-month period exceeds \$500, the Senator shall, within 30 days after the gift or benefit is received or after that total value is exceeded, as the case may be, file with the Senate Ethics Officer a statement disclosing the nature and value of the gifts or other benefits, their source and the circumstances under which they were given.

**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.

Contents of statement

(2) The statement shall disclose the name of the person or organization paying for the trip, the destination or destinations, the purpose and length of the trip, whether or not any guest was also sponsored, and the general nature of the benefits received.

Duplication

(3) Any disclosure made in relation to sponsored travel does not need to be disclosed as a gift or other benefit.

Consent of Senate

19. Gifts, other benefits and sponsored travel accepted in compliance with the requirements of sections 17 and 18 are deemed to have received the consent of the Senate thereto for all purposes.

Government contracts

20. A Senator shall not knowingly be a party, directly or through a subcontract, to a contract or other business arrangement with the Government of Canada or any federal agency or body under which the Senator receives a benefit unless the Senate Ethics Officer provides a written opinion that

- (a) due to special circumstances the contract or other business arrangement is in the public interest; or
- (b) the contract or other business arrangement is unlikely to affect the Senator's obligations under this Code.

Public corporations

21. (1) A Senator may own securities in a public corporation that contracts with the Government of Canada or any federal agency or body unless the holdings are so significant that the Senate Ethics Officer provides a written opinion that they are likely to affect the Senator's obligations under this Code.



Public interest

(2) A contract between a public corporation and the Government of Canada or any federal agency or body that, in the Senate Ethics Officer's opinion, is in the public interest due to special circumstances, shall not preclude a Senator from holding securities in that public corporation.

Government programs

(3) For the purpose of subsection (1), a public corporation shall not be considered to contract with the Government of Canada or any federal agency or body merely because the corporation participates in a Government program that meets the criteria described in section 23.

Trust

(4) If the Senate Ethics Officer is of the opinion that the Senator's obligations under this Code are likely to be affected under the circumstances of subsection (1), the Senator may comply with the Code by placing the securities in a trust under such terms as the Senate Ethics Officer considers appropriate.

Partnerships and private corporations

22. A Senator shall not have an interest in a partnership or in a private corporation that is a party, directly or through a subcontract, to a contract or other business arrangement with the Government of Canada or any federal agency or body under which the partnership or corporation receives a benefit unless the Senate Ethics Officer provides a written opinion that

- (a) due to special circumstances the contract or other business arrangement is in the public interest; or
- (b) the contract or other business arrangement is unlikely to affect the Senator's obligations under this Code.

Clarification: Government programs

23. For the purposes of sections 20 and 22, it is not prohibited to participate in a program operated or funded, in whole or in part, by the Government of Canada or any federal agency or body under which a Senator, or a partnership or private corporation in which a Senator has an interest, receives a benefit if

- (a) the eligibility requirements of the program are met;
- (b) the program is of general application or is available to a broad class of the public;
- (c) there is no preferential treatment with respect to the application; and
- (d) no special benefits are received that are not available to other participants in the program.



Trust

24. Section 22 does not apply if the Senator has entrusted his or her interest in a partnership or private corporation to one or more trustees on all of the following terms:

- (a) the provisions of the trust have been approved by the Senate Ethics Officer;
- (b) the trustees are at arm's length from the Senator and have been approved by the Senate Ethics Officer;
- (c) except as provided in paragraph (d), the trustees may not consult with the Senator with respect to managing the trust, but they may consult with the Senate Ethics Officer;
- (d) the trustees may consult with the Senator, with the approval of the Senate Ethics Officer and in his or her presence, if an extraordinary event is likely to materially affect the trust property;
- (e) in the case of an interest in a corporation, the Senator resigns any position of director or officer in the corporation;
- (f) the trustees provide the Senate Ethics Officer annually with a written report setting out the nature of the trust property, the value of that property, the trust's net income for the preceding year and the trustees' fees, if any; and
- (g) the trustees give the Senator sufficient information to permit the Senator to submit returns as required by the *Income Tax Act* and give the same information to the appropriate taxation authorities.

Pre-existing contracts

25. The rules in sections 20, 21 and 22 do not apply to a contract or other business arrangement that existed before a Senator's appointment to the Senate, but they do apply to its renewal or extension.

Interest acquired by inheritance

26. The rules in sections 20, 21 and 22 do not apply to an interest acquired by inheritance until the first anniversary date of the transfer of legal and beneficial ownership. In special circumstances, the Senate Ethics Officer may extend this time period.

DUTY TO DISCLOSE

Confidential disclosure statement: sitting Senators

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

**Filing date**

(2) The date or dates on or before which the annual confidential disclosure statements are required to be filed shall be established by the Senate Ethics Officer following approval by the Committee.

Confidential disclosure statement: new Senators

(3) Within 120 days after being summoned to the Senate, a Senator shall file a confidential statement disclosing the information required by section 28.

Submission to Committee

(4) Thirty days after the date established under subsection (2), the Senate Ethics Officer shall submit to the Committee the name of any Senator who has not complied with his or her duty to file a confidential disclosure statement.

Errors or omissions

(5) If, at any time after the date established under subsection (2), the Senate Ethics Officer has reason to believe that a Senator's confidential disclosure statement contains an error or omission, the Senate Ethics Officer shall notify the Senator concerned and request the Senator to provide the relevant information.

