

Legislative
Assembly
of Ontario



Assemblée
législative
de l'Ontario

OFFICE OF THE INTEGRITY COMMISSIONER



REPORT

OF

**THE HONOURABLE J. DAVID WAKE
INTEGRITY COMMISSIONER**

RE: PATRICK BROWN, MEMBER FOR SIMCOE NORTH

TORONTO, ONTARIO

July 14, 2016

RE: PATRICK BROWN, MEMBER FOR SIMCOE NORTH

I. EXECUTIVE SUMMARY

This report relates to a complaint made by Marie-France Lalonde, the Member of Provincial Parliament (MPP) for Ottawa-Orléans, under section 30 of the *Members' Integrity Act, 1994*, (the “Act”) against Patrick Brown, Member of Provincial Parliament for Simcoe North. The complaint alleges that Mr. Brown contravened Ontario parliamentary convention against the use of government resources for partisan purposes because he is the leader of a political party that offered donors access to Queen’s Park.

In my opinion there was insufficient connection between Mr. Brown and the Ontario PC Fund which proposed using Queen’s Park to raise funds for the party, to find that there was a breach of parliamentary convention. The basis for my opinion is that the proposed use of Queen’s Park was the result of a mistake made by the entity responsible for raising funds for Mr. Brown’s party, Mr. Brown was not aware of the offer and Mr. Brown had no oversight authority over the staff who made the offer. Although there was no breach, I wish to make it clear that use of Queen’s Park for fundraising purposes diminishes the dignity of the Legislative Assembly of Ontario and I remind all members to be mindful of the effects of any proposed fundraising activities, regardless of where they occur, on the reputation of the Assembly.

II. LEGISLATIVE FRAMEWORK

[1] Under section 30(1) of the Act, a member of the Legislative Assembly who has reasonable and probable grounds to believe that another member has contravened the Act or Ontario parliamentary convention may request that I give an opinion on the matter. When a matter is referred to me by a member, I may then conduct an inquiry in accordance with section 31 of the Act, after giving the member whose conduct is concerned reasonable notice.

[2] This complaint relates to potential contraventions of Ontario parliamentary convention which are neither defined nor listed in the Act. As set out in reports of past Integrity Commissioners, parliamentary conventions are generally accepted rules or practices about the appropriate conduct of members of the Legislative Assembly based on the core principles of the Act.¹ The core principles of the Act, set out in its preamble, are primarily concerned with the reconciliation of private interests and public duties.

[3] Past Integrity Commissioners have identified the following six categories of conduct as contrary to Ontario parliamentary convention:

1. **Advocacy:** Ministers and Parliamentary Assistants are prohibited from appearing before or having communication on behalf of a private party with any agency, board or commission which falls under the jurisdiction of the minister.²
2. **Judicial interference:** Members are not permitted to interfere in judicial processes in any way.³ The prohibition includes not interfering with police activities⁴, advocating to the judiciary, or publicly commenting on matters before the judiciary⁵.
3. **Interference with public service:** Ministers and their offices do not advocate directly to public servants from other ministries about constituent issues, but must go through the responsible minister.⁶
4. **Management of trust account:** Ministers granted permission to hold certain assets in trust accounts must do so in a manner that promotes public confidence.⁷
5. **Assisting others in a manner that interferes with public duties:** Members must ensure that constituent representation and activities members normally engage in are done in a manner that does not undermine the member's public duty.⁸
6. **Using government resources for partisan purposes:** Government resources, including constituency offices, telephones, computers, and the salaried time of staff, should be used to assist constituents and not for matters related to partisan politics.⁹

¹ Report re: Daiene Vernile, member for Kitchener-Centre and Jeff Leal, Minister of Agriculture, Food and Rural Affairs, December 22, 2015 at page 2.

² 1991-1992 Annual Report of the Office of the Integrity Commissioner at page 7, inquiry No. 6; 1994-1995 Annual Report of the Office of the Integrity Commissioner at page 8, inquiry No. 4.

³ 1992-1993 Annual Report of the Office of the Integrity Commissioner at page 9, inquiry No. 6.

⁴ 1997-1998 Annual Report of the Office of the Integrity Commissioner at page 15, inquiry No. 28.

⁵ Report re: Robert Runciman, Member for Leeds-Grenville, October 25, 2006 at para. 21.

