



**OFFICE OF THE ETHICS COMMISSIONER
PROVINCE OF ALBERTA**

**Report to the Speaker
of the Legislative Assembly of Alberta
of the Investigation**

**by
Donald M. Hamilton,
Ethics Commissioner**

into allegations involving

**Hon. Ed Stelmach, Premier;
Hon. David Hancock, Q.C., Minister of Health and Wellness;
and Hon. Lyle Oberg, Minister of Finance**

May 11, 2007

TABLE OF CONTENTS

ALLEGATIONS.....	1
PERSONS INTERVIEWED/EVIDENCE OBTAINED.....	2
BACKGROUND.....	2
A. LEADERSHIP CAMPAIGNS.....	2
B. TRUE BLUE ALBERTA (“TRUE BLUE”).....	3
C. CAMPAIGN DEFICITS.....	4
D. MEMBERS’ ROLE IN FUNDRAISING.....	5
E. MEMBERS’ FINANCIAL DISCLOSURE.....	5
FINDINGS.....	6
CONCLUSIONS.....	7
SECTION 7.....	7
SECTION 11.....	7
SANCTIONS.....	7

ALLEGATIONS

On January 11, 2007, Brian Mason, Leader of the NDP Opposition, requested that I conduct an investigation under section 24(3) of the *Conflicts of Interest Act* (the “Act”) on the

. . . ethics and legality of Premier Stelmach, and Ministers Hancock and Oberg raising funds to pay off their leadership campaign debts by allowing “exclusive” access at a donation fee for \$5000.

Mr. Mason cited section 7(1) as the section that may have been breached. That section reads:

7(1) A Member breaches this Act if the Member or, to the knowledge of the Member, the Member’s spouse or adult interdependent partner or minor child accepts from a person other than the Crown a fee, gift or other benefit that is connected directly or indirectly with the performance of the Member’s office.

The request for an investigation noted media reports that cited an e-mail sent to potential attendees that described two events and included the following statement:

Both events will offer you and your colleagues an excellent opportunity to spend time with the new Premier, and Ministers, to discuss the issues the new Government will face in the run-up to the next election and make them aware of your key issues. The purpose of this event is to help retire the campaign debts of Premier Stelmach, Ministers Hancock and Oberg, and Mr. Mark Norris.¹

On January 16, 2007, I advised Premier Stelmach, Minister Hancock, Minister Oberg and Mr. Mason that an investigation would be conducted as requested.

On January 18, 2007, I received a letter dated January 16, 2007, from Dr. Kevin Taft, Leader of the Official Opposition, requesting an investigation on the same matter and also citing section 7(1) of the Act as the relevant section for the investigation. Dr. Taft asked a number of questions in his letter, including whether the Members involved had filed appropriate disclosure information as required by section 11 of the Act with respect to any personal debt they may have incurred as a result of their involvement in the campaign for the leadership of the Progressive Conservative Party of Alberta (“the PC Party”). He also asked specific questions about True Blue Alberta, the corporation that was reportedly involved in organizing the events to raise funds. Dr. Taft was advised by letter dated January 18, 2007, that an investigation had been commenced.

Dr. Taft also raised questions concerning the relationship between one of the Directors of True Blue Alberta and contracts that Director’s law firm received from the Government of Alberta in fiscal year 2004-05.

¹ Mr. Mark Norris is a former Member of the Legislative Assembly and was a candidate for the leadership of the Progressive Conservative Party of Alberta. Since Mr. Norris is no longer a Member of the Legislature, he is not covered by the Act and is not part of this investigation.

