



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

Report

**of the Investigation
under the *Conflicts of Interest Act***

by

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

into allegations involving

Minister Adriana LaGrange - MLA, Red Deer - North

August 12, 2021

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INTRODUCTION

On January 11, 2021, a request for an investigation was received by the Office of the Ethics Commissioner about an alleged breach of the *Conflicts of Interest Act* by the Minister of Education, Adriana LaGrange. The request reads in part:

It has come to my attention that Minister Adriana LaGrange is in breach of the Conflicts of Interest Act by using her role as Minister of Education, to benefit a private UCP donor in her constituency, Mr. Reg Radford, of IFR Workwear.

Mr. Radford donated \$2000.00 to Minister LaGrange's election campaign, and has contributed over \$10,000 to provincial conservatives in the last 10 years.

On July 18, 2020 the Minister and Premier, Jason Kenney, took a tour of IFR Workwear on Mr. Radford's invitation, and used it as a friendly photo op. On July 28, 2020 the Provincial Operations Centre (POC) was alerted that the Education Ministry intended to mandate masks for students, and to begin finding vendors for masks. The POC was given special powers to skip normal RFP's for procurement to source pandemic supplies quickly. On July 29, 2020, LaGrange's Executive Advisor, Linda Antunes, emails to prompt the POC about IFR, even though the POC has no records on IFR. Later that day, the POC provided a list of 4 acceptable vendors for masks, based on timeline, cost, and quantities. IFR was not on this list. On July 30, 2020, Ms. Antunes pressured the POC again on including IFR, trying to sell an Indigenous angle, via email. On July 31, 2020, the POC, Alberta Emergency Agency, Dr. Hinshaw and Minister LaGrange meet to discuss the mask mandate for schools and within this meeting get Old Navy and IFR the contracts, which was confirmed in an email from the POC afterwards.

In email correspondence on August 4, 2020, the POC determined that Old Navy could fill the entire order for cheaper (\$2.30 per mask) than IFR (\$4.24 per mask). Ms. Antunes directs the POC to split the order so IFR gets a \$636,000 share of the procurement.

On August 10, 2020, she wrote to the Ethics Commissioner to pre-empt an investigation, as the information about Mr. Radford, owner of IFR, being a donor and constituent in her riding surfaced. She denied having connections to Mr. Radford. She lied saying IFR was chosen purely on POC's technical advice. She lied and said she only learned of IFR's contract on Aug 8, after

the press conference. She then tried to mislead the Ethics Commissioner saying none of her political staff were involved.

I would like a full investigation conducted regarding this conflict of interest, in contravention of the Alberta Conflicts of Interest Act.

Allegations in requests for investigations are not proven and the purpose of an investigation is to ascertain the facts.

RELEVANT PROVISIONS OF THE ACT

The relevant provision of the *Conflicts of Interest Act* is section 3. It reads:

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.

SCOPE AND AUTHORITY UNDER THE ACT

It is necessary to review the *Conflicts of Interest Act* and the powers of the Ethics Commissioner. The Act sets out the obligations of Members as well as the jurisdiction of the Ethics Commissioner. The Ethics Commissioner has no power beyond that given in the provisions of the Act. The scope of the Act is narrow. The object of the Act is to make sure no Member or his or her family obtains a personal financial benefit from being a Member and that no third party is improperly favoured. The Act does not deal with moral integrity or public perception of what is right or wrong.

USE OF PREAMBLE TO THE ACT

The preamble to the Act reads:

WHEREAS the ethical conduct of elected officials is expected in democracies;

WHEREAS Members of the Legislative Assembly can serve Albertans most effectively if they come from a spectrum of occupations and continue to participate actively in the community;

WHEREAS Members of the Legislative Assembly are expected to perform their duties of office and arrange their private affairs in a manner that promotes public confidence and trust in the integrity of each Member, that maintains the Assembly's dignity and that justifies the respect in which society holds the Assembly and its Members;

WHEREAS Members of the Legislative Assembly, in reconciling their duties of office and their private interests, are expected to act with integrity and impartiality:

WHEREAS Ministers and their staff must avoid conduct that violates the public trust or creates an appearance of impropriety;

[...]

WHEREAS the adoption of clear and consistent conflict of interest rules, post-employment restrictions and reporting duties will promote these aims;

While the preamble contains laudable ideals, it is general in nature and as a principle of statutory interpretation it can only be used to assist in interpreting the substantive provisions of the Act. By itself, it has no legislative authority.

Therefore, in considering the complaint against Minister LaGrange, I am restricted to determining whether she improperly furthered a private interest contrary to section 3 of the Act. The definition of a private interest was canvassed in my December 14, 2014, investigation report into the conduct of then Premier Prentice and then Minister Mandel.

INVESTIGATIVE PROCESS

The following people were interviewed under oath:

Hon. Adriana LaGrange, Minister of Education;

Andre Corbould, former Deputy Minister of Education;

Dr. Heather Caltagirone, Acting Deputy Minister of Education from July 31 to August 17, 2020;

Michael Walter, former Assistant Deputy Minister of Education who co-ordinated the procurement of personal protective equipment and reported to the Deputy Minister of Education;

Sara Wong, former Chief of Staff to the Deputy Minister of Education;

Linda Antunes, former Strategy Advisor at Education, and Acting Chief of Staff to the Deputy Minister of Education during last week of July 2020, who reported to the Assistant Deputy Minister of Education, Michael Walter;

Amanda Dalton, Director of Logistic Services, Provincial Operations Centre;

Erica Wolfe, Deputy Head of Logistics, Provincial Operations Centre, until July 31, 2020;

Eric Winterburn, Deputy Logistics Chief, Personal Protective Equipment task force, Provincial Operations Centre;

Jennifer Larson, Logistics, Provincial Operations Centre;

Burton Bailey, constituency assistant for Member LaGrange;

Shade Jayeola, constituency assistant for Member LaGrange;

Nicole Williams, Chief of Staff to the Minister of Education;

Colin Aitchison, former Press Secretary for the Minister of Education;

Clancy Bouwman, former Executive Assistant to the Premier;

Erin Buckland, President, director, and one of the owners of IFR Workwear Inc.

ISSUE

Did Minister LaGrange improperly further another person's private interest in the procurement of reusable masks for use in Alberta schools?

FACTS

On May 16, 2020, Erin Buckland of IFR Workwear Inc. sent an email to the Premier's office, the Red Deer-South constituency office, the Calgary-Lougheed constituency office, and the Red Deer-North constituency office (which is Minister LaGrange's constituency), expressing concern at the Government's announcement that it would provide 40 million masks free of charge when businesses had spent two months making changes to import disposable masks and re-purposed manufacturing plants to produce reusable masks in order to keep their businesses alive. It was felt to be unfair that government tax dollars were being used to essentially compete with businesses. She concluded "How do we work together to minimize the financial damage this announcement will have on businesses in a very timely manner?". Minister LaGrange's constituency office forwarded this email to the Department of Economic Development, Trade and Tourism for a response. Minister LaGrange and her staff took no action on it.

