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de l'Ontario

OFFICE OF THE INTEGRITY COMMISSIONER



REPORT OF THE HONOURABLE J. DAVID WAKE INTEGRITY COMMISSIONER

Re: Randy Hillier, Member of Provincial Parliament for
Lanark–Frontenac–Kingston
(MPP Hillier No. 1)

Toronto, Ontario
April 13, 2022

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EXECUTIVE SUMMARY

This report is in response to a request made by Ian Arthur, Member of Provincial Parliament for Kingston and the Islands. Mr. Arthur requested an opinion under section 30 of the *Members' Integrity Act, 1994* regarding Randy Hillier, Member of Provincial Parliament for Lanark–Frontenac–Kingston.

Mr. Arthur alleged that Mr. Hillier breached section 3 of the Act (insider information) and Ontario parliamentary convention in using the personal contact information of constituents, obtained as a result of their contact with Mr. Hillier's office, for partisan purposes by sending them emails on behalf of or related to No More Lockdowns Canada and the People's Party of Canada (PPC).

In addition to Mr. Arthur's allegations the evidence disclosed two further potential breaches of parliamentary convention. Mr. Hillier was placed on notice that they would be included in the inquiry. The first related to Mr. Hillier's use of his constituency office for a partisan purpose by permitting his daughter to film the announcement of her candidacy for the PPC in the 2021 federal election from that office. The second related to the use of constituency or legislative resources for partisan purposes. Specifically, staff time and devices provided by the Legislative Assembly of Ontario were used to send and record partisan messages with respect to the PPC.

Following the inquiry, I found that Mr. Hillier had not breached section 3 of the Act since no private or pecuniary interest had been engaged. I did find that Mr. Hillier had breached the parliamentary convention against using constituency office resources for partisan purposes in three different ways:

- i. By permitting his daughter to use his constituency office to film her announcement of her candidacy for the PPC in the 2021 federal election;
- ii. By directing his staff to perform partisan activities without putting into place an accountability framework to ensure that time and devices paid for by the Assembly were not used for partisan purposes; and,
- iii. By collecting constituent contact information into two databases controlled by him and populated by his staff and using this constituency resource to send out partisan messages supporting the PPC to his constituents.

Due to the multiple breaches found but recognizing that Mr. Hillier has announced that he will not be seeking re-election in the forthcoming election I recommended the Legislative Assembly reprimand Mr. Hillier.

This report is being released simultaneously with another report relating to Mr. Hillier initiated by a complaint from Peggy Sattler, Member of Provincial Parliament for London West. That report

relates to whether Mr. Hillier breached Ontario parliamentary convention when he made social media posts that contained the names and photos of individuals who had recently become seriously ill or passed away and included a claim that COVID-19 vaccines were involved in the cases. To distinguish between the two reports the one initiated by Mr. Arthur's request will be referred to as MPP Hillier No. 1 and the one initiated by Ms. Sattler as MPP Hillier No. 2. The inquiries relating to the reports covered different matters so separate reports are more appropriate.

I. BACKGROUND TO THE INQUIRY

[1] On September 29, 2021, Ian Arthur, Member of Provincial Parliament (“MPP”) for Kingston and the Islands, submitted a request, pursuant to section 30 of the *Members’ Integrity Act, 1994* (“the Act”) for my opinion as to whether Randy Hillier, MPP for Lanark–Frontenac–Kingston, breached section 3 of the Act or Ontario parliamentary convention by using constituents’ personal information, obtained through his constituency office, for partisan purposes by sending them materials on behalf of or related to No More Lockdowns Canada and the People’s Party of Canada (“PPC”).

II. LEGAL FRAMEWORK OF THE INQUIRY

[2] Under section 30(1) of the Act, a member of the Legislative Assembly of Ontario who has reasonable and probable grounds to believe another member has contravened the Act or Ontario parliamentary convention, may request that I, as Integrity Commissioner, give an opinion as to the matter.

[3] In this case, Mr. Arthur has sought my opinion with respect to the application of both section 3 of the Act and Ontario parliamentary convention.

[4] Section 3 restricts a member’s use of information obtained in the course of his or her work. It states:

Insider information

3 (1) A member of the Assembly shall not use information that is obtained in his or her capacity as a member and that is not available to the general public to further or seek to further the member’s private interest or improperly to further or seek to further another person’s private interest. 1994, c. 38, s. 3 (1).

Same

(2) A member shall not communicate information described in subsection (1) to another person if the member knows or reasonably should know that the information may be used for a purpose described in that subsection. 1994, c. 38, s. 3 (2).

[5] Ontario parliamentary convention is not defined in the Act but consists of generally accepted rules or practices of members of the Ontario legislature.¹

[6] It has long been an accepted parliamentary convention in Ontario that a member's constituency office and legislative resources should not be used for partisan activities. This prohibition includes office space, telephones, computers and salaried time of staff.²

III. THE INQUIRY PROCESS

[7] On September 29, 2021, Mr. Arthur submitted his request for my opinion with an affidavit setting out the basis for his belief that Mr. Hillier had contravened section 3 of the Act and Ontario parliamentary convention. Mr. Arthur advised that his staff had received several complaints from constituents of Mr. Hillier alleging that he had "used their personal information obtained by his office through non-partisan case work to sign them up for partisan email lists – specifically, 'No More Lockdowns' organization and event information for the People's Party of Canada." In support of his request, Mr. Arthur provided emails that he received from two of Mr. Hillier's constituents. These included an exchange between Mr. Hillier and a constituent about emails sent from No More Lockdowns, a September 20, 2021 email from Mr. Hillier encouraging the recipient to vote for the PPC in that day's federal election and two earlier emails from No More Lockdowns inviting the recipient to a PPC campaign event.

[8] Following my usual practice, I forwarded Mr. Arthur's request and supporting evidence to Mr. Hillier and asked for his submissions on whether I should proceed to conduct an inquiry or not. On October 20, 2021, Mr. Hillier provided a detailed response.

¹ A list of Ontario parliamentary conventions can be found in Report re. Patrick Brown, July 14, 2016 at p.2 ["Brown Report"]. To this list must also be added the Ontario parliamentary convention that was the subject of the report released simultaneously with this one identified as MPP Hillier No. 2 on April 13, 2022.

² See for example: Report re. Jessica Bell, March 31, 2022; Report re. Vijay Thanigasalam, December 21, 2021 ["Thanigasalam Report"]; Report re. Catherine Fife, September 14, 2021 ["Fife Report"]; Report re. Stan Cho, September 14, 2021 ["Cho Report"]; Report re: the Honourable Peter Bethlenfalvy, October 21, 2020 ["Bethlenfalvy Report"]; Report re. Patrick Brown, July 14, 2016; Report re. Daiene Vernile, and the Honourable Jeff Leal, December 22, 2015; Report re. Jagmeet Singh, June 26, 2015 ["Singh Report"]; and Report re. Laurie Scott, October 1, 2013.

[9] On November 15, 2021, after reviewing the request and response, I decided to commence an inquiry under section 31 of the Act and, on November 19, I notified Mr. Arthur and Mr. Hillier of my decision.

[10] I used my powers under section 33 of the *Public Inquiries Act, 2009*, which permits me to require any person, by summons, to give evidence on oath or affirmation and to produce such documents as I may specify.

[11] Mr. Hillier and his staff provided me with requested documents and information in December 2021 and January 2022, including copies of all mass emails sent from specified email addresses between August 1 and September 30, 2021.

[12] In December 2021 and January 2022, counsel and an investigator with my Office interviewed seven witnesses, including three constituents and Mr. Hillier's four staff members, namely his chief of staff/executive assistant, legislative assistant, research assistant and special assistant.

