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APPENDIX A

TERMS OF REFERENCE

The Committee of the Privy Council, on the recommendation of the Prime Minister, advise that a Commission do issue under Part I of the *Inquiries Act* and under the Great Seal of Canada appointing the Honourable John Howard Gomery, a judge of the Superior Court of Quebec, as Commissioner

- a. to investigate and report on questions raised, directly or indirectly, by Chapters 3 and 4 of the November 2003 Report of the Auditor General of Canada to the House of Commons with regard to the sponsorship program and advertising activities of the Government of Canada, including
 - i. the creation of the sponsorship program,
 - ii. the selection of communications and advertising agencies,
 - iii. the management of the sponsorship program and advertising activities by government officials at all levels,
 - iv. the receipt and use of any funds or commissions disbursed in connection with the sponsorship program and advertising activities by any person or organization, and

- v. any other circumstance directly related to the sponsorship program and advertising activities that the Commissioner considers relevant to fulfilling his mandate, and

- b. to make any recommendations that he considers advisable, based on the factual findings made under paragraph (a), to prevent mismanagement of sponsorship programs or advertising activities in the future, taking into account the initiatives announced by the Government of Canada on February 10, 2004, namely,
 - i. the introduction of legislation to protect “whistleblowers”, relying in part on the report of the Working Group on the Disclosure of Wrongdoing,
 - ii. the introduction of changes to the governance of Crown corporations that fall under Part X of the *Financial Administration Act* to ensure that audit committees are strengthened,
 - iii. an examination of
 - A. the possible extension of the *Access to Information Act* to all Crown corporations,
 - B. the adequacy of the current accountability framework with respect to Crown corporations, and
 - C. the consistent application of the provisions of the *Financial Administration Act* to all Crown corporations,
 - iv. a report on proposed changes to the *Financial Administration Act* in order to enhance compliance and enforcement, including the capacity to
 - A. recover lost funds, and
 - B. examine whether sanctions should apply to former public servants, Crown corporation employees and public office holders, and
 - v. a report on the respective responsibilities and accountabilities of Ministers and public servants as recommended by the Auditor General of Canada,

and the Committee do further advise that

- c. pursuant to section 56 of the *Judges Act*, the Honourable John Howard Gomery be authorized to act as a Commissioner on the inquiry;
- d. the Commissioner be directed to conduct the inquiry under the name of the Commission of Inquiry into the Sponsorship Program and Advertising Activities;
- e. the Commissioner be authorized to adopt any procedures and methods that he may consider expedient for the proper conduct of the inquiry, and to sit at any times and in any places in Canada that he may decide;
- f. the Commissioner be authorized to grant to any person who satisfies him that he or she has a substantial and direct interest in the subject-matter of the inquiry an opportunity during the inquiry to give evidence and to examine or cross-examine witnesses personally or by counsel on evidence relevant to the person's interest;
- g. the Commissioner be authorized to conduct consultations in relation to formulating the recommendations referred to in paragraph (b) as he sees fit;
- h. for purposes of the investigation referred to in paragraph (a), the Commissioner be authorized to recommend funding, in accordance with approved guidelines respecting rates of remuneration and reimbursement and the assessment of accounts, to a party who has been granted standing at the inquiry, to the extent of the party's interest, where in the Commissioner's view the party would not otherwise be able to participate in the inquiry;
- i. the Commissioner be authorized to rent any space and facilities that may be required for the purposes of the inquiry, in accordance with Treasury Board policies;
- j. the Commissioner be authorized to engage the services of any experts and other persons referred to in section II of the *Inquiries Act*, at rates of remuneration and reimbursement that may be approved by the Treasury Board;

- k. the Commissioner be directed to perform his duties without expressing any conclusion or recommendation regarding the civil or criminal liability of any person or organization and to ensure that the conduct of the inquiry does not jeopardize any ongoing criminal investigation or criminal proceedings;
- l. the Commissioner be directed to submit, on an urgent basis, one or more reports, interim or final, of his factual findings made pursuant to paragraph (a) in both official languages, to the Governor in Council, and to submit a separate report of his recommendations made pursuant to paragraph (b), in both official languages, to the Governor in Council; and
- m. the Commissioner be directed to file the papers and records of the inquiry with the Clerk of the Privy Council as soon as reasonably possible after the conclusion of the inquiry.