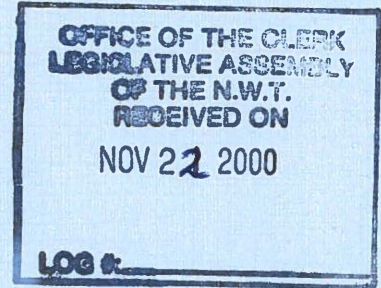




Northwest
Territories Office of the Conflict of Interest Commissioner



November 16, 2000

The Honourable Tony Whitford,
Speaker
Legislative Assembly of the N.W.T.
Yellowknife, N.W.T.
X1A 2L9

Dear Mr. Whitford;

RE: Complaint filed under Part 3 of the Legislative Assembly and Executive Council Act

I have now completed my investigation of a complaint filed under Section 100 of the above noted Act, and I enclose my report as required under subsection 102(1).

Sincerely,

Carol Roberts
Conflict of Interest Commissioner



**REPORT TO THE
SPEAKER OF THE
LEGISLATIVE ASSEMBLY OF THE
NORTHWEST TERRITORIES**

**IN THE MATTER OF ALLEGATIONS AGAINST
THE MEMBER FOR HAY RIVER SOUTH**

**CONFLICT OF INTEREST COMMISSIONER
NORTHWEST TERRITORIES**

November 16, 2000

**COMPLAINT UNDER SECTION 100(1) OF THE
LEGISLATIVE ASSEMBLY AND EXECUTIVE COUNCIL ACT
AGAINST THE MEMBER FOR HAY RIVER SOUTH**

I. COMPLAINT

On October 23, 2000, I received an email from Michael Miltenberger, M.L.A., Thebacha, setting out a complaint pursuant to section 100(1) of the *Legislative Assembly and Executive Council Act* ("the Act") against the Member for Hay River South, Jane Groenewegen.

In his complaint, Mr. Miltenberger alleged that:

... after more than 10 months in office, Ms. Groenewegen continues to drive around Yellowknife and Hay River in a company vehicle, from a business I understand to be in blind trust as she is now in Cabinet. The issue was raised with her, in the regular members hallway, last Thursday afternoon. Ms. Groenewegen ... acknowledged that she was driving around in a company vehicle as she hadn't gotten around to changing the plates and registration. As of Friday, she still had commercial plates on her vehicle.

Mr. Miltenberger's complaint was faxed to Ms. Groenewegen on October 24. Ms. Groenewegen replied to the complaint on October 27. Her reply was provided to Mr. Miltenberger on October 31 to give him an opportunity to provide further comments.

II. FACTS

Ms. Groenewegen was originally elected to the Legislative Assembly in October 1995. She was returned to the Assembly by acclamation in December 1999. She was elected to Cabinet in January 2000, and appointed the Deputy Premier, Minister of Health and Social Services, and Minister Responsible for the Status of Women.

Section 81 of the *Act* provides that a Minister shall not, except as may be required as a duty of office,

.....
(b) carry on a business, other than managing routine personal financial interests

....

(4) Within 60 days after being elected as Speaker or appointed as a Minister, the Speaker or Minister shall ensure that his or her personal affairs are so arranged that there is no contravention of this section.

Coincident with her obligations under section 81, Ms. Groenewegen entered into a blind trust agreement with respect to the administration of businesses in which she had a controlling interest.

Ms. Groenewegen has advised me that the material facts in relation to this complaint are as follows:

- In November 1999, she leased a 1999 Ford Expedition in Yellowknife for her personal use. This vehicle has been used as her primary vehicle since that time.
- Ms. Groenewegen's family business owns a 1995 Ford Windstar van.
- On August 2, 2000, Ms. Groenewegen's husband drove the Windstar van to Yellowknife for a windshield replacement. It was serviced on August 4, and steam cleaned on August 8.
- Ms. Groenewegen drove the van back to Hay River on September 4, and on or about September 11, the van was driven back to Yellowknife.
- In the early fall of 2000, Ms. Groenewegen drove the Expedition to Hay River and flew back to Yellowknife. Since that time, Ms. Groenewegen has used the Windstar van in Yellowknife, and her husband has used the Expedition in Hay River.
- Ms. Groenewegen says she came to prefer driving the Windstar to the Expedition, and discussed with her husband transferring the vehicles. Doing so required her husband to purchase the Windstar from the company, and transfer the ownership and registration.
- The necessary transfer documents were completed on October 23, and the registration and licence plate changes have been made to reflect the fact that Ms. Groenewegen and her husband jointly own the Windstar.