[13] On January 25, 2022, after reviewing documentary evidence and hearing further evidence from Mr. Hillier's staff, I provided Mr. Hillier with notice of additional issues in this inquiry, in particular:

- whether he breached parliamentary convention by using constituency resources for partisan purposes, by permitting Chelsea Hillier, as a candidate for the PPC, to use his constituency office to film a partisan campaign video; and,
- whether he breached parliamentary convention by using constituency or legislative resources for partisan purposes, including devices and staff time to send and film partisan messages related to the PPC.

[14] On January 27, counsel and an investigator with my Office interviewed Mr. Hillier. At the outset of this interview, it was confirmed that after the interview ended, Mr. Hillier would be given a copy of the transcript of his interview, a summary of the evidence gathered and an opportunity to provide additional evidence, comments or submissions.

[15] I attended the interviews of Mr. Hillier and his staff.³

[16] Because of ongoing concerns related to the COVID-19 pandemic, all interviews were conducted by videoconference.

[17] Following his interview, on January 28, I requested further information from Mr. Hillier in writing, including the names of all individuals to whom he had granted access to his databases containing constituent information, the total number of contacts in each database, and his office's records of any interactions with one of the constituent complainants.

[18] On February 7, my staff provided Mr. Hillier with a transcript of his interview.

[19] On February 10, Mr. Hillier requested an extension to February 18 to provide the further information requested, which I granted. On February 23, my counsel asked Mr. Hillier to provide the information at his earliest convenience. On February 25, I wrote to Mr. Hillier to request the information by February 28, and advised that, if he did not produce it or a reasonable explanation, it was possible I would draw an inference from his failure to produce the information.

[20] Simultaneously with this inquiry, I was conducting another inquiry as a result of a request by Peggy Sattler, MPP for London West, for my opinion whether Mr. Hillier may have breached Ontario parliamentary convention "by posting on social media the names and faces of individuals who had recently become seriously ill or passed away, claiming the COVID vaccine was involved in their deaths." That inquiry is the subject of a separate report, which is being released on the same date as this one.⁴

[21] On March 4, 2022, Mr. Hillier wrote to me in response to my requests relating to both inquiries. He confirmed that he had announced that he would not be seeking re-election in the upcoming provincial election. He also made reference to a recent motion of the Assembly, which

³ The interview of Mr. Hillier's special assistant was held over two dates. I attended the first date but not the second date of his interview.

⁴ Report re. Randy Hillier, April 13, 2022, (MPP Hillier No. 2).

had censured him for a set of social media posts, demanded written apologies be published by him and authorized the Speaker not to recognize him until the Speaker received copies of the apologies and was satisfied of their sincerity. In his email to me of March 4, Mr. Hillier stated that he understood that, at the conclusion of my inquiry, recommendations would be made to which he would not be able to respond unless the Assembly rescinded its censure motion. He apologized for not being able to meet the requirements which I had conveyed to him and that he was unable to complete my requests. Without going into the personal reasons put forward in his letter I was left with the clear impression that he was withdrawing from any further participation in each of the investigations I was conducting.

[22] In these circumstances I wrote to Mr. Hillier on March 10 confirming my understanding that he would not provide any further submissions or information relating to either inquiry. I also advised him that in light of his position I would not be providing him with a draft summary of the evidence gathered in either inquiry and that I would proceed to reach my opinion with respect to each matter and make my report accordingly.

IV. EVIDENCE

Mr. Hillier

[23] Mr. Hillier has been an elected member of the legislature since 2007. He initially represented the riding of Lanark–Frontenac–Lennox & Addington. After a re-organization of ridings, he was re-elected in 2018 to represent the riding of Lanark–Frontenac–Kingston.

[24] During the time of the events in issue in this investigation, Mr. Hillier employed four staff through his global budget, with the following titles: chief of staff/executive assistant, legislative assistant, research assistant and special assistant.

[25] Mr. Hillier has sat as an independent member of the legislature since March 2019.

[26] Mr. Hillier took some steps to form a new political party in Ontario, to be called the Ontario First Party. He advised during his interview in January 2022 that he was awaiting a

decision from the Chief Electoral Officer in response to his application to officially register this party.

[27] Subsequently, Mr. Hillier announced on March 3, 2022, that he would not seek re-election in the provincial election scheduled for June 2, 2022.⁵

No More Lockdowns

[28] Mr. Hillier advised that in 2020 he created the No More Lockdowns campaign as a means of pursuing his public policy goal of repealing the *Reopening Ontario (A Flexible Response to COVID-19) Act*, which came into force on July 21, 2020. This legislation permitted the government to continue orders made under the *Emergency Management and Civil Protection Act* after the declared emergency of the COVID-19 pandemic came to an end.

[29] Mr. Hillier stated that the purpose of his No More Lockdowns campaign is to provide the public with resources “on the effects of the Reopening Ontario Act and public policies regarding COVID-19, and to encourage people to speak up and stand up against public policies...” He said he sees his work through No More Lockdowns as “completely synonymous with my activities as an MPP” and that, in addition to providing the No More Lockdowns website, it includes attending rallies and sending emails.

[30] As set out in more detail below, Mr. Hillier said that he ultimately controls the No More Lockdowns website and database but that there is also “a pile of local organizers who do all kinds of different local events, and they control, on the ground, what happens.”

The Individual Constituents Interviewed by My Staff

[31] My staff interviewed three individual constituents of Mr. Hillier who contacted Mr. Arthur and agreed to participate in this inquiry. Each confirmed they had received one or more emails

⁵ Mr. Hillier posted a video announcing his decision on his website, randyhilliermpp.com, on March 3, 2022 at 6:52 p.m.

from Mr. Hillier or No More Lockdowns relating to the PPC. All of the relevant emails they produced were also produced by Mr. Hillier.

[32] One constituent advised that she had signed up for Mr. Hillier's emailed constituency newsletter, understanding she would receive emails about his activities "to improve different things in the area" and updates about any new "legislation that was relevant to us." She said she was concerned when she received emails from No More Lockdowns referencing the PPC because she believed Mr. Hillier was using her email to "expand a party with questionable beliefs and ideology" by using an email address that was provided to him only "as a result of his position with the Ontario government." She said she had no recollection of ever contacting Mr. Hillier's office, other than signing up online to receive his newsletter.

[33] A second constituent advised he had contacted Mr. Hillier's office to seek his assistance with a government services matter and shortly thereafter began receiving Mr. Hillier's constituency newsletter via email. He said he "didn't mind" receiving the newsletter because it "related to the region." However, he noticed that the content of Mr. Hillier's emails changed after the onset of the pandemic and he also began receiving emails from No More Lockdowns. He initially complained to Mr. Hillier because he believed Mr. Hillier may have provided his name to an external organization. After Mr. Hillier responded by email to him that "I own No More Lockdowns," this constituent said he remained concerned because he believed Mr. Hillier "is not the only one involved with No More Lockdowns" and because "it was my provincial representative trying to get me to vote for a certain party in the federal election."

[34] The third constituent confirmed he had contacted Mr. Hillier about a public policy issue and subsequently began to receive emails from No More Lockdowns related to the PPC.

[MPP Hillier's Collection of Constituent Information in his Constituency NationBuilder](#)

[35] Mr. Hillier advised he began using NationBuilder software in his constituency office in or about 2010.

