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OFFICE OF THE INTEGRITY COMMISSIONER



REPORT OF THE HONOURABLE J. DAVID WAKE INTEGRITY COMMISSIONER

Re: Stan Cho, Member for Willowdale

Toronto, Ontario
September 14, 2021

Contents

EXECUTIVE SUMMARY 3

I. BACKGROUND TO THE INQUIRY 4

II. LEGAL FRAMEWORK OF THE INQUIRY 6

III. THE INQUIRY PROCESS 8

IV. EVIDENCE 10

V. ANALYSIS AND FINDINGS 19

VI. OTHER ISSUES ARISING IN THE INQUIRY..... 23

VII. CONCLUSIONS..... 24

VIII. RECOMMENDATIONS 25

EXECUTIVE SUMMARY

This report relates to a request made to me by Stephen Blais, Member of Provincial Parliament for Orléans, for an opinion under section 30 of the *Members' Integrity Act, 1994* regarding Stan Cho, Member of Provincial Parliament for Willowdale and, at the time of the request, Parliamentary Assistant to the Minister of Finance. Mr. Blais requested that I determine whether Mr. Cho breached Ontario parliamentary convention by participating in a series of partisan meetings from his Ministry of Finance office, and by advertising a partisan budget consultation that he hosted in his capacity as Parliamentary Assistant to the Minister of Finance.

The key issue of the inquiry is whether Mr. Cho breached established parliamentary convention by using his legislative resources to advance his participation in certain partisan events. Mr. Cho admits that he used his office at the Ministry of Finance to conduct meetings with university campus political organizations and Progressive Conservative Party of Ontario riding associations. The very nature of these groups leaves no question that the meetings were partisan activities.

Mr. Cho gave the initial direction to his staff to set up the partisan meetings but did not supervise their implementation and did not direct that they be characterized as budget consultations. He made no effort to ensure that the arrangements for these partisan meetings were made outside of normal business hours and that the meetings were held outside the office setting.

I find that Mr. Cho breached parliamentary convention by using his Ministry of Finance office to participate remotely in partisan meetings. He also failed to provide adequate supervision, direction and training to his staff to ensure that they did not participate in partisan activities while using legislative resources, including time.

I have also identified a further issue arising from the evidence taken in this inquiry concerning the appropriateness of allocation of staff resources in Mr. Cho's office between legislative staff and ministers' staff.

I make the following recommendations in the report: 1) that the staff of all MPPs be trained on the ethics rules in the *Members' Integrity Act, 1994* and on the parliamentary conventions related to the duties they carry out for their respective members; 2) that ministers and parliamentary assistants be aware of the bright line between the work done by their ministerial staff and that of their Queen's Park and constituency staff; and 3) that ethics rules for Queen's Park and constituency staff be implemented and made consistent with the rules for ministers' staff.

I. BACKGROUND TO THE INQUIRY

[1] This is a report about an inquiry I have conducted under the *Members' Integrity Act, 1994* (“**the Act**”) in response to a request by Stephen Blais, Member of Provincial Parliament for Orléans. I have considered the concern raised, namely whether Stan Cho, Member of Provincial Parliament for Willowdale and Parliamentary Assistant to the Minister of Finance¹, breached the Act or parliamentary convention because he used government resources for partisan purposes by 1) participating in a series of partisan meetings from his Ministry of Finance office on February 4, 8 and 9, 2021, and 2) advertising a partisan budget consultation that he hosted in his capacity as Parliamentary Assistant to the Minister of Finance on February 10, 2021.

1. Use of the term “budget consultation”

[2] During this inquiry, my staff and I heard various people use the term “budget consultation” to refer to at least three different processes. While each process was aimed at providing public office holders with input about provincial spending and fiscal policies from stakeholders and/or constituents, the nature of each was often very different in terms of who organized it, who was invited, and whether the information gathered was made public. To avoid confusion, it may be helpful to describe and distinguish each of these types of events.

[3] The Ministry of Finance organizes annual pre-budget consultations throughout the province.² Ministry staff are responsible for issuing invitations to stakeholder groups to provide submissions and for collecting the information provided. With respect to what was done in this regard in 2021, the Ontario government website confirms: “From January 15 to February 12, 2021, we asked for your ideas for the 2021 Budget. Those ideas will help inform the 2021 Budget to support people and employers during COVID-19, and position Ontario for a strong economic

¹ On June 18, 2021, Mr. Cho was appointed Associate Minister of Transportation. In this Report, he will be referred to as Parliamentary Assistant to the Minister of Finance, as he was during the time in question for this inquiry.

² See description of process on the Ministry of Finance’s website, online at: <https://www.ontario.ca/page/2021-budget-consultations>

recovery. The consultation is now closed.”³ In this report, I refer to this process as the “ministry budget consultations.”

[4] The Standing Committee on Finance and Economic Affairs of the Ontario Legislature has also regularly held annual pre-budget consultations, which I shall briefly refer to as the “committee budget consultations.” Committee budget consultations are organized by this committee and its staff and have previously resulted in public reports summarizing the submissions.⁴ However, in 2021, the government decided not to hold committee budget consultations.⁵

[5] Finally, my staff and I have been told that, in anticipation of the release of the budget, various members of provincial parliament may organize events with or make enquiries of their constituents and/or stakeholders to learn their views about spending and taxation options. My understanding is that such events are organized by the members in question and may vary widely in terms of how they are structured, however they do not feed into the pre-budget consultations held by the Ministry of Finance or the Standing Committee on Finance and Economic Affairs.

