Integrity Commissioner J. David Wake
Office of the Integrity Commissioner (as Lobbyists Registrar)
2 Bloor Street West, Suite 2100
Toronto, Ontario
M4W 3E2

Via Email: integrity.mail@oico.on.ca, lobbyist.mail@oico.on.ca

February 25, 2020

RE: Request for ruling as soon as investigations are completed on two complaints filed in June and July 2019 concerning lobbyists violating the *Lobbyists Registration Act*

Dear Commissioner Wake:

We are writing requesting a public ruling as soon as possible, and as soon as investigations are completed, on the two complaints Democracy Watch filed with you in June and July 2019 concerning lobbyists violating the *Lobbyists Registration Act* ("*LR Act*" – 1998, S.O. 1998, c. 27, Sched.).

This letter follows the initial complaint letters filed with your office by Democracy Watch in June and July 2019, and the follow-up letter concerning both complaints filed with your office by Democracy Watch on January 22, 2020.

That January 22nd follow-up letter noted that your office had acknowledged receipt of both complaints, and argued that the LR Act allowed you to update Democracy Watch on the state of the investigations into both complaints. That letter also argued that, given Democracy Watch's complaints provided ample, detailed evidence of the violations alleged, that no further delay in issuing a

public ruling on each complaint was justifiable, and requested that you issue a public ruling as soon as you complete each investigation.

You responded to that follow-up letter by letter sent on January 27, 2020. In that letter, you stated:
"I cannot agree with your analysis that the Act allows me to disclose information to you if my investigation is completed."
and
"As required by the Act, in my 2019-2020 annual report, as always, I will describe the investigations I conducted during the year, as well as the number of matters I referred, refused or ceased to investigate."

To back up those claims, you cite subsections 17(10(1) and (2) of the *LR Act*, which Democracy Watch noted in its letter of January 22. As you summarize in your letter, those subsections prohibit you from disclosing whether you are conducting an investigation, and any information, documents or things obtained during an investigation, except if needed to conduct an investigation, to refer a situation to another law enforcement entity, to enforce a penalty, or as required in your annual report.

With respect, your above statements and claims ignore the fact that Democracy Watch's letters have requested a public ruling after you complete your investigation. You do not have to disclose any information, documents or things obtained during an investigation in order to issue a public ruling. Democracy Watch's complaint letters were filed publicly with your office and were based on information that was already on the public record – as a result you did not obtain any of the information contained in those letters during any investigation you have conducted.

As well, all you have to include in a ruling is the ruling – that the lobbyist violated the law and the reasons why or why not. There is no provision in the *LR Act* that prohibits you from disclosing that ruling soon after you complete an investigation.

As Democracy Watch set out in its letter of January 22nd, we know that under section 17.6 of the *LR Act* that you must give notice to the people being investigated of your conclusion, and that under section 17.7 they then have 15 days to request that you reconsider your conclusion (and, under subsection 17.9(5), to request that you delay any penalty you have decided to impose). We also know that within 60 days of you providing your conclusion to a lobbyist, or reconsidered conclusion, they have the right to apply under section 17.8 for judicial review of your conclusion. And we know that all of these factors are not in your control.

However, there is no prohibition in the *Act* on you disclosing publicly that you have completed an investigation. As well, there is no prohibition in the *LR Act* on you disclosing publicly that a person has requested under section 17.7 that you

re-consider your conclusion and/or requested under subsection 17.9(5) that you delay implementing the penalty.

In addition, if a lobbyist has applied under section 17.8 for judicial review of any of your decisions, you are of course free to issue a public notification that such an application has been filed as the lobbyist's judicial review court filing is a public document.

Your claims concerning what the *LR Act* allows you to do and prohibits you from doing means that, if you completed an investigation into a lobbyist's actions after April 1st, 2020, for example during April 2020, you would not issue any information about that investigation until the summary in your annual report that will be issued in June 2021 (unless you decided to impose a penalty under section 17.9).

With respect, that is an absurd denial of the public's right to know. It is clearly in the public interest that you issue public statements as each of the steps listed above occur, including a public ruling as soon as the judicial review period has passed or after a judicial review application has been filed. In fact, it is essential that you issue these public statements and rulings in order for the public to know whether you are actually enforcing the *LR Act*.

You have an opportunity to uphold key measures in two key democratic good government laws, the *Lobbyist Registration Act* and the *Members' Integrity Act*.

Given that Democracy Watch's two requests for investigations contained most of the evidence needed to issue rulings, and given there is no prohibition in the *LR Act* on you issuing the public statements described above, and a public ruling on each complaint, we again request that you issue the public statements and rulings very soon – public statements as soon as you complete your investigations, and rulings issued as soon as the judicial review period has passed.

Sincerely,

Duff Conacher, Co-founder of Democracy Watch
on behalf of the Board of Directors of Democracy Watch