[36] NationBuilder is a company that sells software. According to NationBuilder’s website, its software allows users to: create integrated websites and databases that track user interactions; create lists, filters and tags that “dynamically update with every supporter interaction;” send targeted newsletters and other outreach messages; and collect and analyze data. It also offers fundraising pages and payment processing tools.⁶

[37] Mr. Hillier and his staff told me that they use NationBuilder software to operate a website for his constituency office, collect information related to his constituents and other visitors to his website in a database, and send newsletters and other emails related to his work as a member of provincial parliament. They explained the constituency website and database are integrated through the NationBuilder software package and they frequently used the terms database and NationBuilder interchangeably. In this report, I refer to it as Mr. Hillier’s constituency NationBuilder.

[38] Mr. Hillier and his staff confirmed constituency contact information is entered into his constituency NationBuilder through several different mechanisms.

[39] First, Mr. Hillier’s staff manually enter information they collect through constituency work. When constituents contact Mr. Hillier’s constituency office for assistance, for example in person or by telephone, his staff collect their contact information and details about their enquiries and enter them into the constituency NationBuilder. Depending on the subject matter of the enquiry, staff may or may not tag the constituent as being interested in a particular topic. Staff have done this since the inception of the constituency NationBuilder. The contact information of persons Mr. Hillier meets at social events or professional meetings with community organizations and stakeholder groups may also be entered into the constituency NationBuilder by staff.

[40] Second, for several years, the constituency NationBuilder automatically captured email addresses and profile information collected online through Mr. Hillier’s constituency website, which prompts all visitors to “sign in” using their email, Facebook or Twitter account. Mr. Hillier

⁶ See description of software capabilities at nationbuilder.com: online at <https://nationbuilder.com/>.

advised that the use of this feature changed over time, as some social media providers changed their sites to prevent the capture of this type of information or enable privacy settings to avoid the capture of this information. Mr. Hillier also said that he entirely disabled this automated data collection feature in approximately spring 2020, with the exception of petitions and events, as discussed below.

[41] Third, Mr. Hillier posts petitions on his constituency website. Whenever anyone electronically “signs” a petition on this site, the person’s contact information is collected by the constituency NationBuilder and tagged with an interest in that subject.

[42] Fourth, if someone registers to attend an event posted on Mr. Hillier’s constituency website, the constituency NationBuilder retains the person’s contact information and, if staff have created a “tag” for that event, it will tag the person as having an interest in the topic of the event, for example the subject matter of a tele-townhall.

[43] Fifth, for several years, Mr. Hillier’s constituency website and physical mailings (delivered by post) offered constituents the opportunity to sign up for his email newsletter, titled “Scuttlebutt.” He sent this newsletter quarterly until some time in 2020, when Mr. Hillier advised he ceased to use that means of constituent communication. The contact information of persons who actively signed up to receive his email newsletter were also entered into his constituency NationBuilder.

[44] At least one source of contact information available to Mr. Hillier has not been entered into the constituency NationBuilder. Mr. Hillier’s chief of staff/executive assistant advised that he has obtained a list of eligible voters within Mr. Hillier’s riding from Elections Ontario, but that this information has never been uploaded into Mr. Hillier’s constituency NationBuilder.

[45] Mr. Hillier was asked at his interview and subsequently in writing about the total number of contacts in his constituency NationBuilder. He did not provide this information.

[46] Mr. Hillier told me that he pays for his constituency NationBuilder “out of pocket” and that he does not use funds from the Legislative Assembly of Ontario to pay for it. His chief of

staff/executive assistant, who is responsible for reporting Mr. Hillier's constituency and legislative office purchases to the Legislative Assembly of Ontario on Mr. Hillier's behalf, confirmed the fees for the constituency NationBuilder are not paid by the Assembly.

Mr. Hillier's No More Lockdowns NationBuilder

[47] In 2020, Mr. Hillier purchased a second NationBuilder licence to support his No More Lockdowns campaign. He used the software to create a new website, nomorelockdowns.ca, and a new database. Unlike his constituency website, the No More Lockdowns website has a "Donate" page, using NationBuilder's payment processing capacity.

[48] Mr. Hillier's name is not featured prominently on the No More Lockdowns website. Names of two of his staff are recorded as responsible for posting various articles to the site. Neither Mr. Hillier nor his staff recognized the name of a third person recorded as responsible for posting five items to the website. One of the site's pages states that "NoMoreLockdowns.ca is run by a group of dedicated grassroots volunteers who donate their spare time to spread a message and organize against irrational and unscientific Lockdowns."⁷

[49] Mr. Hillier confirmed that he makes all decisions relating to the No More Lockdowns website, but also said that others are involved. He has granted database administrator privileges to his four constituency and legislative staff. He said his son, who is not a member of his constituency or legislative staff, handles the money for No More Lockdowns and that all of Mr. Hillier's family would have access through his NationBuilder account. He also said "[t]here is a pile of local organizers who do all kinds of different local events, and they control, on the ground, what happens." When asked about who has access to the No More Lockdowns NationBuilder, he explained "there is different levels of access as well, like you know who can send an email from me, who can interact with the data. You know in broad strokes, there is a lot of people who have limited access to it... ..They wouldn't be able to alter the information but they would be able to see it." He was asked to provide a list of the people, other than his staff, to whom he had granted access to the No More Lockdowns NationBuilder, but this is one of the pieces of information that

⁷ See <https://www.nomorelockdowns.ca/donate>.

he did not ultimately provide. One of his staff also advised that he believes some volunteers have access to information in the No More Lockdowns NationBuilder related to their local areas.

[50] My staff asked Mr. Hillier why he used a separate NationBuilder for No More Lockdowns, rather than using his constituency NationBuilder. Mr. Hillier said that he had never thought about that before, that it was a good question and he did it “probably because it was technically the most effective way to do things.” Mr. Hillier said he is “not the most technically savvy person” and believes that he relied on advice received from his staff and from other people with respect to using a second NationBuilder.

[51] Mr. Hillier said that he uses funds donated to the No More Lockdowns site to pay for the No More Lockdowns NationBuilder. He said he does not use funds provided by the Legislative Assembly of Ontario to pay for this NationBuilder.

[52] It is beyond the scope of this inquiry to inquire into the use of funds raised by No More Lockdowns. I note that Mr. Hillier told me that many of the funds raised are used for lawn signs. I make no findings with respect to the amount or use of funds raised through the No More Lockdowns website, other than to accept Mr. Hillier’s evidence that he uses some of these funds to pay for the No More Lockdowns NationBuilder.

[Transfer of Contact Information from Constituency NationBuilder to No More Lockdowns NationBuilder](#)

[53] In his initial response to Mr. Arthur’s concern, Mr. Hillier advised that contact information had been transferred from his constituency database to the No More Lockdowns database.

[54] During his interview, Mr. Hillier advised he was not entirely clear about the details of whether contact information was “transferred” from one NationBuilder to the other or if staff used both databases to send messages. However, he was very clear that, under his direction, staff would send messages related to his No More Lockdowns campaign to persons whose contact information was obtained through his constituency NationBuilder. He gave the example of staff sending a message related to No More Lockdowns to persons who had expressed an

interest in No More Lockdowns-related topics through his constituency NationBuilder, for example by signing “a No More Lockdown petition” on his constituency website.

[55] In an earlier written response to a question from me provided in December 2021, Mr. Hillier also gave signing a petition as an example of when contact information would be selected for transfer from the constituency NationBuilder to the No More Lockdowns NationBuilder, along with another example and some economic rationale for some of the transfers from the constituency NationBuilder to the No More Lockdowns NationBuilder. He said:

Only people who expressed a demonstrated interest in No More Lockdowns (by signing my petition against COVID lockdowns on my virtual constituency website as one example) would be moved from my constituency database to NML as it is a specific and policy-oriented advocacy. Any non-constituents who expressed support for NML through a communication with my constituency office were always moved to the NML database. This is partially due to NationBuilder’s billing system, which charges by the number of emailable contacts I have in my database. I don’t want to be paying for people in my personal database who are not from my riding.