Response within 60 days

(6) Upon receipt of a request under subsection (5), the Senator shall provide the information within 60 days.

Family members

(7) A Senator may file with the Senate Ethics Officer a confidential disclosure statement relating to the Senator's family members so that the Senator may discuss their interests in relation to the Senator's obligations under this Code and receive advice in that regard.

Confidentiality

(8) The Senate Ethics Officer and all officers, employees, agents, advisers and consultants that may be employed or engaged by the Senate Ethics Officer shall keep all disclosure statements confidential.

Initial meeting with Senate Ethics Officer

(9) Senators, and in particular newly-summoned Senators, who may have questions regarding their confidential disclosure duties should make every effort to meet with the Senate Ethics Officer before submitting their confidential disclosure statement.



Contents of confidential disclosure statement

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

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



Excluded matters

(2) For the purpose of subsection (1), it is not required to disclose properties used by the Senator or family members as residences; mortgages or hypothecs on such residences; household goods; personal effects; deposits with a financial institution; guaranteed investment certificates; financial instruments issued by any Canadian government or agency; and obligations incurred for living expenses that will be discharged in the ordinary course of the Senator's affairs.

Additional excluded matters

(3) The Senate Ethics Officer may, with the approval of the Committee, establish additional matters not required to be disclosed on the basis that they present no potential to interfere with the obligations of a Senator under this Code.

Material change

(4) A Senator shall report in writing any material change to the information relating to the confidential disclosure statement to the Senate Ethics Officer within 60 days after the change.

Meeting with Senate Ethics Officer

29. (1) After reviewing a Senator's confidential disclosure statement, the Senate Ethics Officer may request to meet with the Senator to discuss the statement and the Senator's obligations under this Code.

Necessary meeting

(2) If, pursuant to a request made under subsection (1), the Senate Ethics Officer advises the Senator that the meeting is necessary in order for the Senate Ethics Officer to carry out his or her duties and functions under the Code, the Senator shall meet with the Senate Ethics Officer.

Public disclosure summary

30. The Senate Ethics Officer shall prepare a public disclosure summary based on each Senator's confidential disclosure statement and submit it to the Senator for review.



Contents of public disclosure summary

31. (1) The public disclosure summary shall list
- (a) any corporations, income trusts and trade unions in which the Senator is a director or officer and any partnerships in which the Senator is a partner, including a description of the activities of each entity;
 - (b) any associations and not-for-profit organizations in which the Senator is a director, officer or patron, including memberships on advisory boards and any honorary positions;
 - (c) the source and nature but not the amount of any income that the Senator has received in the preceding 12 months and is likely to receive in the next 12 months that the Senate Ethics Officer has determined could relate to the parliamentary duties and functions of the Senator or could otherwise be relevant;
 - (d) the source and nature but not the value of any contracts or other business arrangements with the Government of Canada or a federal agency or body that the Senator has, directly or through a subcontract, including the Senate Ethics Officer's written opinion authorizing them;
 - (e) the source and nature but not the value of any contracts, subcontracts or other business arrangements with the Government of Canada or a federal agency or body that the Senator has by virtue of a partnership or a significant interest in a private corporation that the Senator is able to ascertain by making reasonable inquiries, including the Senate Ethics Officer's written opinion authorizing them;
 - (f) the source and nature but not the value of any contracts or other business arrangements with the Government of Canada or a federal agency or body that a member of the Senator's family has, directly or through a subcontract, or by virtue of a partnership or a significant interest in a private corporation, that the Senator is able to ascertain by making reasonable inquiries;
 - (g) information regarding the nature but not the value of any assets and liabilities that the Senate Ethics Officer has determined could relate to the parliamentary duties and functions of the Senator or could otherwise be relevant;
 - (h) any declarations of a private interest under section 12, unless the Senator has since retracted the declaration;
 - (i) any statements filed under sections 17 and 18 in relation to gifts and sponsored travel; and
 - (j) any statements of material change that pertain to the contents of this summary.



Discretion

(2) The Senate Ethics Officer need not include in the public disclosure summary information that he or she determines should not be disclosed because

- (a) the information is not relevant to the purposes of this Code or is inconsequential, or
- (b) a departure from the general principle of public disclosure is justified in the circumstances.

Disagreement

32. In cases of disagreement between a Senator and the Senate Ethics Officer regarding the contents of the public disclosure summary, the Senate Ethics Officer shall refer the disputed matter to the Committee for decision.

Public inspection

33 (1) Each public disclosure summary is to be placed on file at the office of the Senate Ethics Officer and made available for public inspection.

Removal of file from registry

(2) A public disclosure file shall be removed from the public registry at the time that the Senator concerned ceases to be a Senator.

Evasion

34. A Senator shall not take any action that has as its purpose the evasion of the Senator's obligations under this Code.

COMMITTEE

Designation or establishment

35. (1) At the beginning of each session, a Committee of the Senate shall be designated or established for the purposes of this Code.

Membership

(2) The Committee shall be composed of five members, three of whom shall constitute a quorum.

No *ex officio* members

(3) The Committee shall have no *ex officio* members.