On July 7, 2020, Rita Hicks from the Premier's office contacted the two Red Deer Members of the Legislative Assembly, Adriana LaGrange and Jason Stephan, to advise them that the Premier would be visiting Red Deer on July 18th. She was seeking advice on the proposed itinerary and requested suggestions for small businesses to visit in Red Deer. Minister LaGrange suggested four possibilities, including IFR Workwear Inc. Member Stephan also made some suggestions.

It appears that the final decision on the schedule was made in the Premier's office. IFR Workwear Inc. was on the itinerary, along with several other businesses that had been suggested.

Premier Kenney toured Red Deer as planned on July 18th and he was accompanied by Minister LaGrange, Member Stephan and his Executive Assistant, Clancy Bouwman. They made seven or eight stops in Red Deer. The businesses visited were selected for the most part because they had adapted to the economic stresses of the COVID-19 pandemic.

The stop at the IFR Workwear Inc. premises was approximately 45 minutes. The touring party was shown the facility and manufacturing set up. It was also indicated that IFR Workwear Inc. had a plant in Mexico. The supply of masks was not discussed. The tour was before the Government had made a decision to provide students with masks.

The Minister knows of the Radford family that is involved with IFR Workwear Inc., but they are not friends and do not travel in the same social circle. Reg Radford donated \$2,000, which is permissible under the *Elections Finances and Contributions Disclosure Act*, to the Minister's constituency association when the Minister ran to be a Member of the Legislative Assembly for Red Deer-North in 2019. The Minister did not solicit the donation. It is clear that the Minister was aware of the Radford family and IFR Workwear Inc.

Erin Buckland from IFR Workwear Inc. was interviewed. She indicated that the Premier and Minister LaGrange toured IFR Workwear Inc.'s place of business on July 18, 2020. The company had been advertising on social media that it was producing personal protective equipment, including masks. It was starting to manufacture some products in Red Deer. The company was contacted about participating in the tour by the Premier's office. It was mentioned that it manufactured masks during the tour but no ask was made of those present. There is no evidence that IFR Workwear Inc. invited the Premier to tour its facility or asked for any favours.

The Provincial Operations Centre (POC), which is housed in the Ministry of Municipal Affairs, formed a personal protective equipment task force in April of 2020. The task force was in charge of acquiring and distributing personal protective equipment for non health care groups. It sourced personal protective equipment for Government and groups such as shelters, group homes, meat packing plants, to name a few. There was an emergency procurement policy in place if the Government's normal procurement policy was not timely. The POC would seek out multiple quotes and, if the quotes met the specifications, then the POC would go with the lowest price. The POC does not keep a list of pre-approved vendors and takes care not to favour any vendor.

It would appear that the Ministry of Education first approached the POC about the procurement of reusable masks for students and staff on July 27, 2020. An email from Linda Antunes in Education reads:

"Our DM has asked us to explore with POC what Education can do to provide junior and senior high school students and staff with two re-usable masks for the start of school in September for approximately 333,000 students and 70,500 staff.
1) Does POC have a source from which we can procure these? [...]"

Linda Antunes reported to Michael Walter and was assigned to mask procurement by him. Erica Wolfe confirmed that, while she had been working with Education on the procurement of other personal protective equipment, July 27th was the first involvement with respect to masks.

Linda Antunes was instructed by Michael Walter about what the Department was looking for and timelines for acquisition. Michael Walter says that the Deputy Minister of Education at the time, Andre Corbould, asked him and Linda Antunes to explore the procurement of masks. Initially, Education had to go to Treasury Board and Finance to request funding. Time was a critical factor, as masks had to be sourced, purchased, received, and distributed by the end of August.

It should be pointed out that Linda Antunes was also Acting Chief of Staff to Andre Corbould during the last week of July 2020, as Mr. Corbould's Chief of Staff at the time, Sara Wong, was on vacation. Linda Antunes was never an Executive Advisor to the Minister as alleged in the request for investigation.

The next day, there was an email response from Erica Wolfe to Linda Antunes which said:

“[...] 2. As per your earlier email, our procurement team is currently looking into your request for reusable masks for schools, and will report when more information is available. 3. Last, I want to introduce you to our primary Logistics Chief Amanda Dalton, who is just coming off vacation. I'll remain to run point on this file with you for the remainder of the week, after which Eric and Amanda will be your primary contacts.”

It was determined through a telephone conference call that the POC was the best organization to procure the required masks. The POC had the staff, warehouse and distribution that was needed and could handle the time constraints. There was a discussion about fabric and sizes. As a result, there was daily contact between Education and the POC and considerable stress and time pressure. The procurement process was time consuming because of the time pressure.

On July 28, 2020, the Pandemic Response Planning Team (PRPT), which had been established to do longer term pandemic planning than the POC, emailed Michael Walter about the work the PRPT had done on potential mask suppliers. The email included a table setting out four potential cloth mask suppliers that were said to make “good quality” masks. All four were Canadian businesses and three were Alberta businesses and all four had been qualified as “viable” and three had been qualified as “really good”. The PRPT mentioned that the four businesses had the ability to take on larger orders and that pricing likely would be more competitive for larger orders than the quotes for 500. This list did not include IFR Workwear Inc. Michael Walter indicated during his interview that he did not provide this list to the POC and procurement from any of those four businesses was not pursued. Linda Antunes, who was copied to the email that included the table, also did not share this list with the POC.

On July 29, 2020, early in the workday, there was an email from Linda Antunes to Erica Wolfe with the subject line "IFR Masks" that said:

"Our DM indicated that the Premier met with the above group and they are on our "vendor list". Do you have any information on this company?"

About an hour later, Linda Antunes emailed Erica Wolfe again asking:

"As discussed, can you please advise what info you have on IFR Masks? Were they on Biz Connects or some other government list?"

Linda Antunes was instructed by Michael Walter to find out if IFR Workwear Inc. was known to the POC. She understood that the direction came from Andre Corbould and that Michael Walter had received information on IFR Workwear Inc. from him. Michael Walter also said that he had received material about IFR Workwear Inc. from Andre Corbould. However, Andre Corbould could not recall having received material on IFR Workwear Inc. or passing it along to Michael Walter. Andre Corbould does not think that he ever asked to have IFR Workwear Inc. brought to the POC's attention. He had had a couple of calls with Nicole Williams, the Chief of Staff to the Minister of Education, about vendors in general and he indicated that he would pass information along to the POC. He believes that he could have discussed IFR Workwear Inc. with Nicole Williams but has no memory of doing so.

