OFFICE OF THE INTEGRITY COMMISSIONER

REPORT

of

THE HONOURABLE GREGORY T. EVANS
COMMISSIONER

RE: BRENDA ELLIOTT, M.P.P., GULEPH
MINISTER OF ENVIRONMENT AND ENERGY

TORONTO, ONTARIO
FEBRUARY 26, 1996

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BACKGROUND

In December, 1995, Alex MacLean, Legislative Assistant to Marilyn Churley, M.P.P., inquired of my office by telephone "whether an anonymous Cabinet Minister may have abused his/her authority by using ministry stationery to advertise a party fundraiser." My Executive Assistant requested that in accordance with the legislation, more information must be provided in writing.

On January 11, 1996, Mr. MacLean wrote to my office, a copy of which is attached as Appendix "A", and stated,

> *"...I obtained a copy of the advertisement mentioned above which I turned over to staff in the NDP Leader's Office. They have since advised me that (they) are not convinced of any breach and that they do not wish to pursue the matter."*

On January 23, 1996, Richard McLellan, Executive Director of Operations, Ontario New Democratic Party, wrote to me enclosing a copy of correspondence faxed to him from Dan Kaufman of the Guelph Coalition Against the Cuts. Copies of this documentation are attached as Appendix "B".

Mr. Kaufman's letter outlined certain allegations concerning a Christmas Wine and Cheese Party held on December 7, 1995. The cost was set at $10 per person and anyone who might be interested was invited to attend. Mr. Kaufman's question for which he sought a ruling was,

> *"...is it legal for a MPP to use government money to conduct fund raising for a political party."*

Mr. McLellan's letter stated,

> *"Mr. Kaufman believes that Ms. Elliot (sic) has inappropriately used her MPP and Ministerial offices for the purpose of fundraising for her political party. Mr. Kaufman seeks your ruling on this matter."*

On January 25, 1996, I replied to Mr. McLellan, a copy of which is attached as Appendix "C", and set out s.30 of the *Members' Integrity Act, 1994* ("Act"). As Mr. Kaufman and Mr. McLellan are not members of the Assembly, I was unable to deal with the request and so advised Mr. McLellan.

On February 7, 1996, the Member from Riverdale, Ms. Marilyn Churley, filed a request for an opinion on a matter alleging that the Member for Guelph, Ms. Brenda Elliott, has contravened the Act, and/or Ontario Parliamentary Convention by using her resources as a Member of the Assembly and of the Cabinet to raise funds for the Progressive Conservative Party. A copy of the request and enclosed documentation is attached as Appendix "D".

Pursuant to s.31, I have elected to conduct an informal inquiry under subsection (1) and as required, Ms. Elliott was served with a Notice, attached as Appendix "E", together with a copy of Appendix "D".

On February 12th, Ms. Elliott and her constituency assistant, Mr. Steve Thomson, attended this office and were interviewed by me with my Executive Assistant, Ms. Lynn Harris, in attendance.

Mr. Thomson, who works as Ms. Elliott's constituency assistant from the Queen's Park office, was in charge of the organization of the Christmas Wine and Cheese party. In this respect, he arranged for the printing and mailing of the invitations to approximately 1,400 people and 900 business contacts in Guelph. The costs associated with that mailing were borne by the constituency office budget.

Mr. Thomson advised that in accordance with the RSVPs, they guaranteed with Guelph Place that 100 people would be in attendance. During the course of the evening it was realized that there were more guests present than expected and management was requested to supplement the food provided to accommodate another 25 people. Management complied. Mr. Thomson went on to advise that there were really closer to 140 people present during the evening as a number of people came in around 10:00 o'clock, however, they were not charged the $10 fee.

The total amount of money collected during the evening was $1,270 with 127 paid guests.

The Guelph Coalition Against The Cuts ("Coalition") had recently staged a disruptive demonstration in front of Ms. Elliott's office and as a precaution, arrangements were made to have an OPP officer in attendance at the front door to prevent people entering with placards and to guard against another unruly demonstration.

Three guests arrived who were recognized as being representatives of the Coalition. The guests asked and were permitted to write a cheque in the amount of $30, making the cheque payable to the Guelph Provincial Progressive Conservative Association ("Association"). This was the only cheque received during the evening.

Ms. Elliott made a speech to the guests present and after her speech indicated that the proceeds of the evening would go towards deferring the cost of the event and any profit would be paid to the United Way. This information was not printed on the invitation because the organizers could not be sure there would be a surplus.

Ms. Elliott's staff who were present at the door and throughout the reception had advised Ms. Elliott and Mr. Thomson that to their knowledge, no one was refused admittance, no one was questioned at the door and no one recalls advising any guests that the party was "private and by invitation only".

At the end of the event, Mr. Thomson turned over the proceeds to the Chief Financial Officer of the Association, who agreed to process the invoice from Guelph Place and forward the profit to the United Way. This would provide a mechanism to cash the $30 cheque and provide an audit trail of all monies. A copy of the invoice from Guelph Place, the Association cheque in payment of the invoice, the letter and cheque to the Guelph United Way, and a letter from the Guelph and Wellington United Way Social Planning Council are attached as Appendix "F".

No tax receipts were issued by the Association or by United Way.

On February 14th, I, together with Lynn Harris of my office, interviewed Tracy Rockett, Bill

Zebedee, Jr., and John Eastcott individually in this office. These three individuals attended the Christmas Party and Ms. Rockett was responsible for writing the cheque for $30.

Marilyn Churley, M.P.P. was unable to attend the interviews due to other commitments. Although Ms. Churley indicated that she had no personal knowledge of the matter under consideration, I did not wish to proceed without some representation from her office. Mr. Alex MacLean, who was originally scheduled to attend, was ill and Ms. Marcie McVea, a part-time assistant to Ms. Churley in her Queen's Park office, agreed to attend and was present during the interviews. She was invited to participate, but stated she was there only as an observer and to take notes.

