



# **CODE OF ETHICS AND CONDUCT OF THE MEMBERS OF THE NATIONAL ASSEMBLY<sup>1</sup>**

**FILE: DE-01-2012**

## **ETHICS COMMISSIONER'S REPORT TO THE PRESIDENT OF THE NATIONAL ASSEMBLY**

**with regard to Ms. Nathalie Normandeau,  
Member for Bonaventure and Cabinet Minister  
until September 6, 2011**

**JACQUES SAINT-LAURENT  
ETHICS COMMISSIONER**

**March 28, 2012**

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1. R.S.Q., chapter C-23.1.

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ADMISSIBILITY OF THE INQUIRY REQUEST filed by the Member for La Peltrie.

[1] On January 16, 2012, the Member for La Peltrie, Éric Caire, requested that the Ethics Commissioner conduct an inquiry under the *Code of Ethics and Conduct of the Members of the National Assembly*.

### **PREAMBLE**

[2] The purpose of the *Code of Ethics and Conduct of the Members of the National Assembly* (the Code) is to affirm the principal values of the National Assembly embraced by its Members, to set out the rules of conduct which they must observe, and to provide for the application and enforcement of those rules.<sup>2</sup>

[3] The Ethics Commissioner is responsible for the administration of the Code and comes under the National Assembly.<sup>3</sup>

[4] In addition to rules of conduct applicable to all Members,<sup>4</sup> the Code sets out special rules of conduct for Cabinet Ministers,<sup>5</sup> including post-term rules<sup>6</sup> for former Cabinet Ministers.

[5] A Member who has reasonable grounds for believing that another Member has violated sections 10 to 40 or 42 to 61 of the Code may request that the Ethics Commissioner conduct an inquiry into the matter.<sup>7</sup> The request must be made in writing and set out the reasonable grounds for the belief that a violation has occurred.

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2. Section 1 of the Code.

3. Section 3 of the Code.

4. Title II of the Code.

5. Title III of the Code.

6. Sections 56 to 61 of the Code.

7. Section 91 of the Code.

**INQUIRY REQUEST**

[6] On January 16, 2012, the Commissioner, having already been informed of the matter via the media, received an inquiry request from the Member for La Peltrie. The request was first faxed to the Commissioner, then delivered by messenger service.

[7] The Member for La Peltrie submitted that certain verifications were necessary. Nathalie Normandeau had been appointed Vice-President of Strategic Development at Raymond Chabot Grant Thornton whereas, until September 6, 2011, she had been the Member for Bonaventure and a Cabinet Minister. It was contended that this was in violation of post-term rules.

[8] The Member for La Peltrie was of the opinion that the firm which Ms. Normandeau was to join was very actively involved in mining companies and had publicly manifested its interest in the Northern Plan. Until September 6, 2011, Ms. Normandeau was the Minister responsible for the Northern Plan.

[9] On January 16, 2012, the undersigned informed Ms. Normandeau, by phone and by email, of the inquiry request which he had received from the Member for La Peltrie.

[10] On January 17, 2012, an acknowledgement of receipt was sent to the Member for La Peltrie and a copy of his inquiry request was sent by letter to Ms. Normandeau.

[11] On January 20, 2012, the Commissioner summoned the Member for La Peltrie and Ms. Normandeau to separate meetings scheduled for January 27, 2012.

[12] At this stage, when the inquiry request was being examined as to its admissibility, the purpose of the meetings was to inform the two parties as to the precise extent of the Commissioner's powers, since sections 56 to 61 of the Code came into force on January 1, 2012, after Ms. Normandeau's resignation on September 6, 2011. In addition, the Commissioner wished to hear details or observations with regard to the reasonable grounds for believing that a violation of the Code had occurred.

**Éric Caire:**

[13] A meeting was held in the Commissioner's office on January 27, 2012. The Member for La Peltrie was accompanied by a member of his office, François

St-Hilaire. The undersigned was assisted by Denis Lemieux.<sup>8</sup> Mr. Caire presented his observations in three points.

[14] First, the Member for La Peltrie claimed that there were reasonable grounds for believing that a violation of post-term rules had occurred, since the strategic development of the firm for which Ms. Normandeau would be responsible as Vice-President includes the Northern Plan.

[15] The Member for La Peltrie added that, in his view, the information made public by Raymond Chabot Grant Thornton with regard to the new Vice-President's powers and duties was insufficient. No assurances were given that the former Minister responsible for the Northern Plan would not be at risk of disclosing confidential information or giving advice on such topics as the Government's strategic aims. There was no sufficient guarantee that Ms. Normandeau would not do anything, or be compelled to do anything, that could bring her into conflict with her ethical obligations.