Nicole Williams likewise does not recall if she received promotional or informational material about IFR Workwear Inc. but said that, if she did, it would have been passed on to the Deputy Minister or Assistant Deputy Minister. She indicated that the Minister's office receives a lot of material about vendors which is passed along to the appropriate place. She also stated that she never discussed IFR Workwear Inc. with Minister LaGrange, except for some comments about the July 18, 2020, tour stop and how it provided a nice photo opportunity, nor does she remember any other discussions about IFR Workwear Inc. Colin Aitchison, who was the Press Secretary for the Minister of Education at the time, also was not aware of IFR Workwear Inc. as a potential supplier of masks until the announcement of the selected suppliers. The Minister does not recall mentioning IFR Workwear Inc. to Andre Corbould and he, likewise, has no memory of discussing the company with the Minister.

The above-noted emails from Linda Antunes on July 29, 2020, were the first time that Erica Wolfe had heard of IFR Workwear Inc. It was her impression that someone higher up in the Ministry wanted her to consider IFR Workwear Inc. She felt it was unusual even though names of suppliers of various products were often forwarded to them from the Premier's, Ministers' and Deputy Ministers' offices. Erica Wolfe was not involved in the actual search for suppliers, as the search was done by another group within the POC.

Jennifer Larson, who was involved in the actual search for personal protective equipment within the POC, was asked verbally by one of Erica Wolfe, Amanda Dalton or Eric Winterburn if she had heard of IFR Workwear Inc. When she replied “no”, she was asked to look into the company.

Later on the afternoon of July 29th, there was an email from Erica Wolfe to Linda Antunes indicating that the POC procurement team did not have any record of previous communications with IFR Workwear Inc. It was suggested that there may have been a connection with the Pandemic Response Planning Team, which was dissolving operations at that point.

In the meantime, Jennifer Larson called IFR Workwear Inc. and spoke to Wayne Hanrahan, who later sent an email to the POC confirming that IFR Workwear Inc. only sells through distributors and giving the names of three distributors.

Linda Antunes advised Michael Walter that the POC had no information about IFR Workwear inc. and that, if it was not on Biz Connect, either they had the name wrong or it is being confused with something else. Michael Walter did not report the POC’s response to Andre Corbould.

There was a meeting on the morning of July 30, 2020, involving Minister LaGrange, Linda Antunes and Michael Walter. That afternoon, Linda Antunes emailed Erica Wolfe and stated:

“We had a meeting with our Minister this morning and there is still an interest in finding out about IFR Masks. It was discussed that maybe a first nations that manufactured the masks.”

Linda Antunes indicated during her interview that part of the conversation with the Minister was about suppliers. She said that there was a collective interest to follow up on IFR Workwear Inc., as opposed to a direction from the Minister. IFR Workwear Inc. was discussed at the meeting because of the initial ask by Andre Corbould about IFR Workwear Inc. Michael Walter said during his interview that Linda Antunes and the Minister mentioned IFR Workwear Inc. at the same time, although Michael Walter may have introduced the topic. Linda Antunes said that Andre Corbould was at the meeting. However, during his interview, Andre Corbould did not remember attending. He has no recollection of any discussion about IFR Workwear Inc. and said that there was no direction to use the company that he remembers. He does remember that, at some point, there was discussion about IFR Workwear Inc., Old Navy and five or six other suppliers. He said that he never gave a direction to use IFR Workwear Inc. The Minister does not recall the meeting but stated during her interview that she would not have instructed her department to look into procuring IFR Workwear Inc. masks. Her only concerns were with

obtaining masks before the commencement of school that were of good quality and that came in different sizes.

Just after 3:00 pm on July 30th, Linda Antunes emailed Erica Wolfe in the same email chain, the subject line of which was “RE: IFR Masks”:

“Michael and I are going to call you right away to give you an update on the direction we are provided by our Minister. One of the questions will be do you know if the re-usable masks come in different sizes?”

Amanda Dalton said that, during the call, Michael Walter and Linda Antunes stated that they had been asked at their meeting with their Minister to look into IFR Workwear Inc. masks.

On the afternoon of July 30th, the POC received a quote from one of IFR Workwear Inc.’s distributors for 1 million reusable IFR Workwear Inc. masks.

There was a conference call on July 31, 2020, in the morning that included Amanda Dalton, Erica Wolfe, Linda Antunes, and Michael Walter. Linda Antunes said during her interview that the meeting was not about IFR Workwear Inc., notwithstanding the subject line of the email chain in which arrangements for the meeting were made. She said that she might have asked the POC to find out if IFR Workwear Inc. could provide the number of masks needed. Erica Wolfe was under the impression that there was a direction from Minister’s office to use IFR Workwear Inc. and that it was clear that the Ministry officials wanted to use IFR Workwear Inc. Michael Walter admitted that he asked the POC to include IFR Workwear Inc. as a supplier. Linda Antunes believed that there was no direction to do so, but rather just a recommendation.

The situation was unusual enough that there was internal discussion about it at the POC.

During the afternoon of July 31, 2020, an email was sent from Amanda Dalton to Michael Walter and Linda Antunes which included:

“In summary we would recommend proceeding with IFR and Old Navy based on fit, quality, size variation and delivery. Old Navy has the best price at approx. \$2.50CAD. IFR earloop are a bit more expensive (\$4.24), however based on previous comments come out ahead. Using a combination of both should provide us with the qualities required in the timeline we are working under.”

The was a chart attached to the email that listed:

Empire PPE Supply (manufactured by IFR Workwear)
Old Navy
Vallen Canada
Unbelts
The Peoples' Mask

All companies included in this chart, except Old Navy were Alberta companies. The POC had sought out eight suppliers but some had not responded within the time period given for a response. IFR Workwear Inc. was not one of the original eight suppliers sought out.

Samples were obtained from the suppliers. It was decided that masks with ear loops would be best. One of vendors offered masks that went over the head and could not provide quantities needed, while one had one size only. Old Navy and IFR Workwear Inc. had two sizes and met the specifications. Old Navy was less expensive.

Amanda Dalton felt pressured to use IFR Workwear Inc. Eric Winterburn also remembered that Education asked to include IFR Workwear Inc.

The ultimate decision on which masks to use would be that of the Ministry of Education, as that Ministry pays for them. Michael Walter said that he and Andre Corbould made the decision to order masks from IFR Workwear Inc. and Old Navy. Andre Corbould did not recall making the decision with Michael Walter. Andre Corbould went on vacation around this time.

On August 2, 2020, Linda Antunes, Michael Walter, and Acting Deputy Minister Dr. Heather Caltagirone briefed Minister LaGrange about school masks prior to a meeting that the Minister had with the Premier, Minister Tyler Shandro and Dr. Deena Hinshaw about requiring masking of students. Dr. Caltagirone was Acting Deputy Minister for Education from July 31 to August 17, 2020, but she stated during her interview that she had no or little involvement in the procurement of masks.

