



democracy Watch
émocratie en surveillance

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Office of the Conflict of Interest and Ethics Commissioner
ATTN: Mario Dion, Commissioner
Parliament of Canada
Centre Block, P.O. Box 16
Ottawa, Ontario
K1A 0A6

Email: ciec-ccie@parl.gc.ca

October 29, 2018

RE: Request that you disclose whether any office holder covered by *Conflict of Interest Act* has ever been approved to own a “controlled asset” of any kind directly or indirectly outside of a blind trust

Dear Commissioner Dion:

I am writing following up on the ruling last Friday by the Federal Court of Appeal (FCA) on the judicial review application Democracy Watch filed for a judicial review of former Ethics Commissioner Mary Dawson’s February 2016 decision to allow Finance Minister Bill Morneau to continue to secretly own \$30 million of shares in Morneau Shepell Inc., his family’s company, after he became minister.

Ethics Commissioner Dawson decided that because Minister Morneau had set up an investment scheme so that he owned his shares in Morneau Shepell Inc. through two companies, one in Ontario and one in Alberta, he therefore owned the shares indirectly and so was not required by the rules in the *Conflict of Interest Act* to divest them by selling them or putting them in a so-called blind trust.

As you know, the *Conflict of Interest Act* requires any “controlled assets” to be “divested” by being sold or placed in a blind trust (sections 17, 20 and 27(1)), with a public statement issued detailing any divestment (subsection 26(2)(a)). The *Act* also contains an “anti-avoidance” measure that prohibits Cabinet ministers and senior government officials from taking any action to circumvent the requirements of the *Act* (section 18).

The FCA's ruling, which you can read at:

<https://decisions.fca-caf.gc.ca/fca-caf/decisions/en/item/346611/index.do>

states that the *Conflict of Interest Act's* rules concerning divestment of assets like the shares Minister Morneau owned "is open to a broader interpretation" than Ethics Commissioner Dawson used that "could in effect make the divestment requirement in section 17 applicable to assets that are indirectly held" like Morneau's shares were held (para. 17).

The FCA's ruling recognizes that the Ethics Commissioner's decisions like the one made about Minister Morneau's shares are "shielded from public view by confidentiality" (para. 11).

Given the FCA suggests that Ethics Commissioner Dawson was wrong to allow Minister Morneau to continue to own the shares, Democracy Watch's position is that the public has a right to know if you or Commissioner Dawson ever approved another office holder owning, directly or indirectly, any asset through an investment scheme like Minister Morneau did or through any other arrangement, as Commissioner Dawson secretly approved Minister Morneau's scheme.

Democracy Watch's position is that the public has a right to know about any such approval even if the office holder sold the asset.

As a result, Democracy Watch requests that you disclose whether any such approval has ever been granted by you or Ethics Commissioner Dawson.

Disclosing this information gives you an opportunity to uphold the principle of the public's right to know, and the integrity of the federal government ethics system.

As the information concerning whether any other such approvals have ever been granted must be readily available in the files of the Office of the Ethics Commissioner, we hopefully look forward receiving disclosure of this information from you very soon.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Duff Conacher', with a stylized, cursive script.

Duff Conacher, Board member of Democracy Watch
On behalf of the Board of Directors of Democracy Watch