



Office of the Conflict
of Interest and Ethics
Commissioner

Commissariat aux
conflits d'intérêts et à
l'éthique

THE PARADIS REPORT

made under the
CONFLICT OF INTEREST ACT



March 22, 2012

Mary Dawson
Conflict of Interest and
Ethics Commissioner

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CONFLICT OF INTEREST ACT

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PREFACE

The *Conflict of Interest Act* (Act) came into force on July 9, 2007.

An examination under the Act may be initiated at the request of a member of the Senate or House of Commons pursuant to subsection 44(1) or on the initiative of the Conflict of Interest and Ethics Commissioner pursuant to subsection 45(1) of the Act.

Pursuant to subsection 44(3) of the Act, unless the Commissioner determines that the matter is frivolous or vexatious or is made in bad faith, the Commissioner is required to examine the matter. Subsection 44(7) requires the Commissioner to provide a report to the Prime Minister setting out the facts in question as well as the Commissioner's analysis and conclusions in relation to the examination. Subsection 44(8) provides that, at the same time that a report is provided to the Prime Minister, a copy of the report shall also be provided to the Member who made the request and the current or former public office holder who is the subject of the report, and made available to the public.

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EXECUTIVE SUMMARY

This report presents the findings of my examination into the conduct of the Honourable Christian Paradis under the *Conflict of Interest Act* (Act) relating to allegations that he assisted Mr. Rahim Jaffer and Green Power Generation Corporation to advance a business proposal. Mr. Paradis was the Minister of Public Works and Government Services Canada at that time.

Mr. Jaffer, a co-director of Green Power Generation at the time, and a former Member of Parliament and caucus colleague of Mr. Paradis, approached Mr. Paradis with a proposal to lease the rooftops of federal buildings, install solar panels on them and sell the energy they produced to the Government of Ontario. Mr. Paradis directed his staff to organize a meeting between Mr. Jaffer's company and departmental officials from Public Works.

My examination focused on whether, in directing his staff to arrange this meeting, Mr. Paradis contravened section 7, subsection 6(1) and section 9 of the Act.

Section 7 prohibits public office holders, in exercising an official power, duty or function, from giving preferential treatment to a person or organization based on the identity of someone representing that person or organization. I found that Mr. Paradis treated Mr. Jaffer and Green Power Generation more favourably than he treated others in similar circumstances, based on the identity of Mr. Jaffer. I therefore concluded that he contravened section 7 of the Act.

Subsection 6(1) prohibits public office holders from making decisions that they know or reasonably should know would place them in a conflict of interest. A conflict of interest can occur when a public office holder has an opportunity to further his or her own private interests or those of relatives or friends, or to *improperly* further the private interests of another person.

While it was alleged that Mr. Jaffer and Mr. Paradis were friends, I determined that they were not friends within the meaning of the Act. I determined, however, that Mr. Paradis' decision that a meeting take place between Green Power Generation and his department did provide an opportunity to improperly further the private interests of the company and Mr. Jaffer. I therefore concluded that Mr. Paradis contravened subsection 6(1) of the Act.

Section 9 prohibits public office holders from using their position to influence a decision so as to further their own private interests or those of relatives or friends, or to improperly further the private interests of another person. It applies to cases where the final decision on a particular matter rests with someone other than the public office holder whose conduct is in question, but where that public office holder uses his or her position to influence it. I found that, while the decision to grant the meeting was Mr. Paradis' alone, the decision about its outcome rested with departmental officials and there was no evidence that Mr. Paradis tried to influence the outcome. I therefore concluded that Mr. Paradis did not contravene section 9 of the Act.

My examination led me to comment on the application of the Act in relation to ministers serving their constituents, in particular helping companies located in their constituencies to gain access to government officials in their own departments or portfolios. Ministers should treat their constituents in the same way as they would treat the constituents of any other Member of Parliament.



Although I found that Mr. Paradis contravened the *Conflict of Interest Act*, I believe his inclination to direct that a meeting for his former caucus colleague be arranged is easy to understand: it is natural to want to help someone one knows. However, I believe that facilitating 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.



THE REQUEST

On June 3, 2010 the Honourable Marlene Jennings, Member of Parliament for Notre-Dame-de-Grâce–Lachine at that time, sent me a letter requesting that I investigate alleged contraventions of the *Conflict of Interest Act* (Act) by the Honourable Christian Paradis, in relation to his previous role as Minister of Public Works and Government Services Canada (Public Works). Ms. Jennings alleged that Mr. Paradis used his position to advance a formal proposal by Mr. Rahim Jaffer, in his capacity as director of a private company, Green Power Generation Corporation, to install solar panels on the rooftops of Government of Canada buildings.

Ms. Jennings also alleged that Mr. Jaffer was a friend of Mr. Paradis. Ms. Jennings' request made reference to Mr. Paradis' testimony before the Standing Committee on Government Operations and Estimates on June 2, 2010. She quoted Mr. Paradis' testimony, which stated that Mr. Jaffer called him on August 27, 2009 to discuss an innovative project involving solar panels. It further stated that Mr. Paradis instructed Mr. Jaffer to contact his office so that the office might organize a meeting with departmental officials.

In her letter, Ms. Jennings also made reference to e-mails that had been provided to the Standing Committee on Government Operations and Estimates which, she alleged, indicated that on August 27, 2009 Mr. Paradis discussed Mr. Jaffer's project proposal with his Director of Parliamentary Affairs, Mr. Sébastien Togneri, who then requested that officials in the office of the Deputy Minister of Public Works review the proposal and meet with Mr. Jaffer.

Ms. Jennings cited sections 4, 7, and 9 of the Act and asked that I investigate this matter. Section 4 describes the circumstances in which a public office holder is considered to be in a conflict of interest. Section 7 pertains to preferential treatment. Section 9 pertains to using one's position to influence a decision so as to further their own private interests or those of relatives or friends, or to improperly further the private interests of another person.



THE PROCESS

After reviewing Ms. Jennings' request and being satisfied that she had set out her reasonable grounds to believe that Mr. Paradis had not complied with his obligations under the *Conflict of Interest Act* (Act), I concluded that Ms. Jennings' letter constituted a complete request for an examination under section 44 of the Act.

I wrote to Mr. Paradis on June 18, 2010 to notify him of the request and to advise him that I was proceeding with an examination under the Act. I informed him that the relevant provisions of the Act were sections 7 and 9, which had been cited by Ms. Jennings in her letter, as well as subsection 6(1), which prohibits public office holders from making decisions that would place them in a conflict of interest. As a first step in the examination, I asked that Mr. Paradis respond in writing by July 17, 2010 to the allegations.

I also wrote to Ms. Jennings on June 25, 2010 to inform her that her request satisfied the requirements set out in subsection 44(2) of the Act, and that I was commencing an examination under subsection 44(3) and had forwarded her request for an examination to Mr. Paradis.

On July 23 and 26, 2010 I received letters from Mr. Arthur Hamilton, counsel to Mr. Paradis, responding to the allegations made by Ms. Jennings.

On October 25, 2010 I conducted a first interview with Mr. Paradis. A second interview with Mr. Paradis was conducted on December 12, 2011. Before proceeding with the second interview, Mr. Paradis was given an opportunity to review the transcript from his first interview, as well as excerpts of transcripts of witness interviews along with related supporting documents.