On August 3, 2020, Linda Antunes emailed Amanda Dalton to indicate that the Ministry of Education may be looking to order over 1.6 million masks. Amanda Dalton replied that they might have to engage additional vendors.

The following day, Amanda Dalton emailed Michael Walter and Linda Antunes to indicate that Old Navy could deliver all the required masks at a cost of \$2.30 per mask, if the contract were signed that day. The POC was contemplating getting all of the masks from Old Navy, as IFR Workwear Inc. masks had a higher price of \$4.24. Government procurement rules applied by the POC do not favour local vendors unless there is a specific direction to do so.

Shortly thereafter, Michael Walter responded: “Can we use IFR for a portion of the order?” Linda Antunes also replied that they would “need to split some of the order with IFR”. Linda Antunes indicated during her interview that they needed to split the order, as Michael Walter did not want just one vendor and also wanted someone local. Within 20 minutes, Michael Walter emailed Amanda Dalton to indicate that “Education would like POC to proceed with an order of masks from both IFR and Old Navy. Please confirm if a 3rd vendor is required.” Michael Walter said during his interview that he wanted two vendors for risk mitigation.

Amanda Dalton thought that it was inappropriate to pay more for IFR Workwear Inc. masks but it seemed to her that the direction to purchase them was coming from Minister LaGrange. Ms. Dalton indicated during her interview that it is unusual for a Minister to request or direct a particular vendor. She was told that there was a need to have someone local. Eric Winterburn felt that they were being told to purchase IFR Workwear Inc. masks by Michael Walter and Linda Antunes.

A short while later that morning, Amanda Dalton sent an email to Jared Olsen, who was Finance Manager at Municipal Affairs, that stated:

“As discussed, below is the information and approvals from Education based on a meeting they had with the Minister and Dr. Hinshaw last Friday regarding re-usable masks. The decision was to proceed with IFR (as a local manufacturer) and Old Navy for a total mask purchase of 1.692 M (an additional 32,000 was added verbally this morning)...”.

Later that day, Amanda Dalton received an email from Education confirming that Education approved the costs for the masks.

Minister LaGrange said during her interview that she would not have been involved in the decision about who would receive contracts to provide masks. She only was concerned that the masks be of high quality, have the right sizing, and be delivered on time. While she believed that Michael Walter was responsible for procurement, she said that her contact was Andre Corbould. She said that she only became aware that IFR Workwear Inc. masks had been selected after it had been announced. She made inquiries and was told that Old Navy and IFR Workwear Inc. were the only suppliers qualified who could meet the timing.

In the end, there was a contract for 1,550,000 masks from Old Navy at a cost of \$2.30 per mask and a contract for 150,000 masks from IFR Workwear Inc. at a cost of \$4.24 per mask.

Andre Corbould, Michael Walter and Linda Antunes all stated under oath that the Minister did not directly or indirectly tell them to give a contract for the supply of masks to IFR Workwear Inc.

LAW AND ANALYSIS

A. Standard of Proof & Assessing Witness Evidence

The standard of proof for findings of fact in all civil cases at common law in Canada is proof on a balance of probabilities, meaning “whether it is more likely than not that the event occurred” (*F.H. v McDougall*, 2008 SCC 53 (“*McDougall*”) at paras 40-49. See also *Canada (Attorney General) v Fairmont Hotels Inc.*, 2016 SCC 56 at paras 34-37; *Howard v Howard*, 2020 ABQB 292 at paras 23-24; *Weir-Jones Technical Services Incorporated v Purolator Courier Ltd.*, 2019 ABCA 49 at paras 28-29; *Harbaugh v Harbaugh*, 2020 ABCA 280 at paras 34-35).

Alberta courts have confirmed that the ‘balance of probabilities’ standard of proof articulated in *McDougall* applies in professional disciplinary proceedings (*Fitzpatrick v Alberta College of Physical Therapists*, 2012 ABCA 207 (leave to appeal to SCC refused) at paras 12-15. See also *Doniger v Law Society of Alberta*, 2021 ABQB 136 at paras 17-18). Professional disciplinary proceedings are comparable to an investigation of the conduct of a Member of the Legislative Assembly by the Ethics Commissioner under the *Conflicts of Interest Act*.

To meet the balance of probabilities test, the evidence establishing a fact always must be “sufficiently clear, convincing and cogent” (*McDougall* at para 46) and the finder of fact always must scrutinize all the relevant evidence in the entire context with care (*McDougall* at paras 40, 45-49).

When assessing the credibility of a witness’s evidence, a trier of fact must critically examine the witness’s evidence in the context of the entire case to consider whether it is consistent with the totality of the evidence and with “the preponderance of the probabilities which a practical and informed person would readily recognize as reasonable” (*Faryna v Chorny* (1951), 1951 CarswellBC 133 (BCCA) at para 10) in the surrounding circumstances. The witness’s demeanour and whether the witness’s evidence is uncontradicted simply are factors to consider but are not determinative. Even if a witness’s version of events is uncontradicted, their version still should be plausible in light of all of the circumstances and all of the evidence to a reasonable person using common sense. See *Faryna v Chorny* (1951), 1951 CarswellBC 133 (BCCA) at paras 8-17; *Telus Communications Inc. and TWU (Underwood), Re*, 2014 ABCA 199 at paras 25-29; *E Dehr Delivery Ltd v Dehr*, 2018 ABQB 846 at paras 33-36, 59-60.

In *Zerbin v Vrbanek*, 2020 ABQB 797, the Alberta Court of Queen's Bench set out a non-exhaustive list of factors to be considered in practice when assessing credibility (at paras 84-85):

84 The assessment of credibility is not, as the Supreme Court of Canada reminds us in *R. c. Gagnon*, 2006 SCC 17 (S.C.C.) at para 20, a precise science but rather a complex intermingling of impressions that emerge after watching and listening to witnesses and attempting to reconcile the various versions of events.

85 Assessing credibility is not something that is the exclusive preserve of judges. It is indeed an activity of daily life. When someone tells us something, we decide whether that person is telling us the truth. So, each one of us will form our "complex intermingling of impressions" by applying factors which are well known in human experience or are simply intuitive. These factors include:

- whether the evidence is internally consistent, that is, whether the evidence changes or evolves from one telling to the next;
- whether the evidence is externally consistent, that is, whether the evidence aligns with other witness evidence or facts that are accepted;
- whether there has been an embellishment or tailoring, or whether the evidence sounds convenient or coincidental;
- whether the witness can adequately explain things that are or should be within that witness's knowledge;
- whether the witness has a motive to lie;
- whether the witness has shown a willingness to engage in deception on other occasions;
- where a witness has the ability to corroborate the evidence given, if true, by producing documents at the trial within the witness's control that would verify what was said, but fails to do so;
- whether the witness is vague or evasive; and
- whether the evidence is plausible, logical and realistic, having regard to what reasonable people would know about the world, or on the other hand whether the evidence is far-fetched, illogical or unreasonable.