PERSONS INTERVIEWED/EVIDENCE OBTAINED

Interviews were conducted with the following individuals:

Ed Stelmach leadership campaign

Hon. Ed Stelmach, Premier
Ron Glen, Chief of Staff, Office of the Premier
Mr. Robert Carwell, FCA
Mr. Aaron Falkenberg
Mr. John Chomiak
Mr. Rick LeLacheur
Mr. Marcus Gurske
Mr. Jim Campbell (via telephone)

David Hancock leadership campaign

Hon. David Hancock, Q.C., Minister of Health and Wellness
Mr. Rob Dunseith

Lyle Oberg leadership campaign

Hon. Lyle Oberg, Minister of Finance
Mr. John Larsen (via telephone)
Mr. Ivan Bernardo (via telephone)

Further information was obtained from Mr. Carwell in writing.

BACKGROUND

In September 2006, Premier Ralph Klein submitted his resignation to the PC Party. A leadership campaign was then announced, with the first vote to be held on November 25, 2006 and a second ballot, if necessary, on December 2, 2006. Ed Stelmach, Member for Fort Saskatchewan-Vegreville, David Hancock, Q.C., Member for Edmonton-Whitemud; and Dr. Lyle Oberg, Member for Strathmore-Brooks, were amongst the candidates for the leadership. After the first vote, Mr. Hancock and Dr. Oberg were dropped from the ballot for the second vote and chose to support Mr. Stelmach on the second ballot. Mr. Stelmach was chosen Leader of the PC Party after the second ballot on December 2.

A. Leadership Campaigns

There is no legislation in Alberta governing leadership campaigns. Issues relating to the conduct of such campaigns would not normally fall within the mandate of the Office of the Ethics Commissioner. Members wishing to seek the leadership of their political party are not required to consult with the Ethics Commissioner regarding their campaigns. Notwithstanding that lack of jurisdiction, many interested leadership campaign candidates did contact my office to advise that they were setting up trust accounts or some other mechanism in order to separate themselves from fundraising efforts. Most candidates said they did not want to personally solicit contributions and preferred not to know who had contributed during the campaign.

There have been numerous media items about the lack of “rules” for leadership campaigns and, most specifically, the fact that no candidate is required to disclose publicly the names of contributors and the

amounts contributed. Political campaign contributions are often viewed in media items and by “watchdog agencies” as potential conflicts of interest and even potential corruption.

In researching this subject during the course of this investigation, I found similar allegations having been raised elsewhere in Canada, in the United States, the United Kingdom and Australia – both with respect to general fundraising and, in some cases, for access to leaders at more private events. Invariably, the questions raised relate to a desire to know who is contributing and what the contributors may expect in return.

This subject has also been addressed at the federal level in Canada in the office of my federal counterpart, the Ethics Commissioner of Canada. That office issued guidelines for Ministers with respect to personal political activities. In the guidelines, the Ethics Commissioner said:²

Disclosure of contributions is an important element in most political fundraising. This is also the case for a leadership campaign. Without disclosure of all contributions, both financial and those in kind, there may be concerns that the Minister had undeclared future obligations to those who contributed to his or her campaign.

The federal House of Commons has addressed concerns by passing legislation to deal with leadership campaigns (as have the provinces of British Columbia, Manitoba and Ontario).

Notwithstanding the concerns expressed by elected persons, the media and other observers, the lack of disclosure of the name of contributors is not a matter within my jurisdiction.

In this investigation, my jurisdiction is limited to two questions relating to the leadership campaign: did any of the three Members who were leadership candidates and against whom allegations have been made receive a benefit connected directly or indirectly with the performance of their public responsibilities, and did those Members comply with the financial disclosure requirements of the *Conflicts of Interest Act* (e.g., any loans or other financial obligations incurred as a result of their candidacy)? The “benefit” under investigation is the elimination of any campaign deficit in exchange for private access to decision-makers.

