

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

**REPORT TO THE SPEAKER
OF THE LEGISLATIVE ASSEMBLY
OF THE INVESTIGATION**

BY THE ETHICS COMMISSIONER

**INTO ALLEGATIONS INVOLVING
THE HONOURABLE THE PREMIER**

December 19, 1996

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PART I: THE ALLEGATIONS

Frank Bruseker, Member of the Legislative Assembly for Calgary-North West, sent me a letter dated November 4, 1996, requesting me to investigate possible breaches of sections 2, 3, and 4 of the *Conflicts of Interest Act* by the Hon. Ralph Klein, Premier of Alberta arising “from activities undertaken by the Premier during his 1994 trade mission to Hong Kong and China.” Mr. Bruseker’s letter is reproduced in full in Appendix A.

Mr. Bruseker referred to documents obtained under the *Freedom of Information and Protection of Privacy Act* that indicated a dinner had been held during the 1994 Trade Mission on South Lamma Island on November 12, 1994, which was attended by Premier and Mrs. Klein as well as by Michael Lobsinger, President of Multi-Corp Inc. The documents indicated that the dinner was paid for by the Alberta government, and according to Mr. Bruseker “government officials paid to charter a private junk to ferry the group to the restaurant on Lamma Island.”

Mr. Bruseker’s letter continues with the following:

These documents indicate that the Alberta government hosted a private dinner for the President of Multi-Corp while the Premier was on a trade mission to promote Alberta businesses seeking to expand operations in Asia. This information indicates that Michael Lobsinger was the only individual outside of government officials or their spouses who attended this dinner. It is important to also note that at the time of this private meeting, it is known that at least Mrs. Klein and Mr. Dunne were shareholders of Multi-Corp.

As you are no doubt aware from media reports, two days after this private meeting, the Premier met with Chinese officials from Guangdong province, who subsequently signed a \$26 million business deal with Multi-Corp.

With respect to the private function held on Lamma Island, it is clear that the Premier and the entire entourage attended in their official capacities as evidenced by the processed expense claims. Curiously, however, this function was never listed on the Premier’s publicly released itinerary.

The very fact that Premier Klein agreed to attend a government-hosted, private dinner with the president of a company in which his spouse was a shareholder may in itself constitute a breach of section 2(1) of the Act as it acknowledges that, in the course of carrying out his office, the Premier took part in a decision which might have furthered a private interest of a person directly associated with him.

With respect to your report dated November 10, 1995, you indicate on page 13 that:

“Premier Klein and Mr. Lobsinger both advise that they have had no private meetings since 1993 ...”

Given this new information and given the discrepancy between the denial of private meetings since 1993 and information that suggests otherwise, I would ask that the Office of the Ethics Commissioner conduct a full inquiry into the Premier’s activities prior to, during and

subsequent to the 1994 trade mission. I request the inquiry also consider the Premier's activities relative to Multi-Corp while in Alberta, particularly when the Vice-Governor of Guangdong Province visited Alberta in December, 1994.

I advised both Premier Klein and Mr. Bruseker by letter dated November 5, 1996, that I would conduct an investigation into the allegations. My response stated that:

The investigation my office will conduct will relate solely to the matters you have raised with respect to the 1994 trade mission -- it will not involve any matters which occurred prior to that trade mission which were part of my previous investigation and the report which is before the Legislature. During the investigation, evidence will be obtained under oath.

PART II: LEGISLATIVE CONTEXT

MY AUTHORITY TO CONDUCT AN INVESTIGATION

Section 22(1) of the *Conflicts of Interest Act* provides that any person may request me to investigate an alleged breach of the Act:

- 22(1)** Any person may request in writing that the Ethics Commissioner investigate any matter respecting an alleged breach of this Act by a Member.

Section 23 of the Act provides that I may conduct an investigation:

- 23(1)** On receiving a request under section 22 or where the Ethics Commissioner has reason to believe that a Member has acted or is acting in contravention of advice, recommendations or directions or any conditions of any approval or exemption given by the Ethics Commissioner to the Member under this Act, and on giving the Member concerned reasonable notice, the Ethics Commissioner may conduct an investigation with or without conducting an inquiry.

TERMS OF REFERENCE FOR THE INVESTIGATION

Based on the allegations, I set the following terms of reference for the investigation:

1. Did the Premier breach section 2 of the Act by participating in any decision that would further the private interest of his wife in Multi-Corp Inc. during the course of his 1994 Trade Mission to Hong Kong and China or during the visit of the Vice-Governor of Guangdong Province to Alberta in December 1994?

Section 2 of the Act provides as follows:

- 2(1)** A Member breaches this Act if the Member takes part in a decision in the course of carrying out the Member's office or powers knowing that the decision might

further a private interest of the Member, a person directly associated with the Member or the Member's minor child.

- (2) Where a matter for decision in which a Member has reasonable grounds to believe that the Member, the Member's minor child or a person directly associated with the Member has a private interest is before a meeting of the Executive Council or a committee of the Executive Council or the Legislative Assembly or a committee appointed by resolution of the Legislative Assembly, the Member must declare that interest and must withdraw from the meeting without voting on or participating in the consideration of the matter.
 - (3) A Member who fails to comply with subsection (2) breaches this Act.
 - (4) If a matter referred to in subsection (1) requires a decision of a Minister, the Minister may request another Minister to act in the Minister's stead in connection with the decision and the Minister to whom it is referred may act in the matter for the period of time necessary.
2. Did the Premier breach section 3 of the Act by using his office or powers to influence or to seek to influence a decision to be made by or on behalf of the Crown in right of Alberta to further the private interest of his wife in Multi-Corp Inc. during the course of his 1994 Trade Mission to Hong Kong and China or during the visit of the Vice-Governor of Guangdong Province to Alberta in December 1994?