In any credibility assessment, the finder of fact must start from the premise that witnesses are telling the truth. Only after the witness has been assessed can credibility findings be made. Credibility "is not a zero-sum game" and the finder of fact can accept all, some, or none of a witness's evidence. See *Stockall v Stockall*, 2020 ABQB 229 at paras 16-17.

It is important to note that there is a distinction between the “credibility” and the “reliability” of a witness. Although these two concepts do not have to be expressly addressed separately (and, indeed, they often are intertwined in the same analysis), they involve different considerations and a trier of fact’s reasons must be sufficient to show that, in substance, the trier of fact considered both concepts when assessing a witness’s evidence in the context of a case. In particular, “credibility” pertains to the veracity or honesty of the witness’s evidence (i.e. the witness’s sincerity or willingness to speak the truth), whereas “reliability” pertains to the accuracy of the witness’s evidence (i.e. the witness’s ability to accurately observe, recall, and recount the events in question). See *R v Perrone*, 2014 MBCA 74 (affirmed 2015 SCC 8) at paras 25-28, 35-36, 38-39, 48; *R. v MJL*, 2021 ABCA 41 at para 10; *R v Kishayinew*, 2019 SKCA 127 at paras 59-62, 64-65 per Tholl JA, dissenting, adopted on appeal by *R. v Kishayinew*, 2020 SCC 34; *R. v G.F.*, 2021 SCC 20 at para 82.

If a witness’s evidence on a point is not credible, then their evidence on that point is inherently unreliable. However, a credible witness still may give unreliable evidence, as they may be honestly mistaken or confused, have a poor ability to observe or remember events, or have difficulty communicating their testimony. See *R v Perrone*, 2014 MBCA 74 (affirmed 2015 SCC 8) at paras 25-26; *R v Wolff*, 2019 SKCA 103 at para 38; *R v Kishayinew*, 2019 SKCA 127 at paras 59-60 per Tholl JA dissenting, adopted on appeal by *R. v Kishayinew*, 2020 SCC 34.

Reasons why credible witnesses may give unreliable evidence include but are not limited to (*R v Kishayinew*, 2019 SKCA 127 at para 60 per Tholl JA dissenting, adopted on appeal by *R. v Kishayinew*, 2020 SCC 34):

- (a) inability to properly observe the events in the first instance;
- (b) confusion with a different event;
- (c) intoxication;
- (d) passage of time;
- (e) nervousness during testimony; or
- (f) other factors affecting a witness's ability to observe, remember and recount the events.

These principles need to be followed in deciding, from the evidence of the witnesses, whether Minister LaGrange indirectly or directly instructed employees in the department of Education to pursue and select IFR Workwear Inc. as a supplier of reusable masks.

B. Section 3 of the Conflicts of Interest Act

Minister LaGrange's own private interest is not an issue in this investigation. She did not have any private interest in IFR Workwear Inc.

IFR Workwear Inc. is not a direct associate of the Minister as defined in the *Conflicts of Interest Act*, nor do any of the Minister's direct associates have an interest in IFR Workwear Inc.

However, IFR Workwear Inc. and its owners undoubtedly had a private interest in being selected by the Government as a supplier of reusable masks for use in Alberta schools. In section 28(1)(nn) of the *Interpretation Act*, RSA 2000, c I-8, the word "person" in an Alberta enactment generally includes a corporation. Being selected as a supplier would result in IFR Workwear Inc. being paid money to supply its products to the Government (via a distributor), which would provide private financial benefit to the corporation and its owners.

The question, therefore, is whether Minister LaGrange breached section 3 of the *Conflicts of Interest Act* by using her office or powers to influence or to seek to influence the decision to be made by or on behalf of the Government regarding the selection of suppliers of reusable masks for use in Alberta schools to improperly further the private interest of IFR Workwear Inc. and its owners. In particular, did the Minister directly or indirectly instruct employees in the department of Education to pursue and select IFR Workwear Inc. as a supplier of reusable masks to the Government and, if she did, was doing so improper?

C. "Improperly" Analysis

As noted in the March 11, 2020, investigation report into allegations involving Member Shane Getson (the "Getson Report"), the assessment of whether a Member has done something "to improperly further another person's private interest" depends heavily on the particular facts and context of each case. The Getson Report and the July 6, 2020, report into allegations involving Minister Doug Schweitzer (the "Schweitzer Report")

discussed the factors to be considered when determining whether a Member's conduct "improperly" furthered another person's private interest. These factors were derived from the March 20, 2019 report of the Integrity Commissioner of Ontario, the Honourable David Wake, *Re: the Honourable Doug Ford, Premier of Ontario* (the "Ford Report"). The factors, as adapted slightly in the Getson Report, are:

1. The relationship between the Member and the other person;
2. Whether there was an objective basis for the decision or for the Member's attempt to influence the decision;
3. The degree of the Member's involvement in the decision at issue or the process leading to it;
4. Whether the Member acted for an improper purpose; and
5. The process used for the decision or to influence the decision.

These factors also have been referenced more recently by the Ethics Commissioner of Quebec, Ariane Mignolet, in her *Inquiry report with regard to Mr. Pierre Fitzgibbon, Minister of Economy and Innovation and MNA for Terrebonne* dated October 28, 2020, (see paras 228-53) and her *Inquiry report with regard to Mr. Louis-Charles Thouin, Member for Rousseau* dated April 28, 2021 (see para 98).

1. Relationship between the Member and the person

If Minister LaGrange directly or indirectly instructed employees in her department to pursue and select IFR Workwear Inc. as a supplier for reusable masks for Alberta schools, then the nature of the relationship between the Minister and IFR Workwear Inc. itself would need to be considered.

Although IFR Workwear Inc. is located in the Minister's constituency and some of its owners might be described as prominent citizens within the constituency, the Minister did not have a relationship with them other than crossing paths from time to time at events in the community and being Member and constituents. As explained in the Getson Report, the fact that the person whose interests were furthered is a constituent of the Member, even one that has donated to political campaigns of the Member in the past, would not support a finding of impropriety on its own.

2. Whether there was an objective basis for the decision or the attempt to influence the decision

If Minister LaGrange directly or indirectly instructed employees in her department to pursue and select IFR Workwear Inc. as a supplier for reusable masks, then it would need to be determined whether there was an objective basis for the interest in and selection of IFR Workwear Inc.

