



**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

Shane Getson, Member for Lac Ste. Anne-Parkland

March 11, 2020

TABLE OF CONTENTS

INTRODUCTION.....	2
SCOPE AND AUTHORITY UNDER THE ACT.....	2
RELEVANT LEGISLATIVE PROVISIONS	6
INVESTIGATIVE PROCESS	7
FACTS	8
DISCUSSION AND ANALYSIS	13
CONCLUSION	19

Introduction

On November 17, 2019, I received a request from Mr. Tony Clark to investigate the actions of Member of the Legislative Assembly, Shane Getson, to ascertain if he used his office to influence or seek to influence a decision made by the Crown to improperly further another person's private interest. In particular, it was alleged that Member Getson used his office to influence or seek to influence a decision made by the Crown to improperly further the private interests of his constituent, Mr. Rick Solomon.

The specific allegations set out in Mr. Clark's letter are as follows:

1. Member Getson, in either Question Period or Standing Committee on Resource Stewardship, asked the Minister of Agriculture and Forestry three times to reinstate a contract for polymer gel for fighting forest fires for one of his constituents.
2. Member Getson hosted Minister of Economic Development, Trade and Tourism, Tanya Fir, and Member of Parliament, Dane Lloyd, at an event where the constituent's product was demonstrated.
3. The constituent is Mr. Rick Solomon, who is well known to the Department of Agriculture and Forestry, as he frequently and forcefully has asked the Department for a contract.
4. Mr. Solomon volunteered for Member Getson's election campaign. He also donated \$1,705.25 to the campaign.

Scope and Authority Under the Act

Before dealing with the specifics of this complaint, it is instructive to review the *Conflicts of Interest Act* and the role and powers of the Ethics Commissioner. The Act sets out the obligations of Ministers, Members, political staff, senior officials and designated senior officials, as well as the parameters of the jurisdiction of the Ethics Commissioner. The Ethics Commissioner has no power beyond that given in the provisions of the Act. Notwithstanding some broad philosophical provisions in the preamble to the Act, the scope of the Act is narrow. The Act does not deal with moral integrity.

The authority for conducting an investigation is in Part 5 of the Act. The appropriate sections are:

24(1) Any person may request, in writing, that the Ethics Commissioner investigate any matter respecting an alleged breach or contravention of this Act.

(2) A request under subsection (1) must

(a) be signed by the person making it and must identify that person to the satisfaction of the Ethics Commissioner, and

(b) set out sufficient particulars of the matter to which the request relates for an investigation to be commenced.

(3) A Member may request, in writing, that the Ethics Commissioner investigate any matter respecting an alleged breach of this Act by the Member.

(4) The Legislative Assembly may, by resolution, request that the Ethics Commissioner investigate any matter respecting an alleged breach or contravention of this Act by a Member or former Member.

(5) The Executive Council may request that the Ethics Commissioner investigate any matter respecting an alleged breach or contravention of this Act by a Minister or former Minister.

(6) Where a matter has been referred to the Ethics Commissioner under subsection (1), (3) or (4), neither the Legislative Assembly nor a committee of the Assembly shall inquire into the matter.

25(1) On receiving a request under section 24 or where the Ethics Commissioner has reason to believe that an individual has acted or is acting in contravention of advice, recommendations or directions or any conditions of any approval given by the Ethics Commissioner, and on giving reasonable notice to that individual, the Ethics Commissioner may conduct an investigation.

(2) An individual whose conduct is subject to an investigation under this Part shall co-operate with the investigation.

(3) An investigation under this section shall not be commenced more than 2 years after the date on which the alleged breach or contravention occurred.

