

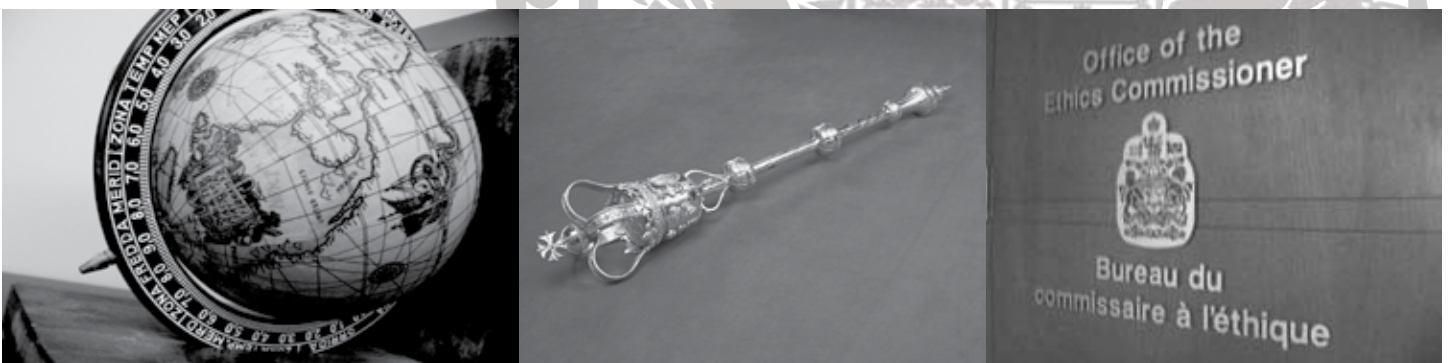


Office of the Ethics Commissioner
Bureau du commissaire à l'éthique

JUNE 2005

THE GREWAL INQUIRY

pursuant to the
CONFLICT OF INTEREST CODE FOR
MEMBERS OF THE HOUSE OF COMMONS



Report made pursuant to request by The Honourable Joseph Volpe, Minister of Citizenship and Immigration
for an Inquiry in relation to Mr Gurmant Grewal, Member for Newton - North Delta

Bernard J. Shapiro

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CONFLICT OF INTEREST CODE FOR
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INTRODUCTION

(i) Legislative Background

This inquiry is the first undertaken under the *Conflict of Interest Code for Members of the House of Commons* (the Code) since the adoption of the Code which constitutes Appendix 1 of the House of Commons Standing Orders. Under Section 27 of this Code, a request for an inquiry can be made by a Member of the House of Commons that has reasonable grounds to believe that another Member has not complied with his or her obligations under the Code. Pursuant to section 28 of the Code, following the completion of an inquiry, the report is tabled in the House of Commons by the Speaker and released to the public.

(ii) The Grewal Inquiry

This inquiry was initiated at the request of the Honourable Joseph Volpe, the Minister of Citizenship and Immigration. In his April 5, 2005 letter to me, Minister Volpe asked that I determine whether the alleged practice of Mr Gurmant Grewal, Member of Parliament (MP) for Newton-North Delta, of requesting personal bonds from persons seeking his support on immigration matters could be a contravention of the Member's obligations under the Code. Minister Volpe further emphasized his concern that the use of a bond could lead others to question whether Mr Grewal's support for the application could be purchased, whether Mr Grewal had the bond guaranteed to him personally and whether the practice could lead others to question whether Mr Grewal was seeking to profit financially from his position as a MP. A copy of Minister Volpe's letter is attached as Appendix I to this Report.

The issue for this inquiry was, therefore, to determine whether, or to what extent the alleged practice occurred, and, if so, whether it placed the Member in a real and/or apparent conflict of interest with respect to the Code.

THE PROCESS

The process of information gathering for this inquiry consisted of four steps. First, there were separate informal interviews with Mr Grewal and Minister Volpe in order to establish more clearly the issues and concerns involved. Second, a legal opinion was obtained to provide me with an overview of the legislative scheme that presently exists for Temporary Resident Visas (TRVs) and Temporary Resident Permits (TRPs), as well as (i) how MPs fit into the process and (ii) the scope of their authority, if any. Third, formal follow-up interviews were undertaken separately with Mr Grewal and Minister Volpe. These follow-up interviews were not taken under oath but in each case, the exchange was recorded and transcribed. Fourth, there were interviews in Mr Grewal's riding with twelve of the individuals who had, in fact, signed the personal guarantee forms with respect to the departure from Canada of those they were sponsoring.

