



Office of the
Conflict of interest and
Ethics Commissioner

Commissariat aux
conflits d'intérêts et à
l'éthique

THE SOUDAS EXAMINATION

made under the authority of the
CONFLICT OF INTEREST ACT



June 4, 2008

Mary Dawson
Conflict of interest and
Ethics Commissioner

THE SOUDAS EXAMINATION

pursuant to the
CONFLICT OF INTEREST ACT

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PREFACE

The *Conflict of Interest Act* (the Act) came into force on July 9, 2007, and replaced the *Conflict of Interest and Post Employment Code for Public Office Holders* (2006 Code).

Pursuant to the transitional provisions of the *Federal Accountability Act* (subsections 3(6) and (8)) and subsection 44(1) of the Act, a request for an examination may be made by a member of the Senate or the House of Commons (Member) who has reasonable grounds to believe that a public office holder who was subject to the 2006 Code did not comply with his or her obligations under that Code in respect of events that took place while that Code was in effect.

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 to the Prime Minister a report setting out the facts in question as well as the Commissioner's analysis and conclusions in relation to the request. Subsection 44(8) provides that, at the same time that the report is provided to the Prime Minister, a copy of the report is also to be provided to the Member who made the request and to the public office holder who is the subject of the request. The report is also to be made public.

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THE REQUESTS FOR AN EXAMINATION

On January 30, 2008, Mr. Dimitri Soudas, Deputy Press Secretary and Senior Advisor (Quebec), Office of the Prime Minister (PMO), sent me an e-mail requesting that I review allegations of impropriety on his part being raised in the media with respect to litigation between the federal government, specifically the Department of Public Works and Government Services (Public Works), and the Rosdev Group (the Rosdev litigation). Mr. Soudas stated in his e-mail that he had acted without impropriety, that he did not have any private interest in the matter and was not offered and did not receive any consideration or payment.

On January 31, 2008 I received a request from Mr. Charlie Angus, Member for Timmins-James Bay, that I conduct an examination of Mr. Soudas' meetings with Public Works officials regarding the Rosdev litigation.

On February 1, 2008, I received a request from Mr. Michel Guimond, Member for Montmorency-Charlevoix-Haute Côte Nord, that I conduct an examination under s. 44 of the *Conflict of Interest Act* (the Act) into the same matter.



THE PROCESS

On February 6, 2008, I wrote to both Mr. Angus and Mr. Guimond advising them that I was proceeding to gather more information to determine whether there may have been a contravention of the *Conflict of Interest and Post-Employment Code for Public Office Holders, 2006* (the 2006 Code) which was in effect at the time of the alleged meetings between Mr. Soudas and Public Works officials. I explained that my authority to examine a matter under the 2006 Code is pursuant to subsection 3(6), a transitional provision of the *Federal Accountability Act*, and subsection 44(3) of the *Conflict of Interest Act*. These provisions, along with subsection 5(1) and section 23 of the 2006 Code, establish my authority to determine non-compliance with any part of the Code.

I also wrote to Mr. Soudas on February 6, 2008 to provide him with a copy of the letters from Mr. Guimond and Mr. Angus and my responses to those letters. I advised Mr. Soudas of the possibility that certain sections of the 2006 Code could be applicable. Those sections prohibit public office holders from using their positions to accord preferential treatment to any person and from attempting to influence the decision of another person to further the private interests of the public office holder, or those of family or friends, or to improperly further another person's private interest.

In the same letter, I asked Mr. Soudas to provide me with the dates and locations of any meetings relevant to the issue, a list of attendees, including their positions, and any other documents exchanged or produced as a result of those meetings. In addition I asked Mr. Soudas to provide me with a list of any witnesses and any other documents that he felt might be relevant to my examination. I advised him that he would be given an opportunity, in accordance with section 46 of the Act, to provide me with his views before I submitted my report to the Prime Minister. I also invited him to provide his views at the outset of my examination regarding his obligations under the 2006 Code and whether or not his alleged activities constituted a breach of that Code.

By letter dated and received February 21, 2008, Mr. Soudas provided me with a response, through his lawyer, to the allegations of Mr. Angus and Mr. Guimond.