(4) On commencing an investigation under subsection (1), the Ethics Commissioner may inform the Speaker of the Legislative Assembly of

- (a) the fact that an investigation has been commenced,
 - (b) if a request was received under section 24, the identity of the person who made the request,
 - (c) the name of the person who is the subject of the investigation, and
 - (d) the matter to which the investigation relates.
- (5) For the purpose of conducting an investigation, the Ethics Commissioner may
- (a) in the same manner and to the same extent as a justice of the Court of Queen's Bench,
 - (i) summon and enforce the attendance of individuals before the Ethics Commissioner and compel them to give oral or written evidence on oath, and
 - (ii) compel persons to produce any documents or other things that the Ethics Commissioner considers relevant to the investigation, and
 - (b) administer oaths and receive and accept information, whether or not it would be admissible as evidence in a court of law.
- (6) The Ethics Commissioner shall immediately suspend an investigation under this section if the Ethics Commissioner discovers that the subject-matter of the investigation is also the subject-matter of an investigation by a law enforcement agency to determine whether an offence under this Act or any other enactment of Alberta or under an Act of the Parliament of Canada has been committed, or that a charge has been laid with respect to that subject-matter.
- (7) The Ethics Commissioner may not continue an investigation under this section until any investigation or charge referred to in subsection (6) has been finally disposed of.
- (8) If, for any reason, the Ethics Commissioner determines that he or she should not act in respect of any particular investigation, the Ethics Commissioner may appoint an ethics commissioner or equivalent officer of another jurisdiction in Canada as a special Ethics Commissioner, to exercise the powers and perform the duties of the Ethics Commissioner in respect of that investigation.
- (9) The Ethics Commissioner may re-investigate an alleged breach or contravention in respect of which the Ethics Commissioner's findings have already

been reported under this section only if, in the Ethics Commissioner's opinion, there are new facts that on their face might change the original findings.

(10) The Ethics Commissioner may refuse to investigate or may cease an investigation if the Ethics Commissioner is of the opinion that

(a) a request under section 24(1) is frivolous or vexatious or was not made in good faith, or

(b) there are no or insufficient grounds to warrant an investigation or the continuation of an investigation.

(11) If the Ethics Commissioner refuses to investigate or ceases to investigate an alleged breach or contravention, suspends an investigation of an alleged breach or contravention or refuses to reinvestigate an alleged breach or contravention, the Ethics Commissioner shall so inform

(a) the individual against whom the allegation was made,

(b) the Speaker of the Legislative Assembly, and

(c) the person who made the request under section 24.

(12) Where the request was made under section 24(1), (3) or (4), the Ethics Commissioner shall report the Ethics Commissioner's findings to the Speaker of the Legislative Assembly.

(13) The Ethics Commissioner, before reporting the Ethics Commissioner's findings to the Speaker of the Legislative Assembly under subsection (12),

(a) shall provide a copy of the report to the individual against whom the allegation was made, and

(b) may, in the case of an allegation made against a Member, former Member or former Minister, provide a copy of the report to the leader in the Legislative Assembly of the political party to which the Member, former Member or former Minister belongs.

(14) Where the request was made under section 24(5), the Ethics Commissioner shall report the Ethics Commissioner's findings to the President of the Executive Council.

(15) If the Ethics Commissioner is of the opinion

(a) that a request made by a Member under section 24(1) was frivolous or vexatious or was not made in good faith, or

(b) that a request was made under section 24(1) by a person at the request of a Member and that the request was frivolous or vexatious or was not made in good faith,

the Ethics Commissioner may state that opinion in a report to the Speaker of the Legislative Assembly.

(16) The Speaker of the Legislative Assembly shall lay a report referred to in subsection (15) before the Legislative Assembly and the Legislative Assembly, after considering the report, may

(a) find the Member referred to in subsection (15) in contempt of the Legislative Assembly pursuant to section 10 of the Legislative Assembly Act, or

(b) order the Member referred to in subsection (15) to pay to the individual against whom the allegation was made the costs of the proceeding incurred by the individual,

or both.

Relevant Legislative Provisions

The provision of the Act that is relevant to this investigation is s. 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.

Private interest is defined in the negative in s.1(1)(g) of the Act:

"private interest" does not include the following:

(i) an interest in a matter

(A) that is of general application,

- (B) that affects an individual as one of a broad class of the public, or
 - (C) that concerns the remuneration and benefits of an individual;
- (ii) an interest that is trivial;
 - (iii) an interest of an individual relating to publicly-traded securities held in that individual's blind trust or in an investment arrangement

Also relevant to this investigation is s.5 of the Act:

A Member does not breach this Act if the activity is one in which Members of the Legislative Assembly normally engage.