[16] Second, the Member for La Peltrie noted that the Code came into force progressively beginning on December 8, 2010. On December 3, 2010, like all Members present in the House, Ms. Normandeau voted in favour of adopting the Code. In doing so, she endorsed all of its sections, including the post-term rules, and is duty bound to respect them.

[17] The Member for La Peltrie maintained that the situation differed from that of a Cabinet Minister leaving office before the Code was assented to on December 8, 2010.

[18] Third, the Member for La Peltrie asked the Commissioner to state the rules which would apply if a similar case occurred after January 1, 2012. Would a violation of the Code then be judged to have taken place? He argued the Commissioner had to establish guidelines for the benefit of all Members.

[19] In conclusion, the Member for La Peltrie submitted that the line between what the former Minister could and could not do as part of her new duties was not sufficiently clear, but remained too loosely defined and easy to cross. He further maintained that Ms. Normandeau and her new employer must not be left without a clear framework in the face of the risk this represents.

**Nathalie Normandeau:**

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8. Lawyer Denis Lemieux is a professor with the Law Faculty of Université Laval and legal adviser with the firm of Tremblay Bois Mignault Lemay.

[20] A second meeting was held in the Commissioner's office on January 27, 2012. Ms. Normandeau was accompanied by Bernard Rochette, lawyer and Vice-President of Corporate and Legal Affairs with Raymond Chabot Grant Thornton. Denis Lemieux again assisted the Commissioner. Ms. Normandeau presented her observations in three points.

[21] First, Ms. Normandeau questioned whether the Code's post-term rules applied in her case. Having vacated her office as Cabinet Minister and Member for Bonaventure on September 6, 2011, she maintained that the Code's rules of conduct, which came into force on January 1, 2012, did not apply in the circumstances and that the inquiry request submitted by the Member for La Peltre should be found inadmissible.

[22] Second, Ms. Normandeau emphasized that she had not yet begun her term as Vice-President with Raymond Chabot Grant Thornton. Her start date was May 1, 2012.

[23] Ms. Normandeau stated that, in exercising her new duties, she would respect the spirit of the Code. She referred to the commitments she had made in 2003 on becoming a Cabinet Minister, when she pledged, among other things, to comply with the Premier's Directive and respect the "Lobbying Act". She mentioned that, as Vice-President of Raymond Chabot Grant Thornton, she would be extremely careful to take into account the post-term rules set out in the Premier's Directive and would respect her oath of confidentiality. The Vice-President of Corporate and Legal Affairs, Bernard Rochette, added that he would assist Ms. Normandeau in complying with those rules, in order to avoid any potentially problematic situation.

[24] While serving as a Cabinet Minister, Ms. Normandeau had no communications or contact with the firm of Raymond Chabot Grant Thornton.

[25] Third, Ms. Normandeau maintained that the Commissioner should not give an opinion as to the possibility of a similar case arising after January 1, 2012. She noted that the Commissioner could not intervene unless the facts justified the application of the Code. In the present case, she said, the facts did not establish that rules of conduct had been violated.

[26] As both the Member for La Peltre and Ms. Normandeau were informed by the Commissioner on January 20, 2012, the next step required is to determine the admissibility of the inquiry request.

## **ADMISSIBILITY**

[27] Two questions had to be considered with regard to the inquiry request made by the Member for La Peltrie. First, do sections 56 to 61 of the Code, which came into force on January 1, 2012, apply to persons who vacated their office of Cabinet Minister before that date? Second, if those sections do apply, did the request show that there were reasonable grounds for believing that a violation of the Code had occurred?

**Coming into force:**

[28] The post-term rules of conduct set forth in sections 56 to 61 of the Code apply only to Cabinet Ministers. In accordance with section 133 of the Code, they came into force on January 1, 2012. There is no doubt that these new rules apply to cases arising on and after that date.

[29] However, it must also be determined in which cases the new rules are to apply to former Cabinet Ministers. In this regard it is necessary to verify, in each case, when the person concerned held office as a Cabinet Minister.

[30] The Code's post-term rules apply to Cabinet Ministers who left or leave office on or after January 1, 2012, but not to Cabinet Ministers who left office before December 8, 2010.

[31] For the period between December 8, 2010, and January 1, 2012, the Code has legal implications for all persons who were then Members of the National Assembly.

[32] Sections 51 to 55 of the Code came into force on July 1, 2011. These sections deal with the obligation of Cabinet Ministers to file with the Commissioner a statement disclosing their private interests and those of their family members. The first paragraph of section 130 specifies that a Cabinet Minister in office on July 1, 2011, must file a disclosure statement with the Ethics Commissioner in accordance with section 51 not later than September 30, 2011.

[33] Without this legislative provision, which targets Cabinet Ministers in office on a specific date, the obligation to file a statement of private interests would have applied to all Cabinet Ministers in office as of December 8, 2010, including those who were no longer in office on July 1, 2011.