Officials from Public Works, including public servants and officials from the Minister's office, PMO officials, the Prime Minister and other individuals were interviewed. The list of witnesses is attached as a Schedule to this report. Mr. Soudas was given an opportunity to present information and comments at interviews with me on March 13 and April 30, 2008 and on several occasions by telephone. Mr. Soudas was also given an opportunity to comment on a partial draft of this report, not including the assessment.



BACKGROUND

The Rosdev litigation

The documents provided to my Office during this examination show that the Rosdev litigation is complex and long-standing. It involves a series of disputes concerning two office buildings owned by the Rosdev Group and leased by the federal government. These buildings, L'Esplanade Laurier in Ottawa and Les Terrasses de la Chaudière in Gatineau, house a number of federal government departments including the Treasury Board, the Department of Finance and the Department of Indian and Northern Affairs. This multi-million dollar litigation began more than ten years ago and involves several lawsuits in different courts. Various attempts at mediation have been unsuccessful.

The media reports referred to in the requests

The requests from Mr. Soudas, Mr. Angus and Mr. Guimond all referred to media reports alleging that Mr. Soudas had engaged officials from the Office of the Minister of Public Works in discussions about the Rosdev litigation. The media reports specifically refer to an alleged August 2, 2006 meeting called by Mr. Soudas and held at the PMO offices involving senior ministerial officials from PMO and Public Works. Mr. Soudas' position at the meeting was described in those reports as favourable to the Rosdev Group in that he had raised the possibility of Public Works dropping its plan to exercise an option to purchase one of the buildings (L'Esplanade Laurier) and that he wanted the dispute to go to mediation.

The reports stated that Mr. Soudas had denied pressuring anyone, that he had said that he had only looked into the matter after it had been raised with him by Mr. Paolo Tamburello, a Montreal City Councillor, and that his intervention was not driven by political considerations. Mister Soudas was quoted as saying that he had transferred the file to Public Works. The media reports also alleged that Mr. Housakos, described as a friend of Mr. Soudas and a Conservative party fundraiser, had raised the matter in the spring of 2006 in the course of a meeting with Mr. Frédéric Loiselle, then Chief of Staff to the Public Works Minister.

The Standing Committee Study

On February 12, 2008, the Standing Committee on Government Operations and Estimates (Standing Committee) adopted the following motion:

That this committee examine and report to the House on the political interference by the Prime Minister's office in two files involving Conservative fundraiser Leo Housakos, and call first to appear Dimitri Soudas, Leo Housakos, Michael Fortier, Frederic Loiselle, Michael Rosenberg and John Lemieux.



The Standing Committee began its study of the “Political Interference by the Prime Minister’s Office” on February 28, 2008, when all of the witnesses listed in the motion were questioned. The Committee met on April 15, 2008 to hear witnesses from Public Works. As of the date of this report, the Committee had not held further meetings on this study and had not issued a report.



FACTS

Introduction

Many witnesses were interviewed during this examination. All of the witnesses, including Mr. Soudas, were cooperative and credible. While there were some differences in the recollection of the witnesses on certain matters of fact, these differences had no significant bearing on the issues involved in this examination. My findings of fact are set out below.

The relevant events took place from July 2006 to the early summer of 2007. At that time, Mr. Soudas was (and still is) Deputy Press Secretary and Senior Advisor (Quebec) in the PMO. This is a full-time position and therefore Mr. Soudas was a public office holder subject to all the provisions of the 2006 Code. In his capacity as Senior Advisor (Quebec) in the PMO, it was Mr. Soudas' responsibility, if contacted about a Quebec matter, to review the issues, consider policy implications and brief the Prime Minister if necessary.

The call from Mr. Tamburello

In July 2006 Mr. Soudas received a phone call from Mr. Paolo Tamburello, a former Montreal City Councillor whom he knew from the time he had worked in Montreal municipal politics. Mr. Soudas said that Mr. Tamburello told him that he had heard about the Rosdev litigation from several people and described it as “a problematic issue” suggesting that it was a file that Mr. Soudas might want to look into. Mr. Soudas stated that Mr. Tamburello did not say that he was representing the Rosdev Group or anyone else and that he made no specific recommendations. Mr. Soudas indicated that he and Mr. Tamburello had no business or personal relationship and that, to his knowledge, Mr. Tamburello had no interest in the Rosdev Group.