Investigative Process

When I received the complaint, I acknowledged it and notified Member Getson of it. I also requested all relevant documentation from the Department of Agriculture and Forestry. While waiting for receipt of documents, I scheduled interviews. Two of the interviews took some time to occur due to scheduling conflicts.

The following people were interviewed in person and under oath:

1. Minister of Agriculture and Forestry, Devin Dreeshen;
2. Deputy Minister of Agriculture and Forestry, Andre Corbould;
3. Assistant Deputy Minister of Forestry, Ministry of Agriculture and Forestry, Bruce Mayer;
4. Member of the Legislative Assembly, Shane Getson.

Facts

Member Getson is the Member of the Legislative Assembly for Lac Ste. Anne-Parkland. The constituent in question, Mr. Solomon, volunteered on the “sign team” for Member Getson’s election campaign in the spring of 2019. He also donated to Member Getson’s election campaign in the amount of \$1,705.25.

Member Getson stated that his relationship with Mr. Solomon was solely that of Member of the Legislative Assembly and constituent. They are not friends and Member Getson does not interact with Mr. Solomon outside of his capacity as a Member or, prior to being elected, outside of his capacity as a candidate for Lac Ste. Anne-Parkland. He first met Mr. Solomon in the spring of 2019, about three weeks prior to the election, when Mr. Solomon was volunteering for the “sign team” for his election campaign. He ran across Mr. Solomon once or twice a week during campaign time. Mr. Solomon did not ask Member Getson for anything in return for his campaign volunteer work or donation and Member Getson did not promise anything in return.

Mr. Solomon previously had a small contract with the Government to supply a polymer gel fire suppression product, entered into in 2012, that was to run from April 15, 2014 until March 31, 2015. The product was used once during the contract period but the results were deemed inconclusive. After the contract expired, Mr. Solomon was relentless in demanding that the contract be extended and that the Department of Agriculture and Forestry use his product. His extensive correspondence with the Department verged on being rude.

Member Getson never loaned any money to or invested any money with Mr. Solomon or with any company of Mr. Solomon’s. He had no financial interest in any product, company or business associated with Mr. Solomon. Neither did any of Member Getson’s direct associates, as defined in s.1(5) of the Act.

Member Getson stated that he first became aware of polymer gels for fire suppression during the spring 2019 election period, when he saw a letter to the editor written by Mr. Solomon in a local Lac Ste. Anne publication. In this Letter to the Editor, Mr. Solomon described his views about the efficacy of polymer gels in suppressing fires and protecting structures. Mr. Solomon also claimed that the Government had “retracted” a contract for the gels and had chosen not to use this available technology, which, in his view, would have made a difference in fighting the Fort McMurray fires.

Shortly after his election as a Member of the Legislative Assembly in April 2019, Member Getson communicated with Mr. Solomon about polymer gels generally. Mr. Solomon demonstrated to Member Getson how the gels work.

Member Getson became very interested in polymer gels in general as a fire suppression tool. Member Getson asked his brother, who is a volunteer firefighter in British Columbia, and another individual whom he knew in the forestry industry about polymer gels and they encouraged him to look into the gels further. Member Getson personally did a considerable amount of internet research about the gels, including looking into the multitude of product options, their availability and studies on the subject. He genuinely believes that polymer gels could be an innovative and effective tool to help fight fires in Alberta. He provided internet research materials that he had gathered about polymer gels in general to the Department of Agriculture and Forestry for the Department to review as part of its due diligence on the subject.

Member Getson never saw a copy of Mr. Solomon's previous polymer gel contract with the Government. His understanding of the nature and status of that contract, based only on Mr. Solomon's representations, was that it was a sole source contract with the Department of Agriculture and Forestry that had been cancelled or put on hold during the transition period between the Progressive Conservative and New Democratic Party governments.