[56] Mr. Hillier’s legislative assistant confirmed that he transferred files of contact information from the constituency NationBuilder to the No More Lockdowns NationBuilder and said he did so at Mr. Hillier’s instruction. Consistent with Mr. Hillier’s evidence, he also gave as an example of contacts transferred persons who had signed petitions. This staff member said he personally had not transferred all contact information “carte blanche” from the constituency database to the No More Lockdowns NationBuilder. This staff member also said he had added to the No More Lockdowns NationBuilder spreadsheets of contact information that were given to him, but he had not asked about the origin of this material. This staff member said that he was not aware of any lists from Elections Ontario and “I don’t think I have touched that.”

[57] Mr. Hillier and his legislative assistant advised they were of the belief that the “vast majority” of the contacts in the No More Lockdowns NationBuilder were created by people individually entering their contact information into or ‘signing into’ the No More Lockdowns website.

[58] In contrast to the evidence of Mr. Hillier and his legislative assistant, Mr. Hillier's research assistant stated that no contact information had ever been transferred from the constituency NationBuilder to the No More Lockdowns NationBuilder. I accept that this witness genuinely held this belief but find that he was not in a position to know whether or not other individuals had transferred contact information into the No More Lockdowns database.

[59] This inquiry did not determine the exact number of constituents whose contact information was transferred from the constituency NationBuilder to the No More Lockdowns NationBuilder. In response to an information request, Mr. Hillier advised in December 2021 that there were approximately 103,000 contacts in his two NationBuilder accounts and it would take an "inconceivable" amount of staff hours to try to determine how each initial contact occurred and what emails each individual contact received from No More Lockdowns. The number of contacts in each NationBuilder is a piece of information requested from Mr. Hillier that he did not provide.

[Sending of PPC Related Emails from Mr. Hillier's Two NationBuilders](#)

[60] At my request, Mr. Hillier provided 89 emails sent between August 1, 2021 and September 30, 2021 from the following email addresses: newsletter@randyhillier.com, info@randyhillier.com, events@nomorelockdowns.ca, and noreply@nomorelockdowns.ca. He also provided information about which recipients were targeted for each email. Of these emails, 80 related to the PPC and nine did not mention the PPC. The nine emails that did not specifically mention the PPC were about a Sunday service event, the COVID-19 vaccine, a Vaccine Choice Canada event, a municipal medical officer of health, DriveTest delays, and a Liberty Coalition Canada petition and declaration related to COVID-19 vaccinations.

[61] Of the 80 PPC emails, 41 emails introduced PPC candidates, 38 emails promoted PPC campaign events and one email, sent on the federal election day, encouraged recipients to vote and scrutineer for the PPC.

[62] Mr. Hillier took responsibility for the sending of these emails. In his initial response to Mr. Arthur's request, Mr. Hillier stated that "I am responsible for the materials generated by my office

and my staff. Nothing goes out without my prior approval....” During his interview, he confirmed this statement was accurate and that “in a general statement, yes, I see everything before it goes out” but noted there are exceptional circumstances when this may not occur: “there are times that [my staff] are giving approval to put things out which I may not put final eyes on, you know, due to travel, due to many, many different things. But it’s still my responsibility what goes out.”

[63] Mr. Hillier explained that, barring exceptional circumstances, his usual process for a mass email is that he will ask staff by phone or email to prepare the email, his staff will circulate a draft for his approval, he will approve it and staff will then send out the mass email.

[64] Mr. Hillier also said that it is his practice to direct his staff about which of his two NationBuilders to use to send specific emails and which geographical or topical filters to use, noting they will sometimes come back to him to discuss the best technical option to implement his instructions.

[65] All of the emails reviewed, from both NationBuilders, included a statement at the bottom: “To stop receiving emails, click here.”

[66] Mr. Hillier stated he has never shared his contact lists or parts of lists of his contact information with the PPC.

PPC Candidate Introduction Emails

[67] All 41 PPC candidate introduction emails were sent from Mr. Hillier’s No More Lockdowns NationBuilder.

[68] Mr. Hillier confirmed during his interview that a member of his staff sent these emails at his request.

[69] None of his staff recalled sending these particular emails.

[70] These PPC candidate introduction emails follow a similar format. Eighteen of the PPC candidate introduction emails were sent out using the Randy Hillier “theme” across the top, which had been previously developed by his legislative assistant for Mr. Hillier’s use after he

became an independent member of the legislature. This theme contains a photograph of Mr. Hillier with the Ontario provincial flag behind him. Below the theme, these emails contain very similar wording about why Mr. Hillier is endorsing PPC candidates, the same photo of Mr. Hillier and the leader of the PPC, and often, but not always, a photo of the specific candidate, then information about the candidate and how to reach his or her campaign, with an instruction not to forget to sign their nomination papers, get a lawn sign, volunteer to make phone calls and canvass, make a donation have a meet and greet with the candidate in your home, and attend rallies. While the PPC is mentioned by name in the text, there is no PPC logo on these emails, although in at least one instance the candidate is wearing clothing with a PPC logo in a photograph.

[71] After August 30, 2021, some of these candidate introduction emails began to be sent under a No More Lockdowns theme, although some continued to be sent under the Randy Hillier theme. Most contained the same content described above. Usually they did not feature the PPC logo, unless it was included within the candidate photograph.

[72] Almost all of these candidate introduction emails were sent using geographical filters relating to the candidate's riding. In other words, the candidate introduction emails were sent only to recipients which the database had tagged as residing within the riding of the candidate.

[73] An exceptional candidate introduction email, which had an entirely unique format and no apparent geographical filter applied, pertained to Mr. Hillier's daughter. Based on the evidence Mr. Hillier provided from his No More Lockdowns NationBuilder, the email announcing her candidacy for the PPC was sent to '31,122 supporters with filter.' Despite the mention of a filter, there was no description or other evidence of any filter applied, as there were for the other emails.

PPC Event Emails

[74] Mr. Hillier sent 38 emails about 24 different PPC events in August and September 2021. There were sometimes multiple emails about the same event, for example a reminder sent after an initial email. Occasionally, a single email promoted multiple events.

[75] Almost all of the event emails prominently featured the PPC logo.

[76] For the initial PPC campaign events which Mr. Hillier promoted by email, the same email was sent from both his constituency NationBuilder and his No More Lockdowns NationBuilder. These emails were sent between August 11 and 18, 2021. After August 18, 2021, all the PPC event emails were sent from Mr. Hillier's No More Lockdowns NationBuilder.

[77] Many, but not all, of the PPC event emails used a geographical filter, for example targeting contacts residing within a specified provincial riding or within 20, 25, or 30 kilometres of the event location, or 'Residents of Ontario.'

[78] Sometimes, a combination of filters were used. As an example, an email was sent from the No More Lockdowns NationBuilder on September 2, 2021, promoting two events to be held in Carleton Place and Smiths Falls, Ontario, on September 3, 2021, titled "Stand for Freedom in Lanark-Frontenac-Kingston" with featured speakers and guests Mr. Hillier, PPC Candidate Florian Bors, PPC Candidate Scott Miller, PPC Candidate Peter Crawley, and PPC Candidate Alex Cassell. This email was sent to '12867 supporters with filter LFK PPC Event 20210903 EML.'

