

SUMMARY¹

Inquiry Report from the Ethics Commissioner regarding Mr. Pierre Fitzgibbon,
the Minister of Economy and Innovation and Member for Terrebonne

October 28, 2020

The report concerns the Minister of Economy and Innovation and Member for Terrebonne Mr. Pierre Fitzgibbon. It was prepared under the *Code of ethics and conduct of the Members of the National Assembly* (the “Code”) at the request of the Member for René-Lévesque Mr. Martin Ouellet, the Member for Rosemont Mr. Vincent Marissal and the Member for Acadie Ms. Christine St-Pierre. The purpose of the inquiry is to determine whether Mr. Pierre Fitzgibbon (the “Minister”) violated sections 15, 16, 29 and 53 of the Code.

CONTEXT

The inquiry requests arose following the appointment of Mr. Guy LeBlanc as President and Chief Executive Officer of Investissement Québec in the spring of 2019. The inquiry focuses on the Minister’s and Mr. Leblanc’s status as co-shareholders in MOVE Protéine, whose president is Mr. Leblanc’s son, on the process that led to the appointment of Investissement Québec’s President and CEO and on the transfer of shares from the Minister to Mr. Luc Laperrière, a long-time friend, with whom the Minister met regarding three matters in which Mr. Laperrière was acting as a lobbyist.

INTERESTS IN MOVE PROTÉINE

The Minister invested in MOVE Protéine in 2017, and this fact was included in his 2017–2018 disclosure statement. Following his election and swearing-in as minister, he wished to divest himself of his shares. On November 8, 2018, he agreed verbally to transfer his shares in MOVE Protéine to Mr. Laperrière. The legal documents making the sale of the shares official were signed on June 1, 2019, although changes were made to the record in the enterprise register for MOVE Protéine in March and April 2019. Under section 53 of the Code, members of the Cabinet are required to notify the Commissioner of any material change in the information required in their disclosure statement within 60 days after the change occurs. Any change liable to affect the Code’s application or the support the Commissioner must offer to prevent conflicts of interest is considered a material change. The testimony given by the Minister and Mr. Laperrière shows that both were quite certain, at the time of the verbal agreement, that the transaction would be completed. Consequently, the 60-day time limit provided for by section 53 of the Code, during which a minister must notify the Commissioner of any material change, started on that date. The Commissioner finds that the Minister violated section 53 of the Code by failing to give notification within the prescribed time limit but recommends that no sanction be imposed on him.

1 The official positions and conclusions of the Ethics Commissioner appear in the inquiry report. If there are any differences between the content of the summary and the report, the content of the report prevails.

APPOINTMENT OF MR. LEBLANC TO THE OFFICE OF PRESIDENT AND CHIEF EXECUTIVE OFFICER OF INVESTISSEMENT QUÉBEC

Section 15 of the Code provides that Members of the National Assembly (MNAs) must not place themselves in a situation where their private interests may impair independence of judgment in carrying out the duties of office. In the case at hand, the friendship between the Minister and Mr. Leblanc does not constitute a strong attachment to the point of being considered a personal interest of the Minister. Furthermore, regarding the financial stakes, there is no indication that the Minister could have increased the value of his assets if Mr. LeBlanc was appointed as President and CEO of Investissement Québec, despite their status as co-shareholders in MOVE Protéine. Rather, it appears that while the Minister may have wished for Mr. Leblanc to be appointed, it was mainly to ensure that his plan to review Investissement Québec's mission would come to fruition. As it happens, this is not a private interest within the meaning of the Code. The Commissioner therefore concludes that the Minister did not violate section 15 of the Code.

