
CANADA)
PROVINCE OF ONTARIO) In the matter of an Application for Production
EAST REGION) Orders pursuant to section 487.012 of the <i>Criminal</i>
) <i>Code</i> .

INFORMATION TO OBTAIN PRODUCTION ORDERS

This is the Information of Corporal Greg Horton a Peace Officer of the Royal Canadian Mounted Police, in the city of Ottawa, Ontario.

I have reasonable grounds to believe and do believe that offences contrary to an Act of Parliament have been committed, to wit:

- Michael Duffy between February 6, 2013, and March 28, 2013, at Ottawa, Ontario, being a member of Parliament did directly or indirectly corruptly accept, obtain, agree to accept, or attempt to obtain, for himself, money, valuable consideration, or office in respect of anything done or omitted, or to be done or omitted by him in his official capacity contrary to section 119(1)(a) of the *Criminal Code*.
- Nigel Wright between February 6, 2013, and March 28, 2013, at Ottawa, Ontario did directly or indirectly corruptly give or offer to a member of Parliament for the benefit of that person, any money, valuable consideration, or office in respect of anything done or omitted, or to be done or omitted by him in his official capacity contrary to section 119(1)(b) of the *Criminal Code*.
- Michael Duffy being an official of the government of Canada between February 6, 2013, and March 28, 2013, at Ottawa, Ontario did without the consent in writing of the head of the branch of that government of which he is an official demand, accept, offer to accept, or agree to accept a reward or an advantage or benefit of money from Nigel Wright a person having dealings with the government of Canada contrary to section 121(1)(c) of the *Criminal Code*.
- Nigel Wright a person having dealings with the government of Canada, between February 6, 2013, and May 19, 2013, at Ottawa, Ontario, did, without the consent in writing of the head of the branch of that government, pay a reward or confer an advantage or benefit on Mike Duffy, an official of the government of Canada with respect to those dealings contrary to Section 121(1)(b) of the *Criminal Code*.
- Michael Duffy and Nigel Wright between February 6, 2013, and May 19, 2013, at Ottawa, Ontario, being officials within the Government of Canada, did commit breach of trust in connection with the duties of their offices contrary to section 122 of the *Criminal Code*.

AND THAT there are reasonable grounds for believing that the following documents and/or data will afford evidence of the said offences:

- See Appendix 'A'

AND THAT there are reasonable grounds for believing that the said documents and/or data or some part of them are in the possession or control of:

- See Appendix 'A'

INTRODUCTION

I, Greg Horton, a member of the Royal Canadian Mounted Police (RCMP) in the Province of Ontario, make oath and say as follows:

1. I am a peace officer in the RCMP for the past 21 years with experience in major crime investigations and applications for judicial authorizations. I have personal knowledge of the matters hereinafter set out, and I believe all of the information in this Information to be true.
2. I am currently assigned to Sensitive and International Investigations within the National Division of the RCMP, responsible for investigating matters of significant risk to Canada's political, economic and social integrity. My role in this investigation is that of the lead investigator, and as part of that role, to seek when appropriate, judicial authorizations. Throughout this Information, where I state my belief, that belief is based on my experience as set out above and on the other information in this Information.

OVERVIEW

3. This application is in relation to an RCMP investigation into the activities of Senator Mike Duffy and Mr. Nigel Wright, who I believe have committed Bribery, Frauds on the Government, and Breach of Trust. These offences relate to Senator Duffy's role as a Canadian Senator, and Mr. Wright's former role as Chief of Staff for the Prime Minister of Canada.
4. This investigation commenced in March 2013, after several media stories were published in relation to the Senate referring travel and housing expense claims of Senators Mike Duffy, Patrick Brazeau, and Mac Harb to Deloitte, a management and accounting firm, for the purpose of an external audit. The expenses of those Senators had been under review by the 15 member Senate Standing Committee on Internal Economy, Budgets and Administration (Standing Committee). That committee had subsequently referred the matter of Senator Duffy to a three member sub-committee known as the Steering Committee, who referred the matter to Deloitte. At issue were claims for travel and

housing allowances in relation to where the Senators actually live. A Senator is eligible for certain housing and travel expenses while working in Ottawa, if their primary residence is located more than 100 km from the National Capital Region (NCR). Because of the extensive media coverage, and the mandate of RCMP National Division, I commenced this investigation in preparation for the release of the Deloitte Reports. In May 2013, the Senate received and publicly released three Deloitte Reports, one pertaining to each Senator being audited. My team then commenced a review of the three reports, as well as laws, rules, policy and guidelines which govern the Senators. We also monitored developments in the media. While the investigation is focusing on all 3 Senators, this application is specifically related to Senator Duffy and Mr. Wright.