[79] Some PPC events were promoted by emails sent to both geographically-targeted and larger groups of recipients. As an example, an email promoting a PPC event in Thornhill was sent on August 11, 2021, from Mr. Hillier's constituency NationBuilder, email address newsletter@randyhillier.com, to '46382 of all supporters.' The same event email was sent on the same date from Mr. Hillier's No More Lockdowns NationBuilder, email address noreply@nomorelockdowns.ca, to '31140 supporters with filter.' Another reminder email about the same event, with very similar content, was sent on August 12, 2021, from Mr. Hillier's constituency NationBuilder, email address newsletter@randyhillier.com, to '12,455 supporters with filter 75km Near Thornhill.'

[80] Mr. Hillier's legislative assistant advised that he sent "quite a few" of these emails. He could not recall how many he sent but said that he was asked to send them by Mr. Hillier or another member of Mr. Hillier's staff "pretty frequently" during August and September 2021. He developed a template to use for these emails.

[81] Using my powers to summons documents, I obtained some emails documenting requests made by Mr. Hillier to his legislative assistant asking that these PPC event emails be sent. I did not request or obtain from Mr. Hillier a comprehensive set of all requests or drafts relating to the emails produced. However, reviewing the sample available, I note that many of the email exchanges between Mr. Hillier's staff and/or Mr. Hillier relating to the preparation and approval of these PPC event emails were sent during regular working hours of 8 a.m. to 5 p.m. and many of them were sent outside these hours.

The Election Day 'Get Out the Vote' Email

[82] On September 20, 2021, the date of the Canadian federal election, an email was sent from Mr. Hillier's constituency NationBuilder, using the sender newsletter@randyhillier.com and the subject line "GOTV: Today is Election Day for the PPC!" This was one of the emails brought to Mr. Arthur's attention by a constituent and provided to me in support of his request for my opinion.

[83] This email uses the same "theme" prepared by Mr. Hillier's legislative assistant when Mr. Hillier became an independent member of the legislature, described above. Below the theme, it says: "**Today is Election Day**, and Canadians have a simple choice: **Vote for freedom**, or vote for continuing authoritarianism and tyranny." It then contains a photograph of Mr. Hillier and the leader of the PPC with people in the background wearing clothing with the PPC logo. Below the photograph, it says "**I'll be voting for the People's Party of Canada** and freedom, and I hope you are too. You can ensure that our vote has integrity and accuracy by becoming a scrutineer and watching over the electoral process in your voting station. **Click on this link to become a scrutineer:** <https://www.peoplespartyofcanada.ca/scrutineer/>. – Randy Hillier." [Emphasis in original.]

[84] Mr. Hillier provided records indicating this email was sent through his constituency NationBuilder 'to 46,883 supporters with filter All Supporters EML.'

[85] Mr. Hillier confirmed that this email was sent by his staff on his instruction.

[86] Records produced by Mr. Hillier and his staff, including emails and Google Docs, indicate that Mr. Hillier's chief of staff/executive assistant and his legislative assistant worked on this email on Sunday, September 19, 2021. The legislative assistant designed the email, using a theme he had previously developed for Mr. Hillier and inserting a photograph of Mr. Hillier with the leader of the People's Party of Canada. He and the chief of staff/executive assistant both worked on the draft language of this email, a copy of which was sent to Mr. Hillier around 8:15 p.m. on the evening of September 19, 2021, before the mass mailing occurred on the morning of September 20, 2021.

[87] The chief of staff/executive assistant did not recall working on this email. After reviewing the documents, he confirmed he had no recollection of doing so but said it was entirely possible he wrote it or that it was shared with him to review for spelling and grammar. He commented "writing an email like that is something that, after more than 20 years in politics, would have come naturally for me to write with little effort or thought required to assemble the language."

[88] Mr. Hillier did not recall approving this September 20, 2021 email or any particular email, but stated he is sure he authorized the sending of this email.

The Unsubscribe Issue Identified by Mr. Hillier's Staff

[89] Emails sent from Mr. Hillier's NationBuilders have an unsubscribe feature at the bottom. A recipient can click this link and request to be "unsubscribed."

[90] According to documents reviewed, after a constituent complained about receiving emails from Mr. Hillier despite previously using this "unsubscribe" feature, the chief of staff/executive assistant asked other staff to confirm that this constituent had been "unsubscribed." The special assistant and research assistant confirmed this had been done: one reported "unsubscribing" the constituent himself and the other reported he had checked and found the constituent had already been "unsubscribed." However, the constituent then complained anew that he had received another email.

[91] The legislative assistant then attempted to determine what had happened. During his interview, he explained that he believes that although someone may use the “unsubscribe” feature, this does not mean they will not receive another email in future unless additional steps are taken. As I understood his explanation, someone must manually delete the “unsubscribes” from the database:

NationBuilder is a bit of a mess so, you know, someone unsubscribes. When you try to filter by people that have unsubscribed, a lot of the time people who have unsubscribed get bumped in still, even though you are telling it not to include people who have unsubscribed. It's not, even the way that you filter for people who have unsubscribed is not entirely clear in how NationBuilder provides the option. It should be as simple as 'Have they unsubscribed? No.'. It's like you have to choose a date range and all this nonsense and even though you can choose a broad date range it doesn't matter. You do an export, you'll still get people that are unsubscribed. I did not discover that till way, way, way, way, way later. When I did discover it, I did figure out that there is a field within the, within the export that says 'this person has unsubscribed on this date'. And then, after I figured that out, I was like 'Guys, you're gonna export anything or you're gonna do anything on any database, just make sure you look that up, delete those entries that have unsubscribed because they are unsubscribed'.

[92] Mr. Hillier explained the problem as follows: “Unfortunately, when moving the list from my main website database to my NML website database, the ‘unsubscribe’ tags were lost, and [one of the constituents who complained to Mr. Arthur] and several other people received an unsolicited email from NML.” Mr. Hillier advised that he had his staff ensure this constituent “was marked as ‘do not contact’ on both email databases.”

[93] Mr. Hillier stated in his response to my Office that, after receiving the complaint from this constituent, he engaged each of his staff individually for “a retraining session to reaffirm the proper use of constituent information, the importance of carefully managing and honouring unsubscribe requests, and to reinforce the required privacy protocols under the law.” When asked to explain what he meant by “proper use of constituent information” and “the required privacy protocols,” Mr. Hillier said that was a reaffirmation that “we don't share data with anybody outside the organization” and “everything that is communicated comes out through me or my staff.”

[94] None of Mr. Hillier’s staff recalled these training sessions with Mr. Hillier.

[95] The chief of staff/executive assistant said he yelled at everyone after the complaint was brought forward. He said he told the other staff that he would bring them into the office for a group training session, but readily acknowledged during his interview that he had not been able to schedule it yet, noting he had been hampered by the pandemic restrictions and my request that staff not speak to each other about the subject matter of this inquiry while it is ongoing.

[96] During his interview, the special assistant indicated he had no awareness of any problem with the unsubscribe feature and said that simply using the “unsubscribe” feature should ensure someone does not receive another email.

[97] When asked if he received any recent training following the complaint, the research assistant said: “[n]o. I think we are still trying to resolve whether this complaint is legitimate or not.”

Staff Filming PPC Endorsement Videos

[98] Mr. Hillier’s special assistant advised that, as part of his work for Mr. Hillier, he filmed three videos for Mr. Hillier, in which Mr. Hillier endorsed two PPC candidates and the PPC party generally.

[99] Mr. Hillier confirmed he asked his special assistant to make these videos, but said the videos were made on the evening and during the weekend. My staff directly raised with Mr. Hillier that his special assistant had said making those videos was part of his work and asked for Mr. Hillier to be clear. Mr. Hillier responded:

Yes, well, it’s hard to be clear. You know, like, there is a number of the... all my staff are very much involved in my advocacy, okay? So... and it’s not like the old days where we went to the office from eight to four, and then there was a clear cut division between volunteering and working, you know. These lines have become very, very blurred. So, all my staff are very willing to volunteer well beyond 36 hours a week, or 40 hours a week, and 50 hours a week, right? And, you know, so, you know I was at rallies in Toronto and Waterloo on weekend, right? [My special assistant] came with me, you know, on

Saturday and Sunday. He is not paid for those extra days. He is not paid for being at my house in the evenings, and there is a blurring there of what is... you know, when does the work day start and when does it end?

