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OFFICE OF THE INTEGRITY COMMISSIONER

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REPORT OF THE HONOURABLE J. DAVID WAKE INTEGRITY COMMISSIONER

Re: Catherine Fife, Member for Waterloo

Toronto, Ontario
September 14, 2021

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EXECUTIVE SUMMARY

This report relates to a complaint made by Dave Smith, Member of Provincial Parliament for Peterborough-Kawartha, under section 30 of the *Members' Integrity Act, 1994* against Catherine Fife, Member of Provincial Parliament for Waterloo.

Mr. Smith alleges that Ms. Fife breached Ontario parliamentary convention by sending an email seeking feedback on the upcoming provincial budget from her legislative email account on February 3, 2021 that linked to a partisan webpage.

It is my opinion that Ms. Fife breached Ontario parliamentary convention with respect to the sending of this email. While I find it was never her intent to link the request for feedback to the partisan site, I find that she is responsible for the error. This is because, although there were sufficient indicia to require Ms. Fife to be cautious before approving the email, she did not exercise due diligence by clicking on the link before approving it.

Notwithstanding the finding of a contravention, I recommend that no penalty be imposed in this case because the breach was inadvertent and Ms. Fife acted promptly to address the problem as soon as it came to her attention.

I found it was unnecessary to make recommendations because I am satisfied that the inadvertent contravention that occurred in this case is unlikely to be repeated. However, I remind all members of provincial parliament to exercise appropriate caution and due diligence in supervising staff who assist them with projects, regardless of whether the member is their "employer," to ensure they meet their responsibilities to respect parliamentary conventions, including the convention that legislative resources not be used for partisan purposes.

I. BACKGROUND TO THE INQUIRY

[1] On March 10, 2021, Dave Smith, Member of Provincial Parliament for Peterborough-Kawartha, submitted a request, pursuant to section 30 of the *Members' Integrity Act, 1994* (“**the Act**”), that I give an opinion with respect to whether Catherine Fife, Member of Provincial Parliament for Waterloo, breached Ontario parliamentary convention by sending an email seeking feedback on the upcoming provincial budget from her legislative email account on February 3, 2021 that linked to a partisan webpage.

[2] Ms. Fife’s email outlined multiple methods of providing information, including by clicking on a link to an email address, Budget2021@ontariondp.ca, or by clicking on a link to a webpage, www.ontariondp.ca/your-budget-proposals.

[3] Mr. Smith submitted seven screenshots showing the various pages that opened when one clicked on the link to the webpage and proceeded to make a submission. Each screenshot indicates the budget consultation webpage was hosted on the website of the Ontario New Democratic Party, a partisan political organization. Across the top of each page is a banner featuring the name of the party and several buttons related to the work of the party, including a prominent “Donate” button highlighted in bright blue.

[4] Mr. Smith alleges that Ms. Fife’s email and the related links represent “a clear violation of the Members’ Integrity Act, as the member is using legislative resources, her legislative stature and role as a parliamentary critic to promote a partisan resources [sic], which included direct solicitation of a financial contribution as a mechanism through which an individual’s input regarding the budget consultation process is considered.”

II. LEGAL FRAMEWORK OF THE INQUIRY

[5] Under section 30(1) of the Act, a member of the Legislative Assembly of Ontario who has reasonable and probable grounds to believe another member has contravened the Act or Ontario

parliamentary convention, may request that I, as Integrity Commissioner, give an opinion as to the matter.

[6] Ontario parliamentary convention is not defined in the Act, but consists of generally accepted rules or practices of members of the Ontario legislature. What is accepted as parliamentary convention may evolve over time. Although Ontario parliamentary convention pre-existed the Act, since its passage, the development and interpretation of parliamentary convention has been informed by its core principles, as set out in its preamble.^{1 2}

[7] It has long been an accepted parliamentary convention in Ontario that government resources as well as legislative resources, should not be used for partisan activities.³

[8] My task as Integrity Commissioner in this case is therefore to gather the relevant evidence, make any necessary factual findings⁴ and then report my opinion as to whether, in the

¹ Report re: the Honourable Lisa McLeod, May 23, 2019, pp. 5-10.