My Office interviewed a total of 21 witnesses, some of whom also provided documentary evidence. In accordance with my usual practice, these interviews were conducted in private. Written submissions were received from two other witnesses. The Schedule includes a list of all witnesses.

In keeping with the practice I have established in conducting examinations, Mr. Paradis was given an opportunity to comment on a draft of the factual parts of this report before it was finalized, specifically The Request, The Process, Findings of Fact and Mr. Paradis' Position.



FINDINGS OF FACT

The purpose of this examination was to determine whether Mr. Paradis contravened the *Conflict of Interest Act* (Act) by assisting Mr. Jaffer and his company, Green Power Generation Corporation, to advance their solar panel project.

Information that was publicly available when I received Ms. Jennings' request indicated that Mr. Paradis had been involved in arranging a meeting with departmental officials at Public Works and Government Services Canada (Public Works). During my examination, I sought to understand both Mr. Paradis' involvement in setting up the meeting and whether he was involved in any other way with respect to the solar panel project. I also considered other cases where Mr. Paradis may have been involved in arranging meetings between a company and departmental officials in order to make a comparison with the case of Mr. Jaffer and his company, Green Power Generation.

Allegations related in part to the subject-matter of this examination were also investigated by the Commissioner of Lobbying. The focus of her investigation, however, was the alleged lobbying activities of Mr. Jaffer and Mr. Patrick Glémaud, co-directors of Green Power Generation. My examination focused on the actions of Mr. Paradis, and whether he contravened the Act.

I will first set out the facts relating to Mr. Jaffer and his company, Green Power Generation, the solar power project and Mr. Paradis' involvement in arranging the meeting between that company and Public Works. I will then examine the treatment of other businesses in similar circumstances.

Mr. Jaffer, Green Power Generation and the Solar Panel Project

Green Power Generation's Solar Panel Project

In the summer and fall of 2009 Mr. Jaffer was working with his friend, Mr. Glémaud, who had started a green technology consulting company called Green Power Generation. Both Mr. Jaffer and Mr. Glémaud were co-directors of the company. The company had been exploring several projects in the area of environmental technology and policy, but none had come to fruition.

Among the projects considered by Green Power Generation was a plan to lease the rooftops of buildings in the province of Ontario and to install solar panels on them to generate electricity. The Government of Ontario had launched a revised Feed-in-Tariff program offering stable prices under long-term contracts for energy generated from renewable sources such as solar power. Mr. Glémaud and Mr. Jaffer believed they could sell energy at favourable rates to the Government of Ontario.

Mr. Glémaud told my Office that he decided to approach the Government of Canada because he understood it wanted to make federal buildings greener. Green Power Generation had discussed its idea with solar panel companies, engineering firms and a company already providing this type of service. However, it had not entered into contracts with any of them and was not representing any specific solar panel business when Mr. Jaffer and Mr. Glémaud



approached Public Works. According to a proposal submitted by Mr. Glémaud to Public Works, the project coordination, including site analysis, design, engineering and installation, would be led by Green Power Generation in conjunction with a manufacturer of solar panel products.

Mr. Glémaud told my Office that, in light of the newly revised Feed-in-Tariff program, Green Power Generation was hoping to secure a government rooftop leasing contract ahead of any potential competition. Mr. Glémaud said that he believed that the project would not fall within regular procurement rules because it involved leasing space from, rather than selling something to, the federal government. He believed that the Government of Canada would be able to enter immediately into a leasing agreement without having to consider other businesses able to offer the same service and wanted to meet with high-positioned federal decision makers who could quickly approve the leasing of at least one rooftop as a pilot project.

Relationship between Mr. Paradis and Mr. Jaffer

Mr. Paradis and Mr. Jaffer first met following Mr. Paradis' election to the House of Commons in January 2006. At that time, Mr. Jaffer was the Member of Parliament for Edmonton–Strathcona and the Chair of the Conservative Party Caucus. He would often organize social events for Conservative Members that Mr. Paradis would attend.

Mr. Jaffer said that he became very close to Mr. Paradis and his wife at this time, and that they would often seek out each other's company at caucus events. Mr. Jaffer told me that he considered Mr. Paradis to be a friend. For his part, Mr. Paradis told me that he thought Mr. Jaffer was a good guy and that, while he considered his relationship with Mr. Jaffer to be warm, their relationship was strictly professional.

Mr. Jaffer and Mr. Paradis both said that they did not socialize with one another outside of caucus events. Mr. Jaffer was defeated in the 2008 federal election, losing his seat in the House of Commons. Mr. Jaffer and Mr. Paradis both confirmed that they had very little interaction following that election.

First Contact with the Minister's Office

Mr. Glémaud said that he and Mr. Jaffer decided to approach Mr. Paradis' office as they both had contacts there. Mr. Glémaud had met Mr. Togneri, a member of Mr. Paradis' ministerial staff and Director of Parliamentary Affairs, when Mr. Glémaud had run as a Conservative candidate in the 2008 federal election. Mr. Jaffer knew Mr. Paradis from caucus and also knew Mr. Togneri from his previous position with the office of the Conservative Whip in the House of Commons.

There was some confusion among witnesses as to how contact was first made with Mr. Paradis' office, in particular whether that first contact was with Mr. Togneri or with Mr. Paradis himself. The first documented contact is an e-mail of August 26, 2009 from Mr. Jaffer to Mr. Togneri. In the e-mail, Mr. Jaffer refers to having talked to Mr. Togneri earlier that day and having provided him with his contact information. Mr. Togneri explained to my Office that Mr. Jaffer had called him to discuss his solar panel project and that Mr. Jaffer had told him that he was seeking to speak with someone at Public Works.



In the morning of August 27, 2009 Mr. Togneri forwarded Mr. Jaffer's e-mail to Mr. Sandy White, another member of Mr. Paradis' ministerial staff. In his cover e-mail Mr. Togneri said that he believed that Mr. White had already been briefed on Mr. Jaffer's plan by Ms. Jillian Andrews, another member of Mr. Paradis' ministerial staff, but that Mr. White should come to see him if he had not.

Shortly after noon on August 27, 2009 Mr. Togneri e-mailed Mr. Jaffer and informed him that Mr. White and Mr. Bruce Winchester, another ministerial staff member, would be looking into his idea and setting up a meeting for him with the department. In that e-mail Mr. Togneri also informed Mr. Jaffer that he had spoken to Mr. Paradis about Mr. Jaffer's meeting request, that he had told the minister that Mr. Jaffer would be contacting him and that the minister was expecting his call. My Office asked Mr. Togneri whether he spoke to Mr. Paradis about Mr. Jaffer's request before the telephone call to Mr. Paradis. Mr. Togneri said that, based on his e-mail to Mr. Jaffer, he assumed he did, but that he did not specifically recall the conversation.

Mr. Jaffer's Telephone Conversation with Mr. Paradis

During the afternoon of the same day, August 27, 2009, Mr. Jaffer called Mr. Paradis on his cell phone. Mr. Paradis told me that he was surprised by Mr. Jaffer's phone call and that he did not recall having been told by Mr. Togneri that Mr. Jaffer would be calling him.

During his telephone conversation with Mr. Paradis, Mr. Jaffer brought up his solar panel project and asked Mr. Paradis if there was anything similar being done at the federal level. Mr. Paradis said he believed Mr. Jaffer was trying to find out who he could meet with to explain the solar panel project and to determine if there was any interest in the project.