During his interview with this Office, Mr. Tamburello corroborated what Mr. Soudas had told us. He explained that he had heard about the Rosdev litigation and was curious about it because the Rosdev Group is a company located in the municipal riding he had previously represented when he was a Montreal City Councillor. He said that he had no other interest in the file and that it was only his personal curiosity that motivated him to raise the matter with Mr. Soudas.

Mr. Ian Brodie, Chief of Staff to the Prime Minister, recalled that Mr. Soudas raised the Rosdev file with him after the call from Mr. Tamburello and that he suggested that Mr. Soudas find out the facts. Mr. Soudas discussed the matter with Mr. Jean François Béland, then Policy Advisor in the PMO whose portfolio included Public Works. Mr. Soudas and Mr. Béland raised the matter during regularly scheduled telephone calls with their counterparts in the Public Works Minister's Office, Mr. Frédéric Loiselle, then Chief of Staff, and Mr. Claude Alain, then Policy Advisor. Mr. Loiselle and Mr. Soudas agreed to meet in order to discuss further details of the file. Mr. Soudas then asked Mr. Béland to set up a meeting.



Meeting of August 2, 2006

At the August 2, 2006 meeting, which involved Mr. Soudas, Mr. Béland, Mr. Loiselle, and Mr. Alain, Mr. Soudas repeatedly asked questions about why mediation was no longer being pursued. He was told that mediation had been tried on several occasions without success and that Public Works would continue with the litigation.

Mr. Béland, Mr. Alain and Mr. Loiselle all described Mr. Soudas as vigorously challenging the Public Works position that mediation was no longer an option for resolving the Rosdev litigation. Mr. Loiselle and Mr. Alain both said that they did not feel pressured. One said he understood Mr. Soudas' approach because, when he was first briefed on the file, he had asked the same questions. They also described the meeting as typical of meetings between the PMO and ministers' offices.

Mr. Soudas explained, in his interview with this Office, that he wanted to do a thorough job of understanding the Rosdev litigation. This involved asking many questions and challenging the responses given and the positions taken by Public Works. Mr. Soudas stated that this is the way he approaches all matters that come to his attention. He also said that he looks at issues from a public interest perspective including costs to the taxpayer.

Mr. Béland, Mr. Loiselle and Mr. Alain all said that Mr. Soudas had a detailed knowledge of the Rosdev litigation when they met with him, and seemed to be more familiar with it than they were. Mr. Soudas said that he knew very little about the file at that time and that his questions were to obtain more information. He said further that he had not done any research, nor had he spoken to anyone to obtain further details prior to this meeting. I note these conflicting perceptions, but cannot explain the reason for the different recollections. It may be that Mr. Soudas sometimes appears to be more familiar with a file than he actually is. In any event, whatever the case, it would not affect my assessment of the issues in this matter.

Following this meeting Mr. Soudas told Mr. Béland that he wanted to get a full briefing on the file. At this time, Mr. Soudas advised Mr. Tamburello that he had looked into the matter and that the current course of action before the courts would continue. He also called the Minister of Public Works to give him a "heads up" about the file. He told me that it was his usual practice to speak directly to a Minister as a courtesy each time he meets with that Minister's officials. Senator Fortier recalled having a brief conversation with Mr. Soudas who wanted to ensure that he was aware of the file. Senator Fortier advised him that he was aware of the file.

After the August 2, 2006 meeting and over the following fall and winter there were the usual regular weekly telephone exchanges between Mr. Alain at Public Works and Mr. Béland at the PMO on a variety of files of interest. The Rosdev litigation was frequently raised by Mr. Béland during these exchanges. Mr. Soudas also raised the Rosdev litigation from time to time in the course of regular calls to Mr. Loiselle. There



appeared to be some irritation created by the frequency with which the Rosdev litigation file was raised. There is no evidence of similar exchanges with the public servants at Public Works.

In the fall of 2006, there were letters between the Rosdev Group and Public Works concerning possible settlement of the outstanding Rosdev litigation, but no settlement resulted. Mr. Rosenberg wrote to Public Works on September 28, 2006 stating that "... it has gotten back to me recently, from several sources that PWGSC [Public Works] does not wish to meet to negotiate on the various issues with us, since we are "inflexible". (Mr. Rosenberg told my Office that the "various sources" he referred to were Public Works officials who had made those comments during the summer of 2006 to the lawyer representing the Rosdev Group and other representatives of the company.)