Election of members

(4) Two of the Committee members shall be elected by secret ballot in the caucus of Government Senators at the opening of the session; two of the Committee members shall be elected by secret ballot in the caucus of Opposition Senators at the opening of the session; the fifth member shall be elected by the majority of the other four members after the election of the last of the other four members.

Presentation and adoption of motion

(5) The Leader of the Government in the Senate, seconded by the Leader of the Opposition in the Senate, shall present a motion on the full membership of the Committee to the Senate, which motion shall be deemed adopted without any debate or vote.

Chair

(6) The Chair of the Committee shall be elected by four or more members.

Removal

- (7) A member is deemed removed from the Committee as of the time that
- (a) the Senate Ethics Officer informs the Committee that a request for an inquiry made by the Senator is warranted; or
 - (b) the Senator becomes the subject of an inquiry under the Code.

Substitutions

(8) Where a vacancy occurs in the membership of the Committee, the replacement member shall be elected by the same method as the former member being replaced.

Meetings *in camera*

36. (1) Subject to subsection (2), meetings of the Committee shall be held *in camera*.

Meetings in public

(2) At the request of a Senator who is the subject of an investigation, the Committee may hold meetings at which the investigation is being conducted in public.

Attendance

(3) Subject to subsection (4), the Committee may limit attendance at its meetings.



Affected Senator

(4) The Committee shall give notice to a Senator who is the subject of an investigation of all meetings at which the investigation is being conducted, and shall admit the Senator to those meetings, but the Committee may exclude that Senator from those meetings or portions of meetings at which the Committee is considering a draft agenda or a draft report.

Withdrawal

(5) A member of the Committee who is the subject of a matter being considered by the Committee relating to that specific Senator shall withdraw from the Committee during its deliberations.

Jurisdiction

37. (1) Subject to subsection 41(2) and to the general jurisdiction of the Senate, the Committee is responsible for all matters relating to this Code, including all forms involving Senators that are used in its administration.

General directives

(2) The Committee may, after consultation with the Senate Ethics Officer, give general directives to the Senate Ethics Officer concerning the interpretation, application and administration of the Code, but not concerning its interpretation and application as it relates to an individual Senator's particular circumstances.

INTERSESSIONAL AUTHORITY

Intersessional Authority created

38. During a period of prorogation or dissolution of Parliament and until the members of a successor Committee are appointed by the Senate, there shall be a committee known as the Senate Intersessional Authority on Conflict of Interest for Senators.

Composition

39. The Intersessional Authority on Conflict of Interest for Senators shall be composed of the members of the Committee.

General authority

40. (1) The Senate Ethics Officer shall carry out his or her duties and functions under the general direction of the Intersessional Authority on Conflict of Interest for Senators.



Additional functions

(2) Subject to the rules, direction and control of the Senate and of the Committee, the Intersessional Authority on Conflict of Interest for Senators shall carry out such other of the Committee's duties and functions as the Committee gives to it by resolution.

SENATE ETHICS OFFICER

Senate Ethics Officer

41. (1) The Senate Ethics Officer is an independent officer who performs the duties and functions assigned by the Senate under this Code.

Independent status

(2) The Senate Ethics Officer shall carry out his or her duties and functions under the general direction of the Committee, but is independent in interpreting and applying this Code as it relates to an individual Senator's particular circumstances.

OPINIONS AND ADVICE

Request for opinion

42. (1) In response to a request in writing from a Senator on any matter respecting the Senator's obligations under this Code, the Senate Ethics Officer shall provide the Senator with a written opinion containing any recommendations that the Senate Ethics Officer considers appropriate.

Opinion binding

(2) An opinion given by the Senate Ethics Officer to a Senator is binding on the Senate Ethics Officer in relation to any subsequent consideration of the subject matter of the opinion as long as all the relevant facts that were known to the Senator were disclosed to the Senate Ethics Officer.

Written advice binding

(3) Any written advice given by the Senate Ethics Officer to a Senator on any matter relating to this Code is binding on the Senate Ethics Officer in relation to any subsequent consideration of the subject matter of the advice as long as all the relevant facts that were known to the Senator were disclosed to the Senate Ethics Officer.



Confidentiality

(4) A written opinion or advice is confidential and may be made public only by the Senator or with his or her written consent.

Proof of compliance

(5) A written opinion or advice given by the Senate Ethics Officer to a Senator under this section and relied upon by that Senator is conclusive proof that the Senator has fully complied with the Senator's obligations under this Code as long as all the relevant facts that were known to the Senator were disclosed to the Senate Ethics Officer.

Publication

(6) Nothing in this section prevents the Senate Ethics Officer, subject to the approval of the Committee, from publishing opinions and advice for the guidance of Senators, provided that no details are included that could identify a Senator.

Guidelines

43. Subject to the approval of the Committee, the Senate Ethics Officer may publish guidelines for the assistance of Senators on any matter concerning the interpretation of this Code that the Senate Ethics Officer considers advisable.

INQUIRIES AND INVESTIGATIONS

Direction by the Committee

44. (1) The Committee may direct the Senate Ethics Officer to conduct an inquiry to determine whether a Senator has complied with his or her obligations under this Code.

Request for an inquiry

(2) A Senator who has reasonable grounds to believe that another Senator has not complied with his or her obligations under this Code may request that the Senate Ethics Officer conduct an inquiry into the matter.