Mr. Paradis told me that he and Mr. Jaffer did not get into the details of the project and that he was not clear on exactly what Mr. Jaffer was proposing but believed it was innovative and might fit with the Government of Canada's greening program. He said he wanted to make sure representatives of Green Power Generation met with the right officials in case the project was of interest. He told Mr. Jaffer that he would call his ministerial staff and that they would make sure that a meeting would take place. Mr. Paradis said he also suggested that Mr. Jaffer himself contact Mr. Togneri.

When asked why he had told Mr. Jaffer to contact his Director of Parliamentary Affairs, Mr. Togneri, and not one of his policy advisors, Mr. Paradis said that it was because Mr. Togneri had the task of overseeing relationships and therefore believed he would be able to create a link between Green Power Generation and the appropriate departmental officials.

Mr. Jaffer told my Office that Mr. Paradis did not make any promises to him. Mr. Jaffer believed that Mr. Paradis, along with other former parliamentary colleagues, felt sorry for him following his electoral loss, and simply sought to support Mr. Jaffer in his new endeavours.

Mr. Paradis told me that he made it clear to Mr. Jaffer more than once that, should there be interest in his idea, Green Power Generation would have to follow a competitive process. Mr. Jaffer told my Office that Mr. Paradis never spoke of the need for a competitive process and that the discussion about the solar panel project was very general.



Both Mr. Paradis and Mr. Jaffer said that they did not have any other communication following the August 27, 2009 conversation.

Follow-up with Mr. Paradis' Ministerial Staff

Mr. Paradis told me that, following his conversation with Mr. Jaffer, he called Mr. Togneri and instructed him to organize a meeting with departmental officials knowledgeable on the subject matter of the project in order to see whether there was interest at the federal level.

Mr. Paradis told me that, after giving these instructions, his Chief of Staff, Mr. Marc Vallières, approached him asking about the meeting in order to ensure that Mr. Paradis was not offering special treatment to Mr. Jaffer. Mr. Paradis responded that he was comfortable with Mr. Jaffer meeting with the department.

Mr. Paradis told me that he did not give his ministerial staff any other instructions, nor did he discuss Mr. Jaffer's project with them as he did not consider Mr. Jaffer's solar panel project idea to be a priority.

Mr. Jaffer contacted Mr. Togneri by e-mail in the afternoon of August 27, 2009, the same day that he spoke to Mr. Paradis on the phone. In that e-mail, Mr. Jaffer wrote: "I just spoke with Christian and we are going to try to get together for beers next week when he comes back to Ottawa. He also suggested that I coordinate with you the chance to find someone like the deputy minister to speak with to give more info about the solar proposal we are working on to see if there is a fit with public works." Mr. Jaffer wrote that he was leaving the request up to Mr. Togneri and that Green Power Generation would prepare information to share with the appropriate people.

Mr. Paradis told me that he was not aware of Mr. Jaffer's e-mail at the time, and that he had told Mr. Jaffer that he would meet with the right officials but had not mentioned the Deputy Minister. Mr. Jaffer told me that he could not recall with certainty that Mr. Paradis had suggested a meeting with the Deputy Minister and Mr. Togneri told me that he could not recall whether he asked Mr. Paradis if he wanted Mr. Jaffer to meet the Deputy Minister specifically.

Mr. Paradis and Mr. Jaffer both told me that they did not get together for a beer. Mr. Jaffer said that, when communicating with people, he would always refer to "getting together" with them, adding the observation that this was his style.

Follow-up with Departmental Officials

Mr. Togneri forwarded Mr. Jaffer's e-mail to a staff member in the Deputy Minister's office and to Mr. White. Mr. Togneri added that the request had come from a former Member of Parliament and that it related to the use of Government of Canada rooftops for solar power panels. He wrote that he was leaving it up to them to set up a meeting for Mr. Jaffer.

A member of the Deputy Minister's staff replied to Mr. Togneri's e-mail the next day informing him that the department could organize a meeting with the Real Property Branch, but that the meeting would not be with the Deputy Minister. Mr. Togneri's e-mail was then directed



by the Deputy Minister's office to the Real Property Branch with instructions to organize a meeting and to keep the Minister's office informed.

Mr. White e-mailed staff in the Deputy Minister's office and informed them that he and another ministerial staff member would be attending the meeting and asked that the department brief them on what Green Power Generation was proposing before the meeting took place. Mr. White told my Office that the purpose of this briefing was to prepare him for the meeting with Green Power Generation, providing him with background on the industry and technology as well as departmental policies and practices. He said that he would not go into meetings of this kind unprepared.

Arranging for a Meeting

On September 14, 2009 departmental officials from the Professional and Technical Services Management Group of the Real Property Branch tentatively scheduled the meeting with Green Power Generation for September 21. Staff from the Deputy Minister's office reminded departmental officials that ministerial staff had requested a briefing prior to the meeting and suggested the briefing could take place 15 to 30 minutes before the meeting.

The Professional and Technical Services Management Group provides professional and technical services related to federal facilities and is responsible for providing assessments of products.

Departmental officials asked the Deputy Minister's office to get some more information from the company so that they could prepare comments. On September 16 departmental officials recommended to the Deputy Minister's office that the September 21 meeting be cancelled because they had not yet received additional information.

Mr. White e-mailed Mr. Jaffer on September 16, 2009. He wrote that "we would be very interested" in Green Power Generation's idea as it "fits well with our greening framework", but that the department required further information on what it was proposing. Mr. Jaffer responded that they were working on the background information and would submit a proposal shortly. Mr. White told my Office that his expression of interest in Green Power Generation's idea reflected his own personal opinion. He had not briefed Mr. Paradis nor sought his opinion at that time. Mr. Paradis also told me that he never spoke to Mr. White about Mr. Jaffer's project.

Later on the same day, September 16, 2009, the media reported that Mr. Jaffer had been arrested in relation to matters unrelated to this examination. In light of this, staff in the Deputy Minister's office postponed the meeting they had tentatively scheduled and raised the matter with the Deputy Minister. The Deputy Minister instructed the department to continue planning for the meeting, but not to hold it until he had raised the matter with Mr. Paradis.

On the same day, Mr. White e-mailed Mr. Togneri requesting Mr. Glémaud's contact information. The following day Mr. White sent an e-mail to Mr. Jaffer and Mr. Glémaud asking for project information from them that could be passed on to the department.



The Deputy Minister met with Mr. Paradis on October 1, 2009. He confirmed with Mr. Paradis that he was aware that his ministerial staff had asked that the department meet with Green Power Generation. He then asked Mr. Paradis if he wanted the department to proceed with the meeting, despite the recent news coverage of Mr. Jaffer's arrest. Mr. Paradis said that he did. Mr. Paradis told me that he did not have any concerns with the department meeting with Mr. Jaffer following his arrest, as Mr. Jaffer's legal problems were not related to what he was seeking to propose to the department. Staff in the Deputy Minister's office proceeded to organize the meeting.

In mid-October 2009 departmental officials from the Professional and Technical Services Management Group received background information from Green Power Generation in the form of a business proposal. The overall sense of the departmental officials interviewed by my Office was that the proposal was preliminary and lacked details and technical information. Some officials indicated that they would normally not have proceeded with a meeting without first receiving additional information from Green Power Generation.

Mr. Paradis told me that he was not given the proposal to read at that time. He said that he only read the documents submitted by Green Power Generation in the spring of 2010 when the matter of his interactions with Mr. Jaffer and those of his staff was reviewed by a parliamentary committee.