Minister Volpe had also referred this matter to the Royal Canadian Mounted Police (RCMP), but as of the present date, the RCMP has made no decision as to whether or not to launch a formal investigation.



THE COSTS

Aside from the costs represented in the time and effort of the staff in the Office of the Ethics Commissioner, there were some additional costs, primarily for travel and professional services, involved in conducting this inquiry. All of these costs have been or will be absorbed by the budget of the Office of the Ethics Commissioner, but for the general interest of readers of this report, they are listed in Appendix II.

THE FINDINGS

In this inquiry, there was little – if any – disagreement about the facts involved.

The facts were that:



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- Mr Grewal did ask people to sign documents when they came to him seeking assistance on immigration matters related to TRP/TRVs. There were in fact two such documents, both of which are attached as Appendix III to this Report. There was the Visitor Visa Assistance Information Form and also the Personal Guarantee, the latter of which included the reference to pledging a bond. This practice had been on-going since late 2002. A total of 232 personal guarantee forms were received from Mr Grewal's office – 43 in 2002, 61 in 2003, 119 in 2004 and 9 in 2005.
- Mr Grewal used the forms to assist him in the vetting of applicants on immigration matters. In these cases, neither Mr Grewal nor his staff knew the sponsor or the visitor personally. In some instances, those approaching Mr Grewal were constituents from other ridings where the sitting MP had - for whatever reason – refused assistance.
- The forms were intended to provide a written record of the assurances of the sponsor and to act as incentive to the sponsor to ensure that the visitor did leave Canada prior to the expiry date of their visa. While \$50,000 was the typical amount pledged, the amounts varied from \$1,000 to \$250,000.
- No formal bonds were ever purchased.
- No fee was charged by Mr Grewal's office for the service, and no attempt was ever made to “redeem” the personal guarantee.
- The practice has now ceased.
- Mr Grewal sponsored a Private Member's Bill, Bill C-283, which proposed amending the present immigration legislation by introducing a system of guarantees and deposits from sponsors seeking TRVs. The sums forfeited by non-departure of their visitor from Canada before the expiry of their visas would be payable to the Government of Canada. The bill received first reading

November 15, 2004 and second reading March 9, 2005, where it was sent to the Standing Committee on Citizenship and Immigration (the Committee) for study.

- On March 24, 2005, as the Committee was hearing representations on the merits of Bill C-283, Mr Grewal stated that he had already prepared a guarantee bond form and had asked constituents to sign it before writing letters of support on their behalf.

This practice, however innocently intended, was not an activity recognized or falling within the parameters of the federal government's legislative framework in this area. The present immigration policy does not contemplate MPs requesting the posting of bonds or guarantees from the public. The administration of immigration policy is the responsibility of the Minister and not individual MPs.

Most of the sponsors interviewed, however, did not oppose this "personal guarantee" practice, but it is also clear that many had felt burdened by their pledge. One individual stated that it had resulted in a family rift when their visitor wished to extend their stay but the sponsor remained adamant that he/she leave Canada prior to the expiry date of their visa. No one, however, testified to feeling pressured to agree to the personal guarantee, and most stated that they would do it again if needed.

It must be added, however, that the practice generated considerable confusion amongst those asked to provide the guarantee. Some believed that such a guarantee was a government requirement; others regarded it as a special local arrangement. Some, as suggested above, felt burdened by their pledge (believing, for example, that they might well lose their homes), while others did not. Some felt the pledge would be legally enforceable; others regarded it as simply more "red tape" not to be taken seriously if only because the document being signed was obviously not a formal government document.

Finally, those interviewed gave conflicting accounts of where they thought any sum forfeited might go. While most felt that the proceeds of any default were destined for government revenues, some did feel that it was Mr Grewal personally who would benefit. As Appendix III demonstrates, the Personal Guarantee form is silent on this matter.