B. True Blue Alberta (“True Blue”)

According to Corporate Registry, True Blue Alberta was registered March 9, 2005. Its registered office is 3200, 10180 – 101 Street, Edmonton. The current Directors of the corporation are listed as Aaron Falkenberg, R. Allan Farmer, and Tom Walter. R. Allan Farmer holds 100 percent of the shares. The address listed for Mr. Farmer is the same as the corporate address for True Blue. R. Allan Farmer, Q.C., is a partner with the law firm of Reynolds Mirth Richards & Farmer. The law firm address is the same as the corporate address for True Blue. Since its registration, True Blue has filed an annual report and has filed a change of director / shareholder notice.

Ron Glen, who now serves as Premier Stelmach’s Chief of Staff, was originally one of the four shareholders/Directors of True Blue. Mr. Glen resigned from True Blue when he accepted the position of Chief of Staff. None of the three Members named in this investigation (Messrs. Stelmach, Hancock and Oberg) were Directors of True Blue at any time. Premier Stelmach was not a shareholder in the corporation, nor was Mr. Hancock or Dr. Oberg.

True Blue was incorporated to be the legal vehicle for fundraising and for the payment of expenses relating to the leadership campaign of Ed Stelmach. It had no other purpose and, with the leadership

² Office of the Ethics Commissioner, “The Ministry and Activities for Personal Political Purposes Guidelines,” June 2002

campaign concluded, I was advised by Mr. Stelmach's campaign team that the corporation will eventually be wound down.

Dr. Taft questioned the relationship of R. Allan Farmer, a shareholder and director of True Blue, and his law firm's contracts with the Government of Alberta (according to the 2004-05 public accounts, to a value of \$589,348). I have not pursued this question for a variety of reasons. Firstly, the amount noted by Dr. Taft relates to the fiscal year prior to True Blue being incorporated. Secondly, Mr. Farmer is free to be politically active in Alberta. Thirdly, and perhaps most importantly, I cannot investigate a matter in the abstract. There is no suggestion or evidence in Dr. Taft's letter that Premier Stelmach has directed any person in the Government of Alberta to engage the services of Reynolds Mirth Richards & Farmer – before or after True Blue was incorporated. The fact that a department of Government may have engaged the legal services of the law firm does not, in itself, result in a breach of the *Conflicts of Interest Act* by a Member who has a personal or political relationship with one or more members of the law firm.

C. Campaign Deficits

According to Messrs. Stelmach, Hancock and Oberg, each of their leadership campaigns ran a deficit. Additional fundraising efforts were required by all three campaign organizations after the second vote.

In the weeks following the leadership campaign, Mr. Carwell said that Premier Stelmach spoke to his campaign workers, making a commitment to assist Mr. Hancock's and Dr. Oberg's campaigns in reducing their campaign debt, if any existed. He asked his campaign staff to work with the campaign staff of the other candidates in fundraising activities.

Mr. Carwell was the Campaign Chair for Premier Stelmach's campaign. He met with the other executive committee members (Mr. Falkenberg, Mr. Chomiak and Mr. LeLacheur) to discuss possible fundraising events. They discussed evening events with a ticket price of \$500 per person. The executive committee, according to Mr. Carwell, never sanctioned any private meetings for a contribution of \$5,000. (The invitations for the private meetings refer to a contribution of \$5,000 for two tickets but do not mention a single ticket being available for \$2,500.)

Mr. Gurske was also present at the executive committee meeting and confirms that the discussion focused on a need to eliminate campaign debt, and he said he was instructed to coordinate the fundraising efforts with the other campaign teams. Mr. Gurske said it was stressed that the efforts be as transparent as possible. Mr. Gurske did contact individuals in the other campaigns and did set out basic information regarding events (when, where, what and why). He said his text did not refer to "Premier" Stelmach, only "Ed Stelmach" and he did not mention a \$5,000 reception.

According to Mr. Carwell, the initial letter inviting individuals to make a contribution of \$5,000 for a "private reception" with the Premier was sent by Mr. Chomiak on his company's letterhead. Mr. Chomiak confirmed that he did send the letter. The letter does not contain the same text as the e-mail message cited in Mr. Mason's letter requesting this investigation. Mr. Chomiak's letter says:

Should you be receptive to donate \$5,000.00 or more, we will then supply you with two tickets and an entrance to a private reception with the Premier from 4:00 p.m. to 5:00 p.m.