[6] In this inquiry, I am tasked only with investigating the events organized by or participated in by Mr. Cho and his staff. Whether or not any particular event was advertised as a “budget consultation” and what was meant by that term was a live issue throughout the investigation. This report describes the evidence gathered about these events and their organization in detail, including any witness references to the term “budget consultation.”

³ Online at <https://www.ontario.ca/page/2021-budget-consultations>

⁴ See, for example, the reports available on the Ontario Legislature’s website, online at <https://www.ola.org/en/legislative-business/committees/finance-economic-affairs/parliament-42/reports>

⁵ The fact that the government decided not to hold pre-budget consultations in the months preceding the budget is not in dispute and this decision is not subject to my review. A government member of the committee explained their rationale for this decision on the record at the committee hearing on April 1, 2021, as being that the committee had held “extensive consultations throughout the summer [of 2020].” See the transcript of this meeting posted online at <https://www.ola.org/en/legislative-business/committees/finance-economic-affairs/parliament-42/transcripts/committee-transcript-2021-apr-01>. The fact that the committee would not be holding pre-budget consultations and the government’s rationale had also been reported earlier by the media: see Smith Cross, Jessica “Opposition Slams Ford Government’s ‘Closed-Door’ Virtual Budget Consultations,” *QP Briefing*, February 1, 2021

II. LEGAL FRAMEWORK OF THE INQUIRY

1. Members' Integrity Act, 1994

i. Overview of the Act

[7] This inquiry arises from the authority granted to me as Integrity Commissioner under the Act.⁶

[8] The Act requires that members of provincial parliament arrange their private affairs so they can:

- broadly represent their constituents,
- promote public confidence, and
- maintain the respect and dignity of the Legislative Assembly of Ontario.⁷

[9] The Act establishes an Integrity Commissioner. The Integrity Commissioner provides guidance to individual members about their obligations under section 28 of the Act⁸. The Commissioner can also, upon the request of a member, conduct an inquiry regarding whether another member has failed to comply with the Act or parliamentary convention.⁹

ii. Ontario parliamentary convention

[10] The Act requires that members comply with "Ontario parliamentary convention."¹⁰

⁶ Act, s.23.

⁷ Act, preamble.

⁸⁸⁸ Act, s.28.

⁹ Act, s. 31.

¹⁰ The Act states that members may request an opinion and recommendations from the Commissioner regarding their compliance with Ontario parliamentary convention (s. 28). Members may also request that the Commissioner provide an opinion about whether another member has contravened Ontario parliamentary convention (ss. 30(1)). The Executive Council may request that the Commissioner provide an opinion about whether a member of the Executive Council has contravened Ontario parliamentary convention (ss. 30(5)).

[11] “Ontario parliamentary convention” is not defined in the Act. A “convention” is a generally accepted rule or practice.¹¹ The rules or practices that members accept as governing their ethical conduct form “Ontario parliamentary convention.”¹²

[12] Parliamentary convention is informed by the core principles set out in the Act’s preamble.¹³ Parliamentary convention is necessary for the administration of government in our democratic society and the maintenance of public trust.¹⁴

[13] It is a parliamentary convention that members cannot use government resources for partisan activities.¹⁵ This parliamentary convention is consistent with the Act’s preamble, which says that members must “broadly represent ... their constituents’ interests” and “act with integrity and impartiality.” The Act requires that members perform their obligations impartially and for the broad benefit of their constituents, not for specific groups or interests.¹⁶

[14] It is also a parliamentary convention that members do not use resources of the executive branch inappropriately to support their work in other capacities. For example – except for coordinating logistical issues such as a minister’s schedule – a minister cannot use the resources of his or her ministerial office to support the work of his or her constituency office.¹⁷ This convention flows from the separation of powers between the legislative and executive branches of government. It also accords with the Act’s preamble which states that members must “act with integrity and impartiality that will bear the closest scrutiny.”¹⁸

¹¹ Report re: The Honourable Lisa MacLeod, May 23, 2019, para.25 (quoting the Honourable Coulter A.A. Osborne) [“MacLeod Report”].

¹² Ibid.

¹³ Report Re: Sandra Pupatello, December 12, 2002, [“Pupatello Report”], para. 25.

¹⁴ MacLeod Report, paras. 21-22.

¹⁵ As noted in the MacLeod Report at para. 32, “[g]overnment resources, including constituency offices, telephone, computers, and the salaried time of staff, should be used to assist constituents and not for matters related to partisan politics.” Cases establishing or referencing the parliamentary convention against use of governmental resources for partisan activities include Report re: Ted Chudleigh, December 11, 2008 [“Chudleigh Report”] at paras. 19 to 23 and paras. 28 to 30; Report re: Laurie Scott, October 1, 2013 [“Scott Report”] at para. 10; Report re: Jagmeet Singh, June 26, 2015 [“Singh Report”] at p. 19; Report re: Daiene Vernile and Jeff Leal, December 22, 2015 [“Vernile and Leal Report”] at p. 4; Report re Randy Hillier, July 6, 2011 [“Hillier Report”] at paras. 29-30.

¹⁶ Report re The Honourable Brad Duguid, July 11, 2013 [“Duguid Report”] at para. 84.

¹⁷ Ibid.

¹⁸ Ibid.