CONCLUSION

Regarding the issue raised in this inquiry as to whether Mr Grewal's actions constitute a real and/or apparent conflict of interest, I conclude as follows:

- There was no real conflict of interest. No profit personal to Mr Grewal was either intended or realized. That is, there is nothing to suggest that this practice actually furthered Mr Grewal's personal financial interest in any way.
- Mr Grewal's actions did, however, place him in an apparent conflict of interest. The ambiguity, in the course of providing services to constituents, of requesting Personal Guarantees that are ostensibly to be backed by some sort of bond can reasonably be seen as raising questions of whether he would personally benefit. While the practice may have benefited many that might not otherwise have



received his support, it also clouded the actual immigration process for other individuals. MPs must be careful not to develop unsanctioned supplemental requirements to the statutory regimes in place.

I am convinced, however, that Mr Grewal's intention was not to benefit personally but rather to implement some due diligence measures in a context where it is not possible to know personally all the individuals deserving of some special assistance.

This suggests that this case fits best the situation contemplated by the Code in regards to "mitigated contraventions". Subsection 28(5) of the Code provides that if the Ethics Commissioner concludes that a Member has not complied with an obligation under this Code but has done so through inadvertence or an error in judgment made in good faith, he can recommend that no sanction be imposed.

Mr Grewal has not fully complied with an obligation under the Code, but I believe that his actions were an error in judgment made in good faith. It is my recommendation that given that his intentions, however misguided, were reasonable and that the practice has now ceased, no sanction be imposed. I would also recommend that Mr Grewal find a way to inform his constituents of the change in his practice.



Respectfully submitted,

A handwritten signature in cursive script that reads "Bernard J. Shapiro".

Bernard J. Shapiro,
Ethics Commissioner

June 22, 2005

APPENDIX I

APRIL 5, 2005 letter from the Honourable Joseph Volpe,
Minister of Citizenship and Immigration



Minister
of Citizenship
and Immigration



Ministre
de la Citoyenneté
et de l'Immigration

Ottawa, Canada K1A 1L1

April 5, 2005

Dr. Bernard Shapiro,
Ethics Commissioner
Office of the Ethics Commissioner
66 Slater Street, 22nd Floor
Ottawa, Ontario
K1P 5H1
Fax: (613) 995-7308

Dear Dr. Shapiro:

I am writing to you today to ask you to investigate a practice a fellow Member of Parliament is engaged in that I fear has the potential to create significant and damaging repercussions for our immigration system.

I am attaching, for your background information, a news article and a transcript of a standing committee hearing in which the Member of Parliament for Newton-North Delta, Mr. Gurmant Grewal, outlines how he currently asks constituents who approach him on immigration matters for a personal bond of up to \$100,000.

While Mr. Grewal states, and I have no reason to doubt him, that he has not exercised any of these bonds constituents have agreed to provide, I am concerned that such a bond could lead others to question whether Mr. Grewal's support for their application can be purchased.

In particular, I am concerned that Mr. Grewal has had the bond guaranteed to him personally. This practice, while it may have seemed prudent at the time, could lead others to question whether Mr. Grewal was seeking to profit himself from his representations on behalf of his constituents. Again, I have no doubt this was not his intention, but it is as important to avoid the appearance of bias as it is to avoid it.

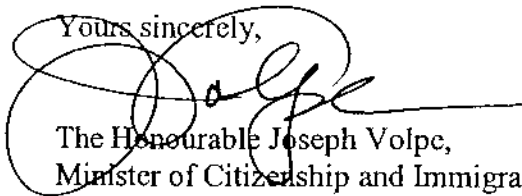
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Canada

As you know, the repetition of unfounded allegations can be very damaging to our Parliament, and I want to ensure that all members are held to the highest account. Indeed, in recent days the member for Calgary-Nose Hill has taken advantage of Parliamentary privilege to repeat allegations that have been investigated, and found to be without merit. I want to ensure that the Member for Newton-North Delta does not suffer a similar fate of having his reputation tarnished needlessly.

I welcome your investigation into this matter, and I trust you will report your results to all Parliamentarians to ensure they are informed as to how they must conduct themselves with respect to such things as personal bonds.