Section 3 of the Act provides as follows:

- 3** A Member breaches this Act if the Member uses the Member's office or powers to influence or to seek to influence a decision to be made by or on behalf of the Crown to further a private interest of the Member, a person directly associated with the Member or the Member's minor child.
3. Did the Premier breach section 4 of the Act by using or communicating information not available to the general public that was gained by him in the course of carrying out his office or powers during the course of his 1994 Trade Mission to Hong Kong and China or during the visit of the Vice-Governor of Guangdong Province to Alberta in December 1994, and which information could be used to further or to seek to further the private interest of his wife in Multi-Corp Inc.?

Section 4 of the Act provides as follows:

- 4** A Member breaches this Act if the Member uses or communicates information not available to the general public that was gained by the Member in the course of carrying out the Member's office or powers to further or seek to further a private interest of the Member, a person directly associated with the Member or the Member's minor child.

Sections 2, 3, and 4 of the Act prohibit a Member from doing certain things which would further a “private interest” of the Member (or a person directly associated with the Member). According to the allegations by Mr. Bruseker, the “private interest” which the Premier is alleged to have furthered during the 1994 Trade Mission to Hong Kong and China relates to shares held in Multi-Corp Inc. by Colleen Klein, the Premier’s wife (who is a direct associate of the Premier under section 1(5) of the Act).

In making the decision to investigate Mr. Bruseker’s allegations, I made it clear that this would not be a re-opening of my previous investigation conducted last year relating to other allegations involving Multi-Corp, because I have already presented my report on those allegations to the Legislature.

PART III: THE INVESTIGATION

In order to determine whether a breach of sections 2, 3, or 4 has occurred, I needed to determine the facts with respect to the following five areas:

1. The Team Canada Trade Mission to Hong Kong and China led by Prime Minister Jean Chretien in November 1994.
2. The dinner held on South Lamma Island on November 12, 1994.
3. Premier Klein’s visit to Guangdong Province in November 1994.
4. The visit to Alberta by a Vice-Governor of Guangdong Province in December 1994.
5. Any private meetings between Premier Klein and Michael Lobsinger, President of Multi-Corp Inc.

I started by identifying a number of people who would be able to tell me about what actually happened at each of these events. I also invited Mr. Bruseker to identify persons who he thought might have knowledge of these events. These people identified others who might be able to assist my investigation. I also asked Mr. Bruseker to provide any evidence he might have in support of the allegation.

As an initial step, I decided to question all the people who had been identified, indicating from the outset that I would be asking them to put their responses into a statutory declaration and to give me permission to disclose their statutory declarations as I determined might be appropriate. Although I had no reason to believe that anyone would lie to me, I decided to use statutory declarations because they are the equivalent of taking testimony on oath and are subject to the penalties for perjury.¹ I recognized that, depending upon what I learned as the result of this step in the investigation, I would have to decide whether any further investigative steps would be required.

In order to do the investigation, I developed an interview plan which was designed to pursue the various issues with the known witnesses in a methodical and comprehensive manner. I identified which witnesses I wanted to interview personally, and which ones I wanted to respond to a list of written questions. (The

¹ See section 15 of the *Alberta Evidence Act* and sections 131 and 134 of the *Criminal Code*.

initial list of questions is set out in Appendix C.)

Some of the people I contacted did not have any relevant information.

As noted above, I requested those individuals who did have relevant information to provide me with statutory declarations. In some cases, I required additional statutory declarations for clarification or elaboration. Additionally, some meetings were held with some witnesses to follow-up on information provided in the statutory declarations.

LIST OF PERSONS WHO PROVIDED STATUTORY DECLARATIONS

- Hon. Ralph Klein, Premier
- Mr. Michael Lobsinger, President, Multi-Corp Inc.
- Mr. Gordon Young, then Agent General in the Alberta Government Office in Hong Kong; now a private consultant
- Mr. Geoffrey Anderson, then Senior Director, Asia Pacific, in the Hong Kong office of the Alberta Government; now retired
- Mrs. Oryssia Lennie, Deputy Minister, Department of Federal and Intergovernmental Affairs
- Mr. Wayne Clifford, Assistant Deputy Minister, Department of Federal and Intergovernmental Affairs
- Mr. Christopher Liu, Trade Director with the Alberta Government Office in Hong Kong, who acted as Mr. Klein's interpreter
- Mr. Rod Love, Executive Director, Office of the Premier
- Mr. Hugh Dunne, then Director, Southern Alberta Office of the Premier; no longer employed by the Government of Alberta
- Mr. Henry Mah, Edmonton businessman
- Ms Josephine Choi, Director, Asia/Hong Kong, Export Development, Department of Economic Development and Tourism
- Mr. Marvin Schneider, Director, Asia/Pacific, International Relations Section, Federal and Intergovernmental Affairs

In addition, I received a written statement from the Commissioner for Canada in Hong Kong, which I decided did not need to be put in the form of a statutory declaration.

One out-of-province person agreed to be interviewed but was reluctant to provide a statutory declaration for reasons unconnected with my investigation. In light of the fact that his evidence was entirely consistent with the evidence from other people, I decided that it was not necessary to pursue obtaining a

statutory declaration from him.

As described in the following sections, the responses to my investigation were overwhelmingly consistent and credible, and I decided that no further investigative steps were required. In light of the controversy which has surrounded this investigation, I have decided to publish all the statutory declarations (excepting attachments from government employees in Alberta) which I have received as Appendix D to this Report. I may or may not do so in a future case.