- iii. The Commissioner may conduct an inquiry regarding whether a member has failed to comply with the Act or parliamentary convention

[15] A member 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.¹⁹

[16] Upon receiving such a request, I may conduct an inquiry and report my opinion to the Speaker of the Assembly.²⁰

[17] I must refuse to conduct an inquiry if I determine that the referral is frivolous, vexatious, not made in good faith or that there are no or insufficient grounds for an inquiry.²¹

2. The standard of proof in this inquiry

[18] The standard of proof I must apply in this inquiry is proof on the balance of probabilities. This means that I must find that the evidence proves that it is more likely than not that Mr. Cho breached the Act or parliamentary convention. The evidence must be clear, convincing, and cogent to satisfy the balance of probabilities test.²²

III. THE INQUIRY PROCESS

1. The request and Mr. Cho's response

[19] On March 12, 2021, Mr. Blais filed a request that I provide an opinion about whether Mr. Cho failed to comply with parliamentary convention. His request consisted of a letter and affidavit. He filed his request with the Speaker of the Legislative Assembly as required by the Act.

[20] Mr. Blais attached six documents to his affidavit, including four screen shots of tweets from the account @StanChoMPP showing photos of online events with PC riding associations and

¹⁹ Act, ss. 30(1).

²⁰ Act, s. 31.

²¹ Act, ss. 31(5).

²² *F.H. v. McDougall*, 2008 SCC 53 (CanLII), [2008] 3 SCR 41 at para 40.

university conservative clubs, and two screen shots of an email regarding an event with Mr. Cho and the Toronto-St Paul's PC Riding Association.

[21] Mr. Blais requested that I “investigate the series of partisan meetings that MPP Stan Cho participated in on February 4, 8 and 9, 2021 from his Ministry of Finance office, located at 7 Queen’s Park Cres, Toronto, ON and on the advertisement of a partisan budget consultation that he hosted in his capacity as Parliamentary Assistant to the Minister of Finance on February 10, 2021”.

[22] As is my practice, after Mr. Blais submitted his request for my opinion, I asked Mr. Cho for submissions about whether I should conduct an inquiry. Mr. Cho provided his response on March 19, 2021.

[23] On April 7, 2021, after reviewing the materials received from the members, I decided to begin an inquiry under section 31 of the Act and notified them of my decision to do so.

2. Evidence-gathering process

[24] At the outset of my inquiry, I chose to use the powers given to me under section 33 of the *Public Inquiries Act, 2009*. These powers allow me to require any person, by summons, to give evidence on oath or affirmation and to produce such documents as I may specify. Section 33 of the *Public Inquiries Act, 2009* also provides protections to witnesses at an inquiry, including protection from reprisal for their participation in the inquiry.

[25] On April 19, 2021, Mr. Cho provided me with documents pursuant to a request for more information.

[26] In May and June 2021, counsel and an investigator with my office interviewed four witnesses, including Mr. Cho, his special assistant, his legislative assistant, and his executive assistant. I attended the interview of Mr. Cho.

[27] Because of the restrictions in place due to the COVID-19 pandemic, all interviews were conducted via videoconference. None of the witnesses attended with counsel. I did not need to summons any of the witnesses. Documentary evidence was gathered from two witnesses.

[28] As a result of prior experience in conducting inquiries remotely, there were minimal delays in the inquiry process due to the COVID-19 pandemic. I was satisfied with the cooperation of all witnesses in the scheduling of their interviews and promptly producing relevant documents and information.

[29] Prior to reaching any conclusions, I provided Mr. Cho with a summary of the evidence gathered on which I intended to rely and invited him to make submissions before the final report was released. Mr. Cho was given a copy of the transcript of his interview and, given the nature of this case, had access to all the documentary evidence considered, consisting of the records he provided and the screenshots provided by Mr. Blais.

[30] On July 20, 2021, Mr. Cho reviewed a summary of evidence that was provided to him. Mr. Cho had no comments or corrections to the information.

V. EVIDENCE

1. Overview

[31] This inquiry revealed that on February 4, 8, 9 and 10, 2021, Mr. Cho participated in virtual “Zoom” meetings with post-secondary students from the University of Toronto Campus Conservatives, University of Waterloo Conservatives, Laurier Campus Conservatives and Guelph Campus Conservatives, and Progressive Conservative Party of Ontario riding associations in Toronto-Danforth, Scarborough Guildwood, and Toronto-St. Paul’s.

[32] These meetings were organized by Mr. Cho’s Legislative Assistant, David Lu. Mr. Lu reached out to each of the organizations and invited them to participate in what he described as pre-budget consultation meetings with Mr. Cho.

[33] Copies of emails that were sent to each of the organizations by Mr. Lu inviting them to participate in the meeting with Mr. Cho, as well the emails that went to the attendees, show that the events were planned and advertised as pre-budget or budget consultations.

[34] Mr. Lu claims to have received approval from Mr. Cho to schedule the meetings in question. Mr. Cho recalls directing his staff to organize meetings with partisan conservative groups; however, he denies having any knowledge or involvement in the categorization of the events as budget consultations.

[35] Mr. Cho has admitted that he participated in each of these meetings virtually from his Ministry of Finance office. Mr. Cho has admitted that he made an error in judgment in participating in these events from his ministry office.

2. MPP Cho's office

[36] Mr. Cho was elected as the MPP for Willowdale in the general election of June 7, 2018.