Section 16 du of the Code notably provides that MNAs may not act or influence or attempt to influence another person's decision so as to further their private interests or those of a family member or non-dependent child, or to improperly further another person's private interests. To determine whether the Minister acted improperly to further the interests of Mr. Leblanc, the Commissioner was guided by the five factors used by the various Canadian commissioners in this area and identified by her Ontario counterpart in the report on the appointment of a friend of the Ontario Premier to the position of Ontario Provincial Police Commissioner. These factors are: the relationship between the MNA and the other person, the degree of involvement of the person being investigated, the process followed, the reasons for the MNA's actions and the objective basis for the decision. In light of this analysis, the Commissioner concludes that the Minister did not act or exercise influence in a manner that would improperly favour Mr. LeBlanc's interests. While some might have hoped for more restraint on the Minister's part during the appointment process of the President and CEO of Investissement Québec, this issue in itself does not lead to the conclusion that there was a violation in those circumstances. As concerns the change made to the terms for the remuneration of Investissement Québec's President and CEO, the evidence shows that it was brought about by a desire to adapt the organization's practices to make its jobs more attractive to financial sector talent, in connection with the review of Investissement Québec's mission. There is, moreover, no doubt that Mr. Leblanc has the qualifications to occupy the office he was appointed to. The Commissioner concludes that the Minister did not violate section 16 of the Code.

EXCHANGES AND MEETINGS WITH MR. LAPERRIÈRE

The Minister met with Mr. Laperrière, a good friend who was acting as a lobbyist in relation to various matters. Concurrently with these exchanges, a verbal agreement was struck between the Minister and Mr. Laperrière on 8 November 2018, whereby the latter would purchase the Minister's shares in MOVE Protéine as a favour to the Minister. The transaction was finalized on 1 June 2019, including the issuance of a promissory note to the Minister, who financed Mr. Laperrière's purchase himself. Section 15 of the Code provides that MNAs must not place themselves in a situation where their private interests may impair independence of judgment in

carrying out the duties of office. Given that the Minister wanted to divest himself of his shares, that his good friend purchased them and that the Minister held a claim against Mr. Laperrière, it appears that the Minister's private interests could have impaired his independence of judgment. Caution would have led the Minister to maintain a well-defined separation between his ministerial responsibilities and his personal relationship with Mr. Laperrière. Indeed, maintaining one's independence of judgment is essential to carrying out a public office, and all MNAs are expected to take every reasonable means at their disposal to avoid placing themselves in a situation where their private interest may impair independence of judgment in carrying out the duties of office. When in doubt, parliamentarians have the duty to seek advice from the Commissioner, who may accompany them in putting in place measures aimed at preventing situations of conflicts of interest. In this specific case, the Commissioner concludes that the Minister violated section 15 of the Code. Given that it is a cornerstone provision of the Code as regards the prevention of conflicts of interest, she determined that a reprimand should be imposed on the Minister.

Section 16 of the Code provides that MNAs may not act or influence or attempt to influence another person's decision so as to further their private interests or those of a family member or non-dependent child, or to improperly further another person's private interests. Therefore, the question in this case was whether the Minister acted in a manner that improperly furthered Mr. Laperrière's interests. Even taking into account the fact that the usual process was followed—that the Minister was the first person to receive the information—this practice is not to be encouraged under the Code because it could indirectly favour persons in his inner circle, who have his contact information. However, in light of the facts, the Commissioner does not believe that the Minister's motives for holding the meetings in question were solely based on his friendship with Mr. Laperrière. Beyond those meetings, the analysis of overwhelming and convincing evidence does not lead to a conclusion that the Minister acted or intervened in a manner that improperly furthered the interests of Mr. Laperrière or those of his clients. The Commissioner concludes that the Minister did not violate section 16 of the Code.

In addition, section 29 of the Code provides that MNAs must not solicit, elicit, accept or receive any benefit, whether for themselves or for another person, in exchange for speaking or taking a certain position on any issue. The evidence analyzed did not lead to the conclusion that there was a connection between the sale of the shares in MOVE Protéine and the meetings held between the Minister and Mr. Laperrière. The Commissioner concludes that the Minister did not violate section 29 of the Code.

FINAL REMARKS

The Commissioner wishes to underscore how important and necessary it is for all parliamentarians, especially Cabinet members, to put in place a rigorous process where meetings with lobbyists, business representatives or any other person seeking to move a matter forward are concerned. If an MNA has close ties with someone and the situation warrants it, measures to prevent conflicts of interest, such as "Chinese walls", must be implemented. If no such measures are yet in place, the Commissioner offers her full co-operation and that of her office in implementing such measures.