



TALKING POINTS

ETHI COMMITTEE APPEARANCE 2020-11-27

Committee motion

That this study continue our work relating to the Canada Student Service Grant, including this committee's work to review the safeguards to prevent conflicts of interest in federal government expenditures; government spending, WE Charity and the Canada Student Service Grant; and the administration of the Canada Student Service Grant and WE Charity; and,

That this study include:

- (a) the consideration of all aspects of the government's involvement with Baylis Medical Company Inc., as well as former Liberal Member of Parliament Frank Baylis, including the awarding of a procurement contract for medical devices;
- (b) an examination into Palantir Canada's relationship with the government including the breach of the Conflict of Interest Act by its president and former Canadian ambassador to the U.S. David MacNaughton;
- (c) contracts with regards to speeches of Justin Trudeau and Sophie Grégoire Trudeau within the framework of activities organized by Speakers' Spotlight since October 14, 2008;

- i. that the Committee invite Speakers' Spotlight representatives to testify about all files related to speeches organized since October 14, 2008, for Justin Trudeau and Sophie Grégoire Trudeau;
- ii. that an Order be issued to Speakers' Spotlight to obtain a copy of all records related to speeches organized since October 14, 2008, for Justin Trudeau and Sophie Grégoire Trudeau—including, for each speech, the amounts paid, any expenses reimbursed and the name of the company, organization, person or entity that organized it;
- iii. that the documents listed in section (c) delivered to the Clerk of the Committee within seven days of the adoption of this motion and that their consideration be in the camera;

(d) That, for the consideration of documents studied at in camera meetings:

- i. only Committee members be allowed to participate;
- ii. no mobile or electronic device be allowed in the room during these meetings;
- iii. numbered hard copies of documents be given to Committee members by the Clerk at the beginning of each meeting scheduled for that purpose and that these copies be given to the Clerk at the end of each meeting;
- iv. copies of documents be kept in the Clerk's office and that outside of meetings Committee members can only view them by going to the Clerk's office, and no mobile or electronic device be in the room during the consultation of documents.



SUBJECTS OF INTEREST TO THE COMMITTEE

BAYLIS MEDICAL COMPANY INC - FRANK BAYLIS

Summary

- On April 7, 2020, the Prime Minister announces the production of more medical supplies and equipment in Canada to protect frontline health workers by purchasing made-in-Canada ventilators from Thornhill Medical, CAE, *Ventilators for Canadians*, and StarFish Medical and other manufacturing partners, including Linamar, through an accelerated process.
- Ventilators for Canadians (V4C) is a consortium of entrepreneurs, philanthropists, industrial, technology and engineering businesses who have come together to identify and pursue solutions to help Canadians through the challenging COVID-19 healthcare emergency. Companies in the consortium have received formal orders from the Government of Canada, either as the prime contractor or subcontractor for 20,000 ventilators.
- Ventilators for Canadians (V4C) received Health Canada approval for the Baylis V4C-560 ventilator. The Baylis V4C-560 ventilator, manufactured in partnership with *FTI Professional Grade Inc.* (FTI), and *Baylis Medical*, is part of the order commissioned by the Government of Canada in support of Canadian patients impacted by COVID-19.

FTI Professional Grade inc (FTI)

- FTI has a \$237,300,000 contract with the Public Health Agency of Canada to supply medical and surgical instruments, equipment and supplies.
- Media reports indicate that FTI was established 11 days before signing the contract with PHAC.

Baylis medical company inc

- Under its contract with PHAC, FTI subcontracted manufacturing of ventilators to Baylis Medical.
- At this time, the precise value of PHAC's contract with FTI subcontracted to Baylis Medical does not appear to be known publically.
- *Frank Baylis* is presently Baylis Medical's executive chairman of its board of directors; his mother founded the company in 1986.
- Mr. Baylis served as Liberal Member of Parliament for the federal riding of Pierrefonds-Dollard from 2015 to 2019.
- He is subject to the five-year prohibition on lobbying until 2024. Information on the 5-year prohibition was sent to all MPs in August 2019 by email.