The letter requesting this investigation quotes an e-mail sent by John Larsen as quoted in the media. Mr. Larsen was Campaign Chair for the Oberg campaign. Mr. Larsen confirms that he sent the e-mail that has been quoted. Mr. Larsen said he was not the author of the text quoted. When he was asked to send out invitations, he asked if there was text that could be copied and pasted into his e-mails. Mr. Larsen said the text as quoted in the media was provided to him by Jim Campbell from the Stelmach campaign. Mr.

Campbell confirms that he was the author of the text that has been quoted and that he was not instructed by any person to write that text.

Both Mr. Chomiak and Mr. Campbell expressed surprise at the reaction to the invitations. They both expressed regret for any problems they have caused.

D. Members' Role in Fundraising

The three Members all said they had no role whatsoever in the fundraising initiative under investigation. That is, they were not aware until after the fact that people were being invited to meet with them for a contribution of \$5,000. Premier Stelmach did attend the two fundraising receptions (\$500 per ticket) that were held in Calgary and Edmonton in January. Dr. Oberg and Mr. Hancock said there was confusion over whether or not they were to attend. Mr. Hancock did attend the event in Edmonton. Dr. Oberg said he did not attend either event.

Both Mr. Hancock and Dr. Oberg said they believed all fees collected from the \$500/ticket receptions went to the Premier's campaign fund, with the understanding that if there were a surplus, funds would then flow through to their campaign accounts. Mr. Carwell advised that there was in fact a surplus after the post-election fundraising events were held and that funds would be distributed to Mr. Hancock and Dr. Oberg's campaigns.

It is our understanding that the proceeds from the \$500/ticket receptions were used to retire the Stelmach campaign debt and that funds remaining after that were distributed equally to the Oberg, Hancock and Norris campaigns. Mr. Bernardo and Mr. Dunseith confirmed that the Oberg and Hancock campaigns respectively did receive funds from the fundraising events held after the leadership vote.

Information relating to the Stelmach and Hancock campaigns has been posted on-line. These two campaigns report no remaining debt. Information relating to the Oberg campaign has not been posted as of the date of this report.

E. Members' Financial Disclosure

Premier Stelmach said he did not take out any personal loans during the campaign that related to the campaign. He did submit claims for reimbursement of expenses and he has been reimbursed. According to documents released on February 16, 2007 by the "Ed Stelmach Leadership Campaign," the campaign had an operating surplus of \$45,265, which was donated to the Ed Stelmach Charitable Foundation.

Mr. Hancock said he did not take out any personal loans for his campaign. He did access his personal line of credit. That line of credit has previously been disclosed by the Member. He has submitted claims for reimbursement of expenses and, subject to the funds being distributed to his campaign from True Blue and subject to all other claimants being paid, he told me he expected to be reimbursed. According to his campaign website, the February 27, 2007 release of the "Friends of Dave Hancock, Voluntary Campaign Disclosure," shows a net surplus for the campaign of \$876.20. Mr. Dunseith confirmed that Mr. Hancock was in fact reimbursed for his expenses (after all other accounts were paid).

Dr. Oberg said he has no personal liabilities relating to his campaign. His trust account incurred debt and, subject to funds his campaign will receive from the fundraising receptions, he said he may need to do further fundraising to eliminate that debt. Mr. Bernardo said the trust account is in a deficit position, but that Dr. Oberg has no legal liability attached to that trust account.

FINDINGS

There were general comments made during interviews with campaign participants that I believe are relevant.

Some participants commented on the lack of rules or legislation relating to leadership campaigns and the resulting “spotlight” that then tends to be focused on these campaigns. Additionally, some participants noted that fundraising events that featured leaders and Ministers are not uncommon in Canada and have been held by more than one political party. The authors of the text relating to a more “private reception” said they were aware of similar types of events held at the national level.