[37] On June 26, 2019, Mr. Cho was appointed Parliamentary Assistant to the Minister of Finance.

[38] As part of his responsibilities as Parliamentary Assistant to the Minister of Finance, Mr. Cho is involved in supporting the Minister of Finance in delivering his mandate, including the ministry budget consultation process.

i. Mr. Cho's involvement in the Budget consultation process

[39] Mr. Cho told me that, in his capacity as the Parliamentary Assistant to the Minister of Finance he did host 12 ministry budget consultations, virtually, in January and February 2021 in communities across Ontario. These meetings were organized by Ministry of Finance officials, who sent out official invitations to participate. They were moderated by Ministry of Finance staff, recorded, transcribed, and summarized in a report for the minister.

ii. Mr. Cho's Staff

[40] Mr. Cho has a small staff which works to support him in his work as MPP, and as Parliamentary Assistant to the Minister of Finance.

[41] Mr. Cho is provided with a global budget from the Legislative Assembly to support his work as an MPP. Out of this budget, he employs a small group of employees to support him in his work as MPP, including Mr. Lu whose title is legislative assistant.

[42] Mr. Cho is also provided additional resources from the Ministry of Finance to support his work as the Minister's Parliamentary Assistant, including the services of an executive assistant. Mr. Cho's executive assistant started initially as part of Mr. Cho's constituency staff, but when Mr. Cho was appointed Parliamentary Assistant, he became employed as a member of the Minister of Finance's office, assigned to support Mr. Cho. At all times, the executive assistant reported to Mr. Cho, not the Minister of Finance.

[43] While Mr. Cho's employees have specific roles and responsibilities, a practice developed in the office where staff responsible for constituency and legislative matters supported and assisted in Ministry of Finance work when required. This included sitting in on ministry meetings with Mr. Cho and staffing of ministry events.

[44] Mr. Cho supported this approach to work by his staff, stating in his interview "I have always been, even in my life before politics, not a micro-manager. I have high level duties for my staff, whether they be here at the ministry or at the constituency office, and we work towards outcomes."

iii. MPP Cho relies on his staff for daily management of his office

[45] Mr. Cho relies on his executive assistant and his legislative assistant for the management of his office and his day-to-day activities. The executive assistant and the legislative assistant are responsible for hiring of staff for the office, preparation of all materials for meetings, scheduling of meetings, and briefing of Mr. Cho. Mr. Cho said he does not control his schedule and that due

to the volume of work, he leaves decisions about events to his staff to organize. Mr. Cho and his staff advised that he has one calendar which is accessed by his staff and himself, which contains all his events for each day.

[46] Mr. Cho would receive a daily binder the evening before, or in the morning, setting out his agenda for the day and containing any briefing material for upcoming events, including a list of attendees for scheduled meetings. Mr. Cho told me that the whole day would be in the binder, including all scheduled meetings.

[47] In the course of this inquiry, my investigators asked for copies of the relevant calendar entries and binder materials. Mr. Cho's calendar did not show any entries for the events in question in this inquiry and there were no records in the daily binders used by Mr. Cho for the days in question.

[48] Regularly, Mr. Cho would also hold meetings with his "leadership team", which consisted of the executive assistant and legislative assistant. These meetings would be held in the mornings to go over the agenda for the day and any specific issues that may need to be addressed for the coming day.

iv. Ethics training for staff of MPP Cho

[49] Mr. Cho told me that he did not provide any training for his staff. In his words, "being a rookie MPP, I learned a lot of this job as I went, and they were part of that journey, but certainly I didn't provide any formal training."

[50] None of the staff who were interviewed were able to recall any formal training, including ethics training, that was provided by Mr. Cho's office. Mr. Cho's executive assistant recalled attending a session with me in November 2019 as part of a more general mandatory program for all new ministers' staff which was organized by the Premier's Office. This occurred after Mr. Cho had been appointed as Parliamentary Assistant and his executive assistant had become part of the minister's staff and was paid out of the ministry budget.

v. MPP Cho's understanding of his ethical obligations

[51] Mr. Cho stated that he is familiar with the Act and understands the purpose and value of it.

[52] Mr. Cho did not receive any training on the Act or on parliamentary convention, nor did he have any discussions with other members of provincial parliament about the Act or his obligations. He stated that he learned as he went along in his job. He admitted to me that he did not realize that using his office to participate in partisan meetings was a contravention of parliamentary convention.

3. Partisan Meetings from Ministry Office

[53] Sometime in late January 2021, Mr. Lu suggested to Mr. Cho and his executive assistant that he reach out to specific Conservative partisan groups to set up meetings with Mr. Cho. Mr. Lu informed my investigators that he received the "thumbs-up" from the executive assistant and Mr. Cho to go ahead and set up these meetings. Both Mr. Cho and his executive assistant confirmed the plan to reach out to these groups, that all three referred to as "stakeholders." The meetings were to replace the "pub night" style meetings that Mr. Cho had participated in with these groups prior to the pandemic. The goal, according to Mr. Lu, was to meet with these groups, hear their thoughts and see if they had any questions.

i. Meeting with the University of Toronto Campus Conservatives

[54] Mr. Lu reached out to a representative of the University of Toronto Campus Conservatives on January 29, 2021 at 1:08 p.m. to set up a virtual meeting for the club's members with Mr. Cho. In his text exchange with the representative, he stated that "Stan wants to do a pre-budget consultation with them." These text exchanges occurred through the afternoon and during regular office hours. Mr. Lu claims that he used his personal phone to send these text messages.