LEGISLATIVE ASSEMBLY AND EXECUTIVE COUNCIL ACT

Although Mr. Miltenberger did not refer specifically to any particular provision of the Act in his complaint, I infer that he alleges a breach of section 75, which is as follows:

75. Each member shall

- (a) perform his or her duties of office and arrange his or her private affairs in such a manner as to maintain public confidence and trust in the integrity, objectivity and impartiality of the member;
- (b) refrain from accepting any remuneration, gift or benefit the acceptance of which might erode public confidence and trust in the integrity, objectivity or impartiality of the member, and in all other respects act in a manner that will bear the closest public scrutiny;
- (c) arrange his or her private affairs in conformity with the provisions of this Part and act generally to prevent any conflict of interest from arising; and
- (d) make all reasonable efforts to resolve any conflict of interest that may arise in favour of the public interest.

III. FINDINGS

I have relied on the accuracy and truthfulness of the information Ms. Groenewegen has provided to me.

Ms. Groenewegen does not dispute the allegation that she used an asset of a company that is in a blind trust, for her personal use while in Yellowknife, for a period of almost three months. Her reason for doing so is, principally, because her husband, who carries out the day to day administration of the business, failed to take the necessary steps to effect the transfer documents in a timely fashion.

Given that Ms. Groenewegen does not dispute the allegation, I find a breach of subsections 75 (a) and (c).

By using a family owned company vehicle for personal use, I find that Ms. Groenewegen failed to arrange her private affairs in a manner that has the effect of maintaining public confidence and trust in her integrity and objectivity. I also find that, in using her company vehicle for personal use, Ms. Groenewegen failed to arrange her private affairs in conformity with the provisions of Part 3.

V: CONCLUSION

Section 102(1) of the *Act* states

After conducting an investigation into the complaint, the Conflict of Interest Commissioner shall submit to the Speaker, the member complained of and the complainant, an report, with reasons, advising that the Conflict of Interest commissioner

- (a) is dismissing the complaint, where the Conflict of Interest Commissioner has determined that
 - (i) the complaint is frivolous or vexatious or was not made in good faith,
 - (ii) there are insufficient grounds to warrant an inquiry,
 - (iii) the complaint does not disclose a contravention of this Part,
 - (iv) a contravention of this part was minor or was committed through inadvertence or by reason of an error in judgment made in good faith, or
 - (v) the member took all reasonable measures to prevent an contravention of this part; or

- (b) is directing that an inquiry be held before a Sole Adjudicator.

The legislation gives me the power simply to dismiss a complaint, or to direct that a public inquiry be held. I have no jurisdiction to make a recommendation as to punishment if I find that the *Act* has been contravened.

The 1999 Report of the Conflict of Interest Review Panel (the "Clark Report") recommended that the Conflict of Interest Commissioner be able to conduct an investigation and determine which of three processes would be most appropriately suited to dealing with the complaint. The Report said:

The Panel considered a number of different alternatives for dealing with conflict of interest complaints filed with the Conflict of Interest Commissioner. It is important that the process be timely and cost-effective. In Alberta and British Columbia, it has always been possible to resolve complaints without the need for a public inquiry such as has dominated the scene in the Northwest Territories in the last few months. We recommend that the Northwest Territories retain the ability to conduct a public inquiry in situations where that is appropriate, but that there also be a less expensive and more timely alternative where circumstances indicate to the Conflict of Interest Commissioner that such an approach is preferable. (p. 20)

The Assembly did not adopt the third process, which provided that the Conflict of Interest Commissioner could investigate, and make recommendations to the Assembly, in circumstances where a public inquiry was not warranted.

Ms. Groenewegen is very familiar with the *Act* and the principles underlying conflict of interest legislation. Having knowledge of her obligations, her failure to act in accordance with them cannot be considered as inadvertent or a good faith error in judgment. Nor am I able to conclude that Ms. Groenewegen took all reasonable measures to prevent a contravention.

Nevertheless, there are, in my view, insufficient grounds to warrant a public inquiry by a Sole Adjudicator in this case. The facts are, for the most part, undisputed, and, in my view, the contravention is not substantial. For this reason, the only determination I am able to make is to dismiss the complaint under section 102(1)(a)(ii). I therefore do so, and leave it to the Assembly to determine what sanction, if any, it wishes to apply to the member.

I would urge the Assembly to take steps to amend the *Legislative Assembly and Executive Council Act* as recommended by the Clark Report

This report is provided to the Speaker of the Legislative Assembly pursuant to section 102(1) of the *Act*.



Carol L. Roberts
Conflict of Interest Commissioner