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## ASSIGNING RESPONSIBILITY

The Fact Finding Report is not a judgment, and the conclusions do not establish the legal responsibility, either civil or criminal, of the persons and organizations singled out for critical comment or a finding of misconduct. The paragraphs that follow should not be read in isolation from the overall conclusions of the Fact Finding Report. The fact that only certain persons or organizations are mentioned in Chapter XVI does not absolve the others assigned blame earlier.

I have identified three main factors that caused or contributed to the problems described in the Report of the Auditor General:

- the unprecedented decision to direct the Sponsorship Program from the PMO, bypassing the departmental procedures and controls which the Deputy Minister of PWGSC would normally have been expected to apply and enforce;

- the failure of the Deputy Minister of PWGSC to provide oversight and administrative safeguards against the misuse of public funds; and
- the deliberate lack of transparency on how the Program was initiated, financed and directed.

### The Responsibility of Mr. Chrétien and Mr. Pelletier

Mr. Pelletier must have known that such a program of discretionary spending would be open to error and abuse unless provided with rules, guidelines, controls, safeguards and oversight. The opportunities for misappropriation of public funds and personal gain offered by an unstructured program of grants and contributions such as the Sponsorship Program are enormous. The rules and guidelines prescribed by Treasury Board policies and oversight by deputy ministers and their staff ordinarily provide the framework for honest and competent public servants. However, such policies and oversight are also meant to create an obstacle to dishonesty and incompetence. By choosing to give direction to Mr. Guité personally, Mr. Pelletier bypassed the normal methods of administration of government programs, and effectively eliminated the oversight that would have been provided by Mr. Quail and his department.

The notion that Mr. Pelletier and Mr. Gagliano could provide political input without strongly influencing the decision-making process is nonsense and ignores the obvious reality that the expression of an opinion to a subordinate official by the Prime Minister's Chief of Staff or the Minister amounts to an order. Mr. Pelletier's actions in meeting with Mr. Guité in the absence of Mr. Quail or his representative constituted political encroachment into the administrative domain. It was a dangerous precedent that should not be condoned.

There were two major flaws in the Sponsorship Program, of which an experienced politician or public administrator should have been aware. First, having the program administered by private sector communication agencies was an open invitation to unscrupulous persons to reap unjustified or exaggerated profits; and second, initiating a program of this kind without first developing rules, guidelines and criteria, and without ensuring effective bureaucratic oversight, left the door open to error, abuse and careless administration. Mr. Goodale saw these flaws immediately and froze the program. When it recommenced a few months later, Mr. Goodale discontinued the use of communication agencies in favour of administration by public servants equipped with the proper tools and resources, including newly established guidelines. These elementary measures should have been applied from the beginning.

There is no evidence that Mr. Pelletier was in any way involved in Mr. Corriveau's kickback scheme, although it would have been more prudent for him to investigate the general suspicions that he says he communicated to the Prime Minister when, according to his testimony, he had a hunch that there was something not quite right about Mr. Corriveau. The absence of any evidence of direct involvement in Mr. Corriveau's wrongdoing entitles both Mr. Pelletier and Mr. Chrétien to be exonerated from blame for Mr. Corriveau's misconduct.

But they are to be blamed for omissions. Since Mr. Chrétien chose to run the Program from his own office, and to have his own exempt staff take charge of its direction, he is accountable for the defective manner in which the Sponsorship Program and initiatives were implemented. Mr. Pelletier failed to take the most elementary precautions against mismanagement – and Mr. Chrétien was responsible for him. They should have done in 1996 what Mr. Goodale did in 2002. They should also have done precisely what Ms. Bourgon counselled the Prime Minister to do, which was to postpone making decisions about

sponsorship initiatives until a formal process had been adopted for evaluating them. It would have been more prudent for Mr. Chrétien to have accepted her suggestion that responsibility for the administration of the Program be transferred to the PCO or to a Minister, instead of being retained within the PMO. He chose to disregard this advice and, since he is directly responsible for errors committed by Mr. Pelletier, he must share the blame for the mismanagement that ensued.

### The Responsibility of Mr. Gagliano

Mr. Gagliano chose to perpetuate the irregular manner of directing the Sponsorship Program that had been adopted by Mr. Pelletier, and, with him, met with and gave directions in person to Mr. Guité, excluding Mr. Quail from the direction and supervision of the activities of a public servant within his department. When he became involved in the direction of the Program, Mr. Gagliano, like Mr. Pelletier, failed to give sufficient attention to the adoption of guidelines and criteria, and failed to provide oversight to what Mr. Guité and his successor, Pierre Tremblay, were doing, all the while systematically bypassing the Deputy Minister, from whom oversight would normally be forthcoming. Contrary to his testimony to the effect that his participation was limited to providing political input and making recommendations about events and projects to be sponsored, Mr. Gagliano became directly involved in decisions to provide funding to events and projects for partisan purposes, having little to do with considerations of national unity.