Member Getson wanted to seek clarification from the Minister of Agriculture and Forestry about the status of that contract on behalf of his constituent. He also thought that, if there was an existing contract with the Government for polymer gels on hold that could be reinstated or extended, that might be the quickest way to get the product in use to help fight Alberta wildfires. He wanted to make inquiries to see whether that contract could be an efficient means to get what he believed to be an effective firefighting tool in action.

On June 3, 2019, in Question Period in the Legislative Assembly, Member Getson raised the matter of using polymer gels to fight forest fires and mentioned that the previous Government had cancelled a contract for their use:

Given that my constituent brought this forward to his former MLA who was also the previous Agriculture and Forestry minister at the time and in my constituent's words he only received the runaround from his former MLA, is the minister aware that there was a contract that was issued for the use of combatting gels that was rescinded by the previous government essentially because of bureaucratic red tape?

Member Getson confirmed during his interview that the constituent whom he was referring to was Mr. Solomon and the contract that he was referring to was Mr. Solomon's previous contract with the Department. The Minister of Agriculture and Forestry, Devin Dreeshen, replied that his Department was aware of the use of gels to fight fires and constantly was looking at new firefighting technologies.

Member Getson also asked the Minister to reinstate a previous contract for his constituent:

Will the minister reinstate the previous contract or, at a minimum, allow this product and its applicators the chance to be put here and work in Alberta, just as it has in Australia, British Columbia, and the U.S.A and give our brave forest-fighting folks better tools to perform their jobs?

Member Getson confirmed during his interview that the “previous contract” that he was referring to was Mr. Solomon’s previous contract with the Government. He also explained that, when he referred to “this product and its applicators”, he was referring generally to polymer gels and those who supply them, not specifically to Mr. Solomon or Mr. Solomon’s product. The Minister replied that his Department would do an assessment of the use of polymer gels.

Member Getson stated during his interview that there some communications between him and Mr. Solomon between early June 2019 and late October 2019. This was because Mr. Solomon was interested, as a constituent, in seeing that his Member had asked questions relevant to him in the Legislative Assembly.

In August 2019, Member Getson arranged an event to showcase local businesses in his constituency after the Edmonton Airshow (which takes place in his constituency) was cancelled days before it was scheduled to occur. The event took place at the outdoor premises of a business located in his constituency, Japa Equipment. Member Getson invited the Minister of Economic Development, Trade and Tourism, Tanya Fir, and the local Member of Parliament, Dane Lloyd, to the event. He also posted about the event on his Facebook account. Mr. Solomon, as a local business owner in the constituency, demonstrated his polymer gel product at the event. However, Mr. Solomon was not the only local business invited or on display. Since Acheson Industrial Park is located in Member Getson’s constituency, many businesses in the area were invited to and attended the event.

On October 29, 2019, at the Standing Committee on Resource Stewardship (Ministry of Agriculture and Forestry Consideration of Main Estimates), Member Getson again raised the issue of using polymer gels in firefighting. He asked that funding be allocated for a pilot project and mentioned that the previous Government had cancelled a contract for its use:

Where I’m going to drill down to here is the use of the polymer gels. Again, it’s a different thing that we haven’t had in our arsenal, the previous government had actually cancelled a contract that was in place for it after it was proven of some efficacy. What I’m asking is if you are going to have some of those dollars allocated to a pilot project to allow that to take place.

Member Getson confirmed during his interview that the contract that he was referring to was Mr. Solomon’s previous contract with the Government. He said that he raised the matter to see if there was any potential to use that product as a pilot test.

The Assistant Deputy Minister of Forestry at the Department of Agriculture and Forestry, Bruce Mayer, responded to Member Getson. Mr. Mayer pointed out that the contract had not been cancelled, but rather had expired. He added that the contractor was not able to produce what was required at the time. Member Getson confirmed during his interview that he understood Mr. Mayer's response to be regarding Mr. Solomon and Mr. Solomon's previous contract with the Government. He said that this was the first time that he learned that Mr. Solomon's contract had expired rather than been cancelled. Mr. Mayer also stated that polymer gel is fairly expensive but that a commitment had been made to a couple of providers to do further research to see if it could fit within the Department's existing tools.