Staff Posting of Social Media Messages Related to PPC and Ontario First Party

[100] Mr. Hillier's special assistant advised that he was responsible for posting social media posts to Mr. Hillier's social media accounts, including some that referenced the PPC and the Ontario First Party. He said that he posted this material as part of his work for Mr. Hillier.

[101] During his interview, Mr. Hillier reviewed a sample of social media posts made by his special assistant. One example contained a photograph of Mr. Hillier and the leader of the PCC, wording about the Ontario First Party and various hashtags referencing the Ontario First Party and the PPC. Mr. Hillier explained the post "shows an image of [name of the leader of the PPC] and I at an event, and that was when we had expected the OFP, like, that's a whole other... like, I had expected the OFP to be registered but it wasn't quite registered, and we had the social media platform on that, in expectation of it being registered." When asked if the content of this post was consistent with his instructions to his personal assistant, Mr. Hillier said "[t]o put stuff out that promotes my activities? Absolutely."

[102] Mr. Hillier also agreed that a second example of a post by his special assistant, containing a different photograph of Mr. Hillier and the leader of the PPC with hashtags referencing the Ontario First Party and the PPC, was also consistent with his instructions.

[103] We reviewed two other sample social media posts with Mr. Hillier and his special assistant, both referencing the Ontario First Party and/or the PPC. Neither could remember if they posted them but each thought the special assistant could have posted them. Mr. Hillier confirmed it would have been either him or his special assistant who posted these tweets and that it is his expectation that his special assistant will post content across all his platforms, including accounts for Randy Hillier, No More Lockdowns and the Ontario First Party. This is consistent with what his special assistant told us about his posting across Mr. Hillier's accounts on several social media platforms.

Use of Mr. Hillier's Constituency Office for PPC Campaign Video

[104] During the course of this inquiry, media reports of Mr. Hillier's daughter's video announcement of her candidacy for the PPC came to my attention.

[105] Mr. Hillier confirmed that his daughter filmed her video announcement of her PPC candidacy from his constituency office and that he accompanied her to his office at the time.

Staff Work Hours, Workplaces and Work Devices

[106] All of Mr. Hillier's staff told me they work flexible hours. None of them work only during traditional office hours.

[107] Since the onset of COVID-19 pandemic, Mr. Hillier's staff have worked mostly from home, with the exception of his chief of staff/executive assistant who regularly attends the constituency office, when permitted by public health restrictions.

[108] Mr. Hillier's chief of staff/executive assistant said he works "24/7, 365 days a year - whenever he needs me, I answer the phone." He said his official hours are 8 a.m. to 4 p.m. but during an average week, he works at least 60 hours. When asked if that was similar for Mr. Hillier's other staff, he said he could not say with any certainty because Mr. Hillier directs staff himself with respect to projects he needs done. He said "the window of when you work is obscure. You work when available and put in the time required to do it." In the course of his work for Mr. Hillier, he uses a computer and phone provided through Mr. Hillier's global budget received from the Legislative Assembly.

[109] Mr. Hillier's legislative assistant said "the one thing I've learned is there are not regular working hours." He said, prior to the pandemic, when he worked from Queen's Park, he would be at the office from 9 a.m. to 4 p.m. and, when the legislature was sitting, he would stay until whenever finished. Since the pandemic, he said he has no regular working hours. He is available in the evenings when Mr. Hillier requires assistance.

[110] My staff asked Mr. Hillier's legislative assistant about sending one of the PPC event emails, which documents indicated was sent out at 10:19 a.m. in the morning, and if he agreed that it was sent during regular working hours. He responded "not inherently. The thing is, working from home, the strict working hours is not as strict."

[111] Mr. Hillier's legislative assistant has a laptop computer provided to him for work purposes. His phone charges are paid through Mr. Hillier's legislative budget. However, the legislative assistant said he also uses his personal computer for work, if it is convenient, noting "like any computer that's near me, if I find ... if there's something I can help out with, I'm going to hook it up and use it. Because most of the stuff, everything that has to be largely done, is done through a web browser, so it's like if I have access to the internet, I can do it."

[112] Mr. Hillier's special assistant said his regular working hours are 9 a.m. to 5 p.m. but he is "pretty much always on the clock" and always available on any given day, doing work in the evenings as required. He is responsible for Mr. Hillier's social media posts and observed that if a new development emerges late in the day, it might be irrelevant if he waited to post it until the next day. He travels with Mr. Hillier from time to time, when he is available at "all hours of the day" as required. He has not been issued any devices by Mr. Hillier and uses both his personal phone and computer for his work for Mr. Hillier.

[113] Mr. Hillier's research assistant said he also does not work a strict 9 a.m. to 5 p.m. schedule and that as long as he gets his work done, all is "copacetic." He said "I often read into the night when it's quiet." However, he also advised that he regularly uses evenings to do what he considers to be volunteer work for No More Lockdowns. He also confirmed he had been involved in discussions relating to the creation of the Ontario First Party during what he considered his "personal time" and that he also has previously done and plans to do more work for the PPC during his personal time, including evenings. He has been issued a laptop from Mr. Hillier's global budget to use in his work.

Staff Descriptions of Their Work with No More Lockdowns

[114] Two of Mr. Hillier's four staff described themselves as volunteers for No More Lockdowns. One staff member indicated it was part of his regular work for Mr. Hillier. The fourth staff member said he had not been involved with it.

[115] The legislative assistant said that Mr. Hillier has asked him to spend some of his free time working on tasks related to No More Lockdowns. He said that he understands that No More Lockdowns is Mr. Hillier's "project" and that he does not feel obliged to do work for it but does because he "agrees with the cause." He will do various tasks as requested by Mr. Hillier or the other staff members. The legislative assistant said that he "helped a lot" with the development of the website, posted five articles written by someone else to the website, added contact information to the database as described above and created various lists and filters of contacts. He also set up the donation and payment processing features, using information provided by Mr. Hillier.

[116] The research assistant told me that he spends an average of six to eight hours a week volunteering for No More Lockdowns. He organizes the distribution of lawn signs with the No More Lockdowns logo. He also makes small improvements to the website as he sees fit, such as the arrangement of content and making things easier to find. Within the database, he will "clean up" things such as duplicates and purported names that contain vulgarity. He has created various lists and filters of contacts in the database. He has his own email address with No More Lockdowns and also responds to the info@nomorelockdowns.ca email address, noting that he believes other people also have access to the latter email address. He said he does not report to anyone with respect to his No More Lockdowns work, as he is "pretty senior." When asked who is responsible for No More Lockdowns, he said it was a "bunch of volunteers" and he would not be able to list all of them. Later he advised there are hundreds of volunteers for No More Lockdowns and that he has a long list of names.

[117] Mr. Hillier's special assistant was asked if, in the course of his work for Mr. Hillier, he had any role or interaction with No More Lockdowns. He answered that "If Randy goes somewhere,

I support Randy in whatever he is doing. If he goes to one of these events, I will help him stream [content] for social media.” He said he posts content to all Mr. Hillier’s social media platforms, including No More Lockdowns Twitter and Facebook accounts, in part to “get wider traction on Randy’s personal accounts.” The special assistant also developed and posted content to the No More Lockdowns website, including at least three articles. He has used it to send mass emails from time to time, when instructed to do so by Mr. Hillier, giving an example of an email promoting an event held in North Bay in early 2021.