[55] Mr. Lu claims that this request for a meeting was a "poor choice of wording on my part." Mr. Lu explained that this was during the time that Mr. Cho was involved in official pre-budget

consultations through the Ministry of Finance and that this was on his mind when he scheduled this meeting.

[56] The Campus Conservatives' representative asked Mr. Lu via text whether the event should be advertised as a "pre-budget consultation", and Mr. Lu approved this messaging to the club members.

[57] On February 2, 2021 at 12:11 pm, the club representative shared the Zoom meeting link with Mr. Lu, with the topic of the meeting being listed as "UofT Campus Conservatives – Stan Cho Budget Consultation". The meeting was set for February 4 at 5 p.m. Mr. Lu admitted to approving the language for this announcement. He did not seek authorization from Mr. Cho or the executive assistant. Mr. Lu referred to the reference to the budget as a "hook for invitations".

[58] Mr. Lu participated in this meeting virtually, from his home. No notes or minutes were taken of the discussions that occurred at the meeting.

ii. Meeting with Scarborough Guildwood PC Riding Association

[59] On February 1, 2021 at 8:35 p.m., Mr. Lu reached out to the vice-president of the Scarborough Guildwood PC Riding Association to set up a virtual meeting for the association's members with Mr. Cho. Mr. Lu emailed the vice-president from his personal email but introduced himself as "working in MPP Stan Cho's office".

[60] Further, in his email Mr. Lu stated that "Our office is reaching out to different areas of Ontario as part of this year's pre-budget consultations." He went on to ask if the "riding association would be interested in having a small consultation session with your members in the coming weeks, facilitated by MPP Stan Cho, Parliamentary Assistant to the Minister of Finance." The subject line of the email that Mr. Lu sent stated: "MPP Stan Cho Hosting Pre-Budget Consultations".

[61] Mr. Lu told my investigators that he used his personal email to set up this meeting because he did not think it was appropriate to reach out to a riding association from his work email, but could not provide an explanation of why it would be inappropriate.

[62] The vice-president agreed to this meeting with Mr. Cho, stating in the email to Mr. Lu on February 3, 2021 at 10:59 p.m. that “We are happy to participate in a Pre-Budget Consultation, please thank MPP Cho for inviting our riding to do this important Consultation on Monday evening at 7 pm.” The vice-president went on to tell Mr. Lu that “I have told our PC Executive Members to bring some ideas for the Ontario Government to take.”

[63] On February 3, 2021, the vice-president of the riding association sent out an email to its members stating, “As I mentioned to nearly all of you, we were offered to participate in a Pre-Budget Consultation, The Willowdale MPP Stan Cho is doing the Consultation on Monday evening at 7 pm. Please see the Zoom link for the meeting below. Please bring some ideas for the Ontario Government to take. And remember that ideas can become policy.” The subject line of the email stated: “Pre-Budget Consultations with Scarborough Guildwood”.

[64] Mr. Lu participated in this meeting virtually, from his home. No notes or minutes were taken of the discussions that occurred at the meeting.

iii. Meeting with Toronto-Danforth PC Riding Association

[65] On February 1, 2021 at 9:16 p.m., Mr. Lu reached out to the Toronto-Danforth PC Riding Association to set up a virtual meeting for the association’s members with Mr. Cho. Mr. Lu emailed the representative from his personal email, but introduced himself as “working in MPP Stan Cho’s office”.

[66] Further, in his email to the representative, Mr. Lu stated that “Our office is reaching out to different areas of Ontario as part of this year’s pre-budget consultations, and would like to hear from the members in Toronto Danforth.” He went on to ask if the “riding association would be interested in having a small consultation session with your members in the coming weeks,

facilitated by MPP Stan Cho, Parliamentary Assistant to the Minister of Finance.” The subject line of the email that Mr. Lu sent stated: “MPP Stan Cho Hosting Pre-Budget Consultations”.

[67] On February 4, 2021, at 1:47 p.m. during regular working hours, Mr. Lu sent out the details for the Zoom call, scheduled for February 8, 2021 at 5 p.m. to the riding association representative. Later that day, the riding association representative sent out an email to the board of the riding association. The subject line of the email stated: “MPP Stan Cho Hosting Pre-Budget Consultations”. In the email, the representative states: “MPP Stan Cho has been kind enough to include us in some pre-budget consultations”. The email went on to state, “Please RSVP with your availability and topic discussions regarding the provincial budget to Stan.”

iv. Meeting with Toronto-St. Paul’s PC Riding Association

[68] On or about February 4, 2021, Mr. Lu reached out to the Toronto-St. Paul’s PC Riding Association to set up a virtual meeting for the association’s members with Mr. Cho. The virtual meeting was scheduled to take place on February 10, 2021.

[69] Prior to the event taking place, on February 4 at 10:42 a.m., the riding association sent Mr. Lu a draft invitation to the event that was going to be sent out to its members. In this invitation, the following language was used to describe the event: “I am pleased to invite you to join the Toronto-St. Paul’s PC Association for a pre-budget consultation with MPP Stan Cho, Parliamentary Assistant to the Minister of Finance. This is an excellent opportunity to share your thoughts directly with the Ontario government as they work to assemble the 2021 budget.” The subject line of the email invitation stated: “You’re Invited to a Pre-Budget Consultation with MPP Stan Cho!” Mr. Lu approved this invitation and asked the riding association to send any questions ahead of time to his attention.