² The preamble of the Act states:

It is desirable to provide greater certainty in the reconciliation of the private interests and public duties of members of the Legislative Assembly, recognizing the following principles:

1. The Assembly as a whole can represent the people of Ontario most effectively if its members have experience and knowledge in relation to many aspects of life in Ontario and if they can continue to be active in their own communities, whether in business, in the practice of a profession or otherwise.
2. Members' duty to represent their constituents includes broadly representing their constituents' interests in the Assembly and to the Government of Ontario.
3. Members are expected to perform their duties of office and arrange their private affairs in a manner that promotes public confidence in the integrity of each member, maintains the Assembly's dignity and justifies the respect in which society holds the Assembly and its members.
4. Members are expected to act with integrity and impartiality that will bear the closest scrutiny.

³ I and past Integrity Commissioners have discussed this convention in multiple reports. See for example: Report re. Stan Cho, released on the same date as this report ["Cho Report"]; Report re: the Honourable Peter Bethlenfalvy, October 21, 2020 ["Bethlenfalvy Report"]; Report re. Patrick Brown, July 14, 2016 ["Brown Report"]; Report re. Daiene Vernile, and the Honourable Jeff Leal, December 22, 2015 ["Vernile and Leal Report"]; Report re. Jagmeet Singh, June 26, 2015 ["Singh Report"]; Report re. Laurie Scott, October 1, 2013 ["Scott Report"]; Report re. Randy Hillier, July 6, 2011 ["Hillier Report"]; Report re. Sandra Pupatello, December 12, 2002 ["Pupatello Report"]

⁴ The standard of proof applicable in this inquiry is proof on the balance of probabilities, meaning that it must be found more likely than not that a particular fact exists or not. Evidence must be clear, convincing and cogent. *F.H. v. McDougall*, 2008 SCC 53 (CanLII), [2008] 3 SCR 41 at para 40.

sending of the February 3, 2021, email in question, Ms. Fife used legislative resources for partisan activities and, if so, whether any penalty should be imposed.

III. THE INQUIRY PROCESS

[9] As is my practice, after Mr. Smith submitted his request for my opinion on March 10, 2021, on March 11, 2021, I asked Ms. Fife for submissions on whether I should conduct an inquiry. On March 28, 2021, she provided information about what happened.

[10] On April 7, 2021, after reviewing the materials received from the members, I decided to begin an inquiry under section 31 of the Act and notified them of my decision to do so.

[11] In this inquiry, I used my powers under section 33 of the *Public Inquiries Act, 2009*, which permits me to require any person, by summons, to give evidence on oath or affirmation and to produce such documents as I may specify.

[12] On April 21, 2021, Ms. Fife provided me with the requested documents and, pursuant to a request for more information, provided additional documents on April 26, 2021.

[13] In May and June 2021, counsel and an investigator with my office interviewed four witnesses, including Ms. Fife, her executive assistant, the former Director of Stakeholder Relations of the Ontario New Democratic Party Caucus Services, and the Principal Secretary of the NDP Caucus Services. I attended the interview of Ms. Fife who was represented by counsel, Meg Atkinson. Because of ongoing restrictions related to the COVID-19 pandemic, all interviews were conducted via videoconference.

[14] In late June to early July 2021, my staff requested and obtained written confirmation from the Head of Engagement from the Ontario New Democratic Party with respect to facts related to the party website.

[15] Prior to reaching any conclusions, on July 15, 2021, I provided Ms. Fife and her counsel with a summary of the evidence and invited them to make submissions. On August 6, 2021, Ms.

Fife's counsel provided submissions. I have carefully considered those submissions in reaching my opinion on this matter.

IV. EVIDENCE

Development of the Budget Consultation Email

[16] Ms. Fife advised that by about mid-January 2021 she and other members of the NDP Caucus learned that the government had decided that the Standing Committee on Finance and Economic Affairs would not be holding pre-budget consultations early in the year before releasing its next budget.⁵

[17] In her interview Ms. Fife told me that as the Finance Critic for the Official Opposition, these committee consultations were a critical opportunity for her to obtain timely feedback, information about budget priorities, and policy suggestions from stakeholders and members of the public, to be able to make informed comment on the upcoming budget. She said that because it was such an unusual year, in the context of the pandemic with huge financial pressures and expenditures, health pressures, education pressures, and economic pressures from small businesses, she felt that these committee consultations were more urgent than usual.