[118] The only staff member who said he is not involved with No More Lockdowns is Mr. Hillier’s chief of staff/executive assistant. Like Mr. Hillier, he considers No More Lockdowns part of Mr. Hillier’s work as a member. He also noted Mr. Hillier had previously created separate webpages or websites to support his public policy work, including Mr. Hillier’s “right to rep” campaign and his advocacy with respect to breed specific legislation, although he also acknowledged that Mr. Hillier had never before created a separate NationBuilder, with a second database of contacts. When asked why he was not involved with No More Lockdowns, he said Mr. Hillier had not asked him to do anything with respect to it.

[Ontario First Party Email Addresses for Staff](#)

[119] Mr. Hillier arranged for all his staff members to have Ontario First Party email addresses. Two of his staff used them in their correspondence with my office and said they were unaware they had these addresses until my staff asked about their use of them. Mr. Hillier explained he has been trying out a new application that allows him to see all his emails from various accounts on one screen, including his accounts for his constituency, No More Lockdowns and the Ontario First Party. He said “we are still testing that out and learning it.” When asked to whom “we” referred, he said “I’m talking about my staff.” When asked whether his staff help with his effort to register a new political party, the Ontario First Party, Mr. Hillier advised: “My staff are involved in the way of understanding what I am doing. There would be some engagement but not a great deal from my staff so far on that.”

[120] Three of Mr. Hillier's staff advised they expect to support the Ontario First Party if and when it is registered. The research assistant advised he has participated in many conversations about it, but not during "office hours." The special assistant said he has been involved in planning discussions and participated in calls with stakeholders. When asked what time these calls took place, he said usually in the mornings. The legislative assistant said "If he did get it started, I would be helping out."

Staff Training About Use of Constituency and Legislative Resources

[121] The chief of staff/executive assistant advised that all of Mr. Hillier's new staff are given a copy of the Act and the Guide to Members' Allowances and Services and Members' Support and Caucus Staff and are "told to read them." He said the guide makes "abundantly clear the rules governing use of Assembly resources."

[122] The legislative assistant said he had received training that "anything paid for by the taxpayers should not be used for anything not connected to my employment for Randy Hillier."

[123] The special assistant recalled being given documents to read but said he did not recall any specific training about the parliamentary convention not to use legislative or constituency resources. My staff asked him about whether he made any effort to separate work for a political party from his work for Mr. Hillier and he said "I don't know what you are asking me. I have not done any explicitly partisan work. I just work in the scope of what Randy Hillier wants for social media." However, at a different time during his interview, Mr. Hillier's special assistant also stated that he took two weeks of vacation time in late August to early September 2021, to volunteer for the campaign of Mr. Hillier's daughter during the federal election.

[124] The research assistant also recalled being given documents to read as part of his training and said he believed he had read each of them. He said he believed these documents "covered" the ethical rules for members and parliamentary conventions.

Constituent Consent Form

[125] Mr. Hillier's chief of staff/executive assistant has worked for Mr. Hillier since he was first elected and currently responds to constituency concerns. He confirmed that the office has always used a consent form whenever it is necessary to contact a third party to resolve a constituent's concern. This form states:

I, _____ hereby authorize the Office of Randy Hillier to communicate with _____ in regards to my file, for the purpose of obtaining information and addressing any concerns with the account and the file. I understand these communications to be confidential, and the information protected, and not to be used for any other purpose than my request for assistance.

V. ANALYSIS AND FINDINGS

[126] As set out above in the summary of this inquiry, in addition to Mr. Arthur's allegations the evidence disclosed two further potential breaches of parliamentary convention and Mr. Hillier was placed on notice that they would be included in the inquiry. The first related to Mr. Hillier's use of his constituency office for a partisan purpose by permitting his daughter to film the announcement of her candidacy for the PPC in the 2021 federal election from that office. The second related to the use of constituency or legislative resources for partisan purposes. Specifically, staff time and devices provided by the Legislative Assembly were used to send and film partisan messages with respect to the PPC.

[127] I will begin by dealing with each of these potential breaches separately and then deal with Mr. Arthur's allegation concerning a breach of section 3 of the Act (insider information). Finally, I will consider Mr. Arthur's allegation that Mr. Hillier's use of constituents' personal information, which he obtained as a result of their contact with him or his office, was used for partisan purposes by sending emails to them on behalf of or related to No More Lockdowns Canada and the PPC and whether this action constituted a breach of parliamentary convention.

[128] It is a well-established parliamentary convention that partisan activities are not to take place in a member's constituency office.⁸ This convention is important to ensure that the constituency office serves all constituents in the riding and not just those who support a particular political party or association.

[129] During his interview Mr. Hillier was asked about a video of his daughter's announcement of her candidacy for the PPC and whether it had been filmed at his constituency office. He readily admitted that it had been and not only had he permitted it to be done there, but he was present at the time. No explanation or excuse was provided for permitting what was clearly partisan activity to take place in his constituency office. In these circumstances I must find that Mr. Hillier breached this parliamentary convention.

[130] It is also a well-established parliamentary convention that although a member's staff may participate in partisan activities they may not use constituency and legislative offices or devices paid for by the Assembly.⁹ Similarly, since staff are paid through the member's global budget from funds allocated to the member by the Assembly, the staff's time should not be used to participate in partisan activities unless it is clearly distinguishable as their "own time."¹⁰

[131] Activity that supports or opposes a particular party or candidate is partisan.¹¹ I find that many of the activities of Mr. Hillier's staff were partisan. This was particularly so with respect to their efforts, at Mr. Hillier's direction, in sending mass emails from either the constituency NationBuilder or the No More Lockdowns NationBuilder supporting the PPC and its candidates.

⁸ Singh Report at page 13.

⁹ In the Brown Report at para. 30, it was established that Queen's Park committee rooms and offices available to members within Queen's Park are government resources and should not be used for partisan purposes.

¹⁰ Thanigasalam Report at para. 102; Cho Report at paras. 84, 92 (referencing the earlier Singh Report, *supra* note 8) and 93.

¹¹ Bethlenfalvy Report at para. 252 to 264; Cho Report at para. 85; Fife Report at para. 56; and Bell Report at para. 7.

[132] Examples of this partisan activity are as follows:

- i. the legislative assistant sent many of the PPC event emails at Mr. Hillier's direction, both during and outside regular working hours, and advised that he used whatever device was at hand, whether personal or issued by the Assembly;
- ii. his special assistant advised that, as part of his work, he filmed partisan endorsement videos for Mr. Hillier of two PPC candidates and the PPC generally;
- iii. his special assistant posted partisan social media messages and Mr. Hillier confirmed that these posts were within his expectations of the staff member;
- iv. Mr. Hillier confirmed that for the mass PPC-related emails that were the subject of this inquiry, he asked staff by phone or email to prepare the mass email, circulate a draft for his approval and then send it out on one or both of the NationBuilders to usually hundreds or thousands of recipients; and,
- v. an email was sent out by his staff on the morning of the federal election through his constituency NationBuilder to 46,883 recipients. The message supported the PPC and encouraged people to vote for that party and become a scrutineer.

[133] The primary defence asserted by Mr. Hillier and his staff was that the staff's political activity was performed "on their own time." While this position is undoubtedly true with respect to some activity it is difficult to accept with respect to activity that was clearly being done during what one would regard as normal working hours. For instance, I noted that many of the email exchanges among Mr. Hillier's staff and between Mr. Hillier and his staff relating to the preparation and approval of PPC event emails were sent during regular working hours between 8 a.m. and 5 p.m.