⁶ 2002-2003 Annual Report of the Office of the Integrity Commissioner at page 11, inquiry No. 12.

⁷ Report re: Harinder Takhar, Minister of Transportation and Member for Mississauga Centre, January 4, 2006 at para. 94.

⁸ Report re: Sandra Pupatello, Deputy Leader of the Official Opposition and Member for Windsor West, December 12, 2002 at paras. 30 to 35; Report re: Dave Levac, Member for Brant, July 23, 2003 at paras. 29 to 34.

⁹ Report re: Ted Chudleigh, Member for Halton, December 11, 2008, at paras 19 to 23 and paras. 28 to 30; Report re: Laurie Scott, Member for Haliburton-Kawartha Lakes-Brock, October 1, 2013, at paras. 11 to 15; Report re: Jagmeet Singh, Member for Bramalea-Gore-Malton, June 26, 2015 at page 19, Report re: Daiene Vernile, member for Kitchener-Centre and Jeff Leal, Minister of Agriculture, Food and Rural Affairs, December 22, 2015 at page 4.

III. TIMELINE OF COMPLAINT AND RESPONSE

- [4] On March 5, 2016 media reports indicated Ms. Lalonde was filing a complaint with the Ontario Integrity Commissioner about Mr. Brown’s proposed use of the members’ lounge and Question Period to raise funds for the Ontario PC party (the “**PC party**”).
- [5] On March 7, 2016, my Office received a letter from Ms. Lalonde, alleging that Mr. Brown had contravened Ontario parliamentary convention by proposing to use government resources for a partisan purpose, as set out in a fundraising brochure. On the same date, I sent Ms. Lalonde a letter indicating that she had not complied with the established processes for filing a complaint under section 30 of the Act and requested that she do so if she wished to file a complaint.
- [6] On March 14, 2016 my office received Ms. Lalonde’s complaint in accordance with the established process for filing a complaint under section 30. On the same day, I sent Mr. Brown a copy of the complaint and invited him to provide submissions. I received his submissions on March 30.
- [7] In accordance with the practice of this Office, I provided Ms. Lalonde an opportunity to comment on Mr. Brown’s submissions. No further comments were provided.

IV. THE INQUIRY PROCESS

- [8] My staff interviewed Patrick Brown and Marie-France Lalonde in person to obtain information relevant to this inquiry. Nicolas Pappalardo, Chief of Staff for Mr. Brown, and Kyle Raeburn, Legislative Assistant for Ms. Lalonde, also attended the respective interviews and provided information.
- [9] My staff conducted a phone interview with Tony Miele, Chair of the Ontario PC Fund (the Fund). Mike Richmond, counsel for the Fund was also present during the interview and provided information.

V. THE FACTS

- [10] The brochure that formed the substance of this complaint was intended to be circulated during a three-day convention of the PC party in Ottawa in March 2016. The brochure invited donors to contribute money to the party. Individuals who donated \$5,000 over the course of three years were eligible for the benefit of participating in an event referred to as “Victory Fund Queen’s Park Day”, where they could observe Question Period and meet with the PC Leader and Caucus in the Members’ Lounge following Question Period. Attached as **Appendix A** is a copy of the brochure.
- [11] Ms. Lalonde indicated that each party has its own Members’ Lounge, where members can meet with their party colleagues and speak confidentially. She advised that the entrance to this space is marked “Members Only”. Ms. Lalonde also indicated that there are two “lobbies” located on either side of the Legislative Chamber which are used by members. Each lobby is guarded by a security guard and is accessible by members and their authorized staff. The lobby on one side of the Chamber is used exclusively by government members while the lobby on the other side is shared by members of the PC party and New Democratic Party.
- [12] Mr. Brown indicated that the only “members’ lounge” he knew of was the lobby used by both his party and the New Democratic Party.
- [13] Ms. Lalonde and Mr. Brown confirmed that the public may observe Question Period from either of two “public galleries” located on the third floor of the Chamber, or upon invitation from the “members’ galleries” located at one end of the Chamber. Mr. Brown indicated that when he extends invitations to the public to attend Question Period, which he does frequently, he does not distinguish between the two types of galleries. He advised that his staff make arrangements for invited guests to observe Question Period and that some guests prefer the “public galleries” because of better sight lines.