PART IV: FINDINGS OF FACT

As a result of my investigation, I have made the following findings of fact.

A. THE TEAM CANADA TRADE MISSION TO HONG KONG AND CHINA LED BY PRIME MINISTER JEAN CHRETIEN IN NOVEMBER 1994

The Team Canada Trade Mission was initiated and organized by the Prime Minister's Office along with the federal Department of Foreign Affairs and International Trade, along with the Canadian Embassy in Beijing, China, and the Canadian Commission in Hong Kong. Nine Premiers and two Territorial Leaders accompanied the Prime Minister, as well as approximately 300 Canadian business executives.

The Department of Federal and Intergovernmental Affairs (FIGA) was given the responsibility for coordinating the participation of the Alberta members in the Trade Mission, in addition to organizing those separate functions that were Alberta-specific. In doing so, FIGA worked with staff in the Alberta Government office in Hong Kong and with staff from the Department of Economic Development and Tourism (ED&T) in Beijing and Hong Kong. Portions of the mission (specifically functions in Guangdong Province) were organized with the assistance of the Chinese community in Alberta. From time to time, the Deputy Minister of FIGA (Mrs. Lennie) advised the Premier on the arrangements being made and during those meetings, he provided general approval for the arrangements. All of the relevant witnesses (the Premier, Mrs. Lennie, Mr. Clifford, Mr. Young, and Mr. Dunne) state that the Premier did not give any instructions to arrange any meetings with any person associated with Multi-Corp Inc., nor did the Premier ask for Michael Lobsinger to be included at any event. I accept this evidence.

(1) Alberta Roundtable in Beijing on Sunday, November 6, 1994

FIGA organized a roundtable session in Beijing for some 75 to 80 Alberta companies for the afternoon of Sunday, November 6, 1994, at the China Alberta Petroleum Centre (CAPC). The roundtable was followed by a banquet that evening hosted by CAPC. That event was attended by approximately 148 guests.

In developing a list for potential participants in the Alberta roundtable, FIGA consulted with line departments for suggestions. No suggestion to include Multi-Corp Inc. was received. Neither the names of Multi-Corp Inc. nor Michael Lobsinger appear on the lists of attendees at the roundtable or the banquet.

There is no evidence to suggest that Michael Lobsinger attended either the roundtable or the banquet.

(2) Canadian Chamber of Commerce Breakfast on Saturday, November 12, 1994

This event was sponsored by the Canadian Chamber of Commerce in Hong Kong and was organized in conjunction with federal government representatives in Hong Kong. The guest speaker at the breakfast was Prime Minister Jean Chretien. Participants required a ticket to attend the breakfast. Approximately 700 people attended.

Hugh Dunne says that Mr. Lobsinger telephoned him sometime shortly before the Trade Mission left Canada to ask to be included in some of the events scheduled in Hong Kong, indicating particular interest in being able to obtain a ticket to this breakfast. Mr. Dunne says that he spoke with Mr. Love in the Premier's office, who, Mr. Dunne states, advised him to provide assistance to Mr. Lobsinger wherever possible. Mr. Love confirms that Mr. Dunne did speak to him about Mr. Lobsinger, but states that he did not direct that Mr. Lobsinger be given any assistance other than what Alberta businessmen would normally receive from the government. Mr. Dunne passed Mr. Lobsinger's request on to Wayne Clifford at FIGA who indicated he would attempt to locate a ticket for Mr. Lobsinger.

The Alberta Office in Hong Kong had obtained 12 tickets for the "Alberta table." Mr. Clifford wrote a note to Mr. Young stating that "Hugh Dunne strongly suggests Mike Lobsinger be included at your table for the breakfast." A second note was sent by Mr. Clifford to Mr. Dunne with the comment: "Will ask Gordon to ensure he has a place at the Alberta table." Mr. Young agreed to set aside one ticket for Mr. Lobsinger.

Staff within FIGA have advised me that Michael Lobsinger was not the only Albertan to request a last-minute ticket to this event. Two other Calgary businessmen were also interested in attending the breakfast at the last minute and tickets were arranged for those two individuals as well. The entire "Alberta table" was paid for by public funds.

The guest list for this event and the seating arrangements for the head tables were established by Canada's Commissioner in Hong Kong. The Commissioner advises me that Premier Klein was seated at Head Table No. 5, with colleagues from other provinces and territories, a representative from the Commissioner's staff, and local representatives. The member of the Commissioner's staff who was seated at that table can recall no mention of Multi-Corp during the event. Other members of the Commission staff who were at the breakfast recall that Mr. Lobsinger was seated at a corporate table some distance from the head tables. This was confirmed by other deponents.

No one recalls any discussion relating to Multi-Corp Inc. during the breakfast.

B. THE DINNER HELD ON SOUTH LAMMA ISLAND ON SATURDAY, NOVEMBER 12, 1994

On Wednesday, November 9, 1994 the Premier told Mr. Young he would like to go to South Lamma Island, if possible.

A dinner had originally been scheduled for the Prime Minister and Premiers for Saturday, November 12, 1994. The dinner was subsequently changed to a reception at the Canadian Commissioner's residence.

When that change was made, it was agreed that the Alberta delegation would leave the reception early, and would have dinner at South Lamma Island. This explains why this dinner was not on either Team Canada's or Alberta's published itinerary.

Mr. Young asked his staff to ensure that his personal junk would be available the evening of November 12, and reservations were made at the restaurant.