Public Works responded to Mr. Rosenberg's letter on October 18 by confirming that the Department was also open to negotiations on all claims before the courts and suggesting that details of negotiations be worked out between the lawyers. The parties met to discuss a specific settlement proposal from the Rosdev Group but no settlement resulted. Mr. Soudas told me that he had no knowledge of these letters.

Meeting of October 27, 2006

A meeting was held at Public Works offices on October 27, 2006, attended by Mr. Béland from PMO, ministerial staffers and public servants from Public Works who gave a briefing on the Rosdev litigation file. Mr. Béland recalled attending the briefing but said he did not actively participate. Public servants attending the meeting confirmed this. Mr. Soudas did not attend this meeting but was briefed by Mr. Béland. A detailed briefing note was prepared the same day by Mr. Alain for Mr. Béland. Mr. Soudas did not recall seeing this note.

Meeting of January 12, 2007

Mr. Soudas told me that, in order to follow up on the meeting of August 2, 2006, he requested a second meeting because he wanted to be briefed directly by the public servants who had carriage of the file. He and Mr. Béland met on January 12, 2007 at the Public Works office in Gatineau with those public servants from Public Works and officials from the office of the Minister of Public Works. Mr. Soudas indicated that the delay of more than five months between his two meetings on the file was because the matter was just one of many issues he was pursuing and there was no urgency to have the second meeting. At the January 12 meeting, the public servants explained the litigation in more detail and advised that mediation had already been attempted unsuccessfully and for that reason would not be tried again.

Mr. Soudas said that he made no demands of those present at the meeting. His role was limited to listening to the briefing presented by Public Works officials and asking questions about how long the dispute had been going on and what the main problems were.



Others who attended this meeting, namely Mr. Eagan, Mr. McGrath, Mr. Rabinovitch, Mr. Meszaros, Ms. Stensholt (all public servants), as well as Mr. Alain and Mr. Béland, all confirmed that the purpose of the meeting was simply to provide a status report on the litigation, that Mr. Soudas made no requests and that no pressure was imposed to mediate or take any other course of action.

Judgment of January 30, 2007

Mr. Soudas appears to be the first of the political staff to have heard about a court judgment of January 30, 2007 on a particular aspect of the Rosdev litigation, a judgment perceived to be favourable to the Rosdev Group. He does not recall where he heard about it, but thinks that it was likely at a social gathering in Montreal. He mentioned it to Mr. Béland who followed up by calling Mr. Alain in the Public Works Minister's office.

Meeting of February 7, 2007

There was a meeting at Public Works offices on February 7, 2007 to discuss the court judgment of January 30, but no representative from the PMO attended and the PMO was not briefed on this meeting.

The call from Mr. Tremblay

Mr. Soudas told me that his only other involvement in the Rosdev litigation was in late spring or early summer 2007, when Mr. Marcel Tremblay, a Montreal City Councillor raised the dispute with him. Mr. Soudas knew Mr. Tremblay from the time Mr. Soudas had worked in Montreal municipal politics. Mr. Soudas said that he advised Mr. Tremblay during the call that the matter was before the courts and would be resolved in that forum.

During his interview, Mr. Tremblay said that he had been approached in the spring of 2007 by Mr. Soudas to be a candidate in the Outremont by-election that was to take place in the fall of 2007. When he advised Mr. Soudas in June 2007 that he would not stand as a candidate, he raised several issues, including the fact that the continuing dispute between Public Works and the Rosdev Group was seen as a problem by the community. He did not recall how Mr. Soudas responded other than that he did not seem to be preoccupied by the issue.

Involvement of Mr. Housakos

Some media reports suggested that Mr. Soudas and Mr. Housakos might have coordinated efforts to benefit the Rosdev Group in the Rosdev litigation.

Mr. Soudas told me that he is a close personal friend of Mr. Housakos but that he does not discuss government business matters with him. He advised me that he had never discussed the Rosdev litigation with Mr. Housakos until the press reports in January 2008.