For there to have been an objective basis to pursue and select IFR Workwear Inc. as a supplier for reusable masks, it is not necessary for the selection of IFR Workwear Inc. to be perfect or immune from criticism. Rather, it only needs to fall within the range of outcomes that were objectively reasonable in the circumstances at the time. As Commissioner Wake noted in the Ford Report (at para 319):

If there is no objective basis for a decision this will be a factor leading to a conclusion that the decision was made for an improper purpose. To take an extreme example, if a minister were to appoint their best friend as the OPP Commissioner, when that friend has never before had any experience with policing or held any kind of police post, then the decision would point towards impropriety.

It was not as though it was clear at the time that IFR Workwear Inc. objectively was unqualified to supply reusable masks to Alberta Education. Rather, the information known at the time was that IFR Workwear Inc. could offer masks in a variety of sizes (which was important given that the masks would be used by children of a range of ages, as well as school staff), that were of good quality and fit (they were ear loop style, which was found to be easier to wear than the over-the-head style, and made of antimicrobial fabric), and that were expected to be delivered in time for the start of the school year.

While the IFR Workwear Inc. reusable masks were more expensive than other options, their cost was not so disproportionate, given they were one of only a few that met all the specifications, so as to render the selection of IFR Workwear Inc. as a supplier objectively unreasonable. As noted, IFR Workwear Inc. offered ear loop style masks in multiple sizes and was expected to be able to deliver in time for back to school. Besides Old Navy, other suppliers being considered at the time did not meet all those criteria. It was also important to Alberta Education to have more than one vendor, for risk mitigation purposes according to Michael Walter, and to include a local vendor. IFR Workwear Inc. is an Alberta owned company, although the evidence from Amanda Dalton in the POC was that this is not a factor that the POC normally considers in its procurement process.

In *The Philpott Report* (Canada, December 2016), former federal Conflict of Interest and Ethics Commissioner, Mary Dawson, considered a similar situation. The allegations in that report concerned the conduct of then Minister Philpott in connection with her use in her official capacity of driving services offered by a company owned by a politically supportive constituent. While the rates charged by the constituent's company were higher than those of other companies, Commissioner Dawson found that they fell within the average range for similar services and were not disproportionate enough to make Minister Philpott's choice of her constituent's company improper, particularly since Minister Philpott was very satisfied with the quality of his services and required reliable transportation to meet her busy schedule.

As a result, there was an objective basis to pursue and select IFR Workwear Inc. as a supplier for reusable masks at the time and this factor would not lead to a finding of impropriety.

3. The degree of the Member's involvement in the decision or the process leading to it

A finding that a Member intervened in or tried to influence a decision or process in which the Member should not have had any involvement will support a finding of impropriety. This will include instances in which a Member, who also has a role in the Government, involves themselves to any extent in a Government matter to promote the private interest of a particular constituent.

For example, in *The Gill Report* (Canada, February 24, 2016), Commissioner Dawson considered whether Parm Gill, then Member of Parliament and Parliamentary Secretary to the Minister of International Trade, had used his position to seek to influence a decision of another person so as to improperly further another person's private interests by writing letters of support to the Canadian Radio-television and Telecommunications Commission (CRTC) on behalf of two constituents regarding applications for broadcasting licenses. Mr. Gill signed the letters using his Member of Parliament title and did not mention that he was a parliamentary secretary. Commissioner Dawson concluded that, although she believed that Mr. Gill acted in good faith, it was improper for him to have tried to influence the CRTC's decision at all. Specifically, she noted that parliamentary secretaries take on governmental roles in addition to their legislative role. She stated that, because of the special influence they may have due to their government roles, it would be improper in any circumstance (and regardless of whether they expressly identify themselves as ministers or parliamentary secretaries) for ministers and parliamentary secretaries to try to influence or intervene in the decisions of an administrative tribunal meant to operate at

arm's length from the government. In short, any degree of involvement by Mr. Gill in the CRTC's decision was improper in the circumstances.

As stated in the Getson Report at page 16, Members who also are cabinet members should be careful not to involve themselves on behalf of a constituent in matters pertaining to their department or portfolio:

A Member also should be careful about being involved in a matter on behalf of a constituent where the Member is a Minister, Associate Minister, or Parliamentary Secretary and the matter pertains to their respective department or portfolio. The former federal Conflict of Interest and Ethics Commissioner, Mary Dawson, has stated that ministers and parliamentary secretaries, because of their government roles and influence, should be particularly cautious when carrying out their duty as Members to act on behalf of their constituents (see e.g. The Gill Report (February 24, 2016), The Clement Report (July 18, 2012), and The Paradis Report (March 22, 2012)). She warned that ministers and parliamentary secretaries should treat their own constituents the same way as they would treat the constituents of any other Member when it comes to matters that relate to their own department or portfolio. This is not an issue in this investigation, as Member Getson is not a Minister, Associate Minister or Parliamentary Secretary. However, Ministers, Associate Ministers and Parliamentary Secretaries should keep it in mind to avoid a finding of impropriety.

The issue also was addressed more recently by the current federal Conflict of Interest and Ethics Commissioner, Mario Dion, in *The Morneau II Report* (Canada, May 2021). In his report, Commissioner Dion considered the participation of Bill Morneau, when he was Minister of Finance, in two decisions involving the private interests of WE, an international development charity and youth empowerment movement headquartered in Minister Morneau's constituency. The relevant decisions were to recommend funding for WE's Social Entrepreneurship program and to select WE as the administrator of the Canada Student Service Grant, a government program to encourage youth to participate in national service. In addition to finding that any decisions made by Minister Morneau that would further WE's private interests were made improperly by reason of his friendship with one of the WE co-founders, Commissioner Dion found that Minister Morneau improperly furthered WE's interests because of the preferential treatment that his ministerial office afforded to WE with his tacit approval. He stated (at paras 281-282):

[281] It has long been understood that it would be improper for a minister or a parliamentary secretary to conflate their ministerial duties with their parliamentary duties. This Office has issued compliance orders and produced examination reports against ministers or parliamentary secretaries who had, for instance, acted improperly by writing letters of support to an administrative tribunal (the Gill Report) or who were admonished simply for using their ministerial titles when assisting constituents, even though no other contravention was found (the Clement Report)

[282] As Commissioner Dawson wrote in the Clement Report: “ministers, as Members, have duties towards their constituents. However, in carrying out these duties, ministers should exercise some caution. When representing constituents, they should not use their positions as ministers to provide greater assistance to their constituents than to other Canadians in relation to their own department or larger portfolio.”

For these reasons, if Minister LaGrange directly or indirectly told employees in her department to pursue and select IFR Workwear Inc. as a supplier for reusable masks, then this factor would support a finding that the Minister improperly furthered the private interest of IFR Workwear Inc. and its owners by doing so. In light of her role in the Government, it would be improper for the Minister to intervene in or influence, to any degree, the reusable mask supplier identification and selection process being carried out by non-partisan public servants in the POC and in her department to single out and promote the business of a few of her constituents.