On a number of occasions, Mr. Togneri and Mr. White requested updates from staff in the Deputy Minister's office as to the status of the meeting request with Green Power Generation and questioned the delay. Mr. White told my Office that since he had been instructed by his superiors to organize a meeting, he wanted to ensure that it took place. Mr. Togneri told my Office that since Mr. Paradis had requested the meeting, he viewed it as a priority and sought to ensure that a meeting with Green Power Generation would take place.

Meeting with Green Power Generation

On October 21, 2009 officials from the Professional and Technical Services Management Group briefed Mr. White and Ms. Andrews from the Minister's office on Green Power Generation's proposal to prepare them for the meeting. Departmental officials informed the ministerial staff of technical concerns they had with the proposal. Some departmental officials interviewed by my Office stated that, in light of the issues raised in relation to the proposal, they questioned whether a meeting should even take place. Others saw value in proceeding with a meeting with Green Power Generation in order to receive additional information. Mr. White e-mailed Mr. Glémaud and Mr. Jaffer to set a date and time for the meeting with the department. Mr. Glémaud replied and recommended that Mr. Jaffer not attend the meeting.

On October 28, 2009 a meeting was held with Mr. Glémaud at which Green Power Generation's solar panel project was presented to the Professional and Technical Services Management Group and ministerial staff.

Mr. Glémaud explained the proposal further and addressed some of the department's questions and concerns. Departmental officials offered Mr. Glémaud information on ways to present the project to potential future partners. They also confirmed that a competitive process



would be required should Public Works be interested in pursuing the idea of leasing government rooftops for installing solar panels.

According to departmental officials and ministerial staff, there were no further discussions regarding Green Power Generation's solar panel project as the concept was not seen as a feasible option for Public Works at that time. Mr. Glémaud told my Office that Mr. White informed him that there would be a follow-up. However, there was none. Mr. White and Mr. Togneri both told my Office that they did not brief Mr. Paradis on the meeting with Green Power Generation. Mr. Paradis confirmed that he was not briefed nor did he ask to be briefed as he did not view the meeting as a priority.

When asked whether Mr. Jaffer had received the same treatment from him as anyone else with a similar proposal would have received, Mr. Paradis said that each case is different. He said that, while his past relationship with Mr. Jaffer did influence his decision to ask his ministerial staff to arrange a meeting, it was not because he wanted to help Mr. Jaffer or that he had particular trust in him. Rather, he assumed that what Mr. Jaffer was proposing was serious and credible. He relied on the judgement of Mr. Jaffer. Mr. Paradis said that, given Mr. Jaffer's experience as a Member of Parliament, he assumed that Mr. Jaffer knew how things worked and that he would not waste departmental officials' time with an idea that had no merit.

Solar Panel Proposal from another Company

During the course of my investigation, I learned of one meeting where a representative of another solar company met with a member of Mr. Paradis' ministerial staff to present a proposal similar to that of Mr. Jaffer, but was not given an opportunity to meet with departmental officials.

On October 9, 2009, a representative of that other company e-mailed Mr. White asking about the possibility of installing solar power panels on government buildings. As this was similar to what Green Power Generation was proposing, Mr. White e-mailed a more senior colleague, Mr. Winchester, seeking his advice as to whether he should meet with the company. Mr. Winchester responded that it was best to meet them all so that no one could accuse the ministerial office of playing favourites. Mr. White responded that he agreed and would set up a meeting with the company.

The company representative met with Mr. White shortly afterwards. According to the company representative, Mr. White expressed an interest in the project and agreed to organize a meeting with the department. However, the representative told my Office that when he contacted the minister's office on several occasions to find out the status of the meeting request with the department, he received no response. When interviewed by my Office, Mr. White recalled a meeting with a solar panel company but did not remember any specific details of the meeting, although he said that he believed the company was presenting an idea that was basic.

Mr. Paradis told me that he did not have any knowledge of the company, its proposal, or the meeting with Mr. White.



Other Cases where Meetings Were Sought with Departmental Officials

In order to determine whether Mr. Paradis contravened his obligations under the Act in relation to Green Power Generation, I asked Mr. Paradis and members of his current and former ministerial staff to describe to me the circumstances in which they would normally ask departmental officials from Public Works to meet with a company.

Mr. Paradis told me that when he was Minister of Public Works he was approached regularly by representatives of companies, both in his capacity as a minister and as a Member of the House of Commons. He would also take the initiative and ask his constituency office staff to schedule visits with companies in his riding. Company representatives in his riding would sometimes present their products or services and would tell Mr. Paradis that they were seeking to conduct business with the federal government. Mr. Paradis said that he does not hesitate to help businesses when he sees a good idea as long as rules, such as a competitive process, are respected, and that there is no interference or favouritism from the minister's office.

Mr. Paradis told me that, when he was appointed Minister of Public Works, he became very interested in supporting projects that were "green" and innovative. He said that if he felt the business presented an interesting or innovative product, he would send the business' information to his ministerial staff. His ministerial staff would then assess the business product or service and identify any related needs at the federal level. In some situations staff would simply refer business representatives to the appropriate officials within Public Works and the department would determine next steps. In other situations, they would advise Mr. Paradis on recommended next steps, which could include arranging a meeting between company representatives and departmental officials from Public Works.

Mr. Paradis told me that companies would often be directed to Public Works' Office of Small and Medium Enterprises, which had been set up to assist companies seeking to do business with the government. In instances where a business has an unusual product or service, however, he might ask that his ministerial staff arrange a meeting with a branch in the department that had related knowledge.

My Office asked departmental officials and current and former ministerial staff to provide details of any other instances in which Mr. Paradis or his staff had asked departmental officials to meet with representatives of a business.

Only a few examples were provided. I presented these to Mr. Paradis and provided him with an opportunity to provide additional examples, which he did. In addition to the request involving Green Power Generation and the solar panel proposal from another company described in the previous section, seven other meetings were identified and described to me.

Five of the seven meetings were organized at Mr. Paradis' request. The other two meetings were organized by members of Mr. Paradis' ministerial staff without receiving instructions from Mr. Paradis. In one of these two instances, the meeting only involved Mr. Paradis' ministerial staff and a lighting company, and did not involve departmental officials. I will not address this last instance again since it is not at all relevant to this examination.



Of the five meetings organized at the request of Mr. Paradis, I consider two of the instances to be of particular relevance to my examination. These meetings were held with the Professional and Technical Services Management Group, and were held for the purpose of presenting the companies' products. I will describe the circumstances of both of these first and then briefly describe the other meetings that were arranged with departmental officials at the request of Mr. Paradis or his ministerial staff.

Meetings Held with Professional and Technical Services Management Group

The two meetings of particular relevance organized by departmental officials at the request of Mr. Paradis were with a building materials company and a geothermics company in his riding. In both cases the meetings were arranged between company representatives and technical officials from the Professional and Technical Services Management Group. This was the same group that met with Mr. Glémaud, representing Green Power Generation.

Mr. Paradis had met representatives of each of the companies on separate occasions in his riding and they had presented their products to him. Mr. Paradis said that in each case he thought that what the company was offering was innovative and unique and could be part of the greening of government initiative. He said that he thought it would be worthwhile for each of the businesses to make a presentation to Public Works.