Form of request

(3) The request shall be in writing, shall be signed by the requesting Senator, shall identify the alleged non-compliance with this Code and shall set out the reasonable grounds for the belief that the Code has not been complied with.

**Request to be sent**

(4) The Senate Ethics Officer shall forward the request for an inquiry to the Senator who is the subject of the request and afford the Senator a reasonable opportunity to respond.

Preliminary review

(5) After a preliminary review to determine whether or not an inquiry is warranted, the Senate Ethics Officer shall notify both the requesting Senator and the Senator who is the subject of the request of his or her decision.

If inquiry warranted

(6) If the Senate Ethics Officer's decision under subsection (5) is that an inquiry is warranted, the Senate Ethics Officer shall so inform the Committee.

Receipt of information

(7) If, after receiving significant evidence, the Senate Ethics Officer believes that an inquiry may be warranted to determine whether a Senator has complied with his or her obligations under this Code, the Senate Ethics Officer shall provide the Senator written notice of his or her concerns and any documentation upon which those concerns are based, and shall afford the Senator a reasonable opportunity to address the issues.

Committee to approve

(8) Following the measures taken in subsection (7), if the Senate Ethics Officer has reasonable grounds to believe that an inquiry is warranted to determine whether the Senator has complied with his or her obligations under this Code, the Senate Ethics Officer shall request the Committee to approve the inquiry, and may proceed when approval has been received.

Notice

(9) Once approval to conduct an inquiry has been received under subsection (8), the Senate Ethics Officer shall provide the Senator concerned with his or her reasons for the opinion that an inquiry is warranted.

Respect for the inquiry process

(10) Once a request for an inquiry has been made, or direction or approval for an inquiry has been given, Senators should respect the process established by this Code.



Inquiry to be confidential

(11) The Senate Ethics Officer shall conduct a confidential inquiry as promptly as the circumstances permit, provided that at all appropriate stages throughout the inquiry the Senate Ethics Officer shall give the Senator a reasonable opportunity to be present and to make representations to the Senate Ethics Officer in writing or in person, by counsel or by any other representative.

Cooperation

(12) Senators shall cooperate without delay with the Senate Ethics Officer with respect to any inquiry.

Powers of Senate Ethics Officer

(13) In carrying out an inquiry, the Senate Ethics Officer may send for persons, papers, things and records, which measures may be enforced by the Senate acting on the recommendation of the Committee following a request from the Senate Ethics Officer.

Report to the Committee

45. (1) Following an inquiry the Senate Ethics Officer shall report confidentially in writing to the Committee.

Contents of report

(2) The Senate Ethics Officer may make findings and recommendations, including

- (a) that the complaint appears to be unfounded and should be dismissed;
- (b) that the request for an inquiry was frivolous or vexatious or was not made in good faith, or that there were no grounds or insufficient grounds to warrant an inquiry or the continuation of an inquiry;
- (c) that the complaint appears to be founded and that remedial action has been agreed to by the Senator involved; or
- (d) that the complaint appears to be founded, but that no remedial action was available or agreed to by the Senator involved.

Bad faith

(3) Where the Senate Ethics Officer makes a finding that the complaint or request for an inquiry was frivolous or vexatious or was not made in good faith, he or she may recommend that action be considered against the person who made the complaint or request.



Mitigation

(4) If the Senate Ethics Officer concludes that a Senator has not complied with an obligation under this Code but that the Senator took all reasonable measures to prevent the non-compliance, or that the non-compliance was trivial or occurred through inadvertence or an error in judgement made in good faith, the Senate Ethics Officer shall so state in the report and may recommend that no sanction be imposed.

General recommendations

(5) The Senate Ethics Officer may include in the report any recommendations arising from the matter that concern the general interpretation of this Code.

Reasons

(6) The Senate Ethics Officer shall include in the report reasons and any supporting documentation for any findings and recommendations.

Consideration of report

46. 1) The Committee shall take into consideration a report received from the Senate Ethics Officer under section 45 as promptly as circumstances permit.

Due process

(2) The Committee shall provide, without delay, a copy of the report of the Senate Ethics Officer to the Senator who was the subject of the inquiry, and shall afford that Senator the opportunity to be heard by the Committee.

Investigation

- (3) In considering a report, the Committee may
- (a) conduct an investigation; or
 - (b) direct that the Senate Ethics Officer's inquiry be continued and refer the report back to the Senate Ethics Officer for such further information as the Committee specifies.

Committee report

(4) Subject to subsection (5), following its consideration under this section of a report of the Senate Ethics Officer, the Committee shall report to the Senate.

No report required

(5) Where the Committee finds that a complaint against a Senator was unfounded, the Committee is not required to report to the Senate unless the Senator concerned requests that it do so.



Contents of report

(6) In its report to the Senate, the Committee shall report the fact of the inquiry and give its findings with respect thereto, its recommendations if any, and its reasons and the supporting documentation for any findings or recommendations.

Remedial action

(7) The Committee may recommend that the Senator be ordered to take specific action or be sanctioned.

Anonymity

(8) Where the Committee finds that a complaint is unfounded and reports to the Senate, its report may, at the Senator's request, keep the Senator's name anonymous in order to protect the Senator's reputation.