The individuals who attended the dinner on Saturday, November 12, 1994, were:

Premier and Mrs. Klein
Mr. Hugh Dunne
Mrs. Oryssia Lennie
Mr. Michael Lobsinger
Mr. and Mrs. Gordon Young
Mr. and Mrs. Geoff Anderson

There is a discrepancy in the evidence presented to me with respect to who invited Michael Lobsinger to attend this dinner. Mr. Young and Mr. Lobsinger both state that the invitation was extended by Mr. Young. Mr. Anderson indicated that to the best of his recollection, Mr. Young invited Mr. Lobsinger. While Mr. Dunne agrees that the arrangements for the evening were made by Mr. Young, Mr. Dunne stated that he invited Michael Lobsinger because "I was asked to."

I accept Mr. Lobsinger's statement that he was invited by Mr. Young and Mr. Young's statement that he extended the invitation when Mr. Lobsinger dropped into the Alberta Government's Hong Kong Office for coffee on the morning of Saturday, November 12, when he told Mr. Lobsinger about the dinner. Mr. Young says that he told Mr. Lobsinger if he was interested in attending, he should be at the dock by 7:30 p.m.

I asked each of the dinner participants if they knew Michael Lobsinger was in Hong Kong at that particular time, when they knew it, and what they knew about his activities in Hong Kong. Premier Klein and Mrs. Lennie responded that they knew Mr. Lobsinger was in Hong Kong when they saw him at the Canadian Chamber of Commerce breakfast that morning. Mr. Dunne had received the phone call from Mr. Lobsinger prior to Team Canada's departure from Canada and therefore he knew Mr. Lobsinger was there. Mr. Anderson stated that he knew only as a result of information provided to him by Mr. Young concerning the dinner at South Lamma Island.

Each participant indicated an awareness of Multi-Corp's office in Hong Kong and that the company had business activities there. The staff of the Alberta Office in Hong Kong was aware that Mr. Lobsinger was present in Hong Kong on a regular basis and of his company's efforts to obtain a contract in China.

Each witness has deposed that the purpose of the dinner was strictly social. The dinner was an opportunity for the Alberta delegation to relax as the Team Canada portion of the trade mission concluded on that day.

I have tried to determine whether there was any discussion of Multi-Corp during the course of that evening, given that two of the participants at the dinner (Mrs. Klein and Mr. Dunne) were shareholders in the company (in addition to Mr. Lobsinger). The Premier says that this topic was not discussed:

There was no agenda and I recall no discussions about MCI, its product base or its business plans for China or elsewhere, with Lobsinger or any other attendee.

Mrs. Lennie, the Deputy Minister, states:

I heard no discussion about Multi-Corp Inc., its software or its business and shares, during the dinner. Nor did I hear any other business discussed. The discussion was purely social chitchat. I can confirm that I have no notes at all on this dinner.

Mr. Young, the Agent General in Hong Kong who arranged the dinner, says (regarding mention of Multi-Corp):

Not to my knowledge. I certainly never brought the subject up nor did I hear it mentioned on the trip over, during dinner or the return trip.

Mr. Dunne, then the Director of the Premier's Southern Alberta Office, states:

To my knowledge, nothing concerning Multi-Corp Inc., its software, or anything relating to its business or its shares was discussed at any point that evening.

Mr. Anderson, then Senior Director, Asia Pacific, in the Hong Kong office of the Alberta Government, now retired, says:

To the best of my knowledge, no.

Mr. Lobsinger attested in his first Statutory Declaration that Multi-Corp was not discussed.

All of these recollections are completely consistent, and there is no evidence to the contrary. I therefore accept that Multi-Corp was not discussed during the dinner at South Lammas Island on Saturday, November 12, 1994.

C. PREMIER KLEIN'S VISIT TO GUANGDONG PROVINCE FROM SUNDAY, NOVEMBER 13 TO WEDNESDAY, NOVEMBER 16, 1994

According to the Alberta organizers, Guangdong Province was chosen for a visit largely because it is the home province of a large number of Alberta's Chinese community. Guangdong Province is the second most southerly province in China and due to its coastal ports, has benefited from opportunities for trade with the West more than most other provinces in China. Hong Kong borders the province and there is a flow of commerce between Guangdong province and Hong Kong. The province has a strong entrepreneurial spirit and has been given certain autonomy in trade matters.²

² Testimony of witnesses. Also internet information on China. One source says this:

Guangdong is the largest province in South China, adjacent to the busiest port Hong Kong. Since the introduction of the open policy and the promotion of economic progress as a central theme of development construction in the late 1970s, Guangdong has done much helpful exploration and experiment with initiative and practicality, in the areas of

deepening reform, widening opening its export-oriented economy. Its rapid economic development deeply impresses the whole world. Its cities, Guangzhou, Shenzhen, Zhuhai are located at estuary of the Pearl River. Their geographic locations form a crossing point for trucks, railway, highways, river, sea and air traffic, and the major port between south China, Hong Kong and overseas.

The Alberta Toisan Association in Alberta was actively involved in putting together the program for the Premier's visit to Guangdong Province. In addition to the actual visit to Guangdong Province between November 13 and 16, 1994, the Toisan Chamber of Commerce hosted a luncheon for the Alberta delegation in Hong Kong on Friday, November 11, 1994. The Statutory Declaration of Henry Mah was particularly helpful.

According to itineraries provided to me during my investigation, the following is a summary of events that formed the program for the Premier's visit to Guangdong Province.