Mr. Paradis said that he asked a ministerial staff member to conduct an initial analysis of each of these companies and their products before proceeding to organize meetings with the appropriate branch of Public Works for the businesses to present their products. Mr. Paradis told me that in both cases ministerial staff completed an analysis of the products before requesting that the Deputy Minister's office arrange a meeting.

Both of these companies were well-established. The building materials company had previously worked with Public Works and had participated in government research in the area of building materials. The geothermics company was, at the time, beginning the process of seeking certification of its products.

The meeting with the building materials company took place in April 2009 and the meeting with the geothermics company took place in September 2009. In each case company representatives presented their products and exchanged information with departmental officials in the Professional and Technical Services Management Group. The ministerial staff member who organized the meetings told my Office that he briefed Mr. Paradis after both meetings, although Mr. Paradis said he could only recall being briefed following one of the meetings.

The meeting with the geothermics company was organized around the same time as the meeting with Green Power Generation. During that time, some departmental officials from the Professional and Technical Services Management Group expressed concern that requests for meetings coming from the Minister's office were beginning to cause disruptions in the department's daily operations. While it appears that requests from Mr. Paradis' office were unusual, departmental officials told my Office that requests from the Minister's office are treated as a priority requiring the involvement of many departmental officials, and that this causes disruptions.



The Director General responsible for the Professional and Technical Services Management Group told my Office that, normally, she actively discourages staff from meeting with representatives of businesses. She is concerned about the perception of favouritism that could result from the department meeting with a particular company in a way that may not appear open, fair and transparent. Her preference is to have departmental officials gain knowledge about new products and services by participating in trade or technical shows.

The Director General indicated that members of her staff occasionally meet with businesses that contact them directly. Her staff told us that these meetings are scheduled only after departmental officials have determined that the product is in line with current or future objectives of the department and that there is sufficient interest from departmental officials to meet with the company. Meetings are normally scheduled informally at the discretion of officials and often in the form of a lunch-and-learn where participation is voluntary.

Meetings to Obtain Information from Public Works

Mr. Paradis and his ministerial staff told me that companies would approach Mr. Paradis' ministerial or constituency offices looking for information from Public Works. The companies would often be directed by Mr. Paradis or his ministerial staff to the Office of Small and Medium Enterprises. My Office heard from Mr. Paradis and his ministerial staff about three instances where meetings were organized with the Office of Small and Medium Enterprises, and another instance where a meeting was organized with other departmental officials.

The Office of Small and Medium Enterprises is mandated to assist small and medium enterprises interested in doing business with Public Works. It provides information and counselling services, conducts seminars, participates in tradeshow and meets with businesses. According to its website, it has assisted over 53,000 individuals and suppliers since its inception in 2005.

In one instance, Mr. Paradis recalled having met with a door manufacturing company in his riding. While he did not specifically recall the details of the meeting, he thought the company might have been interested in doing business with Public Works. Following this, a ministerial staff member organized a meeting between representatives of the company and the Office of Small and Medium Enterprises in order to provide the company with information.

In another instance, two opposition Members of the House of Commons raised complaints about the failure to award government contracts to a city within their riding. Mr. Paradis asked his ministerial staff to follow up. They arranged a meeting between the municipal officials and the Office of Small and Medium Enterprises so that the office could provide information on the procurement process and doing business with the government.

In a third instance, a Member of the House of Commons asked Mr. Paradis' ministerial staff to arrange a meeting for a delegation from that Member's riding. The staff arranged a meeting with the Office of Small and Medium Enterprises. The purpose of that meeting was to provide information to the delegation about the various programs of that office.



My Office also received information relating to an instance in which municipal officials were seeking information about a major infrastructure project in their city. Their Member approached Mr. Paradis and Mr. Paradis' ministerial staff arranged a technical briefing between the municipal officials and departmental officials from Public Works.



MR. PARADIS' POSITION

Mr. Paradis' position is that he has not contravened any provisions of the *Conflict of Interest Act* (Act).

Mr. Paradis stated that he did not offer any special treatment to Mr. Jaffer or Green Power Generation Corporation. He asked his ministerial staff to arrange a meeting with Public Works and Government Services Canada (Public Works) to make sure that Mr. Jaffer could speak to someone knowledgeable about the subject matter who could indicate to him whether the company's solar panel project might be of interest to the Government of Canada. If the proposal was of interest, it would be subject to a competitive process, a message he said he made very clear to Mr. Jaffer during their telephone conversation.

Mr. Paradis said that he did not advance the solar panel project proposed by Green Power Generation, nor did he order that it receive an expedited review by the department. He noted that the meeting with Public Works took place nearly two months after Mr. Jaffer contacted him and that Mr. Jaffer himself did not attend that meeting.

Mr. Paradis stated that he did not get into the details of Mr. Jaffer's solar panel project at the time of their conversation and was not clear on exactly what Mr. Jaffer was proposing, but thought it was innovative. Mr. Paradis explained that he did not ask his ministerial staff to complete an analysis of the proposal because he viewed it as an innovative concept. Mr. Paradis, as Minister of Public Works, a department that has responsibility for the Office of Greening Government Operations, had an interest in greening initiatives and encouraged the federal government to adopt greening ideas. He believed that Mr. Jaffer's solar panel project might fit into this area.

Mr. Paradis said that he does not see anything wrong with facilitating a meeting between Public Works and a business where he believes the company's product is innovative. Mr. Paradis said that he tries to be proactive as a Member of the House of Commons in helping companies understand and access government, particularly when it comes to companies located in his riding. He does not think businesses get more attention from the department when the requests come from the minister's office. His intention was for product or business information to be circulated within the department. He does not think that Green Power Generation got more attention than it deserved because the request to meet with that company came from him.

In his response to the allegations made against him, Mr. Paradis also relied in part on the June 2, 2010 testimony from a public servant before the Standing Committee on Government Operations and Estimates. That testimony suggested that there was nothing unusual about the request to meet with Mr. Jaffer and Green Power Generation and that it was in conformity with a publication entitled *Your Guide to doing Business with the Government of Canada: A 5-step approach for small and medium enterprises*, which is published by Public Works' Office of Small and Medium Enterprises.

He said that he and Mr. Jaffer were caucus colleagues who did not socialize with one another outside of caucus-related events. While he considered his relationship with Mr. Jaffer to be warm, Mr. Paradis said it was strictly professional.



Mr. Paradis said that his past relationship with Mr. Jaffer did influence his decision to ask his ministerial staff to arrange a meeting in that he assumed that what Mr. Jaffer was proposing was serious and credible. Given Mr. Jaffer's experience as a Member of the House of Commons, he assumed that Mr. Jaffer knew how things worked and that he would have enough information to warrant a meeting with departmental officials. He relied on the judgement of Mr. Jaffer that he had a good project and assumed Mr. Jaffer would not waste officials' time with an idea that had no merit.

Mr. Paradis said Mr. Jaffer's case could not be compared with the other cases where a company approached him to request a meeting because Mr. Jaffer only asked if there might be interest in his project idea. His intention was simply to put Mr. Jaffer in touch with someone who would understand his project and indicate whether it might be of interest to the government. It would be up to Mr. Jaffer to make his case and the departmental officials to explain the applicable process, including a competitive process. Given the fact that Mr. Jaffer was only trying to determine which door to knock on, Mr. Paradis did not see anything problematic.