In the Registry

- Baylis Medical Company have used the services of two consultant lobbyists in 2018. Both registrations are now inactive.
- A search of the Registry of lobbyist resulted in no registration for Ventilators to Canadians and FTI.

Suggested responses

- As a former designated public office holder, Mr. Baylis is subject to a five-year post-employment prohibition on lobbying.
- Former designated public office holders are subject to a 5-year prohibition on lobbying once they leave office. This post-employment restriction excludes designated public office holders from being paid to:
 1. work as a consultant lobbyist;
 2. lobby on behalf of an organization; or
 3. lobby on behalf of a corporation, where lobbying activities would constitute a significant part of the work.
- In the case of former designated public office holders working for corporations, the *Lobbying Act* does allow these individuals to lobby as long as it is not a “significant part of their work,” which is interpreted as being less than 20% of their duties.
- Consultant lobbyists must register their communications about the awarding of a contract on behalf of their clients.
- In-house lobbyists don’t have the same obligations as consultant lobbyists, they are not required to register their communications with the federal government about the awarding of contracts.

PALANTIR CANADA’S – DAVID MACNAUGHTON

Summary

- On May 6, 2020, the OCL opened a preliminary assessment concerning the activities of Mr. MacNaughton following media reports about his communication with federal public office holders on behalf of Palantir Canada.
- On May 8, 2020, a member of Parliament wrote to the Commissioner and requested that the Commissioner look into Mr. MacNaughton’s activities.
- Preliminary assessment was not publicly confirmed but a news article implied that the OCL is looking into the matter.
- At no time was Palantir Canada registered as an in-house corporation in the Registry of Lobbyists.

Suggested responses

- The Lobbying Act requires me to conduct all reviews in private, so I cannot discuss the details of former U.S. Ambassador David MacNaughton’s situation, but I can give a summary of information that is already available publically.
- As a former designated public office holder, Mr. MacNaughton is subject to a five-year post-employment prohibition on lobbying.

- Former designated public office holders are subject to a 5-year prohibition on lobbying once they leave office. This post-employment restriction excludes designated public office holders from being paid to:
 1. work as a consultant lobbyist;
 2. lobby on behalf of an organization; or
 3. lobby on behalf of a corporation, where lobbying activities would constitute a significant part of the work.
- In the case of former designated public office holders working for corporations, such as Palantir Canada, the *Lobbying Act* does allow these individuals to lobby as long as it is not a “significant part of their work,” which is interpreted as being less than 20% of their duties.
- Consultant lobbyists must register their communications about the awarding of a contract on behalf of their clients.
- In-house lobbyists don’t have the same obligations as consultant lobbyists, they are not required to register their communications with the federal government about the awarding of contracts.

WE CHARITY

Summary

- On June 29, 2020, the office opened a preliminary assessment
- On July 17, 2020, and on August 10, 2020, the Commissioner received letters from members of Parliament all of which requested that the Commissioner look into the matter
- On August 13, 2020, Dalal Al-Waheidi submitted a registration as WE Charity Executive Director.
- Preliminary assessment was publicly confirmed by the OCL on August 14, 2020.
- WE Charity submitted 65 monthly communication reports to the OCL from which 49 were related to employment and training.
- 11 MCRs were corrected and/or verified by the registration and client services team. Corrections ranged from typos, to removing individuals that were not present during meetings, to combining duplicate entries, to double checking that the meeting actually occurred (one DPOH didn’t recall the meeting because it was so far back and simply wanted to double check that it had occurred).

Suggested responses

- The Lobbying Act is clear that I must conduct investigation in private.
- I publicly confirmed that a preliminary assessment was opened.
- Given the possibility that these matters may become criminal investigations and that I do not want to jeopardize such investigations, I am unable to provide details or comment on whether an investigation has been initiated or is ongoing.

- To ensure transparency, all reportable communications should be listed in the Registry of Lobbyists.
- We Charity registered late. When someone is late registering, my Office publish the information as soon as possible, for the sake of transparency, so Canadians know what communications were about and with whom lobbyists met.