- | | |
|------------------------------|---|
| Sunday, November 13, 1994 | The Alberta delegation left Hong Kong for the City of Jiangmen in Toisan county. The delegation toured the city and were hosted at a banquet that evening by the Vice-Mayor. |
| Monday, November 14, 1994 | The delegation left Jiangmen for Toisan. The delegation toured the city and toured the city and certain facilities (cigarette filter factory and brake factory). A banquet was hosted that evening by the Mayor of Toisan. |
| Tuesday, November 15, 1994 | <p>The delegation visited Nanhai and were hosted by the Mayor of Nanhai Municipality at a luncheon. The Mayor had met the Premier in October while visiting Alberta.</p> <p>The delegation arrived in the capital city, Guangzhou. A meeting was held with Governor Zhu. A reception was held with respect to a contract signing ceremony involving Environmental Technologies Inc. and the City of Guangzhou. Vice-Governor Li hosted a dinner for the delegation.</p> |
| Wednesday, November 16, 1994 | The delegation departed for Nansha and received a tour of the Fok's Nansha Development. The Alberta delegation returned to Hong Kong and then to Canada that afternoon. |

Christopher Liu, Trade Director of the Alberta Government Office in Hong Kong, accompanied the Alberta delegation in Guangzhou and acted as interpreter for the Premier at the Premier's functions with the Governor and Vice-Governor of Guangdong (and therefore heard every word spoken by or to the Premier). Josephine Choi was also present at the meeting with the Governor and at the dinner. George Jung, Canadian consul for Guangdong at that time, also attended the meeting with the Governor and the dinner hosted by the Vice-Governor that evening.

Ms Choi and Mr. Liu have provided statutory declarations that state that Multi-Corp was not mentioned during the meeting with the Governor of Guangdong Province and was not mentioned during the dinner. Mr. Jung has advised Commissioner Lambert that Mr. Jung does not recall any mention of Multi-Corp at either event. I accept their evidence.

I also directed my attention to the following comment contained in the allegations made by Mr. Bruseker:

As you are no doubt aware from media reports, two days after this private meeting, the Premier met with Chinese officials from Guangdong province, who subsequently signed a \$26 million business deal with Multi-Corp.

In fact, the contract is between Multi-Corp and Gaozhou Dongling Electronics Limited, a company in the City of Gaozhou, not Guangdong Province. Mr. Lobsinger states that no officials from either the Government of Alberta or the provincial government of Guangdong were involved in the acquisition or signing of the contract between his company and Gaozhou Dongling Electronics Limited.

Mr. Lobsinger says this about the contract:

I am not aware of the membership of the Board of Directors of the company. My contract was with the Managing Director, Mr. Hu Xiang An, Managing Director of Gaozhou Eastern Concord Electronic Limited, the parent company of Gaozhou Don Ling Electronics Limited, and Mr. Lan Xi Qi, Director. Neither of these individuals speak English. I met them on two occasions at the formal signing of the Letters of Intent, which was November of 1995. They indicated to me they were the signing authorities for the company, and were both full time employees of the company. My belief was Mr. Lan was the founder, senior engineer and director of the company and his decisions were final.

From the foregoing, there is no apparent involvement by the Government of the Province of Guangdong in Gaozhou Dongling Electronics Limited.

Mr. Lobsinger's evidence is credible because:

- Gaozhou is located southwest of the capital in a mountainous portion of Guangdong Province (near the border with Guangxi Province). Because the transportation infrastructure in China is not well developed, travel between Guangzhou and Gaozhou takes two or three days. The Premier did not travel to Gaozhou.
- Staff in the Alberta Government's Hong Kong Office have advised me that while Mr. Lobsinger had requested assistance in finding a joint venture partner in China, neither the City of Gaozhou nor the Gaozhou Dongling Electronics Limited was identified through the efforts of the Alberta Government's Office in Hong Kong. Mr. Young further stated that to his knowledge, none of the contacts suggested by Alberta government staff resulted in any contract involving Multi-Corp Inc. in China. Mr. Lobsinger has confirmed the accuracy of that statement.
- FIGA, ED&T, and Mr. Mah also inform me that, while government support is viewed positively in China, not all foreign businesses need government involvement prior to entering into contracts with entities in China. I am told that this particular contract could have proceeded without involvement by the Alberta Government. This is confirmed by both the Canadian Commissioner's office in Hong Kong and by Mr. Liu in the Alberta Government Office in Hong Kong.

I also sought the advice of the Canadian government officials about whether I should attempt to confirm the foregoing by speaking directly with officials from Guangdong Province or representatives of Gaozhou

Dongling Electronics Limited. I was prepared either to make a personal visit to China or to seek the assistance of the Federal Government to obtain responses to written questions. The officials I spoke to took this suggestion under advisement, and subsequently advised me against taking either approach. Concern was expressed that Chinese officials might interpret the questioning in a way that would damage potential contracts between the Chinese government or Chinese private businesses and other Canadian businesses.

After considering this advice, I came to the conclusion that questioning Chinese officials would not assist my investigation in any event, because the information I had received in the course of my investigation was undisputed.

D. THE VISIT TO ALBERTA BY A VICE-GOVERNOR OF GUANGDONG PROVINCE IN DECEMBER 1994

In late November, the Deputy Minister of FIGA received a fax from the Foreign Affairs Office of Guangdong Province indicating that Vice-Governor Zhong Qiquan would like to visit Alberta in mid-December 1994 to pursue areas of co-operation discussed during the Premier's visit to Guangdong. FIGA responded that the visit would be welcomed and that Marvin Schneider, Director, Asia/Pacific, FIGA, would be responsible for organizing the visit.

Areas of interest identified by the Guangdong Province delegation included petrochemicals, environmental technology and services, tourism, agrifood, and energy (coal). The subject of the telecommunications industry (which might have included Multi-Corp) had not been an area of interest originally identified by the delegation nor was it targeted or talked about in depth during the visit, according to Mr. Schneider.