[70] Several hours after seeing this draft, Mr. Lu emailed the riding representative and asked her to change the language in this invitation. He stated, “Can we just take out ‘pre-budget consultation’ from the subject and the intro paragraph? And say something like ‘A chat with MPP

Cho on the budget'. Just so when we post on social media, no one confuses this with the official MoF ones." These emails were sent during working hours.

[71] Mr. Lu told my investigators that the reason for the change in the invitation was because the language might cause some confusion with the attendees on what exactly was the intended purpose of the meeting.

v. [Meeting with University of Waterloo Campus Conservatives, Laurier Campus Conservatives and Guelph Campus Conservative Clubs](#)

[72] On January 19, 2021, MPP Cho's office was contacted by a representative of the Waterloo, Laurier and Guelph Campus Conservatives clubs, to invite Mr. Cho to be a guest speaker at a virtual pub-night. The event was scheduled for February 9, 2021 at 6 p.m.

[73] Mr. Lu was not the contact person for this event, and this event was not advertised as a pre-budget consultation. The invitation for the event did however state, "This Tuesday we have a Q&A with MPP Stan Cho! Stan is the Parliamentary Assistant to the Minister of Finance, so he'll have good insight on Ontario's new budget!"

[74] No evidence was uncovered in the course of this inquiry to show that Mr. Cho or anyone from his staff was responsible for, or provided any input into, the invitation for this event.

4. [Mr. Lu's evidence regarding his use of personal email, working hours and the characterization of the invitations](#)

[75] When asked by my investigators why he sent the emails above from his personal email, Mr. Lu responded "because, you know, to a certain extent, they are partisan events. Yes, I just, you know, had a quick thought that I should be using my personal email for these kind of contacts with partisan people."

[76] When asked by my investigators about his working hours and some of the times when he sent these emails, Mr. Lu responded "it's later than normal working hours, but as you know, Ontario legislature employees aren't entitled to working hours."

[77] When asked by my investigators, both Mr. Cho and his executive assistant said that Mr. Lu would have, and should have, known that these meetings that were the focus of this inquiry were not in any way budget consultations.

[78] When asked by my investigators why he went through the trouble of sending emails from his personal email, but referring to his formal title and referencing these events as pre-budget consultations, Mr. Lu admitted that this was negligence on his part.

[79] Mr. Lu told my investigators that for each of the events that was advertised as a pre-budget consultation, he made a call to the organizers before the event “to make sure that people understood that, you know, what we’re doing with these riding associations should not be, you know, considered as an MOF consultation.”

VI. ANALYSIS AND FINDINGS

1. Issue

[80] The sole issue in this matter arising from Mr. Blais’ request is whether Mr. Cho breached parliamentary convention by using legislative resources to advance his participation in certain partisan events.

[81] I have identified a further issue arising from the evidence taken in this inquiry concerning the appropriateness of allocating staff resources in Mr. Cho’s office between legislative staff and ministers’ staff. This will be dealt with under a separate heading “Other Issues Arising in the Inquiry”.

2. Parliamentary Convention

[82] The specific parliamentary convention involved in this case is the prohibition on the use of legislative resources for partisan purposes.

[83] The rationale for this parliamentary convention is rooted in the fact that members are provided with legislative resources from public funds. Each member is provided with an office,

equipment and a legislative email account. Each member is provided with a global budget from the Legislative Assembly from which they can hire staff, rent a constituency office, and pay for travel, accommodation etc. The member's staff are employees of the member and are provided with legislative email accounts, phones and laptops by the member who then expenses the cost of these items through his or her global budget. These publicly-funded resources are provided to assist the members in their duties to respond to the requests from all of their constituents and not for participation in partisan activities.

[84] This is not to say that a member's constituency staff or Queen's Park²³ staff cannot participate in partisan activities. Commissioner Lynn Morrison commented on this point in the Singh Report²⁴. One of the issues in that report concerned the involvement of the member's constituency staff in organizing a rally for the federal leader of the NDP:

Before I address these issues, it is necessary to provide some context regarding the assistance that Queen's Park and constituency office staff at times provide to members with partisan activities. It is my understanding that it is not unusual for staff in these roles to be involved in partisan activities on their own time, either for the member that they serve or otherwise. There is nothing that prevents them from doing so provided they are using their own time and resources.

In respect to constituency office staff, Ontario parliamentary convention prohibits them from engaging in any partisan activities from the constituency office. This includes times when they may be inside the constituency office but not necessarily "on the clock" (for example, during break times). This also means that they are prohibited from using any constituency office resources to engage in these activities, including email accounts, telephones and computers. This parliamentary convention is important to ensure that the constituency office serves all constituents in the riding regardless of political affiliation.

This parliamentary convention also extends to any legislative resources available to members. This means that members and their Queen's Park staff are also prohibited from using Legislative Assembly email accounts, telephones and computers for partisan purposes. It would be a breach of Ontario parliamentary convention to use these resources in connection with partisan activities²⁵.

²³ In this report, Queen's Park staff refers specifically to the employees of MPPs paid through the global budget from the Legislative Assembly. This staff may also be referred to as "legislative staff".

²⁴ Singh Report, *supra* note 15.

²⁵ *Ibid* at pages 15 and 16.