Mr. Housakos confirmed that he had never discussed the Rosdev litigation with Mr. Soudas until the media reports. Mr. Housakos and Mr. John Lemieux, a lawyer with Fraser Milner Casgrain, did meet on April 6, 2006 with Mr. Loiselle, who was then Chief of Staff to the Minister of Public Works. Mr. Housakos, Mr. Loiselle and Mr Lemieux all confirmed the details of that meeting, the purpose of which was to discuss political organization in Montreal. At one point, Mr. Housakos and Mr. Lemieux raised the Rosdev litigation, stating that community leaders in Montreal were of the view that the Rosdev Group was being “mistreated” by Public Works. Mr. Loiselle indicated that it was not appropriate to discuss the file and the discussion ended.

There is no evidence that Mr. Soudas and Mr. Housakos coordinated efforts in relation to the Rosdev litigation. Mr. Soudas was not aware that Mr. Housakos had met with Mr. Loiselle until the press reports in January, 2008. In fact, Mr. Housakos’ intervention was independent from and unconnected to Mr. Soudas’ involvement.

Link with Rosdev Group

Mr. Soudas stated that he has never communicated with anyone at the Rosdev Group or its representatives and that they have never sought his assistance in any way in relation to the litigation with Public Works. He added that he has no private interest in the Rosdev Group nor, to the best of his knowledge, does Mr. Tamburello.

Mr. Rosenberg confirmed that he had never met Mr. Soudas until the Standing Committee hearing on March 28, 2008 where they were both witnesses. He also said that he does not know Mr. Tamburello but likely met him when Mr. Tamburello was a municipal representative; he never asked Mr. Tamburello to get involved in the Rosdev litigation, and was not aware that Mr. Tamburello had raised it with Mr. Soudas until the media reports in January 2008; he has never met Mr. Tremblay or Mr. Housakos; and he does know Mr. Lemieux, who has represented his company in some legal matters but he did not know that Mr. Lemieux and Mr. Housakos had raised the Rosdev litigation with Mr. Loiselle in April 2006 until Mr. Lemieux told him after the meeting.

Mr. Rosenberg stated that he and other representatives of the Rosdev Group had communicated with public servants from Public Works on many occasions to discuss the Rosdev litigation. However he indicated that he was not aware of anyone who was being asked to make representations on his behalf or on behalf of the Rosdev Group to the PMO or the office of the Minister of Public Works concerning the litigation.

Involvement of the PMO

Prime Minister Harper advised me that he was not briefed on this matter until the press reports of January 2008. He said that he had not provided any instructions to Mr. Soudas on this matter. He also stated that he has full confidence in Mr. Soudas.

Mr. Brodie recalled that the first time Mr. Soudas had raised the Rosdev file with him he suggested that Mr. Soudas find out the facts and then discuss the file with him again. They discussed it some time later, after Mr. Soudas had been briefed by public



servants from Public Works. Mr. Brodie advised Mr. Soudas not to insist that mediation be tried again. He felt that Mr. Soudas' persistence on this file was not unusual but rather typical of his approach to his role.

The only other involvement of the PMO in the file was that of Mr. Béland, the Policy Advisor for Public Works, as mentioned earlier.



MR. SOUDAS' POSITION

Mr. Soudas' position is that he did not contravene any of the provisions of the 2006 Code. He said that at no time did he attempt to influence or pressure Public Works officials into trying to settle the dispute out of court; nor did he intervene in any other way that might benefit the Rosdev Group or any other person. He stated that his interest in the Rosdev litigation was not politically-motivated. His view is that his involvement in the Rosdev matter was a proper carrying out of his official duties in the PMO as Senior Advisor for Quebec, and that he has at all times acted in full compliance with the 2006 Code.

Mr. Soudas explained that his personal style is aggressive and persistent, and that he likes to have a very thorough understanding of any files that he deals with to ensure that "nothing falls between the cracks". He said that this often requires several meetings, repeated questioning of departmental officials and challenging the positions taken. He stated that the fact that he was working for a new government, and had recently been given additional responsibilities as Senior Advisor (Quebec), made it particularly important to him to ensure that he had a thorough understanding of the Rosdev litigation, and all other files related to his duties and responsibilities.