[134] Other evidence demonstrating that partisan activity was part of the staff's work came from Mr. Hillier's special assistant who, in his interview, advised that he filmed three videos for Mr. Hillier in which Mr. Hillier endorsed two PPC candidates and the PPC party generally. He said he did this "as part of my work". Although the videos may have been done in the evening or

during the evening the point is that he regarded it as part of his work for Mr. Hillier regardless of when it was done.

[135] Similarly, Mr. Hillier's legislative assistant acknowledged that one of the mass emails concerning a PPC event was sent out at 10:19 a.m. during regular working hours, although he maintained that working from home had reduced the strictness of regular working hours.

[136] The same staff member confirmed that he used devices provided through the legislative assembly or his personal device, whichever was most convenient at the time.

[137] Mr. Hillier enjoyed a strong sense of loyalty from his staff. Perhaps the most illustrative expression of fealty from staff to Mr. Hillier came from his special assistant who said "If Randy goes somewhere, I support Randy in whatever he is doing. If he goes to one of these events, I will help him stream[content] for social media."

[138] I appreciate that the pandemic has had an effect on when something is done as part of one's work and when it is done as part of one's own time. Mr. Hillier acknowledged that there has been a "blurring" of the lines in that regard. This is particularly so where all of his staff are involved in what he terms his "advocacy".

[139] While permitting flexible work arrangements is not in and of itself problematic, knowing that his staff also engage in partisan activities, it was incumbent on Mr. Hillier to put into place an accountability framework to ensure that time and devices paid for by the Assembly were not used for partisan purposes. I find that Mr. Hillier failed to do so. In the end there is nothing to prevent me from reaching the conclusion that at least some of Mr. Hillier's staff time and devices were used inappropriately for partisan activities. As a result, I find that Mr. Hillier breached the parliamentary convention prohibiting the use of legislative or constituency office resources for partisan purposes.

[140] Before leaving this issue I note that unlike other recent reports where I had to determine whether staff activity could be attributed back to the member, in this case Mr. Hillier was definitely aware of what his staff was doing since he was actively directing them in their activities.

The most obvious example was his instruction to staff with respect to sending mass emails in support of PPC candidates, events and culminating in the mass email sent on the federal election day encouraging recipients to vote and scrutineer for the PPC.

[141] Mr. Arthur alleges that Mr. Hillier breached section 3 of the Act by obtaining constituent contact information to advance his private interest or improperly further another person's private interest. The difficulty with this allegation is that it has been held repeatedly that a political interest does not constitute a private interest.¹² It must be demonstrated that a pecuniary interest is involved. There is no evidence in this case that Mr. Hillier used the information he gathered from constituents to advance his or another's private interest as that term has been defined. Accordingly, I find that section 3 of the Act is not engaged and the allegation must be dismissed.

[142] The other allegation set out in Mr. Arthur's request is whether Mr. Hillier breached parliamentary convention by using constituents' personal contact information for partisan purposes by sending them materials on behalf of or related to No More Lockdowns Canada and the People's Party of Canada. The parliamentary convention involved with this allegation is really the same as the previous allegations, added to the inquiry, that Mr. Hillier had breached parliamentary convention by using constituency or legislative resources for partisan purposes including using devices and staff time to send and film partisan messages related to the PPC. The distinction between the allegations is the manner in which the breaches occurred.

[143] The collection of constituent contact information is not inherently wrong. It can be used to provide constituents with non-partisan information. In this case contact information from the constituency NationBuilder (database) was then transferred to Mr. Hillier's No More Lockdowns NationBuilder. This had the potential for confusing recipients of messages from that database about the sender, not knowing that it was Mr. Hillier. In fact that is the experience of Mr. Hillier's

¹² Report re. the Honourable Lisa MacLeod, May 23, 2019 at para. 14; Report re. the Honourable Bob Chiarelli and the Honourable Charles Sousa, August 9, 2016, at paras 48 to 59; Report re. the Honourable Bob Chiarelli, the Honourable Michael Coteau and the Honourable Yasir Naqvi, December 8, 2016, at paras 54 and 69.

constituents who complained to Mr. Arthur when they received messages from No More Lockdowns without having signed up for it or even knowing who was behind it.

[144] Mr. Hillier maintained that he saw his work through No More Lockdowns as “completely synonymous with my activities as an MPP.” Sending messages to constituents from the No More Lockdowns database may not have contravened an established parliamentary convention but when Mr. Hillier and his staff began sending emails from the constituency NationBuilder and/or the No More Lockdowns NationBuilder for PPC campaign events and introduction of PPC candidates that is when his use of constituents’ contact information crossed the line. I find that the constituent information collected by Mr. Hillier and his staff in his constituency NationBuilder was a constituency office resource. By using it to send partisan emails Mr. Hillier breached the parliamentary convention prohibiting the use of constituency office resources for partisan purposes.

[145] It did not matter that Mr. Hillier paid for both NationBuilder accounts himself or through donations to No More Lockdowns. The information gathered in those accounts was compiled at least in part using constituency office staff time and resources to populate the databases.

[146] Similarly, Mr. Hillier’s argument that if the constituents did not want to receive the emails they could press the unsubscribe button is not persuasive. I note that this was not an effective remedy in this case. One of the constituents who was interviewed tried to use the unsubscribe button but continued to receive PPC emails. Mr. Hillier explained that in the transfer of lists from his constituency database to the No More Lockdown database “the unsubscribe tags were lost and several people received unsolicited email from NML.” The unsubscribe feature is not an answer to the initial harm done by placing people in receipt of partisan information using a constituency resource to do so.

[147] I should note in fairness to Mr. Hillier and his staff that there was no evidence that they transferred Mr. Hillier’s constituent contact information to the PPC. This was the reasonable concern of the constituents who came forward to Mr. Arthur after they began receiving PPC-related emails.

VI. CONCLUSIONS

[148] I dismissed the allegation that Mr. Hillier breached section 3 of the Act since there was no evidence that he used constituent contact information to further his private interest or that of another as the term private interest has been interpreted.

[149] I find that Mr. Hiller breached the parliamentary convention against using constituency office resources for partisan purposes in three different ways:

- i. By permitting his daughter to use his constituency office to film her announcement of her candidacy for the PPC in the 2021 federal election;
- ii. By directing his staff to perform partisan activities without putting into place an accountability framework to ensure that time and devices paid for by the Assembly were not used for partisan purposes; and,
- iii. By collecting constituent contact information into two databases controlled by him and populated by his staff and then using this constituency resource to send out partisan messages supporting the PPC to his constituents.

[150] The convention prohibiting the use of legislative and constituency resources for partisan purposes is an important one to ensure that a member's constituency office serves all constituents in the riding and not just those who support a particular political party, group or affiliation. The constituents who came forward as part of Mr. Arthur's complaint were all constituents of Mr. Hillier who approached him or his staff for assistance as their MPP or signed up to receive his constituency newsletter. In doing so they did not bargain on having their contact information used as it was and to begin receiving partisan messages concerning a political party to which they had no affinity.

[151] Given the multiple breaches of an important parliamentary convention in this matter but acknowledging that Mr. Hillier has announced that he will not be seeking re-election in the forthcoming provincial election I am prepared to recommend that the Legislative Assembly issue a reprimand. Since the Legislative Assembly is unlikely to have time to debate this recommendation before the election writ is issued this report will remain as a sessional paper of the 42nd Parliament and can be brought forward in the future if anyone so desires.

Dated at Toronto this 13th day of April, 2022.

A handwritten signature in black ink, appearing to read "J. David Wake". The signature is written in a cursive style with a prominent horizontal stroke at the top.

The Honourable J. David Wake
Integrity Commissioner