Earlier in this report, I referred to background research conducted during this investigation. Media items³ support the leadership campaign team members’ comments that events acknowledging larger contributors to political parties have been held or proposed in the past.

One interviewee commented that individuals attend these events more to see who else is in the room than to meet a prominent elected official. Some participants at these events, he added, attend to “network” amongst their peers and discuss business opportunities. Another interviewee commented that these events were not about access but reflected the donors’ support for the policies of the political party hosting the events.

I believe there are elements of truth in each of the above statements. Unfortunately, the lack of disclosure of donors’ names and the price tag attached to some events leads to allegations of privileged access and questions of possible rewards in exchange for donations.

There have been no allegations in this case about a specific donor and a specific reward for the donation.

As noted earlier, my jurisdiction is limited to consideration of a breach of the *Conflicts of Interest Act* and specifically, a breach of either section 7 relating to fees, gifts or other benefits or section 11 relating to the requirement to disclose income, assets, liabilities and financial interests.

With respect to the invitation to donate \$5,000 for “an excellent opportunity to spend time with the new Premier, and Ministers, to discuss the issues the new Government will face in the run-up to the next election and make them aware of your key issues,” Mr. Carwell advised that one cheque for \$5,000 was received and it was cashed in his absence. According to Mr. Carwell, a refund cheque was issued on January 22, 2007 and was cashed. I accept Mr. Carwell’s written statement that it was cashed since he further advised that the firm who issued the original cheque chose to make a slightly smaller contribution after the refund cheque was cashed.

Mr. Carwell said the smaller “pre-receptions” were not held. He said

... both pre-receptions were cancelled immediately by the Premier on January 10, 2007, when he returned from vacation and learned that certain unsanctioned communications suggested that persons would be charged a \$5,000 fee to attend.

To clear up any confusion over the intent of these receptions, the Premier took immediate and decisive action to cancel the receptions in question.

³ For example, see

-- *The Hill Times*, December 4, 2006: “Conservatives hold \$1,000 Leader’s Circle reception” by Abbas Rana

-- *CBC*, August 12, 2002: “B.C. Libs deny they’re selling access to government”

-- Editorial from the *National Post*, September 4, 2004

According to the Members -- and confirmed to some extent by their campaign workers -- there were no personal liabilities incurred by Premier Stelmach or Minister Hancock or Minister Oberg. Funds received for the use of the campaign went to True Blue in the case of the Stelmach campaign; to the Friends of Dave Hancock account for the Hancock campaign; or to the Oberg for Alberta trust account for the Oberg campaign. Any "income" or "assets" were held by the private corporation or the accounts set up for the other two campaigns and were therefore not "income" or "assets" of the Members named.

CONCLUSIONS

Section 7

On page 3 of this report, I said:

The "benefit" under investigation is the elimination of any campaign deficit in exchange for private access to decision-makers.

Since the only cheque attributable to the invitation for a "private reception" was refunded, it is my conclusion that none of the Members named received any fees, gifts or other benefits in violation of that section. The smaller \$500/ticket receptions that were held did in fact eliminate or reduce the deficits of the campaigns of each of the Members against whom allegations were made in this case. However, the \$500/ticket receptions held in Calgary and Edmonton were not connected to a "private" reception where donors might have the ear of the Premier and his Ministers. In my view, the receptions that were held made an appropriate separation between political party function and "private access to decision-makers."

Section 11

It is my conclusion that there have been no income, assets, liabilities or financial interests personally attributable to the Members named that were required to be disclosed under section 11 of the *Conflicts of Interest Act*.

SANCTIONS

I recommend no sanctions as I have found no breach of the *Conflicts of Interest Act*.

Donald M. Hamilton
Ethics Commissioner

Dated: May 11, 2007