Since the initial contact with Guangdong Province was made through the Premier's visit to that province, the Premier's office was contacted to determine whether the Premier wished to participate in the program being arranged for Vice-Governor Zhong. The Premier's office advised FIGA that the Premier's schedule would not allow him to participate in the program, and there is no evidence that the Premier did so.

Vice-Governor Zhong arrived in Edmonton from Montreal on the evening of Thursday, December 15, 1994. This person is not the same Vice-Governor as the premier met during the visit to Guangdong Province.

FIGA arranged the following program for the Vice-Governor and his delegation (six persons in total) plus a representative of Northern Telecom who was accompanying the delegation. On Friday, December 16, 1994, the delegation paid a courtesy call with Mr. Robert Fischer, M.L.A., who held certain Cabinet responsibilities relating to Tourism at that time. Following that meeting, the delegation was taken to the offices of ED&T, where they received a normal roundtable briefing session on Alberta. ED&T invited the participants to that roundtable session, which lasted approximately 45 to 50 minutes. The delegation was then taken to the Cloverbar Landfill where they met with the operators of the Environmental Technologies Inc. (ETI) gas recovery plant, who have a contract with Guangdong Province.

A luncheon was hosted on the Friday at the Edmonton Convention Centre by the City of Edmonton. After the luncheon, the delegation went to Fort Saskatchewan and met with Dow Chemical officials. Following a brief stop at their hotel, the delegation was taken to Government House. A brief (15 to 20 minutes) meeting was held between the delegation and the Hon. Ken Rostad, Minister of Federal and Intergovernmental Affairs. A reception and dinner at Government House followed that meeting. The delegation was then taken to West Edmonton Mall and were also given a tour of the Christmas lights at the Legislature Building prior to returning to their hotel.

The following morning, Saturday, December 17, 1994, the delegation attended a breakfast hosted by Northland Power, which had requested the opportunity to meet with the delegation.

The delegation left Edmonton around noon on December 17, 1994.

Ms Josephine Choi (from ED&T) and Mr. Schneider accompanied the delegation to all events on December 16, and Ms Choi attended the breakfast on December 17. Neither of them recalls any mention of Multi-Corp Inc. during the delegation's visit to Alberta.

E. ANY PRIVATE MEETINGS BETWEEN PREMIER KLEIN AND MICHAEL LOBSINGER, PRESIDENT OF MULTI-CORP INC.

Mr. Bruseker alleges that Premier Klein and Michael Lobsinger have held meetings with each other since 1993.

Both Mr. Klein and Mr. Lobsinger have deposed that they have had no private meetings at which the purpose of the meeting was to discuss Multi-Corp, Ziran software, or any other aspect of Multi-Corp's operations or any assistance the Alberta Government might offer to Multi-Corp.

Both men have acknowledged that the Premier did attend Multi-Corp's Christmas party in 1994. Mr. Lobsinger attended political functions such as the Premier's dinner in Calgary and similar functions at which the Premier may have been present.

At the request of Mr. Bruseker, I interviewed an individual who was employed by Multi-Corp at the relevant time who Mr. Bruseker said would support the allegation that private meetings had been held between Mr. Klein and Mr. Lobsinger. The individual in question told me that he saw the Premier at Multi-Corp's office only once, and that was for the 1994 Christmas party which Mr. Klein and Mr. Lobsinger had both referred to. This individual confirmed that the Premier's visit to the Christmas party lasted about half an hour and was purely social in purpose. The individual in question requested confidentiality for a number of reasons unrelated to my investigation, and I have chosen to honour that request because that individual's evidence is identical to the evidence provided by Mr. Klein and Mr. Lobsinger.

PART V: FINDINGS

After carefully reviewing the results of my investigations, and the provisions of the Act, these are my findings about the allegations made by Mr. Bruseker.

Section 2

Section 2 of the Act prevents a member from taking part in a decision which might further a private interest of the Member or a direct associate of the Member.

- 2(1) A Member breaches this Act if the Member takes part in a decision in the course of carrying out the Member's office or powers knowing that the decision might further a private interest of the Member, a person directly associated with the Member or the Member's minor child.
- (2) Where a matter for decision in which a Member has reasonable grounds to believe that the Member, the Member's minor child or a person directly associated with the Member has a private interest is before a meeting of the Executive Council or a committee of the Executive Council or the Legislative Assembly or a committee appointed by resolution of the Legislative Assembly, the Member must declare that interest and must withdraw from the meeting without voting on or participating in the consideration of the matter.
- (3) A Member who fails to comply with subsection (2) breaches this Act.
- (4) If a matter referred to in subsection (1) requires a decision of a Minister, the Minister may request another Minister to act in the Minister's stead in connection with the decision and the Minister to whom it is referred may act in the matter for the period of time necessary.

In order for there to be a breach of section 2, there must be evidence that (1) a Member participated in a decision, (2) in the course of carrying out the Member's office or powers, and (3) a private interest might be furthered as a result of the decision.

The only possible "private interest" in this case is Colleen Klein's ownership of the shares in Multi-Corp.

On the basis of the evidence in front of me, I have found as a fact that Multi-Corp was not discussed during the dinner on South Lamma Island.

Further, there is no evidence that the Premier took part in any decision in the course of carrying out his office or powers knowing that the decision might further his wife's private interest as a shareholder in Multi-Corp.

Although the Premier was undoubtedly the principal decision-maker that Alberta would participate in the Team Canada Trade Mission, there is no suggestion that this decision was made for the purpose of helping Multi-Corp or treating it more favourably than any other Alberta company. No representative of Multi-Corp was involved in planning the Trade Mission or was a participant in it.