On October 30, 2019, in Question Period in the Legislative Assembly, Member Getson asked Minister Dreeshen for an update on trials with respect to the use of polymer gels. In his response, the Minister thanked Member Getson for the studies that he had provided to the Department. Member Getson also asked the Minister to reinstate a pre-existing contract for polymer firefighting gels and to have gels be put to use in fighting fires in Alberta:

Given that the forest pine beetle issues are real and given that the valley surrounding Jasper is now a sickly red due to the pine beetle killing trees and creating a tinderbox and given that chemical retardant deployed from water bombers and free-standing structures would flatten them but that polymer gels do not have this effect and they work well in protecting structures, extinguishing the fire where retardants could not, and given that the use of these chemical retardants are ineffective or less effective in this application, is the minister able to reinstate the pre-existing contract, as a pilot perhaps, to help protect places surrounded by dead trees?

[...]

Given that Alberta recently experienced one of the largest wildfire seasons to date and given that fighting fires here in the province takes a lot of human capital as well as monetary and given that Alberta is currently looking to spend taxpayer dollars as wisely and efficiently as possible, will the minister allow this product and this applicator a chance to be put to work here in Alberta, same as they have in Australia, giving our brave firefighters a better chance and better tools for the job? It's more cost-effective to both us and Alberta taxpayers.

Member Getson confirmed during his interview that the "pre-existing contract" that he was referring to was Mr. Solomon's previous contract with the Government. He stated that his request on this occasion to have Mr. Solomon's contract reinstated was an oversight. He had forgotten at the time about Assistant Deputy Minister Bruce Mayer's comments from the previous day at the Standing Committee on Resource Stewardship that Mr. Solomon's contract had not been cancelled, but rather had expired. Member Getson also said during his interview that, when he referred to "this product and this applicator", he was referring

generally to polymer gels and those who supply them, not specifically to Mr. Solomon or Mr. Solomon's product

Member Getson stated during his interview that, other than at the August 2019 event to showcase local businesses in his constituency, which Minister Fir attended, and the instances in Question Period on June 3 and October 30, 2019 and at the Standing Committee on Resource Stewardship on October 29, 2019, he did not communicate with anyone in the Government about Mr. Solomon, Mr. Solomon's products, or Mr. Solomon's previous contract with the Government. His focus was on polymer gels in general as a fire suppression tool and ensuring that there was a chance to test that type of product to fight wildfires in Alberta as soon as possible.

When asked whether there was a standard process or practice in his office for dealing with constituents who contact him with a product proposal for the Government, Member Getson stated that there was no formal procedure in that regard. However, the informal process typically would be:

- If it is a cold call and the constituent requests a meeting, front line staff in his office would try to book a meeting between the constituent and Member Getson;
- If the product seems to pertain to a particular industry and seems to be innovative, he would point them towards Alberta Innovates or to the relevant industry; and
- If the product is in an area that he is familiar with, he would look into it further before bringing it to a ministry's attention (to avoid bogging the ministries down). He then would direct the matter to the relevant ministry and, if the product seems to be innovative, he would advocate for it to try to make sure that someone sees and hears about it.

The Department of Agriculture and Forestry carefully has carried out due diligence on polymer gels in partnership with an organization named FP Innovations. Over time, studies were collected. There were concerns about cost, usefulness and the mechanics of how the product could fit within current firefighting practices.

Minister Dreeshen indicated during his interview that he was familiar with the use of polymer gels, as he had been briefed generally on them by his Department. However, he has never met Mr. Solomon and he had no knowledge of his Department's background with Mr. Solomon or the specifics of Mr. Solomon's product. He never, to his knowledge, received any correspondence from Member Getson on the use of polymer gels. However, he did speak on one or two occasions with Member Getson about polymer gels generally, who explained the benefits of the gels to him and said that the Department should be involved in using them. Member Getson did not specifically brief the Minister on Mr. Solomon's product. Minister Dreeshen also confirmed that he fielded questions from

Member Getson on the use of polymer gels twice in Question Period and once in the Standing Committee on Resource Stewardship.