4. Whether the Member acted for an improper purpose

A finding that a Member gave preferential treatment to favour one person more than others in the circumstances will support a finding that the Member’s actions were motivated by the improper purpose of giving that person preferential treatment, rather than motivated by objective relevant factors.

Preferential treatment, meaning “treatment more favourable than might be accorded to anyone else in similar circumstances” (see *The Paradis Report* (Canada, March 2012) at page 21; *The Morneau II Report* (Canada, May 2021) at para 268; *The Trudeau III Report* (Canada, May 2021) at para 218), alone is sufficient to establish impropriety.

For example, in *The Paradis Report* (Canada, March 2012), Commissioner Dawson considered whether Christian Paradis, when he was the Minister of Public Works and Government Services, improperly furthered the private interests of his former colleague, Rahim Jaffer, and Mr. Jaffer’s company, Green Power Generation Corporation, by directing his ministerial staff to arrange a meeting for them with the appropriate officials in the Public Works department to discuss their solar panel project proposal. Mr. Paradis also instructed the deputy minister of the department to proceed with the meeting after Mr. Jaffer was arrested.

Mr. Paradis submitted that his motivation for assisting Mr. Jaffer was because he thought that Green Power Generation Corporation’s solar panel project looked innovative. However, Commissioner Dawson did not accept this position and instead found that Mr. Paradis assisted Mr. Jaffer because he wanted to help a former caucus colleague.

Commissioner Dawson concluded that Mr. Paradis gave Mr. Jaffer and Green Power Generation Corporation preferential treatment based on his past relationship with Mr. Jaffer and that providing preferential treatment “is in and of itself improper” (at page 23). Commissioner Dawson further noted (at page 26):

In the case of Mr. Paradis, I believe that his inclination to arrange a meeting for his former caucus colleague, while inappropriate, is easy to understand: it is natural to want to help someone one knows. Nonetheless, I have found that granting access to decision-makers or those who may influence them is captured by the Act’s prohibition against providing preferential treatment. Ministers are in a position of power and have a special responsibility to ensure that that power is exercised fairly and in a way that is open to all Canadians.

In *The Finley Report* (Canada, March 2015), Commissioner Dawson also concluded that preferential treatment alone establishes that a person’s private interests were furthered improperly. The circumstances considered in that report are analogous in some respects to those alleged in this investigation. It was alleged that Diane Finley, when she was Minister of Human Resources and Skills Development, gave preferential treatment when she approved funding for a proposal regarding the Markham Centre for Skills and Independence. The Markham proposal was among the 167 proposals that met the initial screening criteria at the first stage of the process. However, it failed the department’s internal assessment at the second stage. At the third stage, the top 25 proposals (which did not include the Markham proposal) were selected for external evaluation by a team of specialists. At the fourth stage, an internal review committee considered these 25 proposals and then recommended the four highest scoring projects to senior department officials for funding. The department then sent a memorandum to Minister Finley for decision that recommended the funding of these four projects. Although the Markham proposal did not make it past the second stage of the process and was not among the four proposals that department officials recommended to Minister Finley for approval, Minister Finley requested that the Markham project be sent for external evaluation anyway and then decided to add it to the four projects selected for funding.

Commissioner Dawson found that the Markham proposal clearly received preferential treatment from Minister Finley (potentially due to political considerations but the reason for it was not evident) when she singled it out for a last-minute external evaluation and ultimately for funding. Commissioner Dawson indicated that the preferential treatment afforded to the proposal in and of itself was enough to find that Minister Finley’s decision to fund the Markham proposal was improper.

As discussed under the previous heading, in *The Morneau II Report* (Canada, May 2021), Commissioner Dion similarly found that Minister Morneau improperly furthered WE’s interests because of the preferential treatment that his ministerial office afforded to WE with his tacit approval. He was of the view that Minister Morneau gave WE preferential

treatment by allowing his ministerial staff to disproportionately assist WE, which is improper. He stated (at paras 278-80):

[278] The degree of involvement of Mr. Morneau's ministerial office in files relating to WE is not unique to the matter under examination. The documentary evidence shows several other instances where Mr. Morneau and members of his ministerial staff provided assistance to representatives of WE that, in my view, fell outside the scope of normal and proper use of ministerial resources. This treatment ranged from facilitating introductions with federal and provincial counterparts in the context of funding initiatives or on matters that fell outside his mandate to directly intervening with other orders of government on behalf of a constituent. This treatment continued up to and including the period under review.

[279] Mr. Morneau explained that, like many constituent organizations in his riding, WE reached out to his staff for guidance and support to seek appropriate sources of funding from all levels of government. Mr. Morneau added that, as with many projects, his ministerial office would assess and engage to provide assistance where possible, without his instruction.

[280] Although WE is an established charitable organization whose projects aspire to serve a greater good, the organization and its representatives must still be treated like any other constituent stakeholder. It must make requests for assistance using the appropriate channels and must be redirected to the relevant authorities without preferential treatment particularly when, as in this case, personal and professional relationships were blurred.

Commissioner Dion also noted in *The Trudeau III Report* (Canada, May 2021) at para 246:

[246] Although I found no indication of preferential treatment of WE by Mr. Trudeau in my analysis of the matter under section 7 of the Act, it must be pointed out that preferential treatment, in the general sense, could also be viewed as an impropriety under subsection 6(1). Such was the case in the *Finley Report*.

If Minister LaGrange directly or indirectly instructed employees in her department to pursue and select IFR Workwear Inc. as a supplier for reusable masks, then this factor would lead to the conclusion that the Minister improperly furthered the private interest of IFR Workwear Inc. and its owners by reason of preferential treatment. It would be preferential treatment for the Minister to single out IFR Workwear Inc., a business located in her constituency and owned by some of her constituents, to receive an advantage not available to other businesses in the reusable mask supplier identification and selection process by directing that it specifically be brought to the POC's attention and be selected as one of the suppliers. Preferential treatment in and of itself establishes impropriety, including by supporting a finding that the Member's actions were motivated by the improper purpose of giving preferential treatment.

5. The process used for the decision or to influence the decision

With respect to this factor, it is noted in the Schweitzer Report at page 11:

On one hand, a fair, open and transparent process or one that adheres to the applicable standard rules, policies and processes would weigh against a finding of impropriety (see e.g. The Ford [Report] (Ontario, March 2019); The Philpott Report (Canada, December 2016); The Clement Report (Canada, July 2012)). On the other hand, a process based on preferential treatment or that departs from the usual applicable rules, policies and processes would weigh in favour of a finding of impropriety (see e.g. The Paradis 1 Report (Canada, March 2012); The Finley Report (Canada, March 2015)), as generally would a process that clearly lacks rigor or is flawed (see e.g. The Finley Report (Canada, March 2015)).