5. During the period that Deloitte was conducting its audit, Senator Duffy publicly announced that he had repaid more than \$90,000¹ in living expenses, citing unclear Senate rules for having made the claims. The Senate acknowledged his repayment to the Receiver General of Canada. After examining an 18 month period of expense claims, Deloitte produced a report finding that Senator Duffy referred to his cottage on Prince Edward Island (PEI) as his primary residence, and filed expense claims relating to the house he owns in Ottawa, claiming it as his NCR secondary residence. He collected a housing allowance for that secondary residence. The Deloitte Report found that there was a lack of clarity in the Senate regulations and guidelines when referring to primary and secondary residences. It did not conclude any fault on Senator Duffy's part, but did provide a breakdown on where he spent his time, the majority being in Ottawa.
6. As a result of the Deloitte Report, the Steering Committee produced its own report (The Senate Report) on May 9, 2013, which summarizes the Deloitte Report, and the findings of the sub-committee. The Senate Report acknowledged that Senator Duffy paid back more than \$90,000 in expenses, and that Deloitte was not able to assess the status of his primary residence based on the Senate regulations and guidelines. It recommended that Senator Duffy's expense claims be monitored for a period of not less than one year. The Senate Report was not critical of Senator Duffy, and did not find any fault on his part.
7. Media reports soon emerged alleging that Senator Duffy had not paid back the \$90,000 himself, and that it was in fact paid back by the Prime Minister's then Chief of Staff, Nigel Wright. The reports claimed that there was an agreement, possibly a written agreement, between Senator Duffy and Mr. Wright, stipulating that Senator Duffy would publicly acknowledge making the claims in error and taking the personal decision of paying back \$90,000. In exchange for this public acknowledgement, Nigel Wright would actually cover the cost of the \$90,000, and the government would "go easy" on Senator Duffy in its report. The media reports were not entirely accurate, however there was some validity to them. The circumstances of that repayment are the subject of this application.
8. After reviewing hundreds of e-mail exchanges and conducting interviews with many of those involved, I believe the true circumstances surrounding the repayment of the

¹ The actual amount is \$90,172.24. For ease of reference, I will refer to this amount as \$90,000 throughout this Information.

\$90,000 are clearer. I believe that the controversy was an embarrassment for the government, and that Mr. Wright believed that Senator Duffy morally and ethically should not have filed the expense claims. He advised Senator Duffy was told to repay the money, and this was reiterated to the Senator by the Prime Minister. Senator Duffy agreed to repay the money, but it was based on conditions or demands made of the Prime Minister's Office (PMO) by Senator Duffy, through his then lawyer, Janice Payne. Those demands included: withdrawing Senator Duffy from the Deloitte audit process, acknowledging that he met all requirements to sit as a Senator for PEI, reimbursement to Senator Duffy including legal fees, and ensuring that members of the Conservative caucus spoke on the matter which was consistent with agreed upon media lines.

9. Initially, Nigel Wright and others believed that Senator Duffy owed approximately \$32,000, and Mr. Wright sought the assistance of Senator Gerstein to have that amount and his legal fees covered by a Conservative party fund. Senator Gerstein, chair of the Conservative Fund, was considering the idea when it was then realized that the actual amount that Senator Duffy owed was \$90,000. Senator Gerstein decided that the Conservative Fund could not pay \$90,000, but agreed to reimbursement of the legal fees. Nigel Wright decided that he would personally cover the cost of reimbursing Senator Duffy. After back and forth negotiations between Janice Payne and Benjamin Perrin (legal counsel within the PMO) terms of the agreement were set. Senator Duffy then obtained a mortgage loan for \$91,600 from the Royal Bank of Canada (RBC). He then deposited approximately \$80,000 to his RBC line of credit. Nigel Wright sent a \$90,000 bank draft to Janice Payne's office, payable to her law firm, and her office then forwarded a personal cheque of Senator Duffy's to the Senate to reimburse the \$90,000. The same day, a bank to bank transfer was made, depositing \$90,000 back into Senator Duffy's RBC account. In the evidence I have viewed, there are occasions when Senator Duffy stated that he knew that Nigel Wright was the source of the \$90,000, and other occasions where he said that he did not know who the source of the money was.
10. Once the Deloitte Report on Senator Duffy was received in late April 2013, the Steering Committee reviewing his expenses was to complete a report of its findings. That three person sub-committee was made up of Senators David Tkachuk (chair), Carolyn Stewart Olsen, and George Furey. The draft Senate Report was prepared by Senate administrative staff. It contained some criticism of Senator Duffy's travel patterns and housing claims. In particular, the wording stated that Senator Duffy's primary residence was in Ottawa, not PEI. The wording was in contrast with the agreement between Janice Payne and the PMO. The criticism went beyond the agreed upon media lines, and cited Senator Duffy's continued presence in Ottawa over the years, and described Ottawa as his default location. This posed a problem for the PMO who in turn influenced Senators Tkachuk, Stewart Olsen, and LeBreton to change the report to reflect wording that the PMO wanted. That wording removed all criticism of Senator Duffy. There was opposition to those changes, in particular from Christopher Montgomery, an employee of the Privy Council Office (PCO) who worked for Senator LeBreton on issues management for the Government in the Senate. He insisted that the Senators were compromising themselves

by changing the report to meet demands by the PMO. Eventually he relented and the changes were made.

11. The purpose of this application is to obtain two Production Orders:

- a. I previously obtained and served a Production Order on the Royal Bank of Canada, and obtained documents and data relating to Senator Duffy's personal bank account. Those records show transactions relating to Senator Duffy's receipt of \$91,600 from a mortgage loan, paying \$80,000 to his line of credit, debit of a \$90,000 cheque, and receipt of \$90,000 from a branch to branch transfer, all within a 6 day period in March 2013. I am now seeking a Production Order for additional documents and data by the way of supporting documentation relating to those transactions.
- b. Nigel Wright and the Prime Minister's Office have separately provided the RCMP with e-mails relevant to this investigation. Those e-mails demonstrate that there was considerable communication within the PMO on the matter of the Senate investigation of Senator Duffy, as well as communication between PMO staff and Senators relating to the matter. Those Senators include Senators LeBreton, Stewart Olsen, Thackuk and Duffy. The e-mails that I currently possess relating to those Senators are those which involved communication with the PMO, obtained from either Nigel Wright, or the Privy Council Office computer servers. I am now seeking a Production Order for e-mail communications of those four Senators, relating to the matter under investigation, currently stored on computer servers within the Senate of Canada.