The Deputy Minister of Agriculture and Forestry, Andre Corbould, indicated during his interview that he was familiar with the use of polymer gels in forest fire suppression. He received emails from Mr. Solomon but did not reply to them. He instead forwarded them to Bruce Mayer, the Assistant Deputy Minister in charge of Forestry. The only time that Mr. Corbould interacted with Member Getson was when he fielded a question at the Standing Committee on Resource Stewardship. Mr. Corbould stated that the Department looks at many suggestions and products to assist in fighting fires. It analyzes the effectiveness of the product and the cost. Mr. Corbould was of the belief that polymer gels were not quite developed enough to be useful. He also said that a Member bringing the product of a constituent to the attention of a Minister is not unusual, in his experience. The Department objectively looks into all such products.

Assistant Deputy Minister of Forestry at the Department of Agriculture and Forestry, Bruce Mayer, also was interviewed. He stated that Member Getson never contacted him directly about using polymer gels. However, he had a conversation with Member Getson about polymer gels after the Standing Committee on Resource Stewardship. Another Member, who similarly had a constituent with an interest in providing polymer gels to the Department, also was present during this conversation.

The Department has done considerable research into the use of polymer gels, including literature searches. It has analyzed the usefulness, the application problems and the cost-effectiveness of the product. It now is ready to test aerial application, having done the research over a number of years. The test will be conducted by the successful bidder to a Request for Proposal and all Department procurement rules will be followed. The purpose of the trial will be to determine operational value, cost efficiency and environmental concerns with respect to the gels.

Discussion and Analysis

Member Getson's own private interest is not in issue in this investigation. He did not have any financial interest in any product, company or business associated with Mr. Solomon. Nor did any of his direct associates as defined in the Act. Just because a Member of the Legislative Assembly raises an issue for a constituent, even one who has volunteered for and donated to the Member's election campaign, does not make the matter a private interest for the Member. Helping constituents is part of a Member's duties and running a campaign is a political matter, not a matter of private interest.

It is clear, however, that Mr. Solomon had a private interest in obtaining a contract with the Government to supply firefighting product. A contract would benefit his company financially.

Therefore, the question is whether Member Getson used his office or powers to influence or seek to influence a decision to be made by or on behalf of the Crown to improperly further Mr. Solomon's private interest.

Member Getson, in his capacity as a Member, tried to influence the Government to use polymer gels and, in particular, to reinstate Mr. Solomon's contract through his comments at Question Period and the Standing Committee on Resource Stewardship. As a result, I find that he did use his office to seek to influence a decision to be made by or on behalf of the Crown that would further Mr. Solomon's private interest. The remaining issue is whether he did so to *improperly* further that interest.

The assessment of whether a member has done something "to improperly further another person's private interest" depends heavily on the particular facts of each case. However, the Integrity Commissioner of Ontario, the Honourable David Wake, released a report *Re: the Honourable Doug Ford, Premier of Ontario* on March 20, 2019 that has an excellent discussion of what would amount to impropriety. Commissioner Wake set out five factors to be considered when determining whether the actions of a Member were to "improperly" further another person's private interest.

The five factors are:

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

Factors four and five are not applicable to this case, as ultimately there was no decision made by the Government to reinstate Mr. Solomon's contract or use his product. However, the fourth and fifth factors can be adapted slightly to apply in the circumstances to:

4. The process that the Member used in attempt to influence the decision (i.e. was there anything about the manner in which the Member attempted to influence the decision that was improper?); and
5. Whether there was an objective basis for the Member's attempt to influence the decision.

1. Relationship between the Member and the other person

The first factor to consider is the relationship between Member Getson and Mr. Solomon. As Commissioner Wake noted in his report *Re: the Honourable Doug Ford, Premier of Ontario*, this factor alone is not sufficient to conclude that a Member's actions were to improperly further the other person's private interests. Even if there were a close relationship between the Member and the other person, that must be considered alongside the remaining factors to see if there was any impropriety.