As discussed under the previous heading, Commissioner Dawson in *The Finley Report* (Canada, March 2015) concluded that the preferential treatment afforded to the Markham proposal made Minister Finley's decision to fund the proposal improper. This was the case notwithstanding that the established process afforded Minister Finley considerable discretion in deciding which proposals to approve for funding, as the process she followed did not meet the high standards of fairness, transparency, and accountability expected with respect to the handling of public funds. In this regard, Commissioner Dawson commented (at page 37):

I hope that this report will serve as a reminder to all who read it of the importance of upholding the government's commitment to supporting strengthened accountability for public monies and to ensuring that transfer payment programs are designed, delivered and managed in a manner that is fair, accessible and effective for all involved. The public's confidence in the handling of public funds and the fairness of government transfer payment programs is undermined when decision makers do not follow the government's commitment to ensuring that programs like the Enabling Accessibility Fund are managed with the highest level of integrity, transparency and accountability. Ministers are in a position of power and have a special responsibility to ensure that that power is exercised fairly and in a way that is open to all Canadians.

Ironically, Minister Kent raised his concerns with Mr. Wright about a lack of transparency on the part of the government relating to funding announcements and the controversy it had caused in relation to a previous funding announcement by another department. He highlighted a need for fair and consistent application of the rules. It appears that the process followed in approving funding for the Markham project was plagued by some of the same problems that may have originally led Minister Kent to speak to Mr. Wright.

If Minister LaGrange directly or indirectly instructed employees in her department to pursue and select IFR Workwear Inc. as a supplier for reusable masks, then this factor also would lead to the conclusion that the Minister improperly furthered the private interest of IFR Workwear Inc. and its owners.

As explained under the previous heading, it would be preferential treatment for the Minister to single out IFR Workwear Inc. to receive an advantage not available to other businesses in the reusable mask supplier identification and selection process by directing that it specifically be brought to the POC's attention and be selected as one of the suppliers. Preferential treatment in and of itself establishes impropriety, including by leading to a finding that the process used was improper because it was based on preferential treatment rather than based on objective relevant factors applied openly, consistently, and fairly. Such a process would not meet the standards of fairness, transparency and accountability expected when it comes to the handling of public money.

The process also would be improper because any direction from Minister LaGrange to pursue or select IFR Workwear Inc. would depart from the established process for identifying and selecting suppliers to be carried out by non-partisan public servants in the POC and, in this case, the department of Education. Identifying and selecting reusable mask suppliers are not decisions that typically would be for the Minister or her office to make or in which she or her office typically would be involved. Employees in the POC, who were responsible for identifying and assessing potential suppliers and requesting quotes, did not have IFR Workwear Inc. on their radar until employees from the department of Education specifically brought it to their attention and the POC only added it as a recommended and selected supplier at the instruction of the department of Education. In addition, any such direction would have been provided during internal meetings without transparency to the public, which would further indicate an improper process in those circumstances.

D. Findings - Did Minister LaGrange direct her department to pursue and select IFR Workwear Inc.?

The previous discussion makes it clear that any finding with respect to Minister LaGrange's actions must be made on a "balance of probabilities".

It is clear that it was the Ministry of Education that made the decision about which masks to purchase. Although a recommendation was given by the POC, that recommendation was based on a direction from the Ministry. The fact that it was a recommendation that was given is further support that the final decision was that of the Ministry which pays for the masks.

Michael Walter stated that he gave the direction to use masks from IFR Workwear Inc.

It is also clear that the Minister was present at a meeting before suppliers were selected during which IFR Workwear Inc. masks were discussed and that she was part of the discussion. The conclusion at that meeting was to follow up on the possibility of using IFR Workwear Inc. masks. The evidence is that Linda Antunes and the Minister raised the subject during the meeting at the same time but it may have been prompted by Michael Walter. The consensus was that the purchase of IFR Workwear Inc. masks should continue to be investigated.

The Minister claims that she was not part of any discussion. It could be that she is not being forthright or it could be that, given the relatively last minute decision to put students back in the classroom and with the pressure and quantity of work involved, she did not remember what appears to have been a short discussion. Andre Corbould, Michael Walter and Linda Antunes all testified under oath that the Minister did not give a direction at the meeting, or any other time, to purchase IFR Workwear Inc. masks.

The fact that Mr. Radford made a political donation to the Minister's campaign is irrelevant. There is no evidence that he or anyone else at IFR Workwear Inc. pushed to have its masks purchased for schools. IFR Workwear Inc. did not invite the Premier to tour its premises but, in fact, was asked by the Premier's office if the Premier could make a stop there on the Premier's Red Deer tour.

However, somehow IFR Workwear Inc. promotional material came into Michael Walter's possession. He stated that the material came from the Deputy Minister, Andre Corbould. The Deputy Minister did not remember the material. He said that it may have come from Nicole Williams who, in turn, had no specific memory of it but said that she gets a lot of material about companies and sends it along to the Deputy Minister. While there was some comment that the Premier's office indicated that IFR Workwear Inc. was on the approved vendor list, there is no indication of any other involvement by the Premier's office. No one on the tour remembers picking up any IFR Workwear Inc. promotional material.

The crucial questions that remain are where did the material about IFR Workwear Inc. come from and why did Michael Walter feel compelled to follow up on the company?

Unfortunately, given the memories of the Deputy Minister, the Minister and Nicole Williams, it is not possible to say. It does not mean that they are not credible witnesses, but only that their memories are not reliable.

The impression that was held by the POC that the decision to purchase IFR Workwear Inc. masks came from the Minister is just an impression and, even though strongly held, is not factual evidence directly implicating the Minister.

The Minister has categorically denied under oath that she gave any direction to purchase IFR Workwear Inc. masks. Michael Walter said that he and Andre Corbould made the decision and that the Minister did not direct that IFR Workwear Inc. masks be purchased.

For the Minister to have breached the Act, I would have to find on a balance of probabilities that she directed the purchase of IFR Workwear Inc. masks. She denied doing so. I would have to draw an inference from the rest of the evidence that she did. There is insufficient evidence from which to draw such an inference.

In conclusion, there are unanswered questions about the procurement of masks from IFR Workwear Inc. There is no doubt that the Minister's office had some involvement with that process. As a result of the lack of memory of several key people, even though there are grounds for suspicion, it is not possible to find, on a balance of probabilities, that Minister LaGrange interfered with the process to the extent required by the test set out in this report to make a finding that she improperly furthered the private interest of IFR Workwear Inc. and its owners.

A handwritten signature in blue ink, appearing to read "M. Trussler".

Hon. Marguerite Trussler, Q.C.
Ethics Commissioner