



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

Report

by

**Hon. Marguerite Trussler, Q.C.,
Ethics Commissioner**

into allegations involving

Jason Kenney, Member of the Legislative Assembly, Calgary-Lougheed

and

Prasad Panda, Member of the Legislative Assembly, Calgary-Foothills

October 23, 2018

Introduction

I received a letter dated September 25, 2018 from Heather Sweet, Chair, NDP caucus, asking for an investigation into a trip taken to India by Hon. Jason Kenney, Leader of Her Majesty's loyal opposition, Prasad Panda, opposition energy critic and Devin Dreeshen, opposition critic for trade.

Concerns raised included private aircraft travel, Member Kenney's positive comments in the press and on social media about Reliance Industries in which Member Panda owns shares and whether Member Panda used his connections to facilitate a visit to the Reliance refinery to further his own private interests.

Relevant Provisions

The relevant sections of the Act are:

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 or adult child.

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 or to improperly further another person's private interest.

7.1 (1) In this section, "non-commercial chartered or private aircraft" does not include a non-commercial aircraft chartered by the Crown or a private aircraft owned or leased by the Crown.

(2) A Member breaches this Act if the Member accepts an offer of travel on a non-commercial chartered or private aircraft that is connected, directly or indirectly, with the performance of the Member's office, unless

- (a) the travel is required for the performance of the Member's office,
- (b) there are exceptional circumstances warranting the acceptance of travel, or
- (c) the member receives approval from the Ethics Commissioner before accepting travel, ...

Investigative Process

As part of the investigative process, I reviewed the file that my office already had on the trip to India. I also spoke with two representatives of the complainant, Member Estefania Cortes-Vargas and Robin Steudel, Director of Communications and Research, New Democrat Caucus office, to see if there was any further information or evidence not contained in the letter requesting an investigation. I then interviewed under oath both Member Jason Kenney and Member Prasad Panda. During these interviews, I received permission from both of them to release information from my existing file. I also reviewed Member Kenney's social media postings about the trip.

Facts

Member Kenney was invited to India by the Indian Prime Minister, whom he has known for 12 years, through the office of the Indian High Commission in Ottawa. Before and during the trip, he was assisted by the Canadian High Commission in India. He represented himself as the leader of the United Conservative Party. He is known in India because of his former position as a federal cabinet Minister. Numerous meetings and visits to industries were scheduled including the trip to the Reliance Industries refinery.

He advised the Premier and the Minister of Economic Development and Trade about the trip in advance.

Prior to embarking on the trip, Member Panda properly sought permission from my office for travel by the three Members on a non-commercial aircraft to the Reliance Industries refinery and completed the required forms. The refinery is located near a military base and the only way to travel to the site was by the Reliance Industries aircraft. At that time, my office asked pointed questions about the trip. Member Panda replied candidly and with considerable detail about the purpose of the trip, who proposed the trip, who was going, who was paying for the trip, what gifts might be received and whether any of those travelling had any financial interest or other interests in Reliance Industries.

Member Panda also later asked for and received permission to accept a helicopter flight from Government of Punjab for all three Members.

Member Panda was able to arrange private transportation to the Reliance Industries refinery site, as he was a former employee of Reliance Industries and maintains personal relationships with former colleagues at Reliance Industries. There was no other way to visit the refinery. The helicopter flight was a question of scheduling and was approved by our office after some consideration.

A list of all gifts received was filed with our office as was a report of the flights taken, as required by the legislation.

Member Panda owns shares in Reliance Industries as a result of having worked for the company and he has always disclosed those shares on his annual disclosure statements. Member Kenney was not aware that Member Panda owned shares in Reliance.

Findings

There were no allegations made against Member Dreeshen so he is not included in this report.

As the trip was paid for by the United Conservative Party, and to some extent by the Members personally, there was no breach of s. 7 of the Conflicts of Interest Act which allows gifts from a Member's political party.

While concerns were raised in Member Sweet's letter about how Member Kenney represented himself, such representations are not within the jurisdiction of my office but are a political matter. However, I am satisfied that Member Kenney did not misrepresent himself.

The use of non-commercial aircraft had my prior approval. Member Panda did not use his connections to further his private interests. He made the arrangements using past friendships, including one with senior management of Reliance Industries, from before he became a Member of the Legislative Assembly. The complaint does not fall within s.2 (1) of the Act, as the section refers to a Member taking part in a decision knowing that the decision might further a private interest of the Member. Member Panda did not take part in any decision. He arranged transportation to a site that was scheduled to be visited.

The final allegation is that Member Kenney, by publicly lauding Reliance Industries, used his office to influence or seek to influence a decision made on behalf of the Crown to improperly further another person's, namely Member Panda's, private interest.

As I indicated in *McIver*, a press release issued by Member McIver on behalf of the party was used to influence the Alberta voter and not the Crown. In this instance, the same applies to the use of social media. In no way was Member Kenney attempting to influence the Crown. He was commenting on his trip and updating his followers.

Member Panda's interest in Reliance Industries is trivial taking into account the number of issued shares in the company which is 638,338,364,543 and a market capitalization of \$93,291,040,000 (US). Member Panda's holdings are infinitesimal. Member Kenney's comments were directed to Albertans and would not in any way make a difference to the share value of the company.

Conclusion

There were no breaches of the Conflicts of Interest Act by either Member Kenney or Member Panda. They were very careful about not breaching the Act and were forthright throughout. They sought and received prior approval for non-commercial air travel.

However, I can understand why Member Sweet possibly could have had concerns about the trip as she was unaware of the circumstances. My office asked a number of probing questions requiring detailed responses before giving approval for the flights.

In the future, it would be appreciated if those requesting an investigation did not post the request to social media before I have the courtesy of receiving the request.

As well, given that Alberta is having a general election within the next year, I want to make it clear that I do not want Members filing complaints against other Members for the purpose of scoring political points.



Hon. Marguerite Trussler, Q.C.
Ethics Commissioner