On the facts of this investigation, the relationship between Member Getson and Mr. Solomon does not weigh in favour of a finding of impropriety. Mr. Solomon is simply a constituent of Member Getson who volunteered for his election campaign "sign team" and who donated to his campaign. They are not friends. Prior to the spring 2019 election, Member Getson only interacted with Mr. Solomon occasionally, over the course of about three weeks, in his capacity as a candidate for Lac Ste. Anne-Parkland. Since the election, their interactions have been limited to their respective capacities as Member and constituent.

A similar relationship was considered in *The Philpott Report* (December 21, 2016), made under the federal *Conflict of Interest Act*. The allegations concerned Minister Philpott's use of driving services offered by a company owned by her constituent, Reza Shirani. Mr. Shirani was a longtime member and supporter of the Minister's political party and had volunteered twice as a door-to-door canvasser for her election campaign. The former federal Conflict of Interest and Ethics Commissioner, Mary Dawson, found that there was no special relationship between Minister Philpott and Mr. Shirani that would suggest preferential treatment or impropriety on that basis.

In *The Clement Report* (July 18, 2012) made under the federal *Conflict of Interest Act*, one of the allegations concerned Minister Clement's appointment of a constituent, George Young, to the Canadian Tourism Commission. Mr. Young was a political supporter of the Minister, in that they were both politicians based in Huntsville, ON who shared similar political views. Commissioner Dawson found that this alone was not sufficient to establish that Minister Clement improperly furthered Mr. Young's private interest in recommending him for appointment.

Although Members must comply with the provisions in the *Conflicts of Interest Act*, Members also have a duty to represent constituents on issues that are of concern to them. This is recognized by s.5 of the Act. Just because a constituent has volunteered for and donated to a Member's election campaign does not disentitle the constituent from being represented by the Member to the same extent as any other constituent. A caveat to this point is that the donation should be within the contribution limit set out in the *Alberta Election Finances and Contributions Disclosure Act*. In this case, it was.

2. Degree of the Member's involvement in decision or the process leading to it

With respect to the second factor, Member Getson did not have any involvement in a decision by the Government to reinstate Mr. Solomon's contract or to otherwise establish a contract for polymer gels. Further, his actions to try to influence any such decision were limited. He only raised Mr. Solomon's contract with the Government on three occasions, all in official settings on the public record: (1) during Question Period on June 3, 2019, (2) at the Standing Committee on Resource Stewardship on October 29, 2019, and (3) during Question Period on October 30, 2019. The August 2019 event organized by Member Getson was for showcasing local businesses in his constituency in general; it was not an attempt to influence the Government to reinstate Mr. Solomon's contract. In my view, the extent of Member Getson's actions does not support a finding of impropriety.

On the other hand, if a Member were to push the interest of a constituent to an unreasonable degree, such as by relentlessly or repeatedly pestering or harassing a Minister or a Department (particularly in an aggressive or bold manner) to try to persuade them of something or to try to be involved in their decision, that could lead to a finding of impropriety.

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.

3. Whether the Member acted for an improper purpose

Regarding the third factor, I find that Member Getson did not act for an improper purpose when he tried to influence the Government to reinstate Mr. Solomon's contract through his comments at Question Period and the Standing Committee on Resource Stewardship.

Member Getson acted, on behalf of his constituent and just as he would for any other constituent, to seek clarification from the Government about the status of the constituent's contract. Member Getson also was motivated by his honest belief that polymer gels could be an innovative and effective tool for fighting fires in Alberta and that reinstating an existing contract for the gels (which is what he understood Mr. Solomon's contract to be at the time) could be the quickest way to get that tool in action. There is nothing to suggest that Member Getson acted for the purpose of giving Mr. Solomon preferential treatment or because Mr. Solomon volunteered for and donated to his campaign.

This is similar to *The Philpott Report*, in which Commissioner Dawson found that Minister Philpott's decision to hire her constituent's company was not based on his membership in her political party or his volunteer activities for her election campaign. There was no impropriety based on preferential treatment.