[34] The legislator could have specified that the post-term rules (sections 56 to 61) apply only to Cabinet Ministers in office on January 1, 2012, by enacting rules similar to those governing the disclosure of private interests, which apply only to Cabinet Ministers in office on July 1, 2011.

[35] Since the legislator did not otherwise specify in which cases the post-term rules were to apply to former Cabinet Ministers, it follows that, with regard to acts or conduct occurring after January 1, 2012, the obligations ensuing from the post-term rules apply to every Cabinet Minister who was subject to the Code after December 8, 2010.

[36] In sections 57 and 58 of the Code, the legislator makes the context of a past office clear by referring to “Former Cabinet Ministers”. The legislator could have used a present-tense verb by referring to “Cabinet Ministers who cease to hold office”.

[37] By specifying “former” Cabinet Ministers, the legislator expresses the intention that the post-term rules apply to Cabinet Ministers who left office before January 1, 2012.

[38] In my view, for acts or conduct occurring after January 1, 2012, sections 56 to 61 apply<sup>9</sup> to Ms. Normandeau, who was a Cabinet Minister between December 8, 2010 and September 6, 2011.

[39] Section 81 of the Code reads as follows:

*81. The Ethics Commissioner retains his or her authority in respect of a former Member for a period of five years after the end of the person’s term. Even after the expiry of that period, the Ethics Commissioner may continue an inquiry that had already begun.*

[40] In answer to the first question, with regard to acts or conduct occurring after January 1, 2012, the inquiry request dated January 16, 2012, is admissible given that sections 56 to 61 apply to former Cabinet Ministers who left office after December 8, 2010.

**Reasonable grounds for belief:**

[41] The Code places certain limits on the activities of former Cabinet Ministers. Where a violation of post-term rules has been alleged, sections 57, 58, 59 and 60 must be considered.

[42] It is appropriate to consider section 60 first, since Ms. Normandeau was appointed Vice-President with Raymond Chabot Grant Thornton.

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9. At the Commissioner’s request, Denis Lemieux gave a legal opinion on this subject. The opinion, dated March 23, 2012, is appended to this report.

[43] Section 60 places limits, for a transition period of two years, on the activities former Cabinet Ministers may engage in as part of their new functions:

**60.** *Cabinet Ministers may not, in the two years after they leave office,*

*(1) accept any appointment to a board of directors or as a member of any body, agency, enterprise or other entity that is not a State entity and with which they had official, direct and significant dealings in the year preceding the cessation in office, or accept employment, a position or any other post within such an entity; and*

*(2) unless they are still Members and subject to the prohibition set out in section 14, intervene on behalf of anyone else with any department or other State entity with which they had official, direct and significant dealings in the year preceding their cessation in office.*

[44] First, with regard to paragraph 1 of that section, I note that Ms. Normandeau did in fact accept an appointment as Vice-President of Strategic Development with Raymond Chabot Grant Thornton. She therefore accepted a position with a company that is not a State entity as defined in section 56.<sup>10</sup>

[45] Second, when section 60 came into force, the two-year transition period was still in progress; it will end on September 5, 2013.

[46] Third, did Ms. Normandeau have official, direct and significant dealings with her future employer during the year before she left office?

[47] In point of fact, the Member for La Peltrie gives no reasonable grounds for believing that Ms. Normandeau had such official dealings or that, by accepting a position as Vice-President with Raymond Chabot Grant Thornton, she was in violation of section 60. The Member for La Peltrie does not claim that Ms. Normandeau should have turned down the offer of Raymond Chabot Grant Thornton; rather, he maintains that a framework must be respected as regards the activities she may be called upon to engage in for her new employer.

[48] For her part, during the meeting of January 27, 2012, Ms. Normandeau stated that she had had no communications with Raymond Chabot Grant Thornton while she was a Cabinet Minister.

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10. The text of sections 56 to 61 are appended to this report.



[49] Given the information brought to my attention by both the Member for La Peltrie and Ms. Normandeau, the inquiry request is inadmissible since there are currently no reasonable grounds for believing that a violation of section 60 has occurred.

[50] Sections 57, 58 and 59 read as follows:

**57.** *Former Cabinet Ministers must conduct themselves so as not to obtain undue benefit from their prior office.*

**58.** *Former Cabinet Ministers must not disclose confidential information obtained in or in connection with the carrying out of the duties of office, and must not give advice to any person based on information not available to the public, obtained in or in connection with the carrying out of the duties of office.*

**59.** *Cabinet Ministers who acted in connection with a proceeding, negotiation or other transaction may not act for or on behalf of anyone else in the same proceeding, negotiation or other transaction after leaving office.*

[51] The question of whether a former Cabinet Minister obtained undue benefit from his or her prior office, disclosed confidential information, gave advice based on information not available to the public, or acted for or on behalf of someone else in the same proceeding, negotiation or other transaction must be considered in light of the facts and of the activities engaged in by the former Cabinet Minister while employed by the business concerned.