[18] She advised that local members of provincial parliament also relied on the information obtained at committee hearings in their region to inform their work. She noted that while the government may have obtained stakeholder input through channels other than the committee, to her knowledge it was not shared with the Official Opposition.

⁵ The fact that the government decided not to hold pre-budget consultations in the months preceding the budget is not in dispute and this decision is not subject to my review. A government member of the committee explained their rationale for this decision on the record at the committee hearing on April 1, 2021, as being that the committee had held "extensive consultations throughout the summer [of 2020]." See the transcript of this meeting posted online at <https://www.ola.org/en/legislative-business/committees/finance-economic-affairs/parliament-42/transcripts/committee-transcript-2021-apr-01>. The fact that the committee would not be holding pre-budget consultations and the government's rationale had also been reported earlier by the media: see Smith Cross, Jessica "Opposition Slams Ford Government's 'Closed-Door' Virtual Budget Consultations," *QP Briefing*, February 1, 2021

[19] Ms. Fife and her colleagues therefore sought to develop a process to gather the pre-budget consultation information that would normally be gathered through the committee's pre-budget hearings. Ms. Fife understood staff from NDP Caucus Services would develop a consultation process because she and her office staff "couldn't handle this huge project," noting that her staff had been "inundated throughout the pandemic, mostly with case work."

[20] In his interview the Director of Stakeholder Relations of NDP Caucus Services at that time⁶ stated that he was aware of the NDP Caucus's need for stakeholder input on the upcoming budget, especially for the Finance Critic, Ms. Fife, to evaluate the government's budget.

[21] The Director of Stakeholder Relations said it was his idea to develop an email for the Finance Critic, Ms. Fife, to send to stakeholders, that would include an opportunity to provide input to the government and to the Official Opposition (currently the NDP Caucus) by emailing a unique email address or by completing a form on a webpage.⁷ His rationale for the unique email address and webpage was that they would permit the pre-budget submissions to be easily accessed and not "lost" amid other emails sent to Ms. Fife's regular email account and the webpage would permit a stakeholder to upload a pdf document if desired.

[22] The Director of Stakeholder Relations further stated it was also his idea to ask employees of the Ontario New Democratic Party to create the unique email address and webpage for this project. When asked why he involved party employees, he said it was his "default." He thought it would be impossible to use the Ontario Legislative Assembly website because he understood it was controlled by employees of the Assembly, not the NDP Caucus or NDP Caucus Services. He

⁶ This person has since left this role.

⁷ There is some documentary evidence to suggest that other legislative and/or caucus staff may have had some involvement in the initiation of the budget consultation project and the initial instructions given to the party staff involved in creating the unique email address and website page to receive stakeholder feedback. However, these details are irrelevant to the issue before me, which is whether MPP Fife breached a parliamentary convention, because none of these individuals are employed by MPP Fife, she is not responsible for their training and supervision and she was not involved in their initial discussions about the budget consultation email. I have therefore not invested resources in tracking down exact details of the origins of this project and, in the circumstances, want to be clear that I make no finding as to the extent of anyone else's involvement in the initiation of this project.

did not consider using the NDP Caucus website⁸ because he does not use that site. He acknowledged that it was a “total oversight” on his behalf not to choose the NDP Caucus website from the outset and he is “kicking himself” for that choice.

[23] The Director of Stakeholder Relations also advised that, as staff of NDP Caucus Services, he did not otherwise work with the party staff involved in this project since their roles with the party were separate. He could not recall any other project where he worked with a combination of party and legislative staff.

[24] The Director of Stakeholder Relations also advised this was the only time he organized an email consultation.

[25] The documents we reviewed confirmed that the Director of Stakeholder Relations executed this project from February 1 to February 3, 2021.