ANALYSIS AND CONCLUSIONS

Assessment of Facts

Mr. Paradis said that he was often approached by companies inside and outside of his riding seeking a meeting with Public Works and Government Services Canada (Public Works). He said that he does not hesitate to help businesses when he sees a good idea as long as rules, such as a competitive process, are respected. Mr. Paradis described the process that he normally follows when considering whether to ask that a meeting be arranged between a company and departmental officials. He would generally have his ministerial staff carry out a preliminary review.

As noted earlier in this Report, my Office asked Mr. Paradis, current and former ministerial staff and departmental officials to provide details of any other instances in which Mr. Paradis or his staff had asked departmental officials to meet with representatives of a company. Only a few examples were provided.

Aside from the case of Green Power Generation Corporation, my Office was presented with two other instances in which meetings were organized at the request of Mr. Paradis for a company to present their products to departmental officials. These companies, both in Mr. Paradis' riding, met with the Professional and Technical Services Management Group, the same group that met with Green Power Generation.

The Professional and Technical Services Management Group is responsible for providing assessments of products. These assessments could have an impact on procurement decisions. The Director General of this group told my Office that, normally, she actively discourages her staff from meeting with representatives of businesses. This is due to the perception of favouritism that could result from the department meeting with a particular company.

Neither Mr. Paradis nor his staff explicitly asked that Green Power Generation meet with the Professional and Technical Services Management Group. Nonetheless, Mr. Paradis told me that he did ask his staff to arrange a meeting for Mr. Jaffer with officials in the department who would have the appropriate knowledge to evaluate whether Mr. Jaffer's proposal might be of interest to the federal government.

It would appear that meeting with departmental officials with specialized knowledge is something that many companies could find advantageous. Unlike the Office of Small and Medium Enterprises, which has a specific mandate to assist companies seeking to do business with Public Works, the Professional and Technical Services Management Group is mandated to provide technical services to the government.

In the case of the two companies, besides Green Power Generation, that met with the Professional and Technical Services Management Group, Mr. Paradis said that he asked his ministerial staff to evaluate the businesses and their products first before proceeding to organize a meeting. As I previously noted, these two companies were well-established.



Green Power Generation, in contrast, had no experience or expertise in the field of solar panels or their installation. The company received direct access to the department based on a brief telephone conversation between Mr. Jaffer and Mr. Paradis. Although in an e-mail to Mr. Jaffer, Mr. Togneri wrote that two other ministerial staff were looking into his idea, there was no preliminary analysis of the company or its proposal; Mr. Paradis instructed Mr. Togneri to arrange a meeting with departmental officials immediately after speaking with Mr. Jaffer.

Although ministerial staff requested that departmental officials brief them prior to the meeting with Green Power Generation, the purpose of the briefing was to prepare ministerial staff for the meeting. It was not to assist them in evaluating the legitimacy of the company and its proposal so that they could determine whether a meeting with Green Power Generation should take place.

While Mr. Paradis said he found Mr. Jaffer's project innovative, he also said several times during his interviews that he did not fully understand the details of it. Mr. Paradis acknowledged that his acquaintance with Mr. Jaffer did influence his decision to facilitate a meeting. He said that he believed that, because of Mr. Jaffer's experience as a Member of the House Commons, he would present a credible proposal to departmental officials. I do not find this to be very convincing.

This, along with the fact that Mr. Paradis asked for the meeting without getting into the details of the project and did not ask for a preliminary assessment, suggests that Mr. Paradis assisted Mr. Jaffer because they were former caucus colleagues and because he either wished to help Mr. Jaffer establish himself in his new career after his election loss or wished to give Mr. Jaffer that impression.

Mr. Jaffer and Mr. Paradis differed in how they characterized their relationship. Mr. Jaffer said he considered Mr. Paradis a friend, while Mr. Paradis described their relationship as warm but professional. Both Mr. Jaffer and Mr. Paradis told me that they did not socialize outside of caucus activities and that, after Mr. Jaffer lost his seat in the House of Commons, they only saw each other on rare occasions. I believe them.

Mr. Paradis has said that at no time did he undertake or attempt to influence departmental officials at Public Works to award a contract or otherwise engage in business with Mr. Jaffer. I have found no evidence to the contrary and I am satisfied that this is true. I believe, however, that Mr. Paradis provided Green Power Generation with an opportunity that is not available to most companies by asking his staff to arrange a meeting with departmental officials who had specific knowledge related to his proposal.

Mr. Paradis said that he does not believe that a company receives more attention from departmental officials when he or his ministerial staff requests that a meeting be arranged. However, departmental officials told my Office that requests from the Minister's office are considered a priority. In the case of the meetings Mr. Paradis requested, I found that the officials in the Professional and Technical Services Management Group had very little say about whether or not any of the meetings would take place. I also note that, after giving his instructions, Mr. Paradis' Chief of Staff raised the concern of possible preferential treatment with him. This concern, and the fact that it did not dissuade Mr. Paradis, also suggests that the assistance provided to Mr. Jaffer and his company was motivated by a desire to assist Mr. Jaffer.



On October 1, 2009, two weeks after Mr. Jaffer's arrest had been made public, the Deputy Minister confirmed with Mr. Paradis that he was aware that his ministerial staff had requested that departmental officials meet with Green Power Generation. In light of Mr. Jaffer's legal troubles, he asked Mr. Paradis whether he still wanted the department to meet with Mr. Jaffer. Mr. Paradis said that he did, because Mr. Jaffer's solar panel project was unrelated to his legal troubles. I find it odd that Mr. Paradis would have asked his department to proceed with the meeting in these circumstances. I question whether he would have done the same for someone with whom he did not have a prior relationship.

Mr. Paradis reiterated several times that, except to ask that a meeting be organized, he did not give his ministerial staff any other instructions; nor did he discuss Mr. Jaffer's project with them; nor did he ask his ministerial staff for a briefing as the file was a low priority for him. While I found no evidence to the contrary and am satisfied that this is accurate, I find this to be odd. Mr. Paradis told me that as Minister of Public Works he had an interest in promoting and supporting the greening of government. I find it unusual that, despite this interest, he would not have wanted to know the outcome of the meeting and whether or not departmental officials had any interest in solar panels.

Analysis

In this examination, I must determine whether Mr. Paradis contravened subsection 6(1), section 7 or section 9 of the *Conflict of Interest Act* (Act) when he was Minister of Public Works by assisting Mr. Jaffer and his company, Green Power Generation to advance their solar panel project.

I will first address section 7, before turning to subsection 6(1) and section 9.

Preferential Treatment: Section 7

Section 7 is unique among the rules of conduct in Part 1 of the Act in that it does not include as a core element either the term "conflict of interest" as defined in section 4 or the concept of furthering a private interest used in that definition.

Section 7 prohibits preferential treatment to a person or organization based on the identity of a representative. It reads as follows:

7. No public office holder shall, in the exercise of an official power, duty or function, give preferential treatment to any person or organization based on the identity of the person or organization that represents the first-mentioned person or organization.

As applied to the circumstances of this case, the allegation with respect to section 7 is that Mr. Paradis extended preferential treatment to Mr. Jaffer and Green Power Generation by deciding, as Minister of Public Works, that a representative of Green Power Generation would be granted a meeting with officials at Public Works to discuss its business proposal, based on the identity of Mr. Jaffer.



