

## SUMMARY<sup>1</sup>

The Ethics Commissioner's Inquiry Report regarding Mr. Pierre Fitzgibbon,  
Minister of Economy and Innovation and Member for Terrebonne

June 1, 2021

This report concerns Mr. Pierre Fitzgibbon, the Minister of Economy and Innovation and MNA for Terrebonne, (hereinafter "the Minister"). It was conducted under the *Code of Ethics and Conduct of the Members of the National Assembly* (hereinafter "the Code") at the request of Vincent Marissal, the MNA for Rosemont.

### **BACKGROUND**

On December 6, 2020 the Commissioner submitted to the Speaker of the National Assembly an inquiry report about the Minister (hereinafter "the December 6, 2020 Inquiry Report"), mainly concerning his interest in ImmerVision Inc. (hereinafter "ImmerVision") and in White Star Capital's first fund. In that report the Commissioner concluded that the Minister had violated section 46 of the Code with regard to his interests in both of those enterprises, and ordered him to regularize his situation. This inquiry was held to determine whether the Minister is still in violation of section 46 of the Code.

### **ANALYSIS**

First, the only impact of the National Assembly endorsing an inquiry report is in terms of the ensuing sanction. The fact that the National Assembly did not endorse the December 6, 2020 Inquiry Report does not obviate section 46 of the Code and the Minister's obligation to comply with it.

The Code allows Cabinet Ministers to have interests in unlisted enterprises, provided such enterprises are not party to any contract with the Government. In order to comply with section 46 of the Code, any minister who has such interests must have the enterprise terminate all contracts and abstain from any future contracts with the Government, a government department or a public body. If the minister cannot do so, the only other option is to dispose of his or her interests.

The evidence shows that that the Minister's situation with regard to his interests in ImmerVision and White Star Capital's first fund remain unchanged, and that those enterprises still have contracts with the Government.<sup>2</sup> It has also been shown that the Minister had the opportunity to dispose of his interests in White Star Capital since the December 6, 2020 Inquiry Report was submitted, but that he did not do so because he did not want to dispose of them "at a discount."

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1 The positions and official conclusions of the Ethics Commissioner can be found in the Inquiry Report. In the event of a discrepancy between the contents of the summary and the report, the report prevails.

2 For the purposes of this summary, the expression "Government" encompasses "the Government, a government department or a public body."

The adoption of a decree temporarily conferring the Minister's powers, duties and attribution with regard to ImmerVision and White Star Capital to the Chair of the Conseil du trésor, in an attempt to cover the conclusion of contracts between those enterprises and the Government, has no impact on the application of section 46 of the Code.

When the legislator enshrined ethical values and principles in the Code, the intent was to underline the importance for elected officials to always act as expected. The immense privilege of representing citizens comes with a duty to act in an exemplary way. When a Minister refuses to comply with a legislative provision, he or she is acting in opposition to the Code's objective and his or her duties. In addition, obeying the prevailing laws is an integral part of respecting and protecting our democratic institutions.

In view of the above, the Commissioner concludes that the Minister is still in violation of section 46 of the Code in relation to his interests in ImmerVision and White Star Capital.

### **RECOMMENDATION OF SANCTION**

Even though only the National Assembly has the power to sanction the conduct of one of its members, it is the Commissioner who is responsible for recommending such a sanction. This is a matter of some delicacy, especially since the National Assembly can only endorse or reject a sanction, it cannot change it.

In this case there is a real risk that the Minister's refusal to comply with the Code gives the impression that elected officials are not subject to the law like the rest of the population and are allowed to deviate from their own Code of Conduct. That contributes to undermining the public's trust in its elected representatives and democratic institutions as a whole, especially in a context where it is crucially important that everyone obey the rules.

Against that backdrop, the Commissioner recommends that the National Assembly impose the only sanction provided in the Code which, apart from the loss of his seat (ruled out because disproportionate at this stage), is designed to halt an ongoing violation. That is the "suspension of the Member's right to sit in the National Assembly, together with a suspension of any indemnity or allowance," until one of the following occurs:

1. The Minister disposes of his interests in ImmerVision and White Star Capital
2. The Minister resigns from the Cabinet and, as an MNA, places his interests in the enterprises in question in this inquiry in a blind management agreement or a blind trust pursuant to section 18 of the Code.

If this sanction is adopted, the Minister's role as a legislator would be suspended until he complies with the law himself.

### **FINAL REMARKS**

Even though the interpretation and application of the Code fall to an independent person whose rights and privileges have been granted by the National Assembly, those are nonetheless legal obligations. The issue here is not to determine whether section 46 of the Code is obsolete, too restrictive or even unfair to a minister who is an investor. This inquiry addresses the following

question instead: Can we choose not to comply with a law that applies to us? Under the rule of law, the answer to that question must always be no. That applies even more strongly in the case of an MNA who acts as a legislator. As a designated person, this is a serious concern for the Commissioner. Her powers are limited, however, because only the National Assembly can sanction violations of the Code, thus ensuring that it applies to everyone equally.