[26] On February 1, the Director of Stakeholder Relations worked with the Director of Communications of NDP Caucus Services to develop a message for the consultation email, coordinated with party staff with respect to both the message and the development of the webpage and email address, and connected with Ms. Fife’s executive assistant to schedule a call with Ms. Fife for the following day.

[27] On February 2, the Director of Stakeholder Relations communicated again with party employees about the creation of the unique email address to be created to collect pre-budget feedback. Shortly after 2 p.m. he emailed the party employees: “Before you do that I want to talk to someone here about whether it’s better to be a leg email.”

[28] On the afternoon of February 2, the Director of Stakeholder Relations also had a telephone call with Ms. Fife to discuss the plan for the budget consultation email. When my staff interviewed him, the Director had no specific recollection of the details of that call. Ms. Fife recalled being impatient that it was taking so long to create a consultation email. She also

⁸ The NDP Caucus website is separate from the party website and the legislative assembly website. The URL for the site is: <https://www.ondpcaucus.com/>.

specifically recalled that the Director told her that he wanted to make sure there was no crossover between the party and the caucus. She told us she was surprised that such a crossover was even a consideration and communicated to the Director of Stakeholder Relations that “well that cannot happen and so make sure that doesn’t happen.” She recalled that he then told her “Don’t worry” and “it will be done right.” She told us she took assurance from his response that there would not be any crossover between the party and the caucus.

[29] The Director of Stakeholder Relations said that he then had a discussion with a senior member of NDP Caucus Services, the Principal Secretary. The Principal Secretary confirmed that this discussion occurred. However, neither witness recalled the discussion word-for-word and both remembered it somewhat differently.

[30] The Director of Stakeholder Relations recalled they discussed “how can we send this out so we are not... we are not...you know, doing the wrong thing essentially. That we are not spending money that we shouldn’t be spending or something like that. Because, like, you know I realized it was the party website and so I want to make sure we weren’t spending any money to send anybody over there.” After speaking with the Principal Secretary, he understood there was no impediment to putting the consultation through the party website.

[31] The Principal Secretary advised that she remembered a discussion about “logistical pieces” and the need to keep the budget consultation emails separate from Ms. Fife’s regular emails. She did not recall any discussion with the Director of Stakeholder Relations about using the party website and stated she was not aware the party website had been used for the budget consultation until February 10, 2021, after Mr. Smith’s complaint to the Speaker.

[32] On the morning of February 3, the Director of Stakeholder Relations asked the party employees to proceed to create the unique email address and send it to Ms. Fife’s executive assistant. He also exchanged drafts with Ms. Fife’s executive assistant of the wording of the email for Ms. Fife to send. In addition, he provided the executive assistant with addresses of individuals who had previously made pre-budget submissions to the Standing Committee on Finance and Economic Affairs.

[33] Ms. Fife’s executive assistant advised that she did not turn her mind to the email and website addresses included in the draft email. She told us she relied on the Director of Stakeholder Relations who spearheaded the project and had 10 years of experience. She also told us she felt “horrible I didn’t catch the mistake.”

[34] Ms. Fife’s executive assistant emailed the draft text of the email to Ms. Fife for approval at 10:39 a.m. As part of my inquiry, I confirmed with party staff that the link to the budget consultation page was activated by 10 a.m. on February 3, 2021.

[35] Ms. Fife told me that she recalled reviewing the text of the email on her phone between meetings. She noted they said “Budget2021” but did not turn her mind to the details of the email or website address for stakeholders to provide feedback. She did not click on any of the links. She said she was not aware at the time that clicking on the webpage option would bring someone to the party website and that there was a “Donate” button at the top of the consultation page. She told us she was focused on the content and tone of the email and was satisfied it hit the right markers to prompt the most feedback. At 1:39 p.m. she emailed her approval to her executive assistant: “good to go...”

[36] Late in the afternoon of February 3, the Director of Stakeholder Relations and the party employees confirmed to Ms. Fife’s executive assistant that the unique email address had been activated and she could send out the email on behalf of Ms. Fife.

