

October 31, 1994

Hon. Stanley S. Schumacher, Q.C.
Speaker of the Legislative Assembly
325 Legislature Building
Edmonton, Alberta
T5K 2B6

Dear Mr. Speaker:

Pursuant to section 23(4) and (5) of the *Conflicts of Interest Act*, this letter is notification that I have ceased the investigation into the allegation of a breach of the Act with respect to the announced appointment of the former Minister of Economic Development and Tourism to the position of Chairman of the Alberta Energy and Utilities Board. The request for the investigation was received on October 22, 1994, from Mrs. Bettie Hewes, Interim Leader, Liberal Opposition.

As it has been announced that no appointment of any person will be made at this time, I have ceased the investigation.

The nature of the question raised with this office was of such importance that I am providing general advice and recommendations under section 42 of the Act. Specifically, the following advice and recommendations are provided regarding matters which will be considered "significant official dealings" by former Ministers under section 29 of the Act. Attached is the text of section 29.

1. Even though a Minister may not personally have dealings with an agency, person, or entity, he or she may direct staff within the department to take certain actions. That direction by the Minister will be considered by this office to be a significant official dealing by the Minister.
2. Regular and routine contact between a department and an agency, person, or entity will be considered a strong indication of official dealings.
3. A department's regular input into policy in a specific area will normally be considered significant official dealings.
4. The preparation and presentation of matters for Lieutenant Governor in Council approval will be considered significant official dealings. Those dealings need not be prescribed in law; it is sufficient for the purposes of section 29 that the practice is administratively required.

We would also point out that under section 29, a former Minister is obliged not to accept the employment or contracts prohibited by that section. It is also a breach of the Act for any Minister to knowingly award or approve such a contract.

This office is available at any time to discuss specific situations with Members prior to actions being taken. We have considered matters under section 29 in the past and felt it was necessary at this time to provide some general advice and recommendations so that all Members have a clear understanding of the approach this office will take to decisions on matters under this section.

Yours very truly,

Robert C. Clark
Ethics Commissioner

Attachment

cc: Hon. Ralph Klein, Premier
Mr. Kenneth R. Kowalski, M.L.A., Barrhead-Westlock
Mrs. Bettie Hewes, Interim Leader, Liberal Opposition

Chapter C-22.1 CONFLICTS OF INTEREST 1991

PART 6

FORMER MINISTERS

- 29(1)** Except in accordance with subsection (3), a former Minister shall not, for a period of 6 months after ceasing to be a member of the Executive Council,
- (a) on behalf of himself or any other person, solicit or accept a contract or benefit from a department of the public service or a Provincial agency with which the former Minister had significant official dealings during the former Minister's last year of service as a Minister,
 - (b) accept employment with a person or entity, or appointment to the board of directors or equivalent body of an entity, with which the former Minister had significant official dealings during the former Minister's last year of service as a Minister, or
 - (c) act on a commercial basis in connection with any ongoing matter in connection with which the former Minister, while in office, directly acted for or advised a department of the public service or a Provincial agency involved in the matter.
- (2)** For the purposes of subsection (1), a former Minister has had significant official dealings with a department of the public service, Provincial agency, person or entity if the former Minister, while in office, was directly and substantively involved with the department, Provincial agency, person or entity in an important matter.
- (3)** Subsection (1) does not apply
- (a) to any contract with or benefit from the Crown if the conditions on which and the manner in which the contract or benefit is awarded, approved or given are the same for all persons similarly entitled, or if the award, approval or grant results from an impartially administered process open to a significant class of persons, or
 - (b) to an activity, contract or benefit if the Ethics Commissioner has exempted the activity, contract or benefit from the operation of subsection (1) and the former Minister observes and performs any conditions on which the Ethics Commissioner has granted the exemption.
- (4)** A former Minister who contravenes this section and who at the time of the contravention is a Member of the Legislative Assembly breaches this Act.
- (5)** A former Minister who contravenes this section and who at the time of the contravention is not a Member of the Legislative Assembly is guilty of an offence and liable on summary conviction to a fine not exceeding \$20 000.
- 30** A Minister breaches this Act if the Minister knowingly awards or approves a contract or gives a benefit to a former Minister who is acting in contravention of section 29.