



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

**INVESTIGATION INTO ALLEGATION
INVOLVING MR. LÉO VASSEUR, MEMBER FOR BONNYVILLE**

April 5, 1995

ALLEGATION

This Office received a letter dated March 22, 1995, from Mr. Léo Vasseur, Member for Bonnyville, requesting an investigation into an alleged conflict of interest involving Nor-Glass Ltd. (Nor-Glass), a direct associate of the Member. Nor-Glass performed tendered work for the Department of Public Works, Supply and Services (PWSS), and the Member sought an investigation to determine whether he was in breach of the *Conflicts of Interest Act* because of the contract work performed by Nor-Glass.

FACTS

The Department of Public Works, Supply and Services invited four Bonnyville firms, including Nor-Glass, to submit bids for the replacement of doors and windows at the Ardmore Job Corps. A site pre-bid meeting was held on July 7, 1994 and bids were to be received by 2:00 p.m. on July 14, 1994. A bid, dated July 14, was prepared by Laurier Vasseur as authorized representative of Nor-Glass. Léo Vasseur witnessed his son's signature on the bid. The bid was accepted on July 21 by Malcolm MacLean, Superintendent, PWSS, Property Management.

By letter dated July 21, Mr. MacLean advised Nor-Glass that its bid of \$4,670.00 was the lowest bid and had been accepted for the project. A tender summary sheet submitted by Mr. Vasseur to this office shows that only two companies chose to bid on the project and that Nor-Glass was the lowest bidder.

Mr. Vasseur has submitted copies of receipts for all materials used by Nor-Glass to complete the contract work. In addition he has supplied receipts for courier services used and has provided an estimate of time and employee expenses related to this job. According to those documents, Nor-Glass expended \$3,945.86 to carry out the contract work.

On January 4, 1995, Nor-Glass submitted to PWSS a Statutory Declaration for Final Payment and Mr. Vasseur advised me that Nor-Glass has been paid in full for its work on this project. I have consulted with PWSS staff to ensure that the receipts are reasonable and I have been advised that the profit in this instance is reasonable for a job of this type. The Department also advises that although there was a delay in completing the work, the Department was satisfied with the work performed by Nor-Glass.

FINDINGS

Section 1(5) of the *Conflicts of Interest Act* states

- 1(5) For the purposes of this Act, a person is directly associated with a Member if that person is
- (b) a corporation having share capital and carrying on business or activities for profit or gain and the Member is a director or senior officer of the corporation;
 - (c) a private corporation carrying on business or activities for profit or gain and the Member owns or is the beneficial owner of shares of the corporation.

Mr. Vasseur owns 100% of the shares of Nor-Glass Ltd. and it does carry out business or activities for profit or gain. Mr. Vasseur also serves as a director and President of the corporation. Nor-Glass is therefore a direct associate of the Member.

Under section 8(1)(c) of the Act,

- 8(1) A Member breaches this Act if, while being a Member, the Member or a person directly associated with the Member becomes a party to a contract within any of the following classes:
- (c) a contract to which the Crown is also a party and that is for the construction, demolition, alteration or repair of a public work.

In this instance, Nor-Glass -- a person directly associated with Mr. Vasseur -- entered into a contract to which the Crown was a party for the repair of a public work. The Member is therefore in breach of the Act.

RECOMMENDATIONS

At the outset I wish to acknowledge that Mr. Vasseur raised this matter with me and has co-operated fully with me in this investigation.

Mr. Vasseur was aware of the provisions of section 8 of the Act; however, because of management changes at Nor-Glass, Laurier Vasseur was not advised that Nor-Glass could not bid on contracts with PWSS. Mr. Vasseur admits that he should have recalled his obligations under the legislation when he was asked to witness his son's signature but that he failed to do so. I am convinced that the Member's error was inadvertent and I am satisfied that since this contract, the Member has taken steps to ensure that the error is not repeated.

I considered whether to handle this matter as a request for advice and recommendations under section 41 of the Conflicts Act or if I should conduct an investigation. The Conflicts Act does not allow the Commissioner to conduct an investigation without a request except under section 23(1) where the Commissioner has reason to believe a Member has acted or is acting in contravention of advice, recommendations or directions given by the Commissioner under the Act. I do not believe that section applies in this case.

In providing advice and recommendations under section 41, the Commissioner has no powers to impose any sanctions. The Commissioner may only recommend that a Member take certain action to correct or avoid a breach. The advice given to the Member may only be released by that Member and cannot be released by this office.

Questions might also be raised about using section 41 to avoid public release of information relating to a breach of the Conflicts Act. In this case, information would be released eventually by the Provincial Treasurer in his report on payments made to Members' Direct Associates. However, that report may be released several months after an incident takes place and would contain no more information than that a payment was made by PWSS to Nor-Glass. It is possible that an investigation could be requested by any individual at that time.

I do encourage Members to use section 41 prior to acting but I am reluctant to use that section when a breach of the Act has occurred and a payment has been made to the Member or the Member's direct associate.

I discussed with the Member proceeding under section 22 of the Act and the Member agreed to request the investigation so that this matter could be dealt with promptly.

During the investigation, the Member and I discussed the \$724.14 profit realized by Nor-Glass under this contract and the repayment of that sum to the Provincial Treasurer. I have obtained documentation from Mr. Vasseur that shows that a cheque to the Provincial Treasurer in the sum of \$724.14 has been delivered to the Hon. Robert Fischer, Minister of Public Works, Supply and Services.

Based on the above information, I make the following recommendations:

1. That no sanction be imposed since I found the breach to be inadvertent and because the Member has repaid the amount gained by his direct associate.
2. That public bodies be made aware of the text of section 8 of the *Conflicts of Interest Act* by the Provincial Treasurer when the Treasury Department compiles its information on payments to Members' direct associates. The text would be provided for the information of the department as it is understood that the primary obligation to avoid conflict of interest is on the Member.