3. Application

[85] The facts in this case are not in dispute. Mr. Cho admits that he used his office at the Ministry of Finance to conduct meetings with university campus political organizations and Progressive Conservative Party of Ontario riding associations. The very nature of these groups leaves no question that the meetings were partisan activities. In his interview Mr. Cho admitted that by using his Ministry of Finance office to participate in these meetings he committed an error in judgment. At the time of the meetings he claimed that he was unaware of the parliamentary convention prohibiting the use of legislative resources for partisan purposes. He acknowledged that as a result of this inquiry he is now fully aware of the convention.

[86] Mr. Cho's admission is sufficient to establish a breach of the parliamentary convention involved in this matter, however the circumstances leading up to the meetings point to a breach that is even more serious than the one to which Mr. Cho has admitted.

[87] I accept Mr. Cho's statement that he simply asked his staff to set up conversations with groups such as the ones with which he engaged prior to the pandemic. I also accept his evidence that he was unaware that his legislative assistant, Mr. Lu, had described these events to the organizers as pre-budget consultations with Mr. Cho. Mr. Lu acknowledged that Mr. Cho never directed him to characterize the meetings in this fashion. At first Mr. Lu stated that it was a poor choice of wording on his part when he reached out to the University of Toronto Campus Conservatives. He explained that since Mr. Cho was involved with pre-budget consultations through the Ministry of Finance, this was on his mind when he scheduled the meeting. Notwithstanding this explanation I note that the same pre-budget consultation message was used a few days later in his communications with the club's representative. In his interview Mr. Lu later referred to the wording as "a hook for invitations" which I find to be more likely given that it was used in all invitations to other groups.

[88] The wording used or approved by Mr. Lu was not only unauthorized by Mr. Cho but it was also misleading to the groups involved because, unlike ministry and committee budget consultations, where notes are taken, feedback recorded and summaries delivered to the

Minister as part of a formal process, there was never any intention by Mr. Cho to use these meetings to inform the budget process in any way. And Mr. Lu knew this.

[89] Mr. Lu was obviously conscious that arranging these meetings might be beyond the scope of his duties as legislative assistant to Mr. Cho. This was reflected by the fact that he used his personal email rather than his work email when he reached out to the Scarborough Guildwood PC riding association. He could not explain why he felt it was more appropriate to set up these meetings using his personal email account. His intuition was correct but unfortunately it did not extend to the timing of many of his communications with several of the groups which were made during normal business hours.

[90] Mr. Lu also appeared to have second thoughts about the language used in the Toronto Danforth PC riding association's proposed invitation to its members, which he initially approved, again describing the event as a pre-budget consultation and describing Mr. Cho as "Parliamentary Assistant to the Minister of Finance" as if to tie in Mr. Cho's position as lending greater weight to the pre-budget consultation. Had this invitation gone out with that language it would have been more deceptive as to the real significance of the meeting. In fact, in his complaint Mr. Blais stated that Mr. Cho hosted these meetings in his capacity as the Parliamentary Assistant to the Minister of Finance. But other than the draft of the Toronto Danforth invitation, I could find no other invitation that went out to the various groups involved describing Mr. Cho in his Parliamentary Assistant role. Several hours after approving the draft, Mr. Lu emailed the riding representative and asked that the wording be changed and to characterize the event as "A chat with MPP Cho on the budget".

[91] Although Mr. Cho had no knowledge of how Mr. Lu was implementing his direction to set up virtual pub nights, that lack of knowledge does not necessarily absolve him of any responsibility for what was done by his staff. In some Commissioners' reports, members have been found not to have breached parliamentary convention when they had no knowledge of the actions of their staff²⁶. But there are also reports where the actions of a member's staff have

²⁶ Duguid Report and Report re: The Honourable Peter Bethlenfalvy, October 21, 2020 ["Bethlenfalvy Report"]

been attributed back to the member. In the Scott Report²⁷, although the member was unaware as to how a partisan message was posted on her constituency website, she was found responsible since the website was held to be such a critical communications tool for her constituency that the onus was on her to ensure that its content was compliant with the parliamentary convention requiring constituency offices and websites to be devoid of partisan content.

[92] Of greater relevance to the case at hand is the Singh Report²⁸ referred to earlier. In that case it was held that errors occurred because the member's staff did not properly understand the requirement to keep partisan matters out of the constituency office. The lack of training and oversight of his staff by the member was found to have contributed to the contravention. Mr. Singh was found to have breached the convention as a result.

[93] In this case, Mr. Cho gave the initial direction to his staff but did not supervise the implementation. He made no effort to ensure that the arrangement of these partisan meetings was done outside of normal business hours and not from the office. In fact, the evidence discloses that there was no consideration given by Mr. Cho that legislative resources, including staff time, were not to be used for partisan purposes. The lack of training and direction to staff was an obvious consequence of Mr. Cho being unaware of the parliamentary convention in the first place.

VII. OTHER ISSUES ARISING IN THE INQUIRY

1. Allocation of staff resources within Mr. Cho's office

[94] One telling statement was made by Mr. Cho during his interview and it was this:

I have always been, even in my life before politics, not a micro-manager. I have high level duties for my staff, whether they be here at the ministry or at the constituency office, and we work towards outcomes.

²⁷ Scott Report, *supra* note 15

²⁸ Singh, *supra* note 22.

