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OFFICE OF THE INTEGRITY COMMISSIONER

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REPORT OF THE HONOURABLE J. DAVID WAKE INTEGRITY COMMISSIONER

Re: Vijay Thanigasalam, Member for Scarborough—Rouge Park

Toronto, Ontario
December 21, 2021

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Executive Summary

This report relates to a request made by Taras Natyshak, Member of Provincial Parliament for Essex, under section 30 of the *Members' Integrity Act, 1994* regarding Vijay Thanigasalam, Member of Provincial Parliament for Scarborough—Rouge Park.

Mr. Natyshak alleges Mr. Thanigasalam breached Ontario parliamentary convention by using constituency resources for partisan purposes, with respect to a virtual town hall regarding “Scarborough COVID-19 Vaccines” that Mr. Thanigasalam hosted on April 9, 2021. Mr. Natyshak alleges that this event promoted the campaign of the candidate for the Progressive Conservative Party of Ontario for the Scarborough—Guildwood riding.

It is my opinion that Mr. Thanigasalam breached Ontario parliamentary convention with respect to the organization and conduct of this town hall. While I find it was not his intent to hold a partisan event, his staff introduced partisan aspects to the town hall during their planning of it, namely the invitation of only Progressive Conservative members of provincial parliament to supplement the medical expert, the selection of a PC candidate as an invitee to speak at the event, changing the itinerary at the request of the candidate to identify her as the PC candidate for Scarborough—Guildwood and then reposting a modified poster for the event created by a volunteer for the candidate, which identified her as the PC candidate for Scarborough—Guildwood and included the Progressive Conservative Party logo. This was compounded when, during the event, the candidate was acknowledged as a candidate and as being from the riding she sought to represent.

I find Mr. Thanigasalam is responsible for his staff’s errors because he did not adequately train or supervise them.

Notwithstanding the finding of a contravention, I recommend that no penalty be imposed in this case because Mr. Thanigasalam has since arranged for his staff to have training with respect to the parliamentary convention, which should prevent any similar breaches in future.

I make the following recommendation: that each political party’s caucus services branch develop a detailed training program for MPP staff so that they understand their roles and the importance of not using legislative and constituency resources for partisan purposes. My Office is available to provide any assistance requested for such a program.

I. BACKGROUND TO THE INQUIRY

[1] On May 18, 2021, Taras Natyshak, Member of Provincial Parliament for Essex, submitted a request, pursuant to section 30 of the *Members' Integrity Act, 1994* (“**the Act**”), that I give an opinion with respect to whether Vijay Thanigasalam, Member of Provincial Parliament for Scarborough—Rouge Park, breached Ontario parliamentary convention by using constituency resources for partisan purposes, with respect to a virtual town hall regarding “Scarborough COVID-19 Vaccines” that Mr. Thanigasalam hosted on April 9, 2021.

[2] At this town hall, Alicia Vianga, a candidate for the Progressive Conservative (“**PC**”) Party of Ontario in the Scarborough—Guildwood riding (“the Candidate”), was introduced and given an opportunity to make remarks, along with other elected members of the Progressive Conservative Party of Ontario from the Scarborough area and the Parliamentary Assistant to the Minister of Health, before the main event of the evening, a presentation and question and answer session about COVID-19 vaccines with two representatives of the Scarborough Health Network. The Candidate was also briefly acknowledged later in the event.

[3] Mr. Natyshak alleges that Mr. Thanigasalam “used his constituency resources to plan an event at which PC Party Candidate Alicia Vianga was given special recognition on par with elected Members of the Legislative Assembly, thereby promoting her partisan campaign.”

II. LEGAL FRAMEWORK OF THE INQUIRY

[4] 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.

[5] Ontario parliamentary convention is not defined in the Act, but consists of generally accepted rules or practices of members of the Ontario legislature. It has long been an accepted

parliamentary convention in Ontario that members should not use government, legislative and constituency resources for partisan activities.¹

[6] My task as Integrity Commissioner in this case is to gather the relevant evidence, make any necessary factual findings² and then report my opinion as to whether, with respect to the organization and conduct of the April 9, 2021 town hall, Mr. Thanigasalam used constituency resources for partisan activities and, if so, whether any penalty should be imposed.

III. THE INQUIRY PROCESS

[7] On May 18, 2021, Mr. Natyshak submitted his request for my opinion, with an affidavit setting out the basis for his belief that Mr. Thanigasalam had breached parliamentary convention and attaching, as supporting evidence, a videorecording of about one minute of the town hall, during which the Candidate was publicly acknowledged as such by one of the speakers.

[8] As is my practice, on May 19, 2021, I asked Mr. Thanigasalam for submissions on whether I should proceed to conduct an inquiry. On June 11, 2021, he provided his response, including information about his intention for holding the event and some details of how it unfolded.

[9] On June 25, 2021, after reviewing the information received from both members, I decided to begin an inquiry under section 31 of the Act and notified them of my decision to do so.

[10] 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.

¹ See for example: Report re. Stan Cho, September 14, 2021 [“Cho Report”]; Report re. Catherine Fife, September 14, 2021 [Fife 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”]

² 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.

[11] At my request, Mr. Thanigasalam, his staff, and the Candidate provided documents relevant to this inquiry in July, August, September, and October 2021. My staff also reviewed social media postings relevant to the inquiry.

[12] During the investigation, I obtained a longer videorecording of approximately the last 30 minutes of the one-hour town hall. Unfortunately, there was no recording available of the earlier half of the town hall when the Candidate was first introduced and spoke, and other speakers had the opportunity to acknowledge her. My staff and I therefore spent considerable time obtaining witness accounts of the initial part of the town hall.

[13] In August, September, October, and November 2021, counsel and an investigator with my office interviewed eight witnesses, including Mr. Thanigasalam, his executive assistant, his constituency assistant, the caseworker from his constituency office, the Candidate, the physician representative of the Scarborough Health Network who attended the town hall, the Parliamentary Assistant to the Minister of Health and Member of Provincial Parliament for Eglinton—Lawrence, Robin Martin, and the Member of Provincial Parliament for Scarborough Centre, Christina Mitas. I attended the interviews of Mr. Thanigasalam, who was represented by counsel, Tom Barlow, the Candidate who was represented by counsel, Arthur Hamilton, Ms. Mitas who was also represented by Mr. Hamilton,³ and Ms. Martin. Because of ongoing restrictions related to the COVID-19 pandemic, all interviews were conducted via videoconference.

[14] I also requested and obtained evidence in writing from the Minister of Seniors and Accessibility and Member of Provincial Parliament for Scarborough North, Raymond Cho, and the Member of Provincial Parliament for Scarborough—Agincourt, Aris Babikian.

[15] Prior to reaching any conclusions, on November 17, 2021, I provided Mr. Thanigasalam and his counsel with a summary of the evidence and invited them to make submissions. On November 26, 2021, Mr. Thanigasalam's counsel provided submissions.

³ Mr. Hamilton also represented the three members of Mr. Thanigasalam's constituency office staff who were interviewed.

IV. EVIDENCE

The Origins of the April 9, 2021 Town Hall

[16] Mr. Thanigasalam told me that his intention in organizing the town hall was to save lives. At that time, he was very concerned about his constituents and the risks they faced from the COVID-19 virus. He noted that this was a peak of the pandemic for Scarborough and his riding was one of the “hottest spot[s] in the entire nation.” He said test positivity rates for COVID-19 in one area of Scarborough were as high as 20% and the death rate was very high. Many residents were essential workers who could not stay at home. Many residents were from racialized communities. He was hearing about vaccine hesitancy from some communities while at the same time other communities were asking about how and when they could get access to vaccines, which were in limited supply at that time.

[17] Mr. Thanigasalam was aware many of his constituents might not have the option of asking questions of an expert and, in the circumstances, he felt his job was “to bring us health experts who can tell them exactly what’s going on, tell them how important the vaccination is.” With respect to planning the town hall, he said:

So I told [name of executive assistant] I need a health expert to talk to people about, whether vaccination, or COVID, or dispensing, or places to look in about this COVID vaccination, because we are the centre of – of the – the biggest spreading COVID happen in our area. So that’s – that’s what I told [name of executive assistant] and that’s what he did.”

Mr. Thanigasalam Not Involved in Planning the Town Hall or Issuing Invitations

[18] Mr. Thanigasalam and his executive assistant gave consistent evidence that this instruction to the executive assistant was the extent of his involvement until it came time to host the event. Mr. Thanigasalam made it clear to his executive assistant that constituents were to have an opportunity to ask questions of the experts. When asked if there were any additional instructions, the executive assistant said “[n]o. The only thing he mentioned to me was that he wanted Scarborough Health Network on the town hall and specifically for them to take the lead because he thought it’s better constituents hear from medical experts than from politicians.”

[19] Mr. Thanigasalam advised that he became aware that Minister Cho, Mr. Babikian and Ms. Mitas would participate in the town hall a day or two before it, when he saw on social media a poster for the event indicating they would participate.

[20] Mr. Thanigasalam said he did not know until the event that Ms. Martin and the Candidate would be participating.

[21] Mr. Thanigasalam advised that if he had known in advance that the Candidate was going to speak at the town hall, he “would have prevented that from happening.”

Constituency Staff’s Organization of the Town Hall

Booking Scarborough Health Network Speakers

[22] The executive assistant contacted Scarborough Health Network’s Chief, Strategic Partnerships and Public Engagement, and arranged for him and a physician, specifically the Medical Director of Infection Prevention and Control and Antimicrobial Stewardship, to attend the town hall to provide information about the safety and availability of COVID-19 vaccines and to answer questions. The executive assistant advised he believes he made these initial arrangements by telephone call, which is consistent with the records provided to this office, which contained no written invitation or request to Scarborough Health Network.

Inviting the “Scarborough Caucus”

[23] On March 29, 2021, using the email account provided to him for his work in the constituency office, the executive assistant sent an email with the subject line “Scarborough Caucus Virtual Town Hall with SHN” to staff of other elected members of the Progressive Conservative Party of Ontario from the Scarborough area, namely Minister Cho, Mr. Babikian and Ms. Mitas. It stated “I am working with SHN to organize a town hall to get the most-up-to-date vaccinations to residents. Please let me know if your members would be willing to participate and I can send some potential dates.” Each of these members later attended the town hall.

[24] The executive assistant did not invite the two members of provincial parliament from Scarborough who are not members of the Progressive Conservative Party of Ontario. The executive assistant said he did not invite them because he did not want the event to be about

“political tit-for-tat.” He said he wanted to “control the message” and give a “spotlight” to Scarborough Health Network experts. Mr. Thanigasalam said in his interview that he did not know whether these members of provincial parliament were invited or not and emphasized that the purpose of the event was “to have health expert[s] talk to the people, and not get in a debate.” He said the town hall was not to be a political event or opportunity to “finger point.”

Inviting the Premier, Deputy Premier and Minister of Health and Parliamentary Assistant to the Minister of Health

[25] On Wednesday, March 31, 2021, using Mr. Thanigasalam’s name and legislative email account⁴, the executive assistant emailed the Minister of Health and Deputy Premier, one of her staff, and a staff member of the Premier to invite the Minister of Health and Premier to the event “to say a few brief remarks at the beginning of the town hall to ease Scarborough residents’ hesitancy to get vaccinated.” This invitation indicated the Scarborough Caucus and the Candidate would be involved in the event:

On **Friday, April 9th at 6:00pm**, I will be hosting a **Scarborough Townhall: COVID-19 Vaccine** alongside the Scarborough Caucus, MPP Raymond Cho, MPP Christina Mitas, MPP Aris Babikian and PC Candidate for Scarborough—Guildwood, Alicia Vianga.

[Emphasis in original.]

A later paragraph also clearly referenced the participation of the Scarborough Health Network representatives. Staff for the Minister of Health and the Premier advised that each was unable to participate in the town hall.

[26] On April 5, 2021, using Mr. Thanigasalam’s name and legislative email account, the executive assistant issued the same invitation to the Parliamentary Assistant to the Minister of Health, Robin Martin, including the references to the participation of both the Scarborough Caucus and the Candidate. Ms. Martin attended the event but said she has no recollection of seeing the invitation. She said she believes her staff dealt with it, which is corroborated by email exchanges between her staff and that of Mr. Thanigasalam.

⁴ Legislative email accounts are provided and supported by the Legislative Assembly of Ontario.

Inviting the Candidate

[27] On April 6, 2021, using Mr. Thanigasalam's name and legislative email account, the executive assistant invited the Candidate to attend the town hall. The email was addressed to the Candidate using her email address associated with a charity she founded and of which she is the executive director. The subject line was "Re: Invitation to Join Virtual Town Hall with Scarborough MPPs and Scarborough Health Network" and the body of the email stated:

Good morning Alicia,

I hope you had a great long weekend and are doing well. I will be hosting a Virtual Townhall with the Scarborough MPPs and the Scarborough Health Network on Friday, April 9th, 2021 at 6:00pm via Zoom to answer any questions our constituents may have about the COVID-19 Vaccine.

We would love to have you join at the beginning to say a few remarks.

Feel free to let me know if you have any questions. Looking forward to having you join us!

Kind regards,

Vijay

[28] On the evening of April 6, 2021, the Candidate accepted the invitation by reply email stating:

Hi Vijay,

So good to hear from you, I trust you had a lovely long weekend.

Thank you for the generous offer, I would be delighted to join you on Friday at 6PM. I will call you tomorrow for more information.

ALICIA VIANGA

The Candidate's signature line on this email contained her title and contact information as founder and executive director of a charity. The Candidate copied her reply email to two volunteers who had previously assisted with her campaign to be nominated as the candidate for her party in her riding.

[29] Both Mr. Thanigasalam and the Candidate told me that the telephone call contemplated in this email never occurred. They both said they had not personally met or communicated prior to this event. They also both advised that they first met in person and spoke to each other after the town hall, at an event hosted by someone else in the early summer of 2021.

[30] In the course of this inquiry, Mr. Thanigasalam's executive assistant was asked how he came to invite the Candidate. He replied:

Yeah so, you know at the time, like I mentioned, there was a lot of, a lot of the misinformation going around in Scarborough. Specifically, in our riding of Scarborough—Rouge Park as well. You know, a lot of the individual groups of people that were not getting vaccines or were, or were vaccine hesitant were racialized communities. So I wanted to identify community leaders that would be helpful in spreading the right message, in providing the right information to constituents. So [the Candidate] was somebody that was sharing all of our social media posts at the time about vaccines about doses. And I saw that obviously, since you know I manage Vijay's socials, so I decided to include her.

[31] The executive assistant was asked if he considered inviting another community leader, when he and the constituency assistant were unable to reach a leader of the Filipino community he had also identified. He explained, "Yeah, but we didn't have any relationship with anybody else in the community and again our focus was making sure that we have our ducks in a row, we wanted to give the right information out, we didn't want any misinformation getting out there and we wanted it to be very controlled and that's why we, or I specifically, just wanted these two individuals." When asked in follow up why he thought the Candidate would be able to help address Mr. Thanigasalam's concerns about vaccine hesitancy, the executive assistant said: "We didn't have accurate or strong community leaders lists from the Black community. That was something to this day that we're still struggling with to identify within our riding, those strong Black community leaders. So we thought, you know, because, or I thought because, you know, I saw her sharing our posts vigorously, she was trying to promote the message that we were trying to send out, that she would be a person that we can, we can count on to join us on the call."

[32] The executive assistant confirmed he was aware that the Candidate had become the candidate for the Progressive Conservative Party of Ontario for the Scarborough—Guildwood

riding when he was organizing the town hall, but he did not know her personally and did not invite her to promote her candidacy. He said, “the context is important,” adding “if, you know hypothetically if this was an event we wanted to promote a, a PC Candidate for - I don’t think it would have been the appropriate event where the entirety of Scarborough was upset with our government with what, uhm, MPPs were doing at that time.” He noted the event was several days removed from Scarborough Health Network cancelling thousands of vaccination appointments, it was the time of the highest daily case counts of COVID-19, and there were restrictions on activities.

[33] My staff asked the executive assistant about the fact that he sent invitations to the Premier, Deputy Premier and Minister of Health, and Parliamentary Assistant to the Minister of Health stating that the Candidate would be in attendance, *before* he sent the email inviting the Candidate to attend. The executive assistant advised he could not recall exactly what had occurred, but believed that he had earlier asked another member of Mr. Thanigasalam’s staff, his constituency assistant, to reach out to the Candidate.

[34] The constituency assistant confirmed she contacted the Candidate by telephone to invite her to the event. She said she had been asked by the executive assistant to contact some community leaders to speak at the town hall, to connect with constituents about the importance of getting the vaccine and how to access it. She contacted the Candidate and “a few others,” from the Filipino and Tamil communities. She advised the Candidate was the only community leader she was able to reach. She said she was unaware at the time of her telephone call that the Candidate had been nominated to be a candidate. She kept no records of her telephone calls to the community leaders because it has never been her habit to keep records of such telephone calls. The constituency assistant said she let the Candidate know they were hosting a town hall and that they would love to have the Candidate join them, and the Candidate confirmed. The constituency assistant did not recall any other details of the telephone call.

The Itinerary

[35] The executive assistant prepared an itinerary for the town hall, detailing the date and time of the event, how to join it virtually at the designated time, the list of speakers and their

titles, and the schedule setting out who was to speak when. As detailed below, there were a few iterations of this itinerary.

[36] Shortly after noon on April 8, 2021, the day before the town hall, the executive assistant first shared a copy of the itinerary with Minister Cho, Mr. Babikian, Ms. Mitas, their respective staff, the Candidate, and his contact at the Scarborough Health Network, its Chief, Strategic Partnerships and Public Engagement. This version of the itinerary listed each of the four members as “Attendees” along with the representatives of Scarborough Health Network. It indicated each member was scheduled to give remarks at five-minute intervals, the physician would have eight minutes to give a presentation, and then there would be a 20-minute question and answer period. Although the Candidate was not included on the list of names under “Attendee,” she was included on the schedule, which indicated she would have two minutes to make remarks, after the remarks by the members but before the presentation by the physician.

[37] Around mid-afternoon on April 8, 2021, the Candidate requested a change be made to the itinerary. She emailed the executive assistant from a Gmail account, with a copy to the constituency assistant and one of the persons she described as a volunteer who had assisted with her nomination. The body of this email stated the following:

Thank you for the Scarborough COVID-19 Vaccine Virtual Town Hall Itinerary, I look forward to joining MPP Vijay and the team of Scarborough MPPs tomorrow.

If possible, do you mind adding me to the Attendees list as

Alicia Vianga, PC Candidate Scarborough—Guildwood

MPP Vijay is doing an amazing job and I look forward to his mentorship and building a wonderful friendship.

The Candidate’s signature line for this email did not refer to her charity work. Instead, it related to her candidacy:

Making a Difference!

Ontario PC Candidate for Scarborough—Guildwood

Click Here to Donate or Volunteer

416-XXX-XXXX

Facebook Instagram Twitter

[38] About 20 minutes later, the constituency assistant agreed to make the change requested by the Candidate and describe her as such on the itinerary. The constituency assistant replied by email to the Candidate, indicating she had since spoken to the individual described by the Candidate as a volunteer for her nomination campaign. The constituency assistant apologized to the Candidate for “missing your spot on the attendees list” and attached an updated copy of the itinerary including “[the Candidate’s name], PC Candidate Scarborough—Guildwood” on the list of attendees. The Candidate then sent a brief email to both the executive assistant and the constituency assistant, thanking them for updating her information on the itinerary. The Candidate copied the “volunteer” who had the telephone call with the assistant and three other individuals, including one that she explained was also a “volunteer” for her nomination campaign.

[39] On the afternoon of April 9, 2021, the date of the scheduled event, shortly after confirming that Ms. Martin would attend, the executive assistant sent another version of the itinerary to his contact at Scarborough Health Network, the staff of the members scheduled to speak, and the Candidate. This version of the itinerary included Ms. Martin on the attendee’s list and indicated she would have five minutes to speak after the other members and the Candidate, prior to the presentation by the physician from Scarborough Health Network. This iteration of the itinerary gave the Candidate and each of the members other than Ms. Martin three minutes to make their remarks, slightly increasing the time allotted for the Candidate and slightly reducing the time allotted for the other members. Like the earlier version, it continued to list the Candidate with her title “PC Candidate Scarborough—Guildwood.”

[40] Mr. Thanigasalam, Ms. Mitas and Ms. Martin each told me they never saw the itinerary.

[41] This inquiry revealed no evidence to suggest the itinerary was ever shared with members of the public attending the event.

The Posters and Promotion for the Event

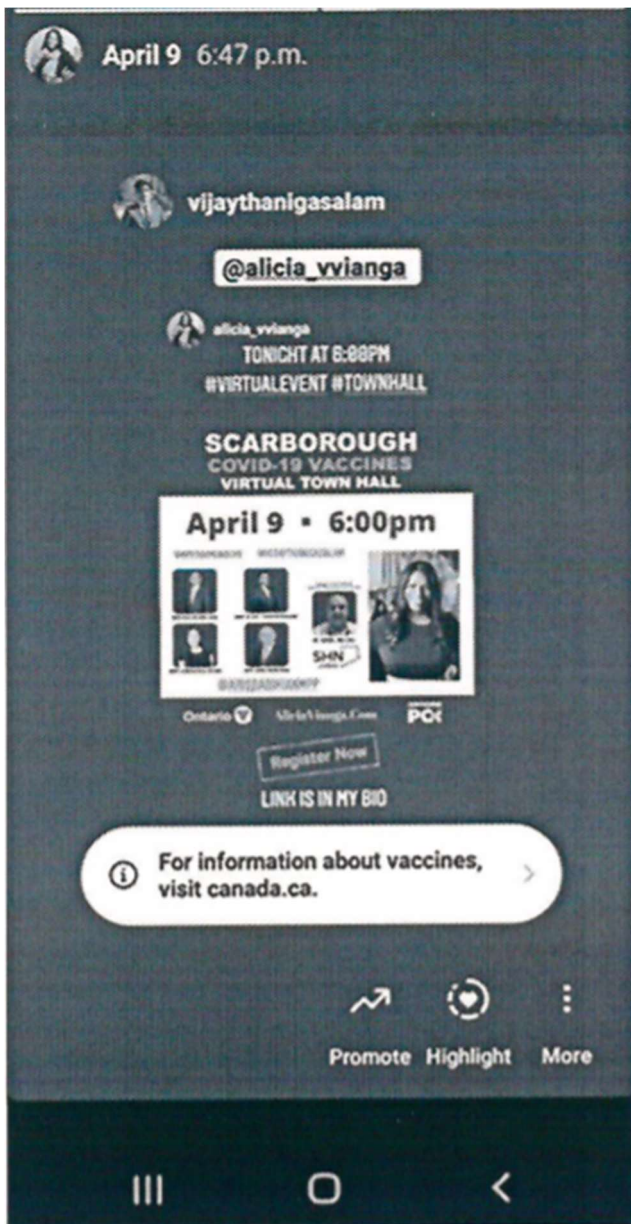
[42] The Executive Assistant created the following poster to promote the event:



[43] The executive assistant advised that he promoted the event by posting this notice on Mr. Thanigasalam’s social media accounts and emailing it to constituents. He also asked the staff of Minister Cho, Mr. Babikian and Ms. Mitas to use the poster and promote the event among their constituents.

[44] The Candidate advised that one of her volunteers created a modified version of this poster and reposted it from the Candidate’s Instagram account. This version of the poster added a large photograph of the Candidate to the right side of the poster and added a number of small logos at the bottom, including the symbol for the Progressive Conservative Party of Ontario.

[45] The Candidate provided a screenshot from the archive of her Instagram account, indicating that (a) the volunteer posted this modified poster on April 9, 2021, as it is below the words “TONIGHT AT 6:00PM”; (b) her post was then reposted by Mr. Thanigasalam’s Instagram account; and (c) the volunteer reposted that post from Mr. Thanigasalam’s account to the Candidate’s account again on April 9 at 6:47 p.m., during the town hall itself.



[46] Mr. Thanigasalam acknowledged his Instagram account reposted the Candidate’s modified poster but advised he was unable to determine the time it was done. He said he was unaware of this post until it was brought to his attention during my inquiry, and said he believes

it was “fundamentally wrong to have someone take our poster and modify one of the picture[s] and then carry a branding logo, PC logo.”

[47] Mr. Thanigasalam’s executive assistant confirmed he reposted the Candidate’s version of the poster from Mr. Thanigasalam’s Instagram account and that he was responsible for almost all of Mr. Thanigasalam’s social media posts as part of his regular employment duties. He said he reposted the modified poster as part of his effort to get more people to attend the event. He advised he was aware the Candidate had added her photograph but that he “didn’t really think twice about it” and didn’t turn his mind to the symbol for the Progressive Conservative Party of Ontario found in her post.

The Town Hall

[48] Mr. Thanigasalam advised that he signed into the virtual event shortly before it was to begin. He did not read the itinerary. He did not prepare any speaking notes in advance. He relied on his executive assistant to prompt him with respect to the speaking order and identifying questions from the audience.

[49] During the town hall, Mr. Thanigasalam and his staff communicated with each other through a WhatsApp chat group. He provided me with screenshots of this conversation, which confirm that they communicated about whether various speakers had arrived on time, the speaking order, taking a few screenshots of the event, questions posed by audience members to put to the experts and how Mr. Thanigasalam should “speak up” to be heard.

[50] None of the witnesses interviewed or contacted to provide information recalled in great detail what was said at the event, including what was said to, about or by the Candidate.

[51] Mr. Thanigasalam advised that he did not recall exactly what he or anyone else said at the town hall. He said he believed he introduced the speakers and thanked them and everyone for their time. He said that whenever he introduces a fellow member of provincial parliament at an event, he usually says their name and title and thanks them for joining the event. He said he could not recall whether he referred to their ridings, but indicated that is how he often introduces them.

[52] Mr. Thanigasalam said he could not recall how he introduced the Candidate or what she said during her remarks. He said he had no expectations about what the Candidate or anyone was going to say at the event. He reiterated that he was not aware before the event started that the Candidate would be in attendance and added that, “if I had known that [the Candidate] was going to speak, then I would have prevented that beforehand.”

[53] Mr. Thanigasalam did recall that there was a virtual protest with respect to paid sick days at this event that put him “in the hot seat.” The videorecording of the last half of the town hall shows one audience member kept their camera trained on a piece of paper that said “Paid Sick Days” in large lettering, apparently on a colouring sheet that the person occasionally coloured with markers during the event.

[54] The Candidate also had no notes or recollection of exactly what she said during the town hall. She believes she was introduced by Mr. Thanigasalam and then spoke briefly. She believes she thanked Scarborough Health Network for the event and hoped everyone had a wonderful evening. She said it was “most likely” that she introduced herself as the Progressive Conservative Candidate.

[55] Ms. Martin, the Parliamentary Assistant to the Minister of Health, advised that she participated in several similar town hall events around the same time. She recalled this event as proceeding in the same way as the others, where she tried to explain how the government was rolling out vaccines, as they became available, and the ranking of priority groups and a doctor answered medical questions about the vaccines and COVID-19. Ms. Martin advised she didn’t pay a lot of attention to who attended each town hall, with the exception of making sure there was a doctor also speaking at each event. She advised she did not see the itinerary for the town hall, was not aware in advance that a candidate for the Progressive Conservative Party would be in attendance and advised “in all honesty, I can’t say I ever found out” that a candidate was in attendance. She said it was possible she may have acknowledged the Candidate along with the other speakers in her opening remarks, as it is her practice to acknowledge “my colleagues” but noted she does not know the Candidate, does not recall ever having any contact with her and did

not think the Candidate's name had ever 'registered in her consciousness' with the exception of being asked about it during her interview with me about this matter.

[56] Minister Cho advised that he remembered that the Candidate spoke briefly at the town hall, but not in what capacity she spoke or how she was introduced. He provided a copy of his speaking notes for the town hall, which clearly indicate he planned to acknowledge by name all the elected members of provincial parliament present, including Ms. Martin, and the two speakers from the Scarborough Health Network. There is no reference to the Candidate in his prepared speaking notes. Minister Cho said, "I cannot recollect whether I made off-scripted remarks about [the Candidate], though my notes for the meeting suggest I specifically thanked my elected colleagues for joining me at the event."

[57] Mr. Babikian advised he did not recall the details of who said what at the town hall.

[58] The physician from Scarborough Health Network who participated in the town hall said he generally recalled the event but not every word said. He remembered giving a short slide presentation and then answering questions. When asked, he said he recalled there was a "PC candidate" there. He recalled she was introduced as the "PC Candidate" and spoke for about a minute. He did not recall the details of what she said. Other than the introduction of the Candidate as the candidate, he did not recall anyone talking about her or trying to promote her candidacy. He recalls the event as being to address vaccine hesitancy and promote COVID-19 vaccinations.

[The Video Evidence](#)

[59] The video recordings obtained show the last half hour of the event. Mr. Thanigasalam had an opportunity to review the recording and agreed it is an accurate recording of the event. The person who provided it to our office also confirmed that they recorded it at the time of the event.

[60] The Member for Scarborough Centre, Ms. Mitas, arrived late to the virtual event. Mr. Thanigasalam gave her an opportunity to make introductory remarks, which are at the beginning of the recording. Specifically, the recording opens with Ms. Mitas saying the following:

Sorry guys, a few minutes late to [inaudible] my one and two year olds were jumping all over this evening. It's great to be here with all of you though and thank you MPP Thanigasalam and thank you [Scarborough Health Network's Chief, Strategic Partnerships and Public Engagement] for organizing this and bringing all of us together.

And it's great to see MPP Martin, Minister Cho, MPP Aris Babikian, and our candidate for Scarborough—Guildwood Alicia Vianga here together with all of you this evening.

And I don't want to take up too much time. I just wanted to say I'm really glad we're doing this and hope we can do more outreach and of course, after this you're very welcome to reach out to our individual offices for any further questions so that we are able to be of assistance. And I wanted to thank [Scarborough Health Network's Medical Director of Infection Prevention and Control and Antimicrobial Stewardship] for being here as well and [Scarborough Health Network's Chief, Strategic Partnerships and Public Engagement] and Scarborough Health Network.

Just everyone on the call, I have to say Scarborough Health Network has been phenomenal and if you've been vaccinated or know someone who has been vaccinated at one of their sites, you notice the quality and the excellence that is be(inaudible) offered...especially Centennial and the gym that they have set up in Scarborough is not left behind. We're getting our fair share. We're getting information out to our communities and we're making sure that all of us are taken care of and nobody...nobody is being left behind in this. So I'm so thankful Scarborough health network for all the work their doing and for facilitating this for us. And being here to give you all this information. And I look forward to listening to your questions and learning a little bit more myself this evening.

[61] Ms. Mitas was interviewed about her involvement in the town hall, including why she acknowledged the Candidate as such during her remarks. Ms. Mitas said she played no part in planning the event, had not read the itinerary and "jumped" into it, after it had started. When asked if she found it unusual that a Progressive Conservative Party of Ontario candidate was attending a town hall such as this one, Ms. Mitas reiterated that she did not know in advance that the Candidate would be on the call and said, "when I saw her on the call, I remember thinking it's nice to see her and I know she's a voice in the health space." When asked why she referred to the Candidate as "our candidate for Scarborough—Guildwood" in her opening remarks, Ms. Mitas responded:

I, I think just because that's the only way that I know her. Again, I didn't know her prior to her being Alicia the candidate for that riding and so I think that's just the way that I would have naturally referred to her but, other than that, there was nothing to it...

[62] Ms. Mitas also told me she had not known the Candidate prior to receiving an email which advised the Candidate was a new candidate. Ms. Mitas advised that, as of the time of her interview with me in November 2021, she had met individually with the Candidate once, to discuss being a candidate, but could not recall whether that meeting took place before or after the town hall.

[63] After Ms. Mitas's opening remarks, the videorecording shows Mr. Thanigasalam moderating the question and answer period, selecting about a dozen questions from the audience to be answered, often providing a preliminary comment or piece of information and then designating different speakers to respond. All the questions related to COVID-19 vaccinations and included how persons could register for vaccination opportunities, whether people living in "hot zones" were being prioritized for vaccinations, why there was such a big gap in time between first and second doses of the vaccine, and whether it was safe for certain people to take the vaccine.

[64] All of the responses focused on the answers to the questions posed - and were primarily given by the Scarborough Health Network representatives. The members of provincial parliament present each spoke briefly to offer relevant information. Ms. Martin, as the Parliamentary Assistant to the Minister of Health, answered some questions relating to government decisions about vaccine distribution. Minister Cho described his positive experience being vaccinated. Ms. Mitas described her knowledge of the local public vaccination sites and her constituents' experience. Mr. Babikian explained how residents could obtain frequently updated information through his constituency office, including a list of local pharmacies offering the vaccine and the persons eligible for vaccination.

[65] The videorecording indicates that the Candidate did not speak or address the attendees during the period of the town hall captured by the videorecording.

[66] Mr. Thanigasalam then made the following closing remarks:

We are doing this virtual townhall to make sure that we keep all constituents and residents of Scarborough informed about vaccines and vaccinations in Scarborough and I just want to, that's why we have Scarborough Health Network and all the MPPs are here

to make sure they're here to support you. I want to remind everyone that province is under a state of emergency including stay at home order for at least next four weeks. As we move into the weekend and into the break for elementary and high school students, I want to encourage everyone to enjoy activities in your homes and outdoors while following public health guidelines and restrictions with members from your household. If you have missed your question, feel free to contact my office or my colleagues' office. We'll put the information in the chat box. You can check right now. All the information is on there. Scarborough Health Network's information is there. And all MPPs' contact information is there. Phone number and email addresses. I will just say the Scarborough Health Network information to everyone. It's Scarbvaccines. S-C-A-R-B-V-A-C-C-I-N-E .ca- that's their email address to book your appointment or you can call 1 888 385 1910. I repeat 1 888 385 1910. This is the line to Scarborough Health Network vaccination clinics. You can also call the Ontario Information Line which is 1-888-999-6488. They will speak to you in English, French, and other 300 languages. And so these are the main information. I just want to pass it to everyone.

Again, I want to thank all the residents from Scarborough for taking your time to attend. I want to thank Minister Raymond Cho, MPP Babikian, MPP Christina Mitos, PA Robin Martin, Alicia Vianga from Scarborough—Guildwood, [Scarborough Health Network's Medical Director of Infection Prevention and Control and Antimicrobial Stewardship], [Scarborough Health Network's Chief, Strategic Partnerships and Public Engagement], for assisting us throughout the pandemic. Thank you all for joining and thanks to residents. Stay safe and ask, call us or give us, send us an email and we are here to help you. Thank you.

[67] My staff asked Mr. Thanigasalam if he agreed that by referring to the Candidate as being from Scarborough—Guildwood, he was reminding everyone present that she is the candidate from that riding. He did not agree. He denied that he was in any way promoting her candidacy or holding a political event. He said that he knew her as a leader from the Black community and it was an “evidence-based” event, focused on the questions asked by constituents.

[68] Shortly after the town hall ended, at 7:33 p.m. Mr. Thanigasalam's staff sent an email to everyone who registered for the town hall, using Mr. Thanigasalam's name and an email account provided by the legislature. The email stated “On behalf of all the Scarborough MPPs, I would like to thank you for joining the Scarborough COVID-19 Vaccine Town Hall today. I hope that with PA Robin Martin, [physician] and [Chief, Strategic Partnerships and Public Engagement] from Scarborough Health Network we were able to answer any questions you may have had.” The email also contained links to ask additional information of Mr. Thanigasalam's office, to book

vaccinations through the provincial website, or to find more information about vaccines in the Scarborough area. The email did not mention the Candidate.

[69] Mr. Thanigasalam also texted the Candidate at 7:58 p.m. stating “Thank you for joining the Scarborough Town Hall, [name of the Candidate]. It was great to have you with us. I appreciate it.” There was no reply text from the Candidate. The documentary evidence suggested there may have been a related voicemail left, but neither Mr. Thanigasalam nor the Candidate had any recollection of this voicemail.

Number of People in Attendance at the Town Hall

[70] Mr. Thanigasalam’s staff did not record how many people attended the event. One of his staff took screenshots of the event that indicate approximately 100 to 111 people were in attendance at the times the screenshots were taken.

The Candidate’s Social Media Posts

[71] My staff reviewed the Candidate’s publicly available social media posts for the month preceding and the month following the town hall.

[72] My staff did not find any examples of the Candidate reposting Mr. Thanigasalam’s social media posts until the modified poster was reposted on her Instagram account during the town hall, as discussed above.

[73] After the town hall, the Candidate reposted two of Mr. Thanigasalam’s posts, one on Twitter and one on Facebook.

[74] Prior to March 31, 2021, by which time the executive assistant had decided to invite the Candidate, as indicated in the invitations to others stating she would be attending the event, my staff found she made five social media posts in the month of March 2021 generally related to the availability of vaccines or about the government’s response to COVID-19.

Constituency Resources

[75] The executive assistant confirmed that he organized the town hall during his usual working hours, using the cellphone and laptop provided to him for work use. He also used the

constituency office's Zoom account, his email account provided by the legislature and Mr. Thanigasalam's email account provided by the legislature.

[76] The constituency assistant confirmed she also contributed to organizing the event during her regular working hours and using her work cellphone. She advised she does not have a work computer.

Mr. Thanigasalam's Knowledge of Parliamentary Convention

[77] Mr. Thanigasalam advised he received no training with respect to parliamentary conventions when he became a member of provincial parliament in 2018. However, he advised he learned on the job that he is not to use his constituency office for partisan purposes. He could not recall any particular conversations with colleagues about parliamentary conventions but noted that he meets annually with me. These meetings are required by subsection 20(3) of the Act, which states that members will meet with me to ensure that adequate financial disclosure has been made and to obtain advice on their obligations under this Act.

No Training Provided to Mr. Thanigasalam's Staff

[78] Mr. Thanigasalam entrusts significant responsibilities to his staff, in particular his executive assistant. When asked how he learned to run a constituency office, Mr. Thanigasalam told me: "I don't run my constituency office. I, pretty much, answer calls, talk to constituents when they want to talk to me to give to complain. Usually, my staff, they run the constituency." When asked to describe what the executive assistant does, Mr. Thanigasalam advised "[h]e first manages my team, and he manages my entire office, from schedule from – and that's in the office, everything."

[79] However, despite giving his executive assistant this task and authority, Mr. Thanigasalam provided him with no training.

[80] Mr. Thanigasalam gave his executive assistant no guidance about when to send emails using Mr. Thanigasalam's name, what to post on social media, and how to manage expenses and payments. Mr. Thanigasalam said he did not know how the executive assistant figured out how to do 'his financials' but he was confident the executive assistant did it properly. Similarly, Mr. Thanigasalam advised that, with respect to managing his emails, his executive assistant has his

“fully [sic] consent, because I don’t micromanage those things, and he takes care of everything.” Mr. Thanigasalam suggested the executive assistant may have received training from the person who preceded him in the role, his former executive assistant, but acknowledged he did not provide that person with any training either. He noted that the executive assistant was promoted into that role near the outset of the pandemic, in early 2020, and it was a chaotic time.

[81] Mr. Thanigasalam’s executive assistant confirmed he never received any training, not from Mr. Thanigasalam or former employees. He started as a case worker and was promoted to office manager before becoming the executive assistant in early March 2020.

[82] My staff asked the executive assistant if he had ever received any training about the parliamentary convention not to use constituency resources for partisan purposes. He said, “I did not receive any training on that, but over the years, working in the office, I became familiar with some of the rules and regulations.” He said he learned from watching what the previous executive assistant did and did not do, noting he never received any training from this individual, but came to understand that he needed to “make sure we are non-partisan and serve all constituents.”

[83] The constituency assistant advised she also did not receive any formal training, including any training about the parliamentary convention not to use constituency resources for partisan purposes. She said that she learned on the job that she is to serve all constituents. When asked for an example, she explained that if she wanted to send a Christmas card, she would have to send one to all constituents. She also explained she had wanted to give out freezies to children in a park but was advised by the executive assistant that this could not be covered by their office budget because she would not be giving freezies to everyone.

[84] The case worker employed by Mr. Thanigasalam also advised that he received no training for his role, but noted he had previously done similar work at the municipal level for several years. He confirmed he did not receive any training about the parliamentary convention not to use constituency resources for partisan purposes but stated he was aware that constituency resources should be used for government reasons and not for any outside reason unrelated to the constituency office.

[85] The executive assistant and constituency assistant previously volunteered for Mr. Thanigasalam’s 2018 election campaign but, at the time of their interviews, were not involved in activities related to the upcoming 2022 election.

V. FINDINGS AND ANALYSIS

[86] This is the third time in recent months that I have had to address the issue of whether a member breached parliamentary convention because of actions taken by their staff or other persons assisting the member. Each report has been about the parliamentary convention prohibiting use of legislative or constituency resources, including staff time, for partisan purposes.⁵

[87] The specific issues in this matter are:⁶

- a) Whether Mr. Thanigasalam’s staff introduced a partisan aspect to the April 9, 2021 town hall; and
- b) If the answer to a) is yes, should Mr. Thanigasalam be found responsible for the mistakes of his staff, by, for example, a failure to train or supervise his staff appropriately so that the partisan aspect to the meeting might not have occurred.

[88] There is no issue that both the executive assistant and the constituency assistant used legislative email accounts and constituency resources, including time, in the organization of the town hall. The question is whether their actions had a partisan aspect to them.

[89] In this context, partisan activity has been consistently defined as activity that supports a particular political party or candidate as opposed to the public at large.^{7 8}

⁵ Cho Report and Fife Report, *supra* note 1.

⁶ See the analytical framework set out in the Bethlenfalvy Report, *supra* note 1, at pages 48 and 58 and Vernile and Leal Report, *supra* note 1 at page 15.

⁷ Bethlenfalvy Report, *supra* note 1, at paras. 252-261, including a review of the holdings in the Vernile and Leal Report, *supra* note 1, Singh Report, *supra* note 1, Report re. Ted Chudleigh, December 11, 2008, Report re. Randy Hillier, July 6, 2011; Cho Report, *supra* note 1, Fife Report, *supra* note 1.

⁸ The legislature recently amended the Act, by adding a new section with respect to members’ social media accounts. Among other things, subsection 9.1(4) states that such accounts may contain “partisan material” and subsection 9.1(6) states that “In this section, ‘partisan material’ means material that supports or opposes a particular candidate, party or issue and is not related to the Government of Ontario’s work for the public at large

[90] I accept the member’s evidence that his intention to hold the virtual town hall meeting was non-partisan. Indeed, I find his purpose was laudable. He intended to secure a health expert to talk to constituents about the importance of vaccinations at a town hall meeting. I also accept the evidence of both the member and his executive assistant that, other than the additional direction of wanting the Scarborough Health Network to take the lead on the town hall, these instructions were the extent of Mr. Thanigasalam’s involvement until it came time for him to host the event itself.

[91] There were several indicators that there were partisan considerations made in the planning and organization of the town hall event.

[92] First, only PC MPPs from Scarborough were invited to attend and speak at the event with the medical expert. The executive assistant said that he did not invite opposition MPPs because he did not want the event to be about “political tit-for-tat”. He wanted to “control the message”. However, I find that by excluding Scarborough opposition MPPs from speaking at the event, he ran the risk of introducing a partisan element into the town hall event.

[93] In the Vernile and Leal Report,⁹ which dealt with whether government resources were used for partisan purposes at a government funding announcement, Commissioner Lynn Morrison decided that the event was not partisan. Among the reasons for her finding was that an opposition MPP from the region was invited, albeit somewhat late, to attend the event. The point is that there was no attempt to limit or control who participated. That qualifier was absent from the town hall planning in the present matter.

[94] The second indicator of partisan activity was the invitation to the PC Candidate for Scarborough—Guildwood. Not only was she invited to attend, but she was asked to speak at the event with the four Scarborough PC MPPs.

or a member of the Assembly’s work for their constituency at large.” I am not called to apply this definition in the case at hand, as the events in issue occurred before this amendment came into force on April 19, 2021, and this case deals with parliamentary convention, not the application of s.9.1 of the Act, but I take note of this new definition and observe that it includes the support of a particular candidate or party.

⁹ *Supra* note 1.

[95] The executive assistant's explanation for inviting the Candidate to speak was that they "didn't have accurate or strong community leaders lists from the Black community." He explained that the Candidate was sharing their posts "vigorously", although my staff were unable to find that the Candidate shared any of Mr. Thanigasalam's social media posts in the month before the town hall event. She did post about vaccines and the government's response on five occasions. The executive assistant claimed that he would also not want to promote a PC candidate at a time "when the entirety of Scarborough was upset with our government" presumably concerning the pandemic.

[96] This explanation is difficult to reconcile with the response of both the executive assistant and the constituency assistant to the Candidate's request for a change to be made to the itinerary for the event to identify her as the PC Candidate for Scarborough—Guildwood. This constituted a third indicator of partisan activity. They both readily agreed and took action to facilitate the request without seeking any direction from Mr. Thanigasalam.

[97] Significantly, the executive assistant also acknowledged that he reposted the poster for the event as modified by a volunteer for the Candidate. As set out earlier, this person had added a large photo of the Candidate and the symbol of the PC Party of Ontario. This amounted to a fourth indicator of partisan activity.

[98] Although the executive assistant claimed, with respect to the modified poster, that "he didn't really think twice about it and did not turn his mind to the symbol of the Party", the point is he should have. I find that at this stage it should have been apparent to him that the presence of the Candidate and the promotion of her role within the event as the PC Party's candidate in Scarborough—Guildwood injected a partisan aspect into what may have started as a commendable effort in support of the public interest at large. At the very least he should have sought further authorization and direction from Mr. Thanigasalam.

[99] I note Mr. Thanigasalam's statement that it was "fundamentally wrong to have someone take our poster and modify one of the picture[s] and then carry a branding logo, PC Logo". While I accept his evidence that he was not made aware of the modified poster until after the event itself, I find that his lack of awareness was the product of his failure to supervise his staff's

implementation of his simple direction to set up a town hall meeting and have health experts talk to constituents about the importance of vaccines.

[100] There were many points along the path of the planning where this event drifted from one for the public interest at large to one including partisan elements: the invitation of only PC MPPs to supplement the medical expert; the selection of the Candidate as an invitee to participate with PC MPPs to speak at the event; changing the itinerary at the request of the Candidate to identify her as the PC Candidate for Scarborough—Guildwood; and, finally, reposting the Candidate’s modified version of the poster promoting the event to identify her as the PC Candidate for Scarborough—Guildwood complete with the PC Party of Ontario’s logo at the bottom of the poster. This was compounded when, during the event, the Candidate was acknowledged as a candidate and as being from the riding she seeks to represent. Collectively, I find these elements amounted to partisan activity.

[101] Mr. Thanigasalam gave considerable autonomy to his staff in planning this public event. Had Mr. Thanigasalam exercised even a minimum degree of supervision over some of the decisions made by his staff the partisan elements of the event might have been eliminated or at least mitigated.

[102] Recently I filed a report on another member’s lack of supervision of his staff which led to legislative resources being used for partisan purposes.¹⁰ The lack of training and direction to staff were found to have contributed to the contravention of the parliamentary convention not to use legislative resources for partisan purposes. I make the same finding in this matter.

VI. CONCLUSION

[103] To answer the specific questions set out at the beginning of the Findings and Analysis section of this report I find the following:

- a) Mr. Thanigasalam’s staff did introduce a partisan aspect to the virtual town hall event and thus were engaged, to some extent, in partisan activities;

¹⁰ Cho Report, *supra* note 1, at paras. 84 and 92 (referencing the earlier Singh Report, *supra* note 1) and para. 93.

b) Mr. Thanigasalam failed to supervise and train his staff appropriately to ensure that the partisan aspect to the town hall event was avoided.

[104] Since there was no question that the activity of Mr. Thanigasalam's staff involved the use of legislative and constituency resources, including time, I have found that Mr. Thanigasalam breached the parliamentary convention not to use either legislative or constituency resources for partisan purposes.

[105] I have determined that Mr. Thanigasalam's staff were among the attendees at a recent presentation my staff and I were invited to make to a large group of Queen's Park and constituency office staff on the subject of parliamentary conventions and the appropriate role of MPP staff. I have spoken to Mr. Thanigasalam who has welcomed this training and looks forward to it being continued. My Office and I are also available to answer any questions that members and their staff have about their obligations under the Act and Ontario parliamentary convention, as provided by section 28 of the Act. As a result, I do not think it is necessary for me to recommend a penalty. The inquiry itself has served the purpose of ensuring that he recognizes the importance of appropriate training for all staff so that legislative and constituency resources are not used for partisan purposes.

VII. RECOMMENDATION

That each political party's caucus services branch develop a detailed training program for MPP staff so that they understand their roles and the importance of not using legislative and constituency resources for partisan purposes.

[106] I have previously recommended that all members ensure that, as staff are hired to work at Queen's Park and in constituency offices, they are made aware of the ethical rules that apply to MPPs under the Act and parliamentary convention, including the prohibition against using legislative, constituency and, in the case of ministers and parliamentary assistants, government resources for partisan activities. Given the frequency with which concerns have been identified with staff use of resources, I now recommend that each party's caucus services branch develop a detailed training program for the staff of all MPPs to understand their roles. I suggest that this

training program go beyond providing an understanding of the parliamentary convention described in this report and the members' obligations under the Act.

[107] I am also of the view that MPP staff would benefit from training on other aspects of their jobs, which is why I am recommending that it be developed by caucus services and not individual MPPs. The training should be made available on a regular basis, particularly after each general election. My Office and I are always available to provide guidance and input in the development of resources and training related to my role as Integrity Commissioner and the obligations of the Act.

[108] Given that the provincial election will take place in less than six months, there will be an inevitable arrival of many new staff in its wake. Planning for the type of training recommended here, cannot occur too soon.

Dated at Toronto this 21st day of December, 2021.

A handwritten signature in black ink, appearing to read "J. David Wake". The signature is fluid and cursive, with a long horizontal stroke at the top that extends across the width of the name.

The Honourable J. David Wake
Integrity Commissioner