GROUNDS FOR BELIEF

12. This is a multifaceted investigation relating to various housing and travel expense claims by Senator Duffy, as well as the circumstances surrounding the awarding of consulting contracts from Senator Duffy's office. I am also investigating Senators Harb and Brazeau for matters relating to housing expense claims. While all of those matters are part of the ongoing investigation, this specific application relates only to the named offences and the \$90,000 repayment.
13. On December 22, 2008, Mike Duffy was appointed to the Canadian Senate by Prime Minister Harper, representing PEI². According to the Constitution, one of the eligibility requirements for membership in the Senate is that Senators must own property in the province that they represent, and must live in the province they represent.

² I learned this by reading a CBC news article dated December 22, 2008

14. Since 1989, the Senate has a policy that Senators who come to Ottawa to carry out their parliamentary functions, and who are more than 100 kilometers from their registered primary residence, are considered to be on travel status while in Ottawa, and may be reimbursed for eligible living expenses in the National Capital Region.³
15. On December 6, 2012, The Standing Senate Committee on Internal Economy, Budgets and Administration (The Standing Committee) instructed the Senate Administration to conduct an audit to assess whether all Senators' declarations of primary and secondary residence are supported by sufficient documentation.⁴
16. On February 8, 2013, the Senate announced that the residency declarations and related expenses of Senators Brazeau, Harb, and Duffy were referred to external auditors at Deloitte for review and report.⁵ This caused significant media attention over the next several weeks, resulting in the RCMP commencing an investigation in March. At that time I commenced to gather information available in the public domain through open sources, as well as through police indices, in preparation for the results of the Deloitte audits.
17. A February 22, 2013, news story quoted Senator Duffy as saying he would repay his housing allowance, blaming unclear rules and admitting that he may have made mistakes when completing expense claims. He said he would return the money, "*even though I don't believe I owe the money*". He said that after discussing the matter with his wife, he decided to pay back the money.⁶
18. On Tuesday, April 16, 2013, the Deloitte auditors made a verbal presentation of their findings to Senators Tkachuk, Furey, and Stewart-Olson. At that time, the auditors advised that they noticed that Senator Duffy had claimed NCR per diem while appearing to be in Florida during January 2012.⁷ Deloitte later received a letter dated April 18, 2013, from Senator Duffy to Senator Tkachuk which read in part: "*Following our informal conversation, Tuesday evening, I went through my files for January 2012...*". Senator Duffy said the claim was an administrative error by a staffer, and pledged to repay the money. While the per diems relate to another aspect of the investigation which is not part of this application, I am bringing it up in this context to demonstrate that Senator Tkachuk was in contact with Senator Duffy during the audit process, which I believe is important, as Senator Tkachuk was also in contact with Nigel Wright during the process. It was Nigel Wright who paid back the \$90,000, and it was Senator Tkachuk who headed the sub-committee which authored the Report on Senator Duffy, which was amended from its draft version to be less critical. This will be discussed further later in this Information.

³ Statement of Senator Tkachuk on the 19th report of internal economy dated February 28, 2013

⁴ I learned this by reading a Senate news release dated December 6, 2012.

⁵ I learned this by reading a Senate news release dated February 8, 2013.

⁶ CTV news article dated February 22, 2013.

⁷ I was advised of this by Gary Timm and Alan Stewart, the Deloitte auditors who conducted the examination.

19. On April 19, 2013, Senator Duffy released a statement claiming that he repaid \$90,000 in living expenses in March.⁸ The Senate Standing Committee also released a brief statement that date which said that “*Senator Duffy has reimbursed the Receiver General \$90,172.24 for living allowance expenses*”.⁹
20. On May 9, 2013, the Senate publicly released the Deloitte Reports pertaining to Senators Brazeau, Duffy, and Harb, which I have read. There were three reports in total, one for each Senator. The remainder of this Information will relate only to Senator Duffy, and the related police investigation. For the remainder of this Information, when I refer to a Deloitte Report, I am referring only to that which is in relation to Senator Duffy. Among its findings, the Deloitte Report stated that existing regulations and guidelines did not contain criteria for determining primary residence, and as such they were not able to assess the status of Senator Duffy’s primary residence.
21. The Deloitte Report quotes a letter to Senator Duffy from Senator Tkachuk dated February 27, 2013 wherein Senator Tkachuk provided him with the \$90,172.24 figure representing his total claimed allowances including interest;¹⁰ The Deloitte Report states that Deloitte received a letter from Senator Duffy’s legal counsel dated March 26, 2013 advising that Senator Duffy had repaid an amount regarding housing and living allowance.¹¹
22. The Standing Committee also released its own report (The Senate Report) dated May 9, 2013, which summarizes the Deloitte Report, and the final findings of the Senate Steering Committee. The Senate Report acknowledged that Senator Duffy paid back more than \$90,000 in expenses, and noted that Deloitte could not assess the status of his primary residence based on the Senate regulations and guidelines.¹²
23. In a statement issued on May 9, 2013, Senator Duffy stated that he repaid the \$90,000 in March, and that “*When I discussed these issues with my wife in February, we came to the conclusion that repaying the \$90 thousand was the right thing to do...*”.¹³
24. On May 15, 2013, media reports emerged claiming that Prime Minister Harper’s Chief of Staff, Nigel Wright, wrote a personal cheque to Mike Duffy to cover the cost of the \$90,000 repayment. Andrew MacDougall, director of communications (former) for the Prime Minister, said that Senator Duffy was unable to make a timely repayment, and confirmed that Mr. Wright wrote Senator Duffy a personal cheque to cover the cost.¹⁴

⁸ This statement was reported and quoted by several news agencies on April 19, however I cannot locate a copy of an actual Statement from Duffy.