[37] Shortly after 7 p.m. on February 3, 2021, Ms. Fife’s executive assistant sent the following email⁹ to a long list of stakeholders:

Hello,

This is the time of year when Ontario’s Standing Committee on Finance and Economic Affairs would typically be travelling around the province conducting multi-party, public consultations on the budget. This year, Doug Ford has chosen not to hold public consultations and instead host only partisan, private pre-budget consultations.

⁹ The email is reproduced in this report without hyperlinks. At the time it was sent, the link in the email took users to the party website. As detailed below, shortly after Ms. Fife learned of Mr. Smith’s complaint, the link was redirected to the NDP Caucus website.

It is essential that stakeholders and Ontarians make their views known to the Premier and his Minister of Finance. It is equally vital that all Ontarians and their elected representatives know the recommendations put forward by experts so that we can hold the government to account. As Ontario continues to face a truly unprecedented health and economic crisis, it is crucial that politicians have the best information available to make responsible decisions and ensure every Ontarian is getting the help they need. I am writing to you as I believe you and your organization have an important contribution to make regarding the 2021 Budget.

I am asking that you ensure both the Government and Official Opposition hears your recommendations and advice on the upcoming budget. Your expertise will be essential in holding the government to account. I would encourage your organization to ensure that your written submissions be sent to Minister.fin@ontario.ca and submitted to www.ontariondp.ca/your-budget-proposals or by emailing Budget2021@ontariondp.ca.

Thank you for your time and consideration.

Sincerely,

Catherine

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[38] Ms. Fife's executive assistant advised she also sent the email to other members of the NDP Caucus.

The Complaint and Ms. Fife's Response

[39] On February 10, 2021, media reported that Mr. Smith had written to the Speaker of the Legislative Assembly to complain that the February 3, 2021 email sent from Ms. Fife's account violated the Act by using legislative equipment for partisan purposes.¹⁰

¹⁰ See, for example, "Waterloo MPP Catherine Fife's email prompts complaint from Conservative colleague," February 10, 2021, online: *Waterloo Region Record* <https://www.therecord.com/news/waterloo-region/2021/02/10/waterloo-mpp-catherine-fifes-email-prompts-complaint-from-conservative-colleague.html>

[40] Ms. Fife told me that she was very upset when she learned about the complaint and the underlying concern that the consultation email linked to a party webpage with a donation button. She confirmed with senior NDP Caucus Services staff that the error had been promptly fixed and issued the following statement, approximately an hour after she first learned of the problem:

Caucus Statement

STATEMENT

February 10, 2021

NDP Caucus statement on website error regarding budget feedback

In error, materials from MPPs used an incorrect website address. We apologize for the error and have already corrected it, as well as taken internal steps to ensure it doesn't happen again. We look forward to cooperating with the Speaker and Integrity Commissioner to ensure we've taken all the right steps to correct this mistake.

[41] The Director of Stakeholder Relations advised he was very upset when he learned of the problem. He immediately asked the party staff to “take this down,” meaning the budget consultation page on the party website. He then worked with the Director of Communications for NDP Caucus Services to find a solution quickly, which entailed moving the budget consultation to the caucus website. After that change was made, users who clicked on the link were no longer directed to the party website or exposed to a donate button or other partisan content.

[42] Ms. Fife also did a number of press interviews that same day, in which she publicly apologized for the error. She provided us with copies of articles reporting her apology.¹¹

¹¹ See, for example, Kate Bueckert “Waterloo MPP Catherine Fife accused of misusing legislative email, she says it’s an error” February 11, 2021, *CBC Kitchener-Waterloo*, online: <https://www.cbc.ca/news/canada/kitchener-waterloo/waterloo-mpp-catherine-fife-email-error-1.5908864> and James Sebastian-Scott, “MPP Catherine Fife accused of ‘misusing’ her legislative email,” February 11, 2021, *KITCHENERTODAY.COM* online: <https://www.kitchenertoday.com/local-news/mpp-catherine-fife-accused-of-misusing-her-legislative-email-3420488>.

[43] Ms. Fife told me that at her next regular meeting with her staff she also reviewed the incident with her staff, took responsibility for not clicking on the link to the budget consultation page and discussed the need to be vigilant in all communications.