The evidence gathered in this examination clearly demonstrates that Mr. Paradis made the decision in his capacity as the Minister responsible for Public Works that representatives of Green Power Generation would meet with departmental officials. He was, therefore, exercising an official power, duty or function in doing so.

In each of his two interviews with my Office, Mr. Paradis confirmed that he told Mr. Jaffer that he would provide assistance by ensuring that a meeting with officials in Public Works would take place. He indicated that he directed his ministerial staff to arrange a meeting with the appropriate departmental officials. He also instructed the Deputy Minister to proceed with the meeting following Mr. Jaffer's arrest.

The evidence also clearly demonstrates that Mr. Jaffer was representing Green Power Generation's interests in approaching Mr. Paradis to enlist his support and assistance. Mr. Paradis offered to direct his staff to set up a meeting with departmental officials so that Green Power Generation could present its business proposal.

What remains to be determined, therefore, is whether Mr. Paradis' treatment of Mr. Jaffer and Green Power Generation amounted to preferential treatment and whether the treatment was based on the identity of Mr. Jaffer.

The expression "preferential treatment" is not defined in the Act and was not defined in the predecessor 2006 *Conflict of Interest and Post Employment Code for Public Office Holders*. I believe, however, that its meaning is quite clear. I take note of the 1984 Report of the Task Force on Conflict of Interest, co-chaired by the Honourable Michael Starr and the Honourable Mitchell Sharp, entitled *Ethical Conduct in the Public Sector*, in which "preferential treatment" is defined as "treatment more favourable than might be accorded to anyone else in similar circumstances."¹

In determining whether Mr. Paradis provided preferential treatment to Mr. Jaffer and Green Power Generation, I considered a number of factors.

First, Mr. Paradis told me that when he was Minister of Public Works he was approached regularly by representatives of companies, both in his capacity as a minister and as a Member of the House of Commons. Mr. Paradis said that he does not hesitate to help companies when he sees a good idea as long as rules, such as a competitive process, are respected. It would appear, however, that Mr. Paradis has done so in only a small number of cases.

Second, I asked Mr. Paradis for information on how other companies were treated when they approached him or his ministerial staff to have a product or proposal considered. He indicated that he would ask his staff to review the proposal to determine whether a meeting with the department was warranted. This step was not followed in Mr. Jaffer's case. Mr. Paradis had decided that a meeting was to be held with the department without requiring review of the proposal by his ministerial staff.

¹ Canada, Task Force on Conflict of Interest, *Ethical Conduct in the Public Sector* (Ottawa: Canadian Government Publishing Centre, 1984) at pp 229-30.



Mr. Paradis explained that, on the basis of his telephone conversation with Mr. Jaffer, he had the impression that Green Power Generation's solar panel project was both unique and innovative and that it might fall within ongoing greening of government initiatives. He added, however, that he was not clear on exactly what Mr. Jaffer was proposing. Mr. Paradis explained that he asked his staff to ensure that a meeting with departmental officials be arranged for Mr. Jaffer because he believed that Mr. Jaffer, as an experienced former Member of the House of Commons, would present a credible proposal to departmental officials. As I have noted above, I do not find this to be very convincing.

I find it difficult to believe that Mr. Paradis, who said he made a point of asking his staff to evaluate and assess the federal government's need for the products of well-established companies that he had visited in his riding, decided to assist Mr. Jaffer simply because his idea appeared to be innovative on its surface. Mr. Paradis' willingness to assist Mr. Jaffer on the basis of minimal knowledge about his proposal suggests that he was motivated by a desire to help him establish himself in his new career after his election loss or wished to give him that impression.

Third, as already noted, I found it surprising that Mr. Paradis asked that the meeting with the department proceed despite Mr. Jaffer's arrest. I doubt that he would have done the same thing in other cases.

In my view these factors, taken together, amount to a strong indication that Mr. Paradis provided Mr. Jaffer and his company with treatment more favourable than he would have provided to others in similar circumstances.

I believe that Mr. Paradis assisted Mr. Jaffer because he wanted to help a former caucus colleague. This preferential treatment was therefore based on the identity of Mr. Jaffer.

For these reasons, I conclude that Mr. Paradis contravened section 7 of the Act.

Decision Making: Subsection 6(1)

Subsection 6(1) prohibits public office holders from making decisions that would place them in a conflict of interest. It reads as follows:

6. (1) No public office holder shall make a decision or participate in making a decision related to the exercise of an official power, duty or function if the public office holder knows or reasonably should know that, in the making of the decision, he or she would be in a conflict of interest.

Section 4 defines the circumstances in which a public office holder is in a "conflict of interest" within the meaning of the Act. It reads as follows:

4. For the purposes of this Act, a public office holder is in a conflict of interest when he or she exercises an official power, duty or function that provides an opportunity to further his or her private interests or those of his or her relatives or friends or to improperly further another person's interests.



I have already determined, in my analysis of section 7, that Mr. Paradis was exercising an official power, duty or function in deciding that Green Power Generation would be granted a meeting with Public Works officials.

A contravention of subsection 6(1) requires a finding of a conflict of interest, which in turn requires the finding of a private interest.

Both Green Power Generation, as a company, and Mr. Jaffer, as a principal of Green Power Generation, stood to gain from being granted a business meeting with departmental officials in Public Works. A meeting with departmental officials who could assist the company in securing a test site for its solar panel proposal would have been a first step towards deriving revenue through the sale of electricity. The fact that Green Power Generation did not succeed in securing approval for a test site and did not generate any revenues does not take away from the fact that Mr. Paradis' decision provided Green Power Generation and its principals with this opportunity.

In light of this evidence, I find that Mr. Paradis' decision to ensure that Green Power Generation be granted a meeting with departmental officials provided an opportunity to further the private interests of both Green Power Generation and Mr. Jaffer, as one of its principals.

A contravention of subsection 6(1) can occur when a public office holder has an opportunity to further his or her own private interests, to further those of relatives or friends or to improperly further those of another person.

There is no evidence to suggest that Mr. Paradis or his relatives had any private interests in connection with any of the decisions he made in respect of the meeting between Green Power Generation and Public Works officials.

As to whether Mr. Paradis and Mr. Jaffer were friends, in the *Watson Report* issued in June 2009, I stated that this prohibition could not have been intended "to relate to individuals other than those who have a close bond of friendship, a feeling of affection or a special kinship with the public office holder concerned and that it does not include members of a broad social circle or business associates."

It is clear from the evidence gathered in the context of this examination that any personal relationship between Mr. Paradis and Mr. Jaffer existed entirely because of their professional interactions as former caucus colleagues on Parliament Hill and did not extend beyond that context. In my view they do not qualify as "friends" within the meaning of Act.

That leaves the question of whether Mr. Paradis made a decision that provided him with an opportunity to "improperly" further the private interests of Mr. Jaffer and Green Power Generation.

Although Mr. Paradis said that he was motivated by his interest in an innovative idea, he also said that he did not have a clear understanding of its details. Despite this, he did not ask his staff to review it as he did in the other cases we were made aware of. I am of the view that he afforded special treatment to Mr. Jaffer because of his past relationship with him. I have already found under section 7 that Mr. Paradis gave preferential treatment to Mr. Jaffer and Green Power Generation. I am of the view that giving "preferential treatment" is in and of itself improper.



The last element is to determine whether Mr. Paradis knew, or reasonably ought to have known, that in making this decision he would be in a conflict of interest.