Suspension of investigation or inquiry: Act of Parliament

47. (1) The Committee or the Senate Ethics Officer may suspend the investigation or inquiry if

- (a) there are reasonable grounds to believe that the Senator has committed an offence under an Act of Parliament in relation to the same subject matter, in which case the Committee or Senate Ethics Officer, subject to subsection (4), shall notify the proper authorities;
- (b) it is discovered that
 - (i) the subject matter under investigation or inquiry is also the subject matter of an investigation to determine if an offence under an Act of Parliament has been committed, or
 - (ii) a charge has been laid with respect to that subject matter.

Investigation or inquiry continued

(2) If the Committee or the Senate Ethics Officer has suspended the investigation or inquiry, it may resume once the other investigation or charge regarding the same subject matter has been finally disposed of.

Suspension of investigation or inquiry: other laws

(3) The Committee or the Senate Ethics Officer may suspend the investigation or inquiry and, subject to subsection (4), notify the proper authorities if there are reasonable grounds to believe that the Senator has committed an offence under the law of a Canadian province or territory in relation to the same subject matter, and may continue the investigation or inquiry when any actions arising from the notification have been completed.



Advice of Committee

(4) The Senate Ethics Officer shall seek the advice of the Committee before notifying the proper authorities.

Notice for motion to adopt

48. (1) A motion that the Senate adopt a report referred to in subsection 46(4) shall be put pursuant to the notice provisions of paragraph 58(1)(g) of the Rules of the Senate.

Motion

(2) A motion to adopt a report referred to in subsection 46(4) shall be deemed to have been moved on the fifth sitting day subsequent to the presentation of the report if the motion has not yet been moved.

Senator may speak

(3) After a motion to adopt a report has been moved, or has been deemed to have been moved, no vote may be held for at least five sitting days, or until the Senator who is the subject of the report has spoken to the motion for its adoption, whichever is the sooner.

Right to speak last

(4) The Senator who is the subject of the report may exercise the right of final reply.

Senate vote

(5) If a motion for the adoption of a report has not been put to a vote by the 15th sitting day after the motion was moved or deemed to have been moved, the Speaker shall immediately put all necessary questions to dispose of the matter when the item is called.

Referral back

(6) The Senate may refer any report back to the Committee for further consideration.

Suspension: former Senators

49. (1) An investigation or inquiry of a Senator who ceases to be a Senator is permanently suspended unless the Committee directs that the investigation or inquiry be completed.



Direction to continue

(2) In considering whether to issue a direction under subsection (1), the Committee shall consider any request from the former Senator or from the Senator who requested the inquiry, and any representations made by the Senate Ethics Officer.

Consideration of committee report

(3) Notwithstanding subsection 48(5), where a motion to adopt a report about a former Senator is moved or deemed to be moved, the motion shall not be put to a vote until the former Senator has been offered the opportunity to speak to the report as a witness in Committee of the Whole, and has either availed himself or herself of the opportunity or has refused or otherwise failed to take advantage of the offer.

PRIVACY AND CONFIDENTIALITY

Privacy to be minimally impaired

50. In interpreting and administering this Code, reasonable expectations of privacy shall be impaired as minimally as possible.

Confidentiality

51. (1) All information relating to the private interests of Senators and those of their family members received pursuant to this Code or created under it is to be kept confidential, except in accordance with this Code or as otherwise ordered by the Senate.

Inclusions

(2) For greater certainty, the requirement set out in subsection (1) applies to documents and information received in the course of an inquiry that the Senate Ethics Officer has suspended in accordance with paragraph 47(1)(a) or subsection 47(3) and to documents and information retained by the Senate Ethics Officer pursuant to section 52.



Confidentiality

(3) The Senate Ethics Officer and all officers, employees, agents, advisers and consultants that may be employed or engaged by the Senate Ethics Officer shall keep confidential all matters required to be kept confidential under this Code. Failure to do so shall constitute behaviour sufficient to justify either or both of the following:

- (a) a resolution by the Senate under subsection 20.2(1) of the *Parliament of Canada Act* requesting the Governor in Council to remove the Senate Ethics Officer from office;
- (b) dismissal of any officers, employees, agents, advisers or consultants involved.

Retention of documents

52. (1) The Senate Ethics Officer shall retain all documents relating to a Senator for a period of 12 months after he or she ceases to be a Senator, after which, subject to subsections (2) to (4), the documents shall be destroyed.

Ongoing proceedings

(2) Where, at the time that a Senator ceases to be a Senator, there is an investigation or inquiry in progress concerning the Senator or a charge has been laid against the Senator, the destruction of documents that relate to the matter shall be postponed until 12 months after the day of the final disposition of all related proceedings.

Return of confidential documents

(3) At a Senator's request, confidential documents relating to a Senator may be returned to the Senator instead of being destroyed.

Archiving of public documents

(4) Public documents relating to a Senator shall be forwarded to the Senate archives.

PERIODIC REVIEW

Committee review

53. The Committee shall undertake a comprehensive review of this Code and its provisions and operation once every five years, and shall submit a report to the Senate thereon, including a statement of any changes the Committee recommends.