RELEVANT PROVISIONS OF THE 2006 CODE

The relevant provisions of the Code read as follows:

- 3(7) *Public office holders shall not use their position of office to assist private entities or persons where this would result in preferential treatment to any person.*

- 22(3) *Public office holders shall not accord preferential treatment in relation to any official matter to relatives or friends or to organizations in which they, relatives or friends have an interest.*

- 22(4) *A public office holder shall not use his or her position as a public office holder to influence or attempt to influence a decision of another person so as to further the public office holder's private interests or those of his or her relatives or friends or to improperly further another person's private interests.*

- 22(8) *A public office holder shall not attempt to engage in any of the activities prohibited under subsection (1) to (7).*



ASSESSMENT

General Observations

This case raises the question of the extent to which a member of a minister's staff (in this case Mr. Dimitri Soudas, a member of the Prime Minister's staff) can legitimately get involved in a matter being handled by a government department involving the interests of specific companies or individuals.

It appears that the Rosdev litigation was a regular source of cocktail conversation in at least some Montreal circles. Mr. Rosenberg, of the Rosdev Group, spoke with many people at various functions in the Montreal community about the dispute with Public Works and about his view that he was being treated unfairly by the federal government. Mr. Tamburello moved in the same circles and was aware of the long-standing dispute and perception of unfair treatment by the federal government. He contacted Mr. Soudas to raise the matter. Mr. Housakos and Mr. Lemieux were also aware of Mr. Rosenberg's views on the dispute. Both Mr. Housakos and Mr. Lemieux said that Mr. Rosenberg was potentially an important ally for the Conservative Party.

The issues to be determined in this case are whether the interventions of Mr. Soudas amounted to giving preferential treatment to the Rosdev Group or in any way improperly furthering anyone's private interests. The media reports implied that Mr. Soudas' actions were motivated by a desire to obtain the support of Mr. Rosenberg, described as a community leader in the Outremont riding, in the context of the upcoming by-election. There were suggestions that Mr. Soudas may have promoted the interests of the Rosdev Group in the hope that Mr. Rosenberg would become an ally of the Conservative Party, generating more votes for the Conservatives.

Mr. Soudas does not agree that obtaining Mr. Rosenberg's support would have had any significant impact in the by-election given the very small percentage of the vote the Conservatives had in the Outremont riding. Mr. Brodie and the Prime Minister are of the same opinion. While this may have been the reason that Mr. Tamburello, Mr. Housakos and Mr. Lemieux raised the matter with federal government officials, I am inclined to believe Mr. Soudas when he said that he looked into it in the context of his newly assigned responsibilities as Quebec advisor in the PMO and because he considered it to be part of his duties to look into issues being raised with him from Quebec.

I do not find it surprising that Mr. Soudas questioned the rejection of mediation as an option to deal with disputes that have been before the court for more than 10 years. I note that it is quite common for litigants to attempt to resolve their disputes by using mediation or other alternative dispute resolution mechanisms. It is often seen to be in the interest of all parties to litigation to settle matters early to avoid the expenses, delays and uncertainties of the court process. Therefore it seems reasonable that Mr. Soudas would want to be convinced that mediation should not be further attempted in order to resolve the litigation.



I find the desire to respond to local concerns that are raised with political representatives to be expected and appropriate. I would hope that all such matters would be treated in a similar way, no matter whose interests are involved if there appears to be any basis for concern. Multi-million dollar litigation that has been going on for more than 10 years would seem to warrant some attention. Even if there were a potential for Mr. Rosenberg to become an ally of the Conservative Party, that would not be a reason to ignore the issues that were raised. It would certainly be perverse to suggest that only the concerns of those who could be of no support to the political party in power ought to be addressed.

It is important that the public servants be left to do their jobs without improper interference by their political masters. At the same time there is a role for the Prime Minister and ministers, who are ultimately responsible for the executive function of government, to ensure that public servants are carrying out their administrative and advisory roles in a proper, efficient and effective way. In other words, there is a challenge role that must occur at the ministerial level and sometimes from the PMO.

It is evident that this challenge role was exercised in relation to the Rosdev litigation initially by the officials in the Office of the Minister of Public Works and later by Mr. Soudas and Mr. Béland in PMO. It would appear that this challenge role was kept to an appropriate level because there is no evidence of improper pressure being put on the public servants in relation to the Rosdev litigation. Questions were asked about whether mediation should be attempted again, but these questions were answered through briefings by public servants and the matter was ultimately laid to rest.

My general impression is that Mr. Soudas is an ambitious, strongly assertive individual who does not hesitate to pursue any matter until he is personally satisfied with its resolution. While Mr. Soudas may have appeared over-zealous, there is no evidence that the public servants and the ministerial officials who had carriage of the file were pressured to change their position.