In his interviews, Mr. Paradis was consistent in saying that he did not see any problems with intervening on behalf of Mr. Jaffer to help facilitate a meeting with the appropriate officials in Public Works and, in fact, that he routinely intervened on behalf of his constituents and others in similar circumstances. However, as I have stated earlier, this does not appear to have been the case as only a small number of such instances were identified.

In deciding that Mr. Jaffer and his company should meet with officials in Public Works, Mr. Paradis should have known that the effect of his intervention on Mr. Jaffer's behalf would be to provide an opportunity to further Green Power Generation's business strategy and, thereby, the private interests of Green Power Generation and Mr. Jaffer.

Mr. Paradis should have been aware that, in providing direct access to departmental officials, his treatment of Mr. Jaffer was unusual and favourable to Mr. Jaffer and Green Power Generation. Mr. Paradis told me that his Chief of Staff raised the issue of potential preferential treatment with him. In my view, Mr. Paradis should have heeded this warning.

In addition, Mr. Paradis should have known that any instructions coming directly from him to his ministerial staff to arrange a meeting between Mr. Jaffer and Public Works would be treated by his staff and the department as a priority and be given a heightened importance. We have no evidence that Mr. Paradis ever, except in Mr. Jaffer's case, required that such a meeting be arranged without a prior review by his staff of the proposal in question. Mr. Paradis should have known that his staff would respond to his request with some degree of insistence, as they did.

In fact, the question about whether Green Power Generation's idea was sufficiently developed to justify arranging a business meeting, which would usually go through a preliminary review by ministerial staff and then be considered and decided on by the department, was effectively pre-empted by the fact that the minister made the decision that a meeting should take place. This had an impact on the priority that the department attached to this request, the level of attention that it received from both ministerial and departmental officials and, ultimately, the control the department was able to exert over how this request was processed.

Mr. Paradis made the decision that Green Power Generation should meet with departmental officials in the absence of any detailed information about its business project except for the belief that the idea of installing solar panels on federal government rooftops to generate electricity might have been interesting, unusual and unique.

In light of the above analysis, I find that Mr. Paradis made a decision related to the exercise of an official power, duty or function that he reasonably should have known would put him in a conflict of interest, by providing an opportunity to improperly further the private interests of Green Power Generation and Mr. Jaffer.

For these reasons, I conclude that Mr. Paradis contravened subsection 6(1) of the Act.



Influence: Section 9

Section 9 prohibits public office holders from using their positions to influence decision-making where to do so would place them in a conflict of interest. It reads as follows:

9. No public office holder shall use his or her position as a public office holder to seek to influence a decision of another person so as to further the public office holder's private interests or those of the public office holder's relatives or friends or to improperly further another person's private interests.

Section 9 applies to cases where the final decision on a particular question rests with someone other than the public office holder whose conduct is in question, but where that public office holder is in a position to influence it.

In my view, Mr. Paradis made an official decision outright, in his capacity as Minister, that Mr. Jaffer and Green Power Generation would meet with departmental officials. As this was his decision and not the decision of ministerial staff or departmental officials, he cannot be viewed as having sought to influence them in this regard; rather, he directed them to do so. My conclusions with respect to the propriety of this decision have been dealt with above, in my analysis of section 7 and subsection 6(1).

Mr. Paradis could have been in a position to influence the decision of the department with respect to whether Green Power Generation's proposal merited any further attention after the initial meeting took place. I have found no evidence, however, to suggest that Mr. Paradis influenced or even attempted to influence the outcome of the meeting between Green Power Generation and Public Works, nor did he expect any particular result to follow from this meeting. He did not request a briefing after the meeting nor did he take any other steps to follow up on it.

For these reasons, there is no basis for concluding that Mr. Paradis contravened section 9.

Observations

Although I was provided with few examples of meetings with departmental officials initiated by Mr. Paradis as Minister of Public Works, from the examples I was given it appears that particular attention was given to companies located in Mr. Paradis' riding. While this was not the focus of this examination, the issue deserves some comment.

Section 64 of the Act expressly states that, "nothing in this Act prohibits a member of the Senate or the House of Commons who is a public office holder or former public office holder from engaging in those activities that he or she would normally carry out as a member of the Senate or the House of Commons."

I understand that ministers, as Members, have duties towards their constituents, including in some cases assisting them in interactions they may have with the federal government. However,



in carrying out these duties, ministers should exercise some caution. With respect to interactions with their own departments and portfolios, ministers should treat their constituents in the same way as they would treat constituents of any other Member of Parliament.

In my opinion, ministers representing the concerns of constituents should not use their position as minister to provide greater assistance to these constituents in relation to their own department or larger portfolio.

Conclusion

I have concluded that Mr. Paradis contravened section 7 and subsection 6(1), but that he did not contravene section 9 of the Act.

Mr. Paradis gave preferential treatment to Mr. Jaffer in that he treated him more favourably than he might have treated others in similar circumstances. At the same time, it is important to note that Mr. Paradis only provided Mr. Jaffer and Green Power Generation Corporation with a procedural advantage; Green Power Generation was provided with an opportunity to promote its idea that other companies in similar circumstances did not receive, but Mr. Paradis did not intervene to ensure that Public Works assisted the company beyond meeting with them.

I suspect that facilitating access to decision-makers or those who may influence them is quite common. Canadians in all walks of life likely provide these kinds of advantages to friends, family and acquaintances on a daily basis. One might, for example, introduce a friend to a colleague who is in a position to hire him or her or introduce a colleague to a doctor who is not in a position to take on new patients, but might do it for a friend of a friend. People want to help those they know and it is often difficult not to do so when help is sought.

It is easy to understand how, finding himself in a position to help Mr. Jaffer, Mr. Paradis would be inclined to do so. Mr. Jaffer told me that many of his former colleagues took an interest in how he was doing and wanted to help if they could. Mr. Jaffer told me that he believed Mr. Paradis' offer to set up a meeting with departmental officials in Public Works was motivated by similar intentions.

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.



SCHEDULE (List of Witnesses)

INTERVIEWS AND WRITTEN SUBMISSIONS

Except where noted, the names of all witnesses are listed below according to the organizations to which they belonged at the time the events that are the subject of this examination occurred.

Interviews

Minister's Office, Public Works and Government Services Canada

- Ms. Jillian Andrews
- The Honourable Christian Paradis
- Mr. Sébastien Togneri
- Mr. Alexander (Sandy) White
- Mr. Bruce Winchester

Deputy Minister's Office, Public Works and Government Services Canada

- Mr. François Guimont
- Mr. André Morin
- Ms. Anik Trépanier

Real Property Branch, Public Works and Government Services Canada

- Mr. Satish Bansal
- Mr. Frédéric Carrier
- Ms. Anna Cullinan
- Mr. Ed Durand
- Mr. Chris Jalkotzy
- Mr. Paul Sra
- Mr. Ravi Sundararaj

Green Power Generation Corporation

- Mr. Patrick Glémaud
- Mr. Rahim Jaffer



Fifth Light Technology Incorporated

- Dr. Joseph Dableh

Pultrall Incorporated

- Mr. Bernard Drouin

Thermo Pieux Incorporated

- Mr. Benoit Côté

Power1Solar Solutions Incorporated

- Mr. Robert Godbout

Written submissions

Minister's Office, Public Works and Government Services Canada

- Mr. Marc Toupin
- The Honourable Rona Ambrose (Minister as of the date this report was finalized)