[44] Ms. Fife also asked her executive assistant and caucus staff to review the source of the pre-budget submissions received. She told us they reported to her that of 99 submissions received, only four were through the webpage and the majority of the remainder were received via reply email to her legislative email account, not the unique email address created for the budget consultation. She also advised that the party assured her it received no donations originating through this webpage.

[45] The Head of Engagement for the Ontario NDP Party confirmed in writing to my staff that “not a single donation originated from the web form landing page” and that only “4 non-staff” had used the budget submission page on the party website.

[46] The Principal Secretary told my staff that she had a conversation with the Director of Stakeholder Relations to confirm that he understood it had been a problem to use the party website in these circumstances and, in future, the caucus website should be used. She said the topic was also raised with senior caucus staff. Finally, she said she had a similar conversation with the Head of Engagement at the party, to confirm that party and legislative resources should not be mixed.

[Ms. Fife and Her Executive Assistant’s Knowledge of Parliamentary Convention](#)

[47] Ms. Fife advised that she learned about the Act and its requirements through the orientation she received from the Legislative Assembly when she was first elected. She reads my annual reports, which regularly include information about inquiries conducted and questions arising from members about their responsibilities under the Act. She also noted that she has an opportunity to raise questions with me during the annual meeting that I have individually with her, as I do with all members as required by the Act, to review their financial disclosure statements and to provide advice on their obligations under the Act.

[48] Ms. Fife also advised that she understands that there is a clear division between the work of the New Democratic Party, as a political party, and her work as a Caucus member and lawmaker. She advised that her job is to represent everyone, not just members of her party. She told us there are no partisan materials in her constituency and Queen's Park offices as they are a site of public service, not partisan politics. Similarly, she does not use her Queen's Park email for partisan purposes.

[49] With respect to training for her Queen's Park staff, Ms. Fife advised she relies on NDP Caucus Services to provide training and she does not know how they cover parliamentary convention.

[50] Ms. Fife's executive assistant advised she does not recall receiving any training about parliamentary convention after taking the position. However, earlier in her career, she recalls meeting with me as a legislative intern and receiving an overview of the topic at that time. She explained she understands that "there is a very clear division between what an MPP's office should do and what a candidate or riding association...that someone should do." She said that you do not mix public resources and partisan work, because members of provincial parliament are elected to serve all of their constituents, regardless of political opinions. She said political work is done by the riding association, not constituency or legislative staff. She has taken vacation time to volunteer on a political campaign. She showed us that she has two phones and noted she would use her personal phone if she was volunteering on a campaign, as an example of how she keeps her professional work as executive assistant separate from any partisan activity.

The Director of Stakeholder Relations' Knowledge of Parliamentary Convention

[51] The Director of Stakeholder Relations told us that by February 2021, he had worked for NDP Caucus Services for approximately 10 years. He did not recall receiving any formal training about the parliamentary convention prohibiting the use of legislative resources for partisan purposes. However, he had occasional conversations with various supervisors about it from time to time as issues arose, for example about the Auditor General's decisions about government

advertising and the report of my predecessor, Integrity Commissioner Lynn Morrison, regarding former MPP Jagmeet Singh.¹²

[52] The Director of Stakeholder Relations explained that he understood that, as a caucus staff member, he was not to use financial resources for partisan work, including his laptop, printer, email account and cellphone, and that if he wanted to work on a political campaign, he needed to be on vacation or a leave.

Caucus Services Employees

[53] At the time of the events in question, continuing through the writing of this report, Ms. Fife also holds the role of NDP Caucus Chair in addition to her roles as Finance Critic and Member of Provincial Parliament for Waterloo. However, she explained that her role as Caucus Chair is confined to work with the elected members of the NDP Caucus. She plays no role in hiring, training, or supervising the employees of NDP Caucus Services. She is responsible only for her own staff, namely her executive assistant and two constituency office employees.

[54] The Principal Secretary of NDP Caucus Services confirmed that Caucus Services is responsible for hiring and training Caucus Services staff. She also confirmed that Caucus Services provides training for staff hired to work for NDP members of provincial parliament, including legislative staff.