- [14] Neither Ms. Lalonde nor Mr. Brown were able to produce any materials provided to them by the Speaker or Clerk of the Legislative Assembly about the appropriate use of the members' lounge, lobbies, public galleries or members' galleries. The "Guide to Members' Allowances and Services and Members' Support and Caucus Staff" prepared by the Office of the Executive Director of the Legislative Assembly for members makes no reference to the appropriate use of the members' lounge, lobbies, public galleries or members' galleries.¹⁰
- [15] Mr. Brown advised that as leader of the PC party he participates in fundraisers for the party but is not involved in the planning of such events. He said his role is restricted to attending and giving speeches. He advised that neither he nor his staff were involved in the drafting, reviewing or distribution of the brochure, but that the brochure was created by the Fund.
- [16] Mr. Miele and Mr. Richmond confirmed that the Fund is the entity responsible for raising money for the PC party. As set out in the Constitution of the PC party, the Fund is a non-profit corporation established by the party for the purposes of receiving and managing the assets of the party.¹¹
- [17] Mr. Miele advised that the organization consists of a Chairperson, Executive Director and three staff members¹². Brochures are typically produced by the Fund two to three times per year. It was the ordinary practice of the Fund to have such materials reviewed by the Executive Director.
- [18] The brochure in question was produced by new staff at the Fund. Mr. Miele advised that the staff member mistakenly believed that since the public could attend Question Period at any time, it would not be inappropriate to invite donors to observe Question Period and meet members afterwards. He candidly admitted that the reference to Question Period

¹⁰ Office of the Executive Director, Guide to Members' Allowances and Services and Members' Support and Caucus Staff, (Spring 2014).

¹¹ Ontario PC Party, Constitution, (Amended March 6, 2016).

¹² See Article 20.2 of the Ontario PC Party, Constitution, (Amended March 6, 2016) at page 17 which indicates that Fund also has a Board of Directors with upto thirty-one members.

and the members' lounge was a mistake and has since spoken to staff about it. The Fund has also changed its internal processes, so that the Chair and Counsel now review communication materials. Mr. Miele advised that Mr. Brown and his staff did not have, and will not have, any role in reviewing the materials produced by the Fund.

- [19] Although Mr. Richmond was not the author of the brochure, he suggested that the term "members' lounge" in the brochure was likely referring to a space connected to the PC caucus boardroom which has a kitchen and several couches.
- [20] Neither Mr. Richmond nor Mr. Miele reviewed the brochure prior to the convention. They both first read the brochure at the convention and immediately stopped its distribution.
- [21] Mr. Brown indicated that he first became aware of the brochure when it became the subject of media inquiries on March 4, 2016 at the convention. Upon becoming aware of the brochure, Mr. Brown also requested that its distribution be stopped.
- [22] Mr. Brown confirmed that no individuals have ever met with the PC leader or caucus at Queen's Park in exchange for a political donation.
- [23] Mr. Richmond and Mr. Miele confirmed that the Fund has not been contacted by any donor seeking to attend Question Period or the members' lounge as offered in the brochure. Mr. Pappalardo suggested that few donors would have seen the brochure as it was in circulation only for a limited period of time at the convention. The PC party website does not list attending Question Period and/or the members' lounge as a benefit available to any donor. Attached as **Appendix B** is an excerpt from the PC party website.
- [24] Ms. Lalonde and Mr. Brown both stated that political fundraising should not take place at Queen's Park.

[25] Neither Ms. Lalonde nor Mr. Brown received any communications from the Speaker or Clerk about not using Queen’s Park for political fundraising. Mr. Brown said that it was “well known that that’s not the use of Queen’s Park grounds, I don’t think you need communications to establish that”. He also indicated it would be “foolish” to use access to Question Period to raise funds because this access is available to the public at no cost.

VI. THE ISSUES

[26] This inquiry considered whether the proposed access to Question Period and the members’ lounge as a benefit available to donors to the PC party was a breach of Ontario parliamentary convention against the use of government resources for partisan purposes and if so, whether Mr. Brown was responsible for that breach.

VII. OPINION

[27] Before I give my opinion on the substance of the complaint, I feel compelled to comment on the manner by which some members bring complaints to this Office. As past Integrity Commissioners have repeatedly indicated, members who choose to make public comments to the media before they have complied with established processes for filing a complaint under section 30 of the Act with the Office of the Integrity Commissioner are being disrespectful of the role of the Office, and potentially compromising my ability to conduct necessary inquiries. I caution all members making a complaint to refrain from commenting publicly on the complaint until this Office has confirmed receipt of the request, and has notified the subject(s) of that complaint.