APPENDIX E



2008-2009



APPENDIX E

THE SENATE ETHICS CODE IN CANADA*

1. **The Code of Conduct for Senators in Canada has just been reviewed and a number of small changes were made. What do you think of the Code?**

The Code of Conduct essentially seeks to prevent conflicts of interest by publicizing the personal assets and interests of senators and requiring them to refrain from participating in debate and voting on a bill or motion if they themselves or a member of their family would benefit, or appear to benefit, from it in any way.

Fundamentally, the Code of Conduct must reconcile two constitutional principles that are critical to our parliamentary system:

a– First, it must recognize everyone’s right to privacy, a principle enshrined in the *Canadian Charter of Rights and Freedoms*, and the need to protect public interest and the credibility of the Senate as an institution. The Code of Conduct strikes a balance between respecting privacy and the public’s right to have representatives who act in the public’s best interests, and not in the interests of the senators themselves. It is a delicate balancing act that includes a basic choice: in the event of an apparent conflict of interest, the public interest must take precedence. In fact, the benefit of the doubt is always interpreted in favour of the public interest.

b– Secondly, it must respect parliamentary privilege, according to which members of Parliament can be disciplined only by parliamentarians themselves, and not by the government or the judiciary.

It is easy to understand why: judges should not have the right to discipline parliamentarians just as parliamentarians should not have the right to discipline judges.

Maintaining the independence of these two distinct and separate branches of government is essential to the exercise of their power: that of parliamentarians to make laws, and that of judges to interpret them.

* Interview with the Honourable Serge Joyal, Senator, Chair of the Standing Committee on Conflict of Interest for Senators, “The Senate Ethics Code in Canada”, *Recueil Dalloz*, Issue No.12, March 26, 2009.



2. You stress the importance of parliamentarians retaining the power to discipline themselves. Does the Senate Ethics Officer safeguard this?

For the aforementioned reasons, it was necessary to create an internal system for the Senate that did not depend on the government or judicial discretion in any way. This led to the creation of the Senate Ethics Officer. A person is appointed to this position by a motion presented in the Chamber by the Leader of the Government, which must also be supported by the Leader of the Official Opposition. As a result, nearly all members of the Senate must be in agreement.

The Senate Ethics Officer is appointed for a seven-year term. He or she cannot be dismissed except by a vote in the Senate.

Furthermore, this person is given the rank of deputy minister, that is, the highest position after that of minister. The Officer must be someone therefore who has experience in public administration at a very high level.

The Senate Ethics Officer must operate independently to ensure that the position is impartial and effective in the eyes of the public, over and above the fact that he or she is not part of the government or the judiciary.

The Senate Ethics Officer must have the freedom to perform the duties of the position independently, including:

- receiving confidential declarations submitted by senators with information on their assets and liabilities and their areas of outside interest;
- summarizing this information in a Public Registry;
- giving senators the advice needed in the performance of their duties so that they do not find themselves in a real, or apparent, conflict of interest;
- undertaking the necessary investigations after an allegation of conflict of interest is made, and recommending appropriate measures to the Standing Committee on Conflict of Interest.

3. What is the role of the Standing Committee on Conflict of Interest vis-à-vis the Senate Ethics Officer and the Senate?

The Committee, as a parliamentary institution responsible for ensuring the integrity of its members, and more generally of the institution, is the link between the Senate Ethics Officer and the Senate. The Committee is made up of five members: two are chosen from the Government party, two from the Official Opposition, and these four members choose the fifth by secret ballot from among the senators that applied for the position.

The Committee has two types of responsibility:

- regulatory: it has the authority to make recommendations to the Senate regarding required amendments to the Code;
- administrative: it requires the Senate Ethics Officer to carry out the necessary investigations following an allegation of conflict of interest, and it receives recommendations. After examining the conclusions, the Committee decides if it is necessary to introduce a motion in the Chamber to recommend specific measures or sanctions.

However, the Committee in no way interferes in the personal relationship that senators have with the Ethics Officer. The Committee is a third party to this confidential relationship between a senator and the Ethics Officer. The Officer alone is empowered to hear confidential statements from senators and to advise them.

Therefore, the Committee is at the centre of this delicate balance between the Senate as an institution and the senators themselves. It ensures the independence and neutrality of the Senate Ethics Officer in order to maintain the confidence that is essential to the smooth operation of the system that was put in place more than three years ago.

APPENDIX F

2008-2009



APPENDIX F

The Senate Disclosure Process in Brief

Disclosure is at the heart of any effective and transparent conflict of interest regime for parliamentarians. This document summarizes the Senate disclosure process under the *Conflict of Interest Code for Senators* (the Code). It breaks down the process in 10 individual steps. Each step is described below.

- 1 The annual disclosure process generally begins in the fall of each year when Parliament resumes after its summer recess. To initiate the process, the Senate Ethics Officer (the SEO) sends a **Confidential Disclosure Statement** to each senator, which is required to be completed under section 27 of the Code. The information that must be declared includes any sources of income over \$2,000, any assets and liabilities over \$10,000, any outside activities and any federal government contracts.
2. Sitting senators are asked to complete and return their confidential disclosure statement within 3 weeks. The date on or before which the disclosure statements have to be filed is established by the SEO following approval by the Standing Committee on Conflict of Interest for Senators. Newly appointed senators have 120 days to file.
3. The SEO reviews the information received in order to identify any foreseeable, real or apparent conflicts of interest. The review also provides an opportunity to identify omissions or ambiguities and to ensure that the information is complete and up-to-date.
4. Based on this information, the SEO sends a **letter of advice** to each senator regarding his or her particular obligations under the Code and recommends measures, if necessary, to ensure that they are in compliance with the Code.
5. The SEO is also required to prepare an annual **Public Disclosure Summary** pertaining to each senator. Section 31 of the Code sets out the information that must be included therein.