Analysis and Conclusions

The allegations against Mr. Soudas are that his interventions in the Rosdev litigation file contravened the prohibitions in the 2006 Code against preferential treatment or furthering the private interests of other persons or entities. The relevant provisions of the 2006 Code have been set out earlier.

Preferential Treatment: Subsections 3(7), 22(3) and 22(8)

Subsections 3(7) and 22(3) both prohibit preferential treatment. Subsection 3(7) prohibits public office holders from using their positions to assist persons or entities outside government in a way that would result in preferential treatment. Subsection 22(3) prohibits public office holders from according preferential treatment, in relation to an official matter, to relatives, friends or to organizations in which the public office holder, relatives or friends have an interest. Subsection 22(8) prohibits attempts to accord preferential treatment as described in subsection 22(3).



I am satisfied that Mr. Soudas did not use his position at PMO, or attempt to use his position at PMO, to assist the Rosdev Group, Mr. Tamburello or any other person in a way that would result in preferential treatment. The description Mr. Soudas gave during his interviews of his involvement in the Rosdev litigation was corroborated by all witnesses. Therefore I accept his explanation of his role in this matter.

While Mr. Soudas got involved in an official matter (the Rosdev litigation), I am satisfied that Mr. Soudas did so in the normal course of his duties as he saw them. There is no evidence that in making these interventions he accorded preferential treatment to anyone. There is no evidence that Mr. Soudas had any interest in the Rosdev Group other than to find out about the Rosdev litigation after it had been raised with him by Mr. Tamburello. There is no evidence that Mr. Soudas assisted any person in a way that would have resulted in preferential treatment.

I am satisfied that Mr. Soudas did not engage in any of the activities prohibited under subsection 3(7) or 22(3) or attempt to do so as prohibited in relation to subsection 22(3) under subsection 22(8) of the 2006 Code.

Private Interest: Subsections 22(4) and 22(8)

Subsection 22(4) prohibits public office holders from using their positions to influence, or attempt to influence, the decision of a third party in a way that is intended to further their private interests or those of their relatives or friends, or to improperly further another person's private interests. Subsection 22(8) prohibits attempts to engage in the activities prohibited under subsection 22(4). As subsection 22(4) includes any "attempt to influence", subsection 22(8) effectively becomes redundant.

While it seems clear that Mr. Soudas repeatedly challenged the Public Works' position that the option of mediation had been adequately explored, there is no evidence that he was acting to further any private interests. The evidence established that Mr. Soudas has no private interest in the Rosdev litigation. The evidence also established that Mr. Soudas' interventions were independent of those of his friend Mr. Housakos who, in turn, has no private interest in the litigation. There was also no evidence that Mr. Soudas acted improperly to further the private interests of Mr. Rosenberg and the Rosdev Group, Mr. Tamburello, Mr. Tremblay or anyone else.

I am satisfied that Mr. Soudas did not engage in any of the activities prohibited under subsection 22(4) nor did he attempt to do so as prohibited under subsection 22(8) of the 2006 Code.



**SCHEDULE:
LIST OF WITNESSES INTERVIEWED**

Public Office Holders and Public Servants

1. Mr. Claude Alain, Chief of Staff to the Minister of Public Works (in 2006-7 Policy Advisor, Public Works Minister's Office)
2. Mr. Jean-François Béland (in 2006-7 Policy Advisor, PMO)
3. Mr. Ian Brodie, Chief of Staff to the Prime Minister
4. Mr. Pat Eagan, Director of Special Projects, Public Works
5. The Honourable Michael Fortier, Minister of Public Works
6. The Right Honourable Stephen Harper, Prime Minister
7. Mr. Frédéric Loiselle (in 2006-7, Chief of Staff to the Minister of Public Works)
8. Mr. Tim McGrath, Assistant Deputy Minister, Public Works
9. Mr. David Rabinovitch, Strategic Advisor, Public Works
10. Mr. Dimitri Soudas, Deputy Press Secretary and Senior Advisor (Québec), Prime Minister's Office
11. Ms. Ellen Stensholt, Senior General Counsel, Public Works Legal Services

Other Witnesses

12. Mr. Léo Housakos
13. Mr. John Lemieux
14. Mr. Michael Rosenberg
15. Mr. Paolo Tamburello
16. Mr. Marcel Tremblay