The only involvement of Multi-Corp in the Trade Mission was Mr. Lobsinger's attendance at the Chamber of Commerce breakfast in Hong Kong on Saturday, November 12, 1994, and as a guest at the dinner at South Lamma Island that night. To the extent that these might be "decisions" within the meaning of section 2, Mr. Klein did not make them.

Accordingly, there is no breach of section 2.

Section 3

Section 3 of the Act prevents a Member from using his office or powers to influence a decision to be made on behalf of the Crown to further a private interest.

- 3** A Member breaches this Act if the Member uses the Member's office or powers to influence or to seek to influence a decision to be made by or on behalf of the Crown to further a private interest of the Member, a person directly associated with the Member or the Member's minor child.

The only possible relevance of section 3 to the facts of this case is Mr. Bruseker's comment that Multi-Corp signed a contract "with Guangdong province" sometime after the Premier's visit to that province between November 13 and 15, 1994.

As has been shown, there is no contract "with Guangdong province." In fact, the contract is with Gaozhou Dongling Electronics Limited. There is no evidence that the Government of Alberta or Premier Klein's visit to Guangdong Province had anything to do with this contract. There is no evidence of the Premier having met with anyone from Gaozhou Dongling Electronics.

Further, section 3 refers only to decisions made by the Crown in Right of Alberta; it does not deal with other governments. The Alberta Government did not make any decision with respect to this contract.

Accordingly, there is no breach of section 3.

Section 4

Section 4 prohibits a Member from using or communicating insider information to further a private interest.

- 4** A Member breaches this Act if the Member uses or communicates information not available to the general public that was gained by the Member in the course of carrying out the Member's office or powers to further or seek to further a private interest of the Member, a person directly associated with the Member or the Member's minor child.

On the basis of the evidence in front of me, I have found as a fact that Multi-Corp was not discussed during the dinner on South Lama Island. Even if such a discussion had occurred at the dinner, that would not by itself constitute a breach of section 4, because there would have to be evidence that the premier used insider information learned at that dinner to further a private interest of him (or his wife). There is no evidence whatsoever that Premier or Mrs. Klein made any transactions in Multi-Corp in the period immediately after the dinner on Saturday, September 12, 1994. (Mrs. Klein purchased the shares in Multi-Corp on December 14, 1993. She sold them as a result of my previous report, which was issued on November 10, 1995.)

There is no evidence that Premier Klein received or had any insider information about Multi-Corp during the Trade Mission or at any other time. There is no evidence that he used or communicated any insider information to anyone.

Accordingly, there is no breach of section 4.

CONCLUSION

In my opinion there has been no breach of the *Conflicts of Interest Act* in this matter.

Section 27(7) of the Act authorizes me to provide an copy of my report to the Member:

27(7) The Ethics Commissioner may, before reporting his findings to the Speaker of the Legislative Assembly under subsection (6), provide a copy of the report

- (a) to the Member against whom the allegation was made, and
- (b) to the leader in the Legislative Assembly of the political party to which the Member belongs.

This has been my invariable practice over the last five years. I do so for two reasons:

1. I wish to ensure that the report to the greatest extent possible contains no factual errors, which the Member may be able to identify.
2. A person's integrity is a valuable asset. I believe it to be common decency to allow a person an opportunity to view my comments privately and to prepare a response.

I intend to continue this practice.

All of which, Mr. Speaker, is respectfully submitted this 19th day of December, 1996.

Robert C. Clark
Ethics Commissioner

APPENDIX B

EXCERPTS FROM THE *CONFLICTS OF INTEREST ACT*

Section 1(5)

- 1(5)** For the purposes of this Act, a person is directly associated with a Member if that person is
- (a) the Member's spouse.

Section 2

- 2(1)** A Member breaches this Act if the Member takes part in a decision in the course of carrying out the Member's office or powers knowing that the decision might further a private interest of the Member, a person directly associated with the Member or the Member's minor child.
- (2)** Where a matter for decision in which a Member has reasonable grounds to believe that the Member, the Member's minor child or a person directly associated with the Member has a private interest is before a meeting of the Executive Council or a committee of the Executive Council or the Legislative Assembly or a committee appointed by resolution of the Legislative Assembly, the Member must declare that interest and must withdraw from the meeting without voting on or participating in the consideration of the matter.
- (3)** A Member who fails to comply with subsection (2) breaches this Act.
- (4)** If a matter referred to in subsection (1) requires a decision of a Minister, the Minister may request another Minister to act in the Minister's stead in connection with the decision and the Minister to whom it is referred may act in the matter for the period of time necessary.

Section 3

- 3** A Member breaches this Act if the Member uses the Member's office or powers to influence or to seek to influence a decision to be made by or on behalf of the Crown to further a private interest of the Member, a person directly associated with the Member or the Member's minor child.

Section 4

- 4** A Member breaches this Act if the Member uses or communicates information not available to the general public that was gained by the Member in the course of carrying out the Member's office or powers to further or seek to further a private interest of the Member, a person directly associated with the Member or the Member's minor child.

Section 22

- 22(1) Any person may request in writing that the Ethics Commissioner investigate any matter respecting an alleged breach of this Act by a Member.

Section 23

- 23(1) On receiving a request under section 22 or where the Ethics Commissioner has reason to believe that a Member has acted or is acting in contravention of advice, recommendations or directions or any conditions of any approval or exemption given by the Ethics Commissioner to the Member under this Act, and on giving the Member concerned reasonable notice, the Ethics Commissioner may conduct an investigation with or without conducting an inquiry.
- (2) When conducting an inquiry under this section, the Ethics Commissioner has the powers, privileges and immunities of a commissioner under the *Public Inquiries Act*.
- (3) If an inquiry is held, it shall be held in public unless the Ethics Commissioner, in the interests of justice, decides that it is to be held in private.
- (6) Where the request is made under section 22(1), (3) or (4), the Ethics Commissioner shall report his findings to the Speaker of the Legislative Assembly.
- (7) The Ethics Commission may, before reporting his findings to the Speaker of the Legislative Assembly under subsection (6), provide a copy of the report
- (a) to the Member against whom the allegation was made, and
 - (b) to the leader in the Legislative Assembly of the political party to which the Member belongs.