V. ANALYSIS

[55] The issue in this matter is whether Ms. Fife breached the Act and parliamentary convention by sending an email on February 3, 2021 from her legislative email account to a large number of stakeholders and members of the public, for what purported to be a pre-budget consultation, but contained a link to a partisan webpage.

[56] It is admitted and I find on the evidence that Ms. Fife did approve the draft email sent by her executive assistant on February 3, 2021 from her legislative email account and that the email

¹² Singh Report, *supra* note 3.

contained a link to a webpage hosted on the website of the Ontario New Democratic Party, by definition a partisan political organization.

[57] I accept the evidence of both Ms. Fife and her executive assistant that neither chose to click on the link when the draft email was submitted to Ms. Fife by the Director of Stakeholder Relations for her approval. Had either done so they would have readily seen that the link to the webpage led to the website of the Ontario NDP Party which should have been apparent by the name of the link. They would have seen that the Party website had a banner at the top of each page featuring the name of the Party and several buttons related to the work of the Party, including a prominent “Donate” button highlighted in bright blue.

[58] Ms. Fife acknowledged in her evidence that she had failed to do her due diligence in the approval of the communication and accepted responsibility as a result. Her executive assistant stated that she “felt horrible” about not having checked the link.

[59] Both Ms. Fife and her executive assistant provided, in their evidence, a good understanding of the parliamentary convention that legislative resources should not be used for partisan activity. I find that it was never their intention to do so which is why their expressions of regret were so sincere.

[60] The question remains whether the actions of others, including the Director of Stakeholder Relations and party staff who together prepared the draft which included the offending link, can be attributed back to Ms. Fife to establish a breach of the parliamentary convention on her part.

[61] There are several Commissioner reports that have dealt with the issue of attributing the actions of staff back to a member who had little or no knowledge of the staff’s actions.¹³

¹³ Bethlenfalvy Report, Scott Report and Cho Report, *supra* note 3; Report re. the Honourable Brad Duguid, July 11, 2013.

[62] As I stated in the Bethlenfalvy Report:

A breach of parliamentary convention can be attributed to a member if the actions of their staff were directed by the member and the member knew of their actions or they reasonably should have known about their staff's actions.¹⁴

[63] Counsel for Ms. Fife submits that since the Director of Stakeholder Relations was not a member of her staff, did not report to her and was not hired, trained, or supervised by her, the principle quoted above did not apply.

[64] Although the reports I have cited dealt with the actions of a member's staff, I see no reason why, in certain circumstances, the actions of others who are not staff members but who are performing work or a service to assist the member in something like the present one of organizing a pre-budget consultation process, should not be subject to the same principle.

[65] It is clear from the evidence that Ms. Fife felt strongly that as Finance Critic for the Official Opposition she required input from a broad range of stakeholders and members of the public to make informed comment on the upcoming budget. I accept counsel for Ms. Fife's submission that to "make up for the government's decision not to hold a pre-budget consultation, staff members of the Official Opposition had to 'reinvent the wheel' to develop an online feedback process from scratch". In my opinion, the novel aspect to this process underlined the need for caution in its implementation.

[66] As Finance Critic it is not surprising that Ms. Fife became the face of the communication to stakeholders and members of the public whose input was sought as part of the process that was developed. The consultation email was designed by the Director of Stakeholder Relations to be sent in her name.

[67] The conversation between Ms. Fife and the Director of Stakeholder Relations on February 2 was important. It demonstrated two things. First, Ms. Fife was fully aware of the parliamentary convention against mixing legislative resources and party activity and she sought assurance from the Director to that effect when he mentioned that he wanted to ensure that there would be no

¹⁴ Bethlenfalvy Report, para. 304.

“crossover” with the party. Second, Ms. Fife’s surprise that the New Democratic Party might even be a consideration in the consultation process should have caused her to penetrate deeper into the process the Director had developed which involved the use of party staff to create the unique email address to collect pre-budget feedback. I accept Ms. Fife’s evidence that she was unaware that party employees had been involved but certainly this conversation should have acted as a red flag so that when the draft email arrived the following day, she should have exercised greater caution in approving it by clicking on the link to see what all recipients would see if they did the same.