INVESTIGATIONS AND OTHER MATTERS OF INTEREST

ROBERT SILVER AND MCAP

Summary

- On August 10, 2020, members of Parliament wrote to the OCL requesting that the Commissioner look into Robert Silver and MCAP's activities.
- On August 10, 2020, the office opened a preliminary assessment
- Preliminary assessment was publicly confirmed by the OCL on August 31, 2020.

Suggested responses

- I take all allegations of breaches of the Lobbying Act and the Lobbyists' Code of Conduct seriously.
- The Lobbying Act is clear that I must conduct investigation in private.
- I publicly confirmed that a preliminary assessment was opened.
- I am unable to discuss or confirm investigation activities and can only report on completed investigations and compliance activities through reports to Parliament.
- Given the possibility that these matters may become criminal investigations and that I do not want to jeopardize such investigations, I am unable to provide details or comment on whether an investigation has been initiated or is ongoing.

INVESTIGATION PROCESS

- The Commissioner of Lobbying may initiate an investigation at any time there is cause to believe that an investigation is necessary to ensure compliance with the Lobbying Act.
- I am not required to wait until a third party submits an allegation of a breach of the Lobbying Act or the Lobbyists' Code of Conduct.
- The Office conducts its own compliance monitoring activities.
- When I become aware of a potential breach, the Office conducts a preliminary assessment to evaluate the nature of the alleged contravention, obtain initial information, and determine whether the subject matter falls within the Office's mandate.
- When necessary to ensure compliance, an investigation is initiated. Each allegation is given the time necessary based on its complexity.
- The Office obtains and analyzes documentary evidence.
- Several witnesses may need to be interviewed, many of whom often have limited availability.

- If, during the course of an investigation, I have reasonable grounds to believe that someone has committed an offence under the Lobbying Act, I must suspend my investigation and refer the matter to a peace officer (e.g. RCMP, provincial/municipal police). The police then conducts its own investigation to determine whether to lay charges.
- As such, the Office is unable to comment on whether any investigation has been initiated or is ongoing on any specific matter.

5-YEAR POST-EMPLOYMENT PROHIBITION

- Former designated public office holders are subject to a 5-year prohibition on lobbying once they leave office. This post-employment restriction excludes designated public office holders from being paid to:
 1. work as a consultant lobbyist;
 2. lobby on behalf of an organization; or
 3. lobby on behalf of a corporation, where lobbying activities would constitute a significant part of the work.
- This prohibition begins immediately following the last day individuals cease to occupy their position as a designated public office holder.
- The Commissioner of Lobbying can exempt an individual from the 5-year prohibition, as long as it would not be contrary to the purpose of the Lobbying Act. A list of exemptions granted along with the reason(s) why they were granted are available on the OCL's website.
- We proactively contact individuals when we become aware of their departure from a position as a designated public office holder to remind them of their post-employment restriction related to lobbying.

CONSULTATION ON THE LOBBYISTS' CODE OF CONDUCT

- The Lobbyists' Code of Conduct is a non-statutory tool that complements the Lobbying Act's registration requirements and serves to reinforce transparent and ethical lobbying practice.
- This code of ethics defines behaviour standards that lobbyists must respect when they engage in lobbying activities at the federal level.
- The Lobbyists' Code of Conduct has existed since 1997 and was updated in 2015.
- Recent investigation reports highlight that further improvements are warranted.
- Reports on investigations recommended changes to Rules 6, 9 and 10 (on conflict of interest).

LEGISLATIVE REVIEW

- The Lobbying Act works largely as intended and is often referred to as a model for other jurisdictions. However, there is always room for improvement.

- I have been diligently preparing and I will be ready to share my thoughts on how to further strengthen the lobbying regime should Parliament wish to initiate a legislative review of the Lobbying Act.
- Should Parliament have other priorities at this time, I will continue to explore ways in which the lobbying regime could be further improved through non-statutory instruments.

FOREIGN LOBBYISTS

- The Lobbying Act applies to those who lobby the federal government, regardless of whether they are located in Canada or outside Canada.