6. This is followed by face-to-face meetings with senators, which usually commence in November of each year and end in March. These meetings are an important opportunity to discuss each senator's disclosure statement, the SEO's letter of advice as well as the senator's public disclosure summary. The meetings are also an opportunity for senators to discuss future plans and to obtain advice in this regard.
7. Once a senator signs his or her public disclosure summary, the SEO sends a **letter of compliance** confirming that the senator meets the requirements of the Code and provides the senator with a copy of his or her public disclosure summary.
8. Finally, once signed, a certified copy of each senator's public disclosure summary is placed by the SEO in the **Public Registry** and is made available for public inspection during normal business hours, pursuant to section 33 of the Code.
9. Senators have an ongoing obligation throughout the year to disclose changes to their circumstances, by filing the proper forms according to the procedures set out under the Code, in order to ensure that their confidential and public files contain accurate and up-to-date information at all times. Specifically, they are required to disclose the following:
 - (1) any **material changes** to the information provided in their confidential disclosure statements (subsection 28(4));
 - (2) any **gifts or other benefits** received as an expression of courtesy or protocol, or received within the customary standards of hospitality that usually accompany the senator's position where these exceed \$500 in value, or any such gifts or other benefits received from one source in a one-year period where their total value exceeds \$500 (section 17);
 - (3) any **sponsored travel** where the travel costs exceed \$500, unless they are 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 (section 18); and
 - (4) any **private interest** a senator or a family member may have in a matter that is before the Senate or a committee of the Senate in which the senator is a member.



10. Under section 20.7 of the *Parliament of Canada Act*, the Senate Ethics Officer is required to prepare an Annual Report within three months after the end of each fiscal year concerning the Office's activities for the year. This provides an opportunity to review the annual disclosure process for the year and highlight any issues in this regard that might be of interest to the Senate, but also to the public in general.

Advice and Opinions

Outside of the annual disclosure process, senators are encouraged to seek the advice of the SEO as often as possible, especially in cases of doubt, prior to taking action. The opinions or advice may be in writing under subsection 42(1) of the Code or of a more informal nature through telephone conversations, meetings and e-mail exchanges. The SEO is solely responsible for the interpretation and application of the Code as it relates to each senator's particular circumstances.

Informal advice is as important as the formal opinions in that it offers guidance and information to senators in order to help them to better understand the Code and how it applies in different circumstances. Every year the SEO provides hundreds of opinions and advice of varying degrees of complexity. The sheer volume of requests illustrates that senators are availing themselves of the advisory services that the office offers. Prevention, here as elsewhere, is preferable to cure.

Additional Information

This document only provides a summary of the disclosure process under the Senate Code. For more detailed information, please visit the Senate Ethics Office's website at www.parl.gc.ca/seo-cse.

APPENDIX G



2008-2009



APPENDIX G

INVESTIGATIONS BY ETHICS COMMISSIONERS (2004-2008)*

	Date of Establishment of Offices	Number of Parliamentarians	2004	2005	2006	2007	2008
Ontario	1988	107	3	0	2	0	2
British Columbia	1990	79	1	0	1	1	1
Nova Scotia	1991	52	0	0	0	0	0
Alberta	1992	83	1	1	0	3	0
Newfoundland and Labrador	1993	48	0	0	0	0	0
Saskatchewan	1994	58	2	1	0	0	2
Québec	1996	125	n/a	n/a	n/a	n/a	n/a
NWT	1998	19	1	0	0	0	0
P.E.I.	1999	27	0	0	0	1	2
New Brunswick	2000	55	0	0	1	0	0
Nunavut	2000	19	1	0	0	0	2
Manitoba	2002	57	0	0	0	0	0
Yukon	2002	18	0	0	0	0	2
House of Commons	2004	308	0	3	4	1	5
Senate	2005	105	n/a	0	0	0	0
Total			9	5	8	6	16

Source: Canadian Conflict of Interest Network (CCOIN).

* All Canadian jurisdictions have independent commissioners and codes of conduct or laws setting out conflict of interest rules.

APPENDIX H



2008-2009



APPENDIX H

FINANCIAL INFORMATION

van Berkom & Ritz

CHARTERED ACCOUNTANTS

180-1750 COURTWOOD CRESCENT, OTTAWA, ON K2C 2K5 T: 613.828.0282 F: 613.721.8504

AUDITORS' REPORT ON SUMMARIZED FINANCIAL STATEMENTS

To Mr. Jean T. Fournier, Senate Ethics Officer:

The accompanying summarized statements of operations, financial position and equity of Canada are derived from the complete financial statements of the Office of the Senate Ethics Officer as at March 31, 2009 and for the year then ended on which we expressed an opinion without reservation in our report dated May 7, 2009. The fair summarization of the complete financial statements is the responsibility of the Office's management. Our responsibility, in accordance with the applicable Assurance Guideline of The Canadian Institute of Chartered Accountants, is to report on the summarized financial statements.