[95] This statement was made to explain why staff responsible for constituency and legislative matters would support and assist in Ministry of Finance work when required. While the statement may have a superficial appeal to a principle of efficiency, it ignores the boundary that must exist between Queen's Park or constituency office staff on the one hand and a minister's staff on the other. The basis for this distinction is that a minister's staff are paid from funds allocated by the ministry for ministry work while Queen's Park and constituency office staff are paid from the member's global budget provided by the Legislative Assembly for a different set of duties on behalf of the member.

[96] It is inappropriate for a minister, or a parliamentary assistant like Mr. Cho who has ministry resources assigned to him, to allocate those resources to a constituency office or a Queen's Park office. Similarly, resources allocated for a member's constituency office or Queen's Park office from the member's global budget should not be assigned to do work for the minister's office. This parliamentary convention was identified by Commissioner Morrison in the Duguid Report.²⁹

[97] The application of this convention is now particularly relevant to the allocation of resources in Mr. Cho's office since he recently became a minister. Keeping the duties of his ministerial staff separate from those of his legislative office and constituency office, who assist him with his duties as an MPP, is all the more essential now.

VIII. CONCLUSIONS

[98] In conclusion I find that Mr. Cho not only breached parliamentary convention by using his Ministry of Finance office to participate remotely in partisan meetings, but he also failed to provide adequate supervision, direction and training to his staff to ensure that they did not participate in partisan activities while using legislative resources, including time.

[99] I am satisfied that there is no need to recommend a penalty in this matter since Mr. Cho was unaware of the convention involved and this inquiry has cured that deficiency. Mr. Cho has

²⁹ Duguid, *supra* note 16.

fully cooperated in this inquiry as have his staff. I have had a subsequent interview with Mr. Cho after he was appointed to the cabinet and I am persuaded that he has a keener sense of the responsibilities he has in relation to the allocation of his staff's resources.

[100] I am advised that Mr. Lu has subsequently taken a new position supporting Mr. Cho in his new role as an associate minister and therefore is to receive training as to his ethical responsibilities as ministers' staff. This training is regularly coordinated by my Office with the Premier's Office for all new ministers' staff, at which I make presentations on the *Public Service of Ontario Act, 2006* (PSOA) and the Conflict of Interest Rules (the Rules) that were drafted specifically to apply to ministers' staff and emphasize the importance of the conventions covered in this inquiry.

[101] As a result, the circumstances underlying the request made by Mr. Blais should be fully mitigated and no penalty is necessary.

[102] As a final observation I note that the only reason Mr. Cho attended these meetings from his Ministry of Finance office was due to the pandemic. Otherwise they would have been held as "pub nights" in person as they had in the past. I find it interesting to see how the pandemic has intersected with our ethical rules in this way.

IX. RECOMMENDATIONS

1. Training for all MPP staff on the Members' Integrity Act, 1994 and parliamentary convention

[103] It is ultimately the responsibility of MPPs to hire, train and assign work to their staff. Members are no doubt aware that the actions of their staff reflect on them – both positively and negatively – and I and past Integrity Commissioners have issued several reports where the actions of staff have contributed to a finding where a member has breached the Act. For these reasons, I recommend that all MPPs ensure that as staff are hired at Queen's Park and in constituency offices, they are made aware of the ethics rules for MPPs under the Act, including the principles related to parliamentary convention such as not using legislative and constituency resources for

partisan activities. These employees should be explicitly told that there are activities that MPPs can do during working hours that staff cannot, for example engaging in partisan activity. Upon request, my Office is prepared to assist members in meeting this responsibility.

2. Ministers and parliamentary assistants be made aware of the distinction in staff roles

[104] When an MPP becomes a minister or a parliamentary assistant, the number of staff they have invariably increases. These additional staff members are ministerial staff, and exist to support the minister or parliamentary assistant's duties related to their portfolio. As noted earlier in this report, it is parliamentary convention that members do not use resources of the executive branch inappropriately to support their work as MPPs or in other capacities. Save for the coordination of logistical issues such as a minister's schedule, there must be a bright line between the work of a minister's or parliamentary assistant's staff, and the work of that individual's Queen's Park or constituency staff supporting them as an MPP. This must be made apparent to all ministers and parliamentary assistants, especially when they are appointed. While my Office can assist in emphasizing this distinction, I recommend that the Premier's Office, with the assistance of the Cabinet Office, include this information in its resources and orientation for ministerial offices.

3. Ethics rules for Queen's Park and constituency staff be implemented and made consistent with rules for ministers' staff

[105] At present only ministers' staff are subject to the PSOA and the Conflict of Interest Rules, which creates anomalies and frequent confusion about which rules apply and to whom. For example, an MPP's constituency and Queen's Park staff are not subject to the PSOA's confidentiality requirement, gift rule, and political activity restrictions, since only ministers' staff are considered public servants under the PSOA and are therefore subject to it. Queen's Park and constituency staff do not have written ethics rules specific to them and must rely on their own moral compass, or any advice I can provide under the *Members' Integrity Act, 1994* as it relates to how an action or matter might reflect on their MPP. In my opinion, many problems could be avoided if the same ethics rules applied to all staff who support a member, be it as an MPP, a minister or a parliamentary assistant. Whether this is accomplished through legislation or

agreement among the Legislative Assembly's House Leaders I leave to the members to decide. I can only identify the problem that exists and offer my Office's knowledge and experience with this gap in the ethics rules in order to assist in finding a solution.

Dated at Toronto this 14th day of September, 2021.

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