Section 25

- 25(4) Where it appears to the Ethics Commissioner that a report may adversely affect a Member, the Ethics Commissioner shall inform the Member of the particulars and give the Member the opportunity to make representations, either orally or in writing at the discretion of the Ethics Commissioner, before the Ethics Commissioner completes the report.

Section 38

- 38(2) The Ethics Commissioner may engage the services of any persons as are necessary to assist the Ethics Commissioner in carrying out the Ethics Commissioner's duties and functions.

APPENDIX C

(1) Questions directed to organizers of the 1994 Trade Mission to Hong Kong and China

Who organized the Premier's schedule for the November 1994 Trade Mission to Hong Kong and China?

What direction did the organizers receive with respect to making arrangements with respect to stops, meetings, social, or business visits?

From whom did they receive direction?

Were any discussions held with Premier Klein with respect to the meetings and social functions arranged in Hong Kong and China?

Did the Premier request any specific meetings?

Did the Premier request any specific persons (Michael Lobsinger, in particular) be included at any meetings?

Did the Premier request any specific persons be included at any social functions?

Was Michael Lobsinger invited to accompany the Premier on the Trade Mission?

Did you know that Michael Lobsinger was in Hong Kong at that time?

How did you know that Mr. Lobsinger was there at that time?

Do you know why Michael Lobsinger was in Hong Kong at that time?

Did Michael Lobsinger advise you of his negotiations with Guangdong Province or with any corporation or other entity in China?

To your knowledge, did Mr. Lobsinger advise any other Alberta Government person of those negotiations?

(2) Questions directed to participants at the dinner on South Lamma Island

With respect to the dinner held on November 12, 1994, at South Lamma Island, Hong Kong:

(A) Who made the dinner arrangements?

(B) Who invited Michael Lobsinger?

(C) Why was Michael Lobsinger invited?

- (D) Why was the dinner not included on the Premier's itinerary?
- (E) What was the purpose of the dinner?
- (F) Was Multi-Corp Inc., its software, or anything relating to its business or its shares discussed at any point that evening?
- (G) If so, with whom was it discussed?
- (H) Were any of the participants at the dinner aware of Multi-Corp's attempts to obtain a contract with Guangdong Province or with any corporation or other entity in China?
- (I) If so, who knew?
- (J) If so, when did they know it?

(3) Questions directed to organizers of the visit to Guangdong Province

With respect to the meeting held with Chinese officials in Guangdong Province on November 14, 1994:

- (A) What was the purpose of the meeting?
- (B) With whom did the Premier meet?
- (C) Was there a fixed itinerary for the meeting?
- (D) Did the Premier recommend or refer to any specific Alberta companies during his meetings with the Chinese officials?
- (E) Did the Premier mention Multi-Corp Inc. during the meetings?
- (F) If the Premier did mention Multi-Corp Inc. during the meetings, what did he say?
- (G) If the Premier did mention specific companies but did not mention Multi-Corp, do you know why Multi-Corp was not mentioned?

(4) Questions directed to organizers of the visit to Alberta by the Vice-Governor of Guangdong Province

With respect to the visit to Alberta by the Vice-Governor of Guangdong Province:

- (A) What was the purpose of the visit?
- (B) Who in Alberta was responsible for making arrangements for the visit?
- (C) With whom did the organizers consult with respect to making the arrangements?

- (D) Did the Premier have any input with respect to the arrangements?
- (E) Who attended the meetings in Alberta?
- (F) Was Multi-Corp Inc. mentioned by the Premier at any point during the visit?
- (G) If so, what did the Premier say?
- (H) To whom was it said?
- (I) Who else may have heard the remarks?
- (J) To your knowledge, was Multi-Corp Inc. discussed by anyone associated with the Alberta Government? If so, by whom?
- (K) Was Michael Lobsinger or any other person associated with Multi-Corp Inc. invited to any government meetings or social functions during the Vice-Governor's visit?
- (L) If so, by whom was he invited?
- (M) What meetings or social functions did he attend?

APPENDIX D

STATUTORY DECLARATIONS

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Hon. Ralph Klein, Premier	D-2
Mr. Michael Lobsinger, President, Multi-Corp Inc.	D-7
Mr. Gordon Young, then Agent General in the Alberta Government Office in Hong Kong, now a private consultant	D-20
Mr. Geoffrey Anderson, then Senior Director, Asia Pacific, in the Hong Kong office of the Alberta Government, now retired	D-37
Mrs. Oryssia Lennie, Deputy Minister, Department of Federal and Intergovernmental Affairs	D-43
Mr. Wayne Clifford, Assistant Deputy Minister, Department of Federal and Intergovernmental Affairs	D-63
Mr. Christopher Liu, Trade Director with the Alberta Government Office in Hong Kong, who acted as Mr. Klein's interpreter	D-76
Mr. Rod Love, Executive Director, Office of the Premier	D-94
Mr. Hugh Dunne, then Director, Southern Alberta Office of the Premier, no longer employed by the Government of Alberta	D-98
Mr. Henry Mah, Edmonton businessman	D-105
Ms Josephine Choi, Director, Asia/Hong Kong, Export Development, Department of Economic Development and Tourism	D-108
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