[28] In considering the substance of the complaint, I found no evidence of any additional access to Question Period being offered to donors than the access that is already available to them as members of the public, other than observing the proceedings from a different, and arguably less desirable, gallery.

[29] There is ambiguity about what space was being referred to by the use of the term “members’ lounge” in the brochure. There is no description of any space called the “members’ lounge” on the website of the Legislative Assembly of Ontario. While there are a number of references to a “members’ lounge” in the Hansard transcripts of proceedings of the Assembly, the term is used inconsistently and interchangeably by members to refer to a number of spaces including the public galleries, lobbies as well as the dining room. Not surprisingly then, neither Ms. Lalonde nor Mr. Brown were able to clarify the matter. I chose not to expend the time and resources of my Office to determine definitively which space was being referred to by the term “members’ lounge” because it is clear that regardless of the answer, the space being referred to was somewhere within Queen’s Park.

[30] Given that Question Period and the “members’ lounge” are both spaces within Queen’s Park, I considered what is the appropriate use of Queen’s Park. Queen’s Park is a resource that is not meant to be used for partisan purposes. This view is consistent with the position taken by past Integrity Commissioners and the Office of the Executive Director of the Legislative Assembly, that both Queen’s Park committee rooms and the offices available to members within Queen’s Park are government resources and should not be used for partisan purposes.¹³ Given that the committee rooms and offices within Queen’s Park are viewed as government resources, it is in my view appropriate to consider all of Queen’s Park in a similar manner.

[31] The purpose of political fundraising is to support a candidate or political party and, as such, is inherently a partisan activity. It follows that using Queen’s Park to raise funds for a political party would contravene Ontario parliamentary convention against using government resources for partisan activities.

[32] The brochure sought to use Queen’s Park to raise funds for a political party. It was not developed by Mr. Brown but rather by the Fund. Given that the Fund is a fundraising

¹³ See 1997-1998 Annual Report of the Office of the Integrity Commissioner, inquiry No. 18 and 1998-1999 Annual Report of the Office of the Integrity Commissioner, inquiry No. 18 and Office of the Executive Director, Guide to Members’ Allowances and Services and Members’ Support and Caucus Staff, (Spring 2014) at 63 and 106.

entity with the sole purpose of raising money for the party of which Mr. Brown is the leader, and his image appears on materials prepared by the Fund, there is a perception that Mr. Brown is responsible for the actions of the Fund.

[33] I do not think that *all* of the actions of a political party, or associated fundraising entity, should be attributed to the leader of a political party. There is a distinction between the leader and the party. For example, the *Election Finances Act* does not impose obligations related to fundraising on the leader of a party, but does impose such obligations on the party to issue receipts and on the chief financial officer to record income generated by a fundraising activity.¹⁴ Similarly the *Election Act* creates distinctions between the actions that can be taken by a political party and its leader.¹⁵ The Constitution of the PC party outlines that the specific role of the leader is to provide overall direction to the party.¹⁶ As set out in section 20 of the Constitution, while the leader has some responsibilities for the Fund, including nominating members to sit on the board of directors for the Fund and receiving reports related to the board's administration of the party's finances, the leader is not involved in the day-to-day operations of the Fund.¹⁷

[34] The action of a political party, or associated fundraising entity, *may* be attributed to the leader of a political party in some situations and lead to a breach of the Act or parliamentary convention. In order to find that a leader of a party has breached the Act or parliamentary convention in these circumstances, there needs to be some additional connection between the leader and the political party or its associated fundraising entity.

[35] There is insufficient connection between Mr. Brown and the Fund. While Mr. Brown, in his capacity as leader, was singled out in the brochure as one of the members with whom donors could meet, he indicated he had no role preparing the brochure and was not aware

¹⁴ See sections 23 and 25 of the *Election Finances Act*, R.S.O. 1990, c. E.7 for definition of fundraising activities as well as the obligations of party and chief financial officer. See subsections 10(3) and 10(6.1), for obligations of a leader of a political party.

¹⁵ As set out in section 28.1 of the *Election Act*, R.S.O. 1990, c. E.6, the only obligation on a leader of a political party is to sign a statement of endorsement for any candidates endorsed by the political party on or before the close of nominations.