[68] As a result of not exercising what Ms. Fife herself acknowledges to be due diligence in this matter, the link to a partisan site was not discovered and it was included in her communication to stakeholders and members of the public. Although unintended, I find that Ms. Fife thereby contravened parliamentary convention.

[69] While I disagree with counsel’s submission that the breach was trivial, given the broad distribution of the letter to stakeholders and members of the public, nevertheless I find that this is certainly not a situation where a penalty is appropriate.

[70] In coming to that conclusion I have considered the following factors:

1. The purpose of the communication in question was a proper one; unfortunately a mistake was made by others which included a partisan link in that communication, which Ms. Fife did not catch. She has accepted responsibility for her lack of due diligence to ensure that the communication prepared for her was appropriate.
2. Ms. Fife never had any intention to further a partisan activity with her communication. Unfortunately, the undetected link in the letter produced inadvertent consequences.
3. After the mistake was revealed, as a result of Mr. Smith’s complaint, Ms. Fife’s actions thereafter were a textbook response as to how to deal with an error after it has been brought to one’s attention. Within an hour of the mistake being identified she

confirmed with senior caucus staff that the budget consultation page on the party website was to be taken down and she agreed to the issuance of a statement regarding the error on the website. Further, she immediately and publicly apologized for the error that had been made when she participated in multiple media interviews and reports. She also met with her own staff to discuss the incident and the need to be vigilant in all communications.

4. Ms. Fife also followed up to see how many submissions were received through the webpage and determined that of the 99 submissions received only 4 were from the webpage. I find on the evidence that no donations were received as a result of the error.

5. Ms. Fife cooperated fully with my Office's investigation of this matter.

[71] This is not a case where I need to recommend training for Ms. Fife's staff since, as I have found above, both Ms. Fife and her executive assistant articulated a clear understanding of the parliamentary convention involved in this matter. I am confident that Ms. Fife and her staff are not likely to commit this type of inadvertent contravention again.

VI. CONCLUSIONS

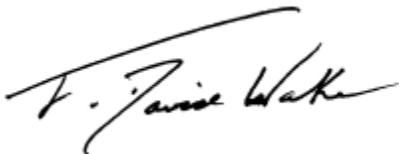
[72] It is my opinion that Ms. Fife contravened Ontario parliamentary convention because she sent an email from her legislative email account seeking feedback on the upcoming provincial budget from stakeholders and members of the public and that the email linked to a partisan webpage. I found that Ms. Fife had no intention of participating in partisan activity by sending this email and did not know that the email drafted for her contained a partisan link because she neglected to click on the link before she approved it to be sent. Nevertheless, I found that there were sufficient indicia that required Ms. Fife to be cautious before she approved the email and Ms. Fife acknowledged that she had not done her due diligence in the approval of the draft email.

[73] Notwithstanding the finding of a contravention, I am not recommending that a penalty be imposed since the breach was inadvertent and Ms. Fife's response following the revelation of the error that caused it was complete and exemplary. I further found that it was unnecessary to

make any recommendations arising out of this inquiry since both Ms. Fife and her executive assistant in their evidence demonstrated a clear understanding of the parliamentary convention prohibiting the use of legislative resources for partisan activity and I was satisfied that the inadvertent contravention which occurred in this case is unlikely to occur again in Ms. Fife's office. I am also satisfied that the Principal Secretary of NDP Caucus Services has taken steps to ensure its staff are aware of the need to respect this parliamentary convention in their work supporting Caucus members.

[74] I remind all members of provincial parliament reviewing this report to exercise appropriate caution and due diligence in supervising staff who assist them with projects, regardless of whether the member is their "employer," to ensure they meet their responsibilities to respect parliamentary conventions, including the convention that legislative resources not be used for partisan purposes.

Dated at Toronto this 14th day of September, 2021.

A handwritten signature in black ink, appearing to read "J. David Wake". The signature is written in a cursive style with a prominent horizontal stroke at the top.

The Honourable J. David Wake
Integrity Commissioner