In our opinion, the accompanying financial statements fairly summarize, in all material respects, the related complete financial statements in accordance with the criteria described in the Guideline referred to above.

These summarized financial statements do not contain all the disclosures required by Canadian generally accepted accounting principles. Readers are cautioned that these statements may not be appropriate for their purposes. For more information on the Office's financial position, results of operations and cash flows, reference should be made to the related complete financial statements.

VAN BERKOM & RITZ

Ottawa, Ontario
May 7, 2009

Chartered Accountants
Licensed Public Accountants



Office of the Senate Ethics Officer
Summarized Financial Statements

As at March 31 and for the year then ended
(in dollars)

SUMMARIZED STATEMENT OF OPERATIONS

	2009	2008
OPERATING EXPENSES		
Salaries and employee benefits	744,348	687,265
Accommodation	73,046	69,326
Professional and special services	45,931	30,991
Amortization	27,067	26,672
Printing and communication	36,754	22,880
Utilities, materials and supplies	6,718	12,391
Travel	9,253	8,602
TOTAL COST OF OPERATIONS	943,117	858,127



SUMMARIZED STATEMENT OF FINANCIAL POSITION

	2009	2008
ASSETS		
Financial assets		
Accounts receivable and advances	17,761	47,561
Total financial assets	17,761	47,561
Non-financial assets		
Tangible capital assets	33,941	61,008
Total non-financial assets	33,941	61,008
TOTAL	51,702	108,569
LIABILITIES		
Accounts payable and accrued liabilities	91,715	81,970
Vacation pay and compensatory leave	29,544	36,164
Employee severance benefits	147,357	133,489
	268,616	251,623
EQUITY OF CANADA	(216,914)	(143,054)
TOTAL	51,702	108,569

SUMMARIZED STATEMENT OF EQUITY OF CANADA

	2009	2008
EQUITY OF CANADA, BEGINNING OF YEAR	(143,054)	(356,722)
Total cost of operations	(943,117)	(858,127)
Services provided without charge from other government departments	109,775	99,587
Current year appropriations used	759,482	972,208
EQUITY OF CANADA, END OF YEAR	(216,914)	(143,054)

APPENDIX I

2008-2009



APPENDIX I

CHRONOLOGY OF KEY EVENTS

- February 24, 2005 Motion to approve the appointment of Mr. Jean T. Fournier as Senate Ethics Officer (SEO) was debated in the Senate. Mr. Fournier appeared before the Senate sitting in Committee of the Whole. Motion to approve the appointment was adopted that day.
- February 25, 2005 Governor in Council appointment of Mr. Jean T. Fournier as the first Senate Ethics Officer effective April 1, 2005.
- April 1, 2005 Mr. Fournier assumed his duties along with Louise Dalphy, Executive Assistant.
- May 11, 2005 The Standing Senate Committee on Rules, Procedures and the Rights of Parliament tabled its Third Report recommending the adoption of a *Conflict of Interest Code for Senators*.
- May 18, 2005 The *Conflict of Interest Code for Senators* was adopted by the Senate.
- July 6, 2005 The Standing Committee on Conflict of Interest for Senators was established in accordance with subsection 20.5(3) of the *Parliament of Canada Act*.
- September 15, 2005 Deadline for senators to submit their annual Confidential Disclosure Statements for the first annual review (2005-06) to the SEO.
- October 2005 to April 2006 The SEO reviewed the Confidential Disclosure Statements submitted by senators to identify potential conflicts of interest and to determine the compliance measures required in each case. The SEO also prepared public disclosure summaries.

- May 9, 2006 Public Disclosure Summaries were placed in the Public Registry located at the office of the Senate Ethics Officer and made available for public inspection.
- June 20, 2006 Tabling of the first Annual Report of the Senate Ethics Officer.
- September 6, 2006 Remarks by the SEO before the Standing Senate Committee on Legal and Constitutional Affairs on Bill C-2, the *Federal Accountability Act*, as it affected the office of the Senate Ethics Officer.
- October 20, 2006 Deadline for senators to submit their annual Confidential Disclosure Statements for the second annual review (2006-07) to the SEO.
- December 12, 2006 Bill C-2, the *Federal Accountability Act*, received Royal Assent.
- November 2006 to April 2007 The SEO reviewed the Confidential Disclosure Statements submitted by senators to identify potential conflicts of interest and to determine the compliance measures required in each case. The SEO also prepared public disclosure summaries.
- June 7, 2007 Tabling of the second Annual Report of the Senate Ethics Officer.
- November 2, 2007 Deadline for senators to submit their annual Confidential Disclosure Statements (2007-2008) to the SEO.
- November 2007 to April 2008 The SEO reviewed the Confidential Disclosure Statements submitted by senators to identify potential conflicts of interest and to determine the compliance measures in each case. The SEO also prepared public disclosure summaries.
- January 29, 2008 Submission by the Senate Ethics Officer to the Standing Committee on Conflict of Interest for Senators regarding the review of the Code.

- June 11, 2008 Tabling of the third Annual Report of the Senate Ethics Officer.
- December 5, 2008 Deadline for senators to submit their annual Confidential Disclosure Statements (2008-2009) to the SEO.
- December 22, 2008 Announcement by the Prime Minister of the appointment of 18 new Senators.