[52] Ms. Normandeau has not yet begun to work for Raymond Chabot Grant Thornton. Her term as Vice-President of Strategic Development begins on May 1, 2012. At present, no facts have come to light which demonstrate that there are reasonable grounds for believing that a violation of section 57, 58 or 59 has occurred.

[53] The grounds given by the Member for La Peltrie to request an inquiry by the Commissioner are not supported by facts demonstrating that a violation of the Code has occurred.

[54] To answer the second question, the inquiry request of January 16, 2012, is inadmissible given the absence of facts demonstrating that there are reasonable grounds for believing that a violation of the Code has occurred.

**SIMILAR CASE**

[55] The Member for La Peltrie asked the Commissioner to tell him how the rules would be applied if a similar case arose after January 1, 2012.

[56] As mentioned earlier, Ms. Normandeau has not yet begun to work for Raymond Chabot Grant Thornton. Her term as Vice-President of Strategic Development begins on May 1, 2012. At present, no facts have come to light which demonstrate that there are reasonable grounds for believing that a violation of section 57, 58 or 59 has occurred.

[57] If a similar case arose with regard to a Cabinet Minister who left office after January 1, 2012, I would, in a similar manner, have to conclude that no facts have come to light which demonstrated that there are reasonable grounds for believing that a violation of section 57, 58 or 59 has occurred.

[58] In a similar case, the request filed with the Commissioner would be unfounded, given the absence of reasonable grounds for believing that a violation had occurred.

**APPLICABLE RULES**

[59] As mentioned earlier, the Member for La Peltrie asked the Commissioner to inform the Members as to the “guidelines” to be respected when a Cabinet Minister leaves office.

[60] While each case must be considered on the basis of its own merits, in the final analysis, the legal framework to be respected by former Cabinet Ministers is given in sections 56 to 61.

[61] Former Cabinet Ministers are subject to the following obligations:

- They must never obtain undue benefit from their prior office.<sup>11</sup>
- They must never disclose confidential information obtained in or in connection with the carrying out of the duties of office.<sup>12</sup>
- They must never give advice to any person based on information not available to the public, or obtained in or in connection with the duties of office.<sup>13</sup>

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11. Section 57 of the Code.

12. Section 58 of the Code.

- If, during their time as Cabinet Ministers, they acted in connection with a proceeding, negotiation or other transaction, they must never act for or on behalf of anyone else in the same proceeding, negotiation or other transaction after leaving office.<sup>14</sup>
- In the two years after leaving office, they may not accept any appointment to a board of directors or as a member of any body, agency, enterprise or other entity that is not a State entity within the meaning of section 56, or accept employment, a position or any other post within such a body, agency, enterprise or entity with which they had official, direct and significant dealings in the year preceding the cessation in office.<sup>15</sup>
- In the two years after leaving office, unless they are still Members and subject to the prohibition set out in section 14, they must not intervene on behalf of anyone else with any department or other State entity with which they had official, direct and significant dealings in the year preceding their cessation in office.<sup>16</sup>

[62] In summary, former Cabinet Ministers must, in certain cases and in light of their official, direct and significant dealings in the year preceding their cessation in office, refrain from accepting an appointment or position and from intervening on behalf of another person.

[63] Where former Cabinet Ministers are not obliged to turn down an appointment or position because section 60 does not apply, they must, in all circumstances and pursuant to sections 57, 58 and 59, refrain from obtaining undue benefit from their prior office, refrain from disclosing confidential information obtained in or in connection with the carrying out of the duties of office, refrain from giving advice based on information not available to the public or obtained in or in connection with the carrying out of the duties of office, and refrain from acting for or on behalf of another person in any procedure, negotiation or other transaction in which they were involved as Cabinet Ministers.

[64] Former Cabinet Ministers must inform their new employer of the obligations ensuing from post-term rules. Similarly, the employer must inform the staff of the rules that must be respected by the former Cabinet Minister.

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13. Ibid.

14. Section 59 of the Code.

15. Section 60 of the Code.

16. Ibid.

[65] In its essentials, the inquiry request filed by the Member for La Peltrie on January 16, 2012, is unfounded.

**CONCLUSION**

[66] The Ethics Commissioner is of the opinion that the inquiry request filed on January 16, 2012, by Éric Caire, Member for La Peltrie, with regard to Nathalie Normandeau, Member for Bonaventure and Cabinet Minister until September 6, 2011, is unfounded.

**RECOMMENDATION**

[67] The Ethics Commissioner makes no recommendation, being of the opinion that the inquiry request is unfounded.

(s) Jacques Saint-Laurent

**JACQUES SAINT-LAURENT**  
*Ethics Commissioner*

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