Yours sincerely,



The Honourable Joseph Volpe,
Minister of Citizenship and Immigration

cc. Mr. Gurmant Grewal, MP

APPENDIX II

Investigation expense report

LEGAL OPINION RELATED TO IMMIGRATION LEGISLATIVE FRAMEWORK	AMOUNT
Perley-Robertson, Hill & MacDougall LLP	\$ 4,672.90

TRAVEL	AMOUNT
Director of Executive Affairs interviews in Vancouver	\$ 3,726.98

COURT REPORTING	AMOUNT
Cornell Catana	\$ 743.80
Punjabi interpreter	\$ 484.00
All-Star Reporting	\$ 1,955.00

SHIPPING	AMOUNT
UPS Courier	\$ 108.00

GRAND TOTAL	\$ 11,690.68
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APPENDIX III

Information and Guarantee Forms





GURMANT GREWAL, MP
 Constituency Office
 113, 8532 - 120th Street
 Surrey, BC, V3W 3N5.
 Tel: (604) 501-7900 - Fax: (604) 501-7901
 grewag1@parl.gc.ca

FILE: _____

Visitor Visa Assistance Information Form

Section 1 - Sponsor or Constituent's Information

FIRST: _____ LAST: _____ HOW LONG in CDA?: _____ years
 ADDRESS: _____ CITY: _____ PR: BC PC: _____
 PHONE: _____ WORK: _____ CELL: _____ RELATIONSHIP to APPLICANT: _____
 CDN CITIZEN LANDED IMM VISITOR REFUGEE OTHER

Section 2 - Potential Visitor/Applicant's Information

TITLE	FIRST	LAST	DOB	CITIZENSHIP	OCCUPATION	CHILDREN

- Has the applicant ever applied for permanent residence in Canada? YES NO
 If YES, WHEN: _____ WHERE: _____
- Has any immediate relative of the applicant applied for permanent residence? YES NO
- Is the applicant gainfully employed or does s/he own their own business in the home country? YES NO
- Does the applicant have a criminal record? YES NO
- Does the applicant have any communicable diseases? YES NO
- Who is purchasing the round-trip airline ticket? YES NO

Section 3 - Details of the Application

DATE of VISA APPLICATION: _____ VISA FILE NO: _____ VISA OFFICE ABROAD: _____

- If gainfully employed, did the applicant submit permission or no objection certificate for travel from the employer? YES NO
- At time of application, were documents provided to verify financial condition/strength of the applicant? YES NO
- Were family ties to the home country mentioned in the application or interview? YES NO

• Continued from page 1

Visitor Visa Assistance Information Form

Section 4 - Check List for Sponsor

Was a letter of invitation sent by a Canadian relative, sponsor or any organization? YES NO

Has anyone in your family visited Canada before? YES NO

If yes above, have any remained in Canada permanently, or extended their visit? YES NO

Was any financial assistance offered for medical, food, lodging and transportation etc.? YES NO

Was a written assurance or affidavit provided by the sponsor to guarantee the return of the visitor to the home country? YES NO

Are you prepared to give your personal guarantee for the return of the visitor to his/her home country prior to the expiry of the visa? YES NO

Are you willing to post a bond against your personal guarantee? YES NO

AMOUNT of BOND: _____

Personal Guarantee

Date:

Office: Surrey Office

File No:

THAT I/WE the undersigned, residents of in the City of Surrey in the Province of BC, , seek the assistance of Gurmant Grewal, MP for Newton-North Delta, in the matter of the issuance of a Visitor Visa for , whose date of birth is .

THAT I/WE provide a personal guarantee (Joint or Severed) that the above applicant for a visitors visa and any family members travelling with the applicant, shall leave Canada on or before the expiry of the visa. FURTHERMORE, I/WE will assume full responsibility for any damages, and for any consequences including any remedies.

THAT MY/OUR current net worth is assessed at a value of . And that I/We agree to place a bond against our guarantee in the sum of

Signature of Guarantor
Drivers License :
SIN:

Signature of Guarantor
Drivers License:
SIN:

Signature of Witness

Sasha