¹⁶ See Article 22 of the Ontario PC Party, Constitution, (Amended March 6, 2016) at page 20.

¹⁷ See Article 20 of the Ontario PC Party, Constitution, (Amended March 6, 2016) at page 17.

of its contents prior to the PC party convention. Furthermore, unlike his constituency or Queen's Park office staff, Mr. Brown had no oversight of the staff at the Fund who prepared the brochure. The language of the brochure was the result of a mistake by a Fund staff member and the Fund appears to have taken steps to prevent such mistakes from reoccurring. I have no reason to disbelieve Mr. Brown's assertion that he had no involvement in the proposed use of Queen's Park as set out in the brochure and, accordingly, I find that he did not breach the parliamentary convention against using government resources for partisan activities.

[36] Had there been evidence of a member seeking to use Queen's Park for political fundraising, it would be my opinion that the member would have breached parliamentary convention.

[37] Although my opinion is that there was no actual breach of Ontario parliamentary convention by Mr. Brown, I am concerned about the effect that the brochure, limited in circulation as it was, had on the dignity of Queen's Park. As set out in the preamble of the Act, all members have an obligation to maintain the Assembly's dignity and justify the respect in which society holds the Assembly. In my view, the proposed use of Queen's Park for fundraising purposes diminishes the dignity of the Assembly. I remind all members to be mindful of the effects of any proposed fundraising activities, regardless of where they occur, on the reputation of the Assembly.

VIII. CONCLUSION AND RECOMMENDATIONS

It is my opinion that Mr. Brown did not breach Ontario parliamentary convention.

DATED at Toronto this 14th day of July, 2016.



The Honourable J. David Wake
Integrity Commissioner

Appendix A: Excerpt from brochure distributed at PC Party Convention in March 2015

VICTORY CLUB LEVELS	BENEFITS	INVESTMENT
 <p>VICTORY CLUB VICTORY FUND</p>	<ul style="list-style-type: none"> • Victory Fund members' semi-annual roundtable meetings with the Leader & Caucus • Victory Fund members' briefings on election preparations and policy ideas leading up to Victory 2018 • Victory Fund Queen's Park Day – members will be invited to observe Question Period and meet with the Leader and Caucus in the member's lounge following Question Period • Victory Club quarterly receptions with the Leader & Caucus • Victory Club Annual Conference and Reception with the Leader & Caucus, and members of the PC Ontario Fund Board and the Ontario PC Party Executive 	<p>\$5,000 – 3 Year Pledge that can be paid in installments that work best for you:</p> <p>\$1,667 per year \$139 per month</p>
 <p>VICTORY CLUB CORNERSTONE FUND</p>	<ul style="list-style-type: none"> • Victory Club quarterly receptions with the Leader & Caucus • Victory Club Annual Conference and Reception with the Leader & Caucus, and members of the PC Ontario Fund Board and the Ontario PC Party Executive 	<p>\$1,500 – 3 Year Pledge that can be paid in installments that work best for you:</p> <p>\$500 per year \$42 per month</p>
 <p>VICTORY CLUB FRIEND'S FUND</p>	<ul style="list-style-type: none"> • Victory Club Annual Conference and Reception with the Leader & Caucus, and members of the PC Ontario Fund Board and the Ontario PC Party Executive 	<p>\$500 – 3 Year Pledge that can be paid in installments that work best for you:</p> <p>\$167 per year \$14 per month</p>



Appendix B: Excerpt from Ontario PC party website (<https://secure.ontariopc.com/Victoryclub/>)

There Are Three Levels Of Investment In The Victory Club, Each Based On A Three Year Pledge To Victory In 2018.

Victory Club
VICTORY FUND

[LESS INFO](#)



Victory Fund Member Benefits

- Victory Fund members' semi-annual roundtable meetings with the Leader & Caucus
- Victory Fund members' briefings on election preparations and policy ideas leading to victory in 2018
- Victory Club quarterly receptions with the Leader & Caucus
- Victory Club Annual Conference and Reception with the Leader & Caucus, members of the PC Ontario Fund Board and the Ontario PC Party Executive

Your Investment

\$5,000 - 3 year pledge paid in installments that work best for you

\$5,000 One-Time	\$1,667 Per Year	\$139 Monthly
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(tax credit \$877 per year)