This also is similar to the findings in *The Clement Report* regarding Minister Clement's participation, when he was Minister of Health and Minister of Industry, in a promotional video for a company based in his riding. Minister Clement identified himself in the video as Canada's Minister of Health and extended greetings to the people of China on behalf of himself and the Government of Canada. Commissioner Dawson found that the Minister's participation was not improper because he appeared in the video for the purpose of assisting a Canadian company based in his riding in promoting its business and products internationally. He believed that it was good for his riding, and for Canada, when Canadian companies expand their economic activity. He was not motivated by private or personal considerations or based on preferential treatment.

In contrast, Commissioner Dawson found in *The Paradis Report* (March 22, 2012) that Minister Paradis improperly furthered Rahim Jaffer's interests when he arranged a meeting for Mr. Jaffer with relevant department officials to discuss Mr. Jaffer's solar panel proposal. This was because she found that the Minister acted for the purpose of giving Mr. Jaffer preferential treatment based on their past relationship and his desire to help (or to give Mr. Jaffer the impression that he was helping) Mr. Jaffer establish a new career after Mr. Jaffer's election loss. She did not believe that the Minister, who had minimal knowledge about Mr. Jaffer's proposal, decided to assist Mr. Jaffer because he thought that the proposal was innovative and might fit within the federal government's green initiatives.

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

With respect to the fourth factor, which I have adapted to apply in the circumstances to the process used by the Member in attempt to influence the decision, I find that there was nothing improper about the manner in which Member Getson attempted to influence the Government to reinstate Mr. Solomon's contract.

As stated above, the extent of Member Getson's attempt to influence a decision to reinstate Mr. Solomon's contract was limited to raising Mr. Solomon's contract with the Government on three occasions, all in official settings on the public record. He did not push the matter to an unreasonable degree, such as by relentlessly or repeatedly pestering or harassing a Minister or a Department about it. His actions were transparent to the public.

There also is nothing to suggest that Member Getson treated Mr. Solomon more favourably than any other constituent in similar circumstances. He followed his usual informal process for addressing constituents who contact his office about a product proposal for the Government. He researched polymer gels himself before contacting the Ministry and, because he thought that the product seemed like it would be innovative and effective, he advocated so that the relevant people at the Ministry heard about it.

This is in contrast to the situation in *The Paradis Report* (March 22, 2012), where it was found that Minister Paradis did not follow his usual process for considering whether to arrange a meeting for a company to present its products or services to department officials. Generally, as a first step, the Minister would have his staff do a preliminary review of the business proposal to determine whether a meeting with the department was warranted. However, in Mr. Jaffer's case, the Minister instructed that a meeting with the department be arranged without asking his staff to review the proposal.

5. Whether there was an objective basis for the decision or for the Member's attempt to influence the decision

As stated above, I have adapted the fifth factor to apply in the circumstances to whether there was an objective basis for Member Getson's actions to attempt to influence the Government to reinstate Mr. Solomon's contract.

In this regard, I am not in a position to comment on whether or not polymer gels actually are useful in fighting forest fires in Alberta. Nor am I in a position to comment on the content or quality of any research on the subject.

However, I accept Member Getson's evidence that there is a considerable amount of information about polymer gels available that supports that the gels may be useful in suppressing and protecting structures from fire. I also accept that wildfires had been a

significant and costly issue in Alberta in recent years. Member Getson understood at the time that Mr. Solomon had an existing contract with the Government for polymer gels that potentially could be used to get the gels in action to fight wildfires in Alberta quickly. Based on these facts, I find that there was an objective basis for Member Getson's decision to try to influence the Government to reinstate Mr. Solomon's contract. This factor points away from a finding of impropriety.

Conclusion

After considering the relevant factors, I find that Member Getson did not do anything to improperly further Mr. Solomon's private interest. He did not breach the Act and no sanction is recommended.



Hon. Marguerite Trussler, Q.C.
Ethics Commissioner