⁹ Standing Committee statement on website, dated April 19, 2013.

¹⁰ Page .13 of Deloitte Report.

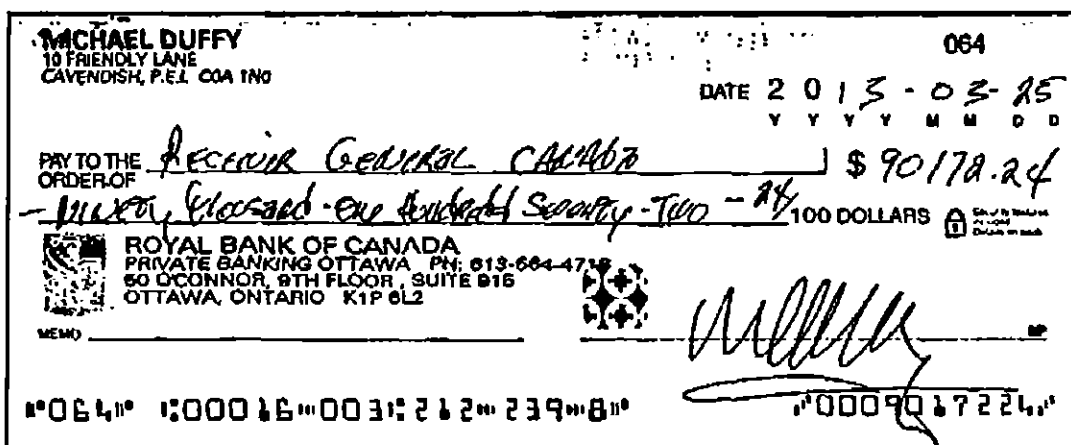
¹¹ Page 5 of the Deloitte Report.

¹² I learned this by reading the Senate Report dated May 9, 2013.

¹³ Statement from Mike Duffy’s website dated May 9, 2013.

¹⁴ CTV news article dated May 15, 2013 at 1205 hours.

25. On May 19, 2013, Nigel Wright issued a statement which read, in part: *"In light of the controversy surrounding my handling of matters involving Senator Duffy, the Prime Minister has accepted my resignation as Chief of Staff. My actions were intended solely to secure the repayment of funds, which I considered to be in the public interest, and I accept sole responsibility. I did not advise the Prime Minister of the means by which Sen. Duffy's expenses were repaid, either before or after the fact"*.¹⁵
26. On May 29, 2013, the Senate Standing Committee held a meeting which was open to the public, and broadcast on the Internet, which I watched. A motion was tabled and unanimously passed that the Senate refer the matter of Senator Duffy to the RCMP. A letter in that regard was subsequently received by the RCMP from the Senate dated May 30, 2013. With the letter was an amended/new Senate Report containing the findings of the Standing Committee pertaining to Senator Duffy. The new report was critical of Senator Duffy. I have read these documents, and will discuss them in greater detail under the heading of The Senate Reports.
27. On June 26, 2013, I obtained and served a Production Order on the Senate of Canada and obtained documents and data relating to Senator Duffy's expense claims, travel, credit card statements, phone bills, and drafts of the Senate Reports. I also obtained a copy of the cheque from Senator Duffy, repaying the Receiver General for Canada, depicted below:



The Senate Reports

28. As previously mentioned, the Senate Standing Committee released its own report (The Senate Report) on May 9, 2013, which summarizes the Deloitte Report, and the final findings of the Senate Steering Committee. The Senate Report acknowledged that Senator Duffy paid back more than \$90,000 in expenses, and noted that Deloitte could

¹⁵ Transcript of statement obtained from Globe and Mail news article dated May 19, 2013 at 1046 hours.

not assess the status of his primary residence based on the Senate regulations and guidelines.¹⁶

29. On May 17, 2013, CTV News reported that The Senate Report was actually altered from its original draft text. Citing unnamed sources, the media reported that the draft report had initially been critical of Senator Duffy, but that the critical parts were removed to create the final version. As part of the Production Order in June, I obtained all of the drafts of the Senate Report. I also interviewed the Clerk of the Senate, as well as Jill Anne Joseph, author of the initial draft report. Based on these investigative steps, I can state that the following paragraphs were contained in the initial draft Senate Report, but were removed and did not appear in the final report:

- a. *"Following repayment, Deloitte reiterated its request for documentation and for a meeting to counsel for Senator Duffy on March 21, 2013. A letter was received from Ms. Payne on March 26, 2013 in response, indicating that Senator Duffy had repaid an amount regarding housing and living allowance and that 'In the circumstances, the review that Deloitte has been asked to undertake is now unnecessary. The considerable time required for Senator Duffy to compile the extensive information and documentation required of him by Deloitte as well as his participation in the review of that material, to say nothing of the public expense involved in the same, is no longer needed.' "*
- b. *"...However, the purpose and intent of the original Living Expense in the NCR Guidelines and of the Senators Travel Policy adopted in June 2012 are very clear: senators who do not have their home within 100 kilometres of Parliament Hill and who would not be in Ottawa if it were not for the fact that they are Senators who must attend Senate business, may be reimbursed additional expenses incurred for accommodations while in Ottawa to attend Senate business. The Declaration of Primary and Secondary Residence that accompanies the policy instrument requires Senators to affirm whether their primary residence is "within 100 kilometres from Parliament Hill" or is "more than 100 kilometres from Parliament Hill." To claim living expenses in the NCR, any residence owned or rented by a Senator must be a secondary residence, for use by the Senator while in the NCR for Senate business. Your Subcommittee considers this language to be unambiguous and, plainly, if a Senator resides primarily in the NCR, he or she should not be claiming living expenses for the NCR."*
- c. *"...Additionally, Senator Duffy's travel patterns were consistently Ottawa-PEI-Ottawa, demonstrating that Ottawa was his primary or default location. Further, your Subcommittee was aware that Senator Duffy registered his Ottawa address for several official purposes during the period of review. It is therefore the conclusion of this Subcommittee that, based on the evidence presented in the audit report, while recognizing that Senator Duffy owns a residence in PEI and spends considerable time there, in particular during the summer months, his continued*

¹⁶ I learned this by reading the Senate Report dated May 9, 2013.

presence at his Ottawa residence over the years does not support such a declaration and is contrary to the plain meaning of the word "primary" and to the purpose and intent of the provision of living allowance in the NCR."

30. As previously mentioned, as various controversies relating to Senator Duffy were being reported in the media, the Standing Committee held an open meeting which resulted in a modified or new Senate Report relating to Senator Duffy. It contained some of the language that had been contained in the initial draft Senate Report, but which had been removed from the final version. The new Senate report, which I have read, included the following:

- a. *"Your Committee acknowledges Deloitte's finding that criteria for determining primary residence are lacking and this is being addressed by your Committee. However, to claim living expenses in the National Capital Region, any residence owned or rented by a senator must be a secondary residence for use by the senator while in the NCR for Senate business. Your committee considers this language to be unambiguous: and plainly if a senator resides primarily in the NCR, he or she should not be claiming living expenses for the NCR."*
- b. *"It is therefore the conclusion of the Committee that based on the evidence presented in the examination report, while recognizing that Senator Duffy owns a residence in P.E.I. and spends considerable time there, his continued presence at his Ottawa residence over the years does not support such a declaration and is, therefore, contrary to the plain meaning or the word "primary" and to the purpose and intent of the provision of the Living Allowance in the NCR."*
- c. *"That the Senate request that the proper authorities examine the matters dealt with in this report and related information, including Senator Duffy's repayment of \$90,172.24 to the Receiver General of Canada. and that the Standing Committee on Internal Economy, Budgets and Administration be authorized to refer such documents, as it considers appropriate, to the proper authorities for the purposes of the investigation."*

Nigel Wright Interview

31. On June 13, 2013, my office received a call from Patrick McCann, lawyer for Nigel Wright, advising that he would be sending some information to the RCMP. The following day a letter was received advising that at the time that Mr. Wright paid the \$90,000 to Senator Duffy, he was unaware of any fraudulent expense claims on Senator Duffy's part. The letter also stated that Mr. Wright was willing to meet with investigators to provide whatever information may be required from him.
32. On June 19, 2013, Supt. Carrese and S/Sgt. Arbour, both from my unit, met with Patrick McCann and Peter Mantas (lawyers for Nigel Wright) to discuss the circumstances under which any future interview with Mr. Wright might take place. Mr. Wright's legal counsel

were advised that RCMP were investigating the \$90,000 repayment by Senator Duffy, and the payment of \$90,000 from Mr. Wright to Senator Duffy, that both Mr. Wright and Senator Duffy were subject of that investigation, and that a decision on whether to interview Mr. Wright as a suspect or witness had not been made at that time. McCann and Mantas further advised that¹⁷:

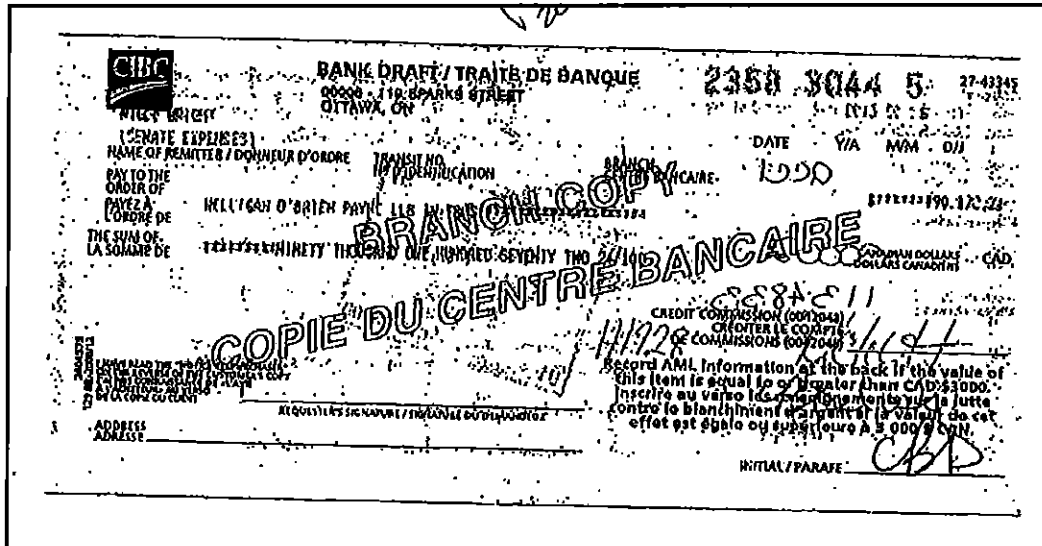
- a. Mr. Wright's role was to manage Conservative caucus members, part of which was to deal with matters that could cause embarrassment;
- b. Mr. Wright was of the view that Senator Duffy should repay the money for the secondary housing, and had discussions with him in that regard;
- c. Senator Duffy was concerned that he did not have the money to cover the reimbursement;
- d. Senator Duffy was of the view that if he did not claim a primary residence in PEI, then his Senate seat could be in jeopardy. Mr. Wright assured him that was not the case;
- e. The Conservative Party was initially going to repay the money for Senator Duffy, from a Conservative Fund, when it was believed that the amount he owed was approximately \$32,000. The fund is controlled by Senator Gerstein;
- f. When it was realized that the cost was actually \$90,000, it was too much money to ask the Conservative Party to cover;
- g. Mr. Wright then offered to cover the cost for Senator Duffy, believing it was the proper ethical decision that tax payers not be out that amount of money;
- h. There was no written contract between Mr. Wright and Senator Duffy;
- i. Mr. Wright asked for two conditions from Senator Duffy:
 - i. Pay back the money right away;
 - ii. Stop talking to the media about it.
- j. Mr. Wright sent the money to Senator Duffy's lawyer, surname Payne;
- k. The payment to Senator Duffy was made with a bank draft on March 26, 2013;
- l. Mr. Wright received no direction from anyone to make the offer;
- m. Mr. Wright and Senator Duffy knew each other, but were not friends;
- n. Mr. Wright did not make similar offers to other Senators being investigated;
- o. Mr. Wright did not expect any of the money back;
- p. Mr. Wright obtained a copy of the letter from the Senate to Senator Duffy, stating how much he would need to reimburse;
- q. Some people within the PMO were aware of the arrangement, but Prime Minister Harper was not;
- r. Mr. McCann and Mr. Mantas were not aware of any involvement this deal may have had regarding the altered Senate Report draft.

33. On June 21, 2013, my office received a letter from Peter Mantas, which I have read, advising that Mr. Wright recalls that he told the following people that he would personally provide funds to repay Senator Duffy's claimed secondary residence expenses:

¹⁷ I learned this by reading the police report of S/Sgt. Arbour dated June 17, 2013 at 1523 hours.

- a. David van Hemmen (PMO)
- b. Benjamin Perrin (PMO)
- c. Chris Woodcock (PMO)
- d. Senator Irving Gerstein

Attached to the letter was a copy of a CIBC bank draft made out to Senator Duffy's Lawyer (Nelligan O'Brien Payne LLP) for \$90,172.24, dated March 25, 2013.



34. On July 18, 2013, Supt. Carrese and I interviewed Nigel Wright. This interview was provided under caution, and in the presence of his lawyers. During that interview Mr. Wright provided a detailed timeline of events based on his memory. Prior to the interview, he told me that his lawyers were in possession of several e-mails which he had given them. His intention was to turn all of those e-mails over to me, however because many were communications involving employees and legal counsel of the Prime Minister's Office (PMO), he was awaiting a necessary waiver of privilege from the PMO. The RCMP were also involved in these discussions with PMO legal counsel. These precautions were necessary to prevent any possible breach of national security details, solicitor-client privilege, or Charter of Rights privacy. At a later date, once the necessary precautions were taken and privileges were waived, the e-mails were turned over to my team. Those e-mails will be discussed in detail later in this document. Because privileges were not waived at the time of the interview, Mr. Wright was relying on his memory and some prepared notes. During the interview with Mr. Wright, he advised the following:
- a. He was appointed Chief of Staff to Prime Minister Harper in November 2010. His job included a large array of responsibilities relating to everyday operations of the PMO including senior adviser to the PM, personnel issues, budgets, and caucus issues. He was essentially in charge of the PMO, and had several staff members

who reported to him, including David van Hemmen, Chris Woodcock, and Patrick Rogers;

- b. Around December 6, 2012, there were media reports relating to expense claims by Senators, and a referral of those matters within the Senate to a Senate sub-committee for review;
- c. He first thought he may have to get involved in the Senate expense claim issue when he learned through media reports on February 5, 2013, that Senator Duffy had applied for a health card in PEI. The following day he called Senator Tkachuk to get an assessment of the situation. Senator Tkachuk raised the issue of Senator Duffy having only spent 62 days of the previous 365 in PEI, bringing into question whether his primary residence was in fact in PEI. Mr. Wright in turn informed his staff at that time that this may be an issue;
- d. On February 7, 2013, Mr. Wright spoke to Senator Duffy by phone. Senator Duffy was upset because the Steering Committee was referring his matter to Deloitte for an external audit. Senator Duffy thought he followed the rules and did not want to be lumped in with other Senators who were being reviewed (Harb and Brazeau) when the Senate made a public statement announcing the referral to Deloitte. He also wanted to go on political talk shows and defend his position;
- e. Senator Duffy explained his understanding of the Senate policy, as well as his understanding of primary and secondary residency. Mr. Wright told Senator Duffy that he should have sought advice from Senate administration prior to commencing with those claims. Senator Duffy assured him that he did, so Mr. Wright asked him to produce the written advice. Senator Duffy had nothing to produce in writing at the time, but offered that he spoke to other Senators who advised him how to make claims;
- f. Mr. Wright then phoned Senator Tkachuk and explained that Senator Duffy was upset about the matter, and asked if during the press release, the wording could differentiate the Deloitte referral of Senator Duffy, from that of Senators Brazeau and Harb. This was accommodated by adding an extra line about seeking legal advice about Senator Duffy's residency. Mr. Wright believed that Senator Duffy was pleased with this;
- g. Based on what Senator Duffy was saying at the time, Mr. Wright at that point was of the opinion that he followed the rules, and that the Deloitte audit would sort the matter out;
- h. The following Monday (February 11) he spoke to Senator Duffy again. Senator Duffy expressed concern that if he did not claim a primary residence in PEI, his qualification to be a Senator would be nullified. Mr. Wright explained to him that this was not the case, and explained the constitutional requirements. They then