The evidence of Ms. Rockett and her companions is that they were aware the Christmas Party was public and that no one, except a reporter from a local paper, suggested otherwise, i.e. the party was by invitation only. The reporter, who was also attending the party, was aware of Ms. Rockett's association with the Coalition and inquired as to why she was there. There was no suggestion that they were not welcome.

When asked why she wanted to go the Christmas Party, Ms. Rockett indicated that she "thought it would be fun" and she had "heard the money was going to the P.C. Riding Association". She wrote a cheque because she thought it would be "easier" and she thought it was a "potential P.C. Riding fundraiser". In addition, she was hoping to meet and speak with the Minister, which she eventually did during the course of the evening.

Mr. Zebedee stated that a friend who had received an invitation contacted him and wanted to know if a demonstration by the Coalition was planned. Mr. Zebedee advised that there was not sufficient time to organize anything but that he would attend "just to have fun". When acknowledging the invitation by phone, he was informed that a cheque for admission payable to the Association would be acceptable.

All three acknowledged the invitation by telephone, understood the party was not private, did not feel unwelcome, and stated that Ms. Elliott had advised the guests that after payment of expenses, the balance of the funds would be paid to the United Way. Mr. Zebedee and Mr. Eastcott both understood the party was not a fundraiser.

FINDING OF FACT

Ms. Churley states:

> *"I have reasonable and probable grounds to believe that Ms. Elliott has violated the Act and/or Ontario Parliamentary convention by using her resources as a Member of the Assembly and of the Cabinet to raise funds for the Progressive Conservative Party..."*

Was this a Progressive Conservative Party fundraiser, advertised, organized and promoted with the funds of the taxpayers of Ontario?

The answer on all the evidence is an unequivocal no. This was not a Progressive Conservative Party fundraiser. It was a party arranged by Brenda Elliott to communicate with any constituents who wished to attend. It was a public reception with a $10 admission charge to cover expenses and any surplus to be donated to the United Way.

Ms. Rockett and her companions freely acknowledged these facts. Had Ms. Churley or a member of her staff interviewed Ms. Rockett and her companions, I have no doubt the same conclusion

would have been reached. I am not aware of any interviews conducted or what research was made by the staff in the N.D.P. Leader's Office, but in the letter to me dated January 11, 1996 and attached as Appendix "A", Mr. MacLean stated:

> *"...I obtained a copy of the advertisement mentioned above, which I turned over to staff in the NDP Leader's Office. They have since advised me that (they) are not convinced of any breach and that they do not wish to pursue the matter."*

At that time, Ms. Churley's office apparently accepted the conclusion that no reasonable and probable grounds existed.

I propose to deal with the three allegations in Ms. Churley's letter in their order.

> (1) *Ms. Elliott used government funds in the form of her constituency office letterhead to advertise a Christmas wine and cheese party for which there was a $10 admission charge. The invitation also listed her Toronto ministerial office and fax numbers.*

Ms. Elliott admits, and I find as a fact, that she used her constituency letterhead, staff and fax in preparing and distributing the invitations to her constituents, and all costs in this regard were paid from her constituency office budget.

The issue deals with the alleged misuse of government resources including paper, printing, mailing, faxing and use of office staff to prepare and distribute an invitation to a Christmas Party which was, on all the evidence, clearly a non-partisan political event.

This is an issue which is not within the scope of my mandate under the *Members' Integrity Act, 1994*, and is a minefield which I do not propose to invade. Accordingly, I am not prepared to accept Ms. Churley's request that I embark upon a wide ranging inquiry to,

> *"...investigate this matter immediately and advise me, other members of the House and the taxpayers of Ontario whether this constitutes legal and appropriate use of the member's influence, position and resources or whether the member's behaviour is in conflict with the Members' Integrity Act or with any other legislation or convention governing the behavior of Members of the Assembly or the Cabinet."*

I suggest that any complaint by Ms. Churley as to the the use and/or abuse of Assembly services by Ms. Elliott should be directed to the Speaker and through him to the Board of Internal Economy.

> (2) *Cheques were made payable to the Guelph Provincial P.C. Party Association.*

Ms. Elliott acknowledges, and I find as a fact, that the only cheque payable to the Guelph Provincial P.C. Association was Ms. Rockett's cheque for $30, which was received as admission costs for Ms. Rockett, Mr. Zebedee and Mr. Eastcott. All other attendees paid cash.

The acceptance of the cheque was a convenient manner in which to negotiate it and provide a paper trail of the income, expenses and the charitable donation. In the absence of evidence to the contrary, no other rational conclusion exists. It is my opinion that Ms. Rockett in asking in advance whether a cheque would be acceptable and requesting a receipt from the Association was attempting to provide an evidentiary basis in the hope of embarrassing Ms. Elliott and the Progressive Conservative Party.

(3) *Although the invitation implies that this was a public event, Ms. Rocket and her companions were advised at the event that it was private and by invitation only, and were asked to explain the reason for their attendance.*

The invitation stated that the event was public and this was acknowledged by Ms.Rockett, Mr. Zebedee, Jr. and Mr. Eastcott. Ms. Rockett stated that a local reporter, who was aware of her association with the Coalition, thought the party was private and inquired as to her reason for attending.

All three individuals admitted there was never any indication during the evening that they were not welcome and in fact, when responding to the RSVPs, there was no such suggestion.

OPINION

In my opinion, there is no merit in the complaint and it must be dismissed.

DATED at Toronto this 26th day of February, 1996.

Gregory T. Evans

The Honourable Gregory T. Evans
Integrity Commissioner