Finally, just as Mr. Chrétien must accept responsibility for the actions of his exempt staff such as Mr. Pelletier, Mr. Gagliano must accept responsibility for the actions and decisions of his exempt staff, including Pierre Tremblay, who served as his Executive Assistant, and Jean-Marc Bard.

## The Responsibility of Other Ministers

On the evidence there is no basis for attributing blame or responsibility to any other Minister of the Chrétien Cabinet, since they, like all members of Parliament, were not informed of the initiatives being authorized by Mr. Pelletier and their funding from the Unity Reserve. Mr. Martin, whose role as Finance Minister did not involve him in the supervision of spending by the PMO or PWGSC, is entitled, like other Ministers in the Quebec caucus, to be exonerated from any blame for carelessness or misconduct.

## The Responsibility of the Deputy Minister of PWGSC

Ranald Quail knew that Mr. Guité was meeting with the PMO and later with Mr. Gagliano and that, in those meetings, decisions were being made about the administration of a program for which he, as Deputy Minister, was responsible. He abdicated his responsibility to control, direct and oversee the actions of officials in his department.

There were many reasons to have paid particular attention to Mr. Guité and his organization. First, it was imprudent for him not to know details of what was being discussed at Mr. Guité's meetings with Mr. Pelletier and Mr. Gagliano. If Mr. Quail did not take steps to inform himself of what was going on, he must accept the consequences of irregularities that occurred.

Second, Mr. Guité had a well-known reputation as a public servant oriented to obtaining results by cutting through red tape. This should have alerted Mr. Quail to the possibility that he was not administering the Sponsorship Program according to Treasury Board rules and policies. The nature of the Sponsorship Program, with discretionary spending for political objectives, was such that guidelines and criteria were of particular importance.

Third, the telephone call from Mr. Bilodeau about Mr. Stobbe should have aroused suspicions that if someone in the PMO did not want Mr. Stobbe to follow Mr. Guité's activities, there was something about the activities that needed investigation.

Fourth, the report of the Ernst & Young audit included an unambiguous reference to significant non-compliance with Treasury Board policies. The follow-up was slow and resulted in no changes whatsoever except to confer additional responsibilities to Mr. Guité as Director of the newly formed CCSB.

These combined factors should have provoked a reaction. The duty of Mr. Quail was to better inform himself of the situation and to call Mr. Guité to account for his deficient administration. In fairness to Mr. Quail, he was, in 1996 and 1997, very busy with the enormous problems associated with program review. In addition, he was reluctant to interfere in the Sponsorship Program, which was a priority of the Prime Minister.

### The Responsibility of the Liberal Party of Canada (Quebec)

The method of financing the Quebec wing of the Liberal Party of Canada, using kickbacks obtained by Jacques Corriveau from persons deriving benefits from the Sponsorship Program such as Jean Brault (and probably others), is described in the Fact Finding Report. The persons who accepted contributions in cash and other improper benefits have brought dishonour upon themselves and the political party. Michel Béliveau, Marc-Yvan Côté, Benoît Corbeil, and Joseph Morselli deserve to be blamed for their misconduct. They disregarded the relevant laws governing donations to political parties.

The LPCQ as an institution cannot escape responsibility for the misconduct of its officers and representatives. Two successive Executive Directors were directly involved in illegal campaign financing, and

many of its workers accepted cash payments for their services when they should have known that such payments were in violation of the *Canada Elections Act*. When Mr. Morselli was put in charge of party finances, he announced immediately to Mr. Brault that he would be replacing Mr. Corriveau. The only possible interpretation that can be given to that declaration is that Mr. Brault should henceforth pay the financial contributions and kickbacks, which he had until then been giving to the LPCQ through Mr. Corriveau, to Mr. Morselli.

In spite of Mr. Gagliano's protestations to the contrary, he must accept a share of the blame for tolerating the improper methods employed to finance the activities of the LPCQ during the years when he was the Quebec lieutenant of the Liberal Party of Canada.

### The Responsibility of the Communication Agencies

The Commission has heard abundant evidence of irregularities and improprieties committed by the five communication and advertising agencies specifically identified in the Fact Finding Report, including systematic overbilling, failure to fulfil obligations, charging for work not performed, conflicts of interest, assigning work to subcontractors without justification and without competitive bids, and other very dubious contracting practices. The negligent administration of the Sponsorship Program by PWGSC opened the door wide to profiteering by those five agencies and their owners, and they took full advantage of the opportunity.

All of the agencies contributed to the financing of the Liberal Party of Canada. Whether legal or illicit, there was at least an implicit link between the contributions and the expectation that government contracts would be awarded. If the agency selection process had been open, transparent and competitive, public concern that such links existed would certainly have been diminished.

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The Fact Finding Report marks the completion of the first part of my mandate, and I am now involved in the second phase of the Inquiry. In my second Report I will endeavour to find solutions to problems discussed in the Fact Finding Report. In the recommendations that I am called upon to make, I intend to propose measures to help the Government of Canada improve its administrative and accountability systems, so that legitimate advertising and sponsorship programs can be managed efficiently, free of inappropriate political influence and in an administrative structure where the public interest is the first consideration.