discussed where Senator Duffy actually resides/spends his time. It was at this point he confirmed that he spends most of his time in Ottawa, and provided many reasons as to why, including for healthcare as Senator Duffy has a heart condition and his doctors are in Ottawa;

- i. Mr. Wright then told Senator Duffy that if he primarily lives in Ottawa, then he morally should not be claiming his Ottawa residence as a secondary residence, and was therefore not entitled to the allowance he had been claiming. Mr. Wright told him he should pay the money back. When the conversation was over, Mr. Wright was left with the impression that Senator Duffy would repay the money. The amount that he owed that was floated in the media around that time was approximately \$32,000;
- j. That same week, possibly the same day, Senators LeBreton (Government leader in the Senate) and Cowan (Liberal leader in the Senate) jointly signed a letter in the Senate stating that any Senator unable to convince the board of Internal Economy that their expenses are valid would have to repay their expenses with interest;
- k. Mr. Wright then received an e-mail from Senator Duffy which contained talking points prepared by his lawyer, Janice Payne, arguing facts and legal reasons as to why Senator Duffy was entitled to the NCR allowance. Mr. Wright felt deflated by this as he thought he and Senator Duffy had reached an agreement that Senator Duffy would pay the money back. However, by the end of the e-mail, Senator Duffy still maintained that he would make repayment;
- l. The next day (February 12) Mr. Wright met with Senator Tkachuk. They both agreed that Senator Duffy needed to repay the money, even though there may be technicalities within the Senate rules which allowed for such claims. He needed to repay from a moral perspective;
- m. On Wednesday (February 13), after a caucus meeting, Mr. Wright observed Senator Duffy approach the Prime Minister, so he interjected himself into the conversation. Senator Duffy was defending his claims to the Prime Minister, explaining that he lives in PEI, has not been challenged on his claims previously, and should not have to repay the money. Mr. Wright took the opposite position and verbalized that to the Prime Minister in Senator Duffy's presence. The Prime Minister listened to both positions, and then stated that because Senator Duffy did not incur expenses due to Senate business in Ottawa, because he lives in Ottawa, the public would not expect or accept such claims. That ended the conversation and Senator Duffy did not challenge the Prime Minister's comments. Mr. Wright interpreted that as a resignation that he would repay;

- n. Mr. Wright informed Senator Tkachuk of the conversation between he, Senator Duffy and the Prime Minister, and told him that he thought that Senator Duffy was going to repay the money;
- o. Mr. Wright and Senator Duffy spoke again on Feb 19 while Senator Duffy was in PEI. Again Mr. Wright urged to him to repay the money, and again Senator Duffy argued his position that his primary residence is in PEI. Mr. Wright rejected his position, at which point Senator Duffy admitted that he did not have the means to repay the money. Senator Duffy then asked for the name of the legal counsel that his lawyer could speak to on the matter. Mr. Wright advised him that Benjamin Perrin (legal counsel within the PMO) would be the appropriate person;
- p. The following morning, Mr. Wright received an e-mail from Senator Duffy, asking to see a legal analysis as to why he was not entitled to the claims. Mr. Wright told Senator Duffy there is no legal analysis, and that he (Wright) wasn't looking at this from a legal perspective, but rather from a moral perspective of what he should properly claim. By this point Mr. Wright was not happy with Senator Duffy, and was no longer wishing to debate the matter. He told Senator Duffy that from that point on they will deal lawyer to lawyer on the matter (Payne and Perrin);
- q. Senator Tkachuk called Mr. Wright later that day and suggested a solution that he and Stewart Olsen thought may solve the issue. He suggested that Senator Duffy could write a letter to Deloitte admitting his mistake at making the claims, and ask what the repayment amount is. In return the Steering Committee would stop the Deloitte audit. Senator Tkachuk cited a previous matter involving Judy Sgro as a precedent for doing this. Mr. Wright agreed that if this was the solution the Senate wishes to propose then he was fine with it;
- r. Around this time, Benjamin Perrin received a call from Janice Payne asking for legal analysis. Her advice to Senator Duffy was that the claims were proper. She said that Senator Tkachuk had contacted Senator Duffy and proposed the same solution set out in the preceding sub-paragraph, including the halting of the Deloitte audit. Senator Duffy however was hesitant to accept that idea as he felt it looked better for his reputation to fight and be vindicated. She also said he did not have the money to repay;
- s. Mr. Wright and Senator Duffy spoke again about the matter. Mr. Wright told him that the PMO would assist with the communications approach on the matter. Mr. Wright's objective was to get Senator Duffy to repay the money, and have him stop defending claims he was not entitled to, as it was affecting the reputation of the government;
- t. Senator Duffy responded that he had been reviewing journal entries of when he was in PEI, and when he was on vacation. He disagreed with the calculations

relating to where he spent his time, and defended his time in Ottawa because of medical reasons. Again, he argued that he was entitled to his entitlements. He now wanted the Steering Committee to publicly apologize. Mr. Wright now was angry, and told Senator Duffy the government would not stand behind him. He urged him to accept Senator Tkachuk's solution, repay the \$32,000, and not file similar claims in the future. Senator Duffy reiterated that he did not have the money, and Mr. Wright said he would look into a source of funds;

- u. On February 21, 2013, Senator Duffy agreed to repay and acknowledge his possible mistake. He asked for reimbursement of the money, and for an agreement that Senator Tkachuk would not attack him in the media. Mr. Wright told him to repay in full, with interest, stop future claims, don't defend his entitlements in the media anymore, and the PMO would look after having the money reimbursed;
- v. An e-mail was then received from Janice Payne. Her position contained 5 points:
 - i. The Deloitte audit would stop and the government would agree that all of Senator Duffy's expenses were in order;
 - ii. There would be a written statement by the government;
 - iii. Agreement that Senator Duffy was in this position because of the amount of travel and work he did on behalf of the government, and would be reimbursed for all, including legal fees;
 - iv. If rules change in the future, he would be permitted to claim again;
 - v. There would be consistent government speaking points that he just made a mistake.
- w. Mr. Wright pushed back upon receipt of that e-mail stating that there would be no agreement that expenses were all in order. They were strictly dealing with secondary housing claims, and no other unrelated claims. There would be no written government statement, and the idea that Senator Duffy was in this situation due to government work was rejected;
- x. Senator Gerstein, chair of the Conservative Fund, had previously approached Mr. Wright and asked if he could assist in any way. The Conservative Fund is used for various things, including sometimes paying for legal fees. There was a suggestion that perhaps the fund could help by paying for Senator Duffy since the claims were in error;
- y. On Feb 22, 2013, Mr. Wright called Gerstein, updated him on the situation, and asked if the fund would pay the \$32,000 plus interest. Gerstein confirmed it would. Mr. Wright in turn informed some of his staff of this decision. Mr. Wright stressed, they would cover costs of housing claim errors only, nothing else;
- z. Senator Duffy then sent a letter to Senator Tkachuk saying that he may have made a mistake, and wanted to repay. Senator Tkachuk responded around Feb 26/27,

2013, that the amount owed since his time in Senate was approximately \$90,000. This amount was arrived at as a result of a review of Senator Duffy's term in Senate since 2008. Gerstein decided that the Conservative Fund would not cover the cost. He did not offer an explanation as to why;

- aa. Mr. Wright was angered by the amount of money owed, initially believing that the allowance related just to accommodations. He did not realize that Senator Duffy had been claiming for meals and incidentals as well. He was incensed that Senator Duffy was getting paid for meals that he ate in his own house in Ottawa;
- bb. A Senate sub-committee decision was made that the Deloitte audit of Senator Duffy would continue. There was some confusion as to whether this was a sub-committee decision, or whether the committee had asked Deloitte to stop the audit and they refused. Gerstein was asked to contact Deloitte and sort the matter out. The matter remained unclear for a couple weeks;
- cc. On March 21, 2013, Senator Gerstein contacted Patrick Rogers and said that Deloitte would not be stopping the audit, and that their mandate was to determine residency;
- dd. Mr. Wright and Janice Payne spoke on March 22, 2013, the first and only time they spoke. They discussed the entire matter and he provided her an update on everything. He persuaded her that Senator Duffy should repay. Benjamin Perrin participated in this phone call as well. Since the Conservative Fund was not going to pay, and he felt that Senator Duffy legitimately did not have the money to pay, nor the means to obtain the money, Mr. Wright took the decision to personally pay the cost of the debt himself from his own personal finances;
- ee. Mr. Wright explained that he is financially comfortable, having been successful in the private sector prior to agreeing to work within the PMO. Since taking on the position within the PMO he has not filed expense claims for anything, including meals, flights, hotels, or legal fees. He estimates he out of pocket tens of thousands of dollars, but it is his global view and contribution to public policy that taxpayers not bear the cost of his position if he can legitimately afford to fund it himself. Because of this personal beliefs and financial ability, he took the personal decision at that time to pay back the \$90,000. He did not view it as something out of the norm for him to do, and was part of being a good person. He said it was a personal decision, and he did not want a lot of people to know about it. Mr. Wright also said that he agreed to reimburse the money himself because he felt Senator Duffy may have a technical argument as to whether he could claim living expenses, unlike other Senators under investigation who he believed were clearer cases of defrauding the public purse. He informed Senator Gerstein of his decision, and also told Chris Woodcock, then PMO director of issues management;

- ff. There had been media inquiries at that time relating to Senator Wallin having paid back some money. Neither he nor the party helped her pay that money, and he did not want confusion within the office and wrong information getting out relating to Senator Duffy, and this is why he told some of his staff that he paid;
- gg. The bank draft was written to Janice Payne's law firm, in trust. The in trust portion was a requirement/condition that the draft could not be cashed unless there was a payment on that same date, for the same amount, to the receiver general. He did not want Senator Duffy getting any of the money directly before paying;
- hh. Senator Duffy in turn, through Janice Payne also asked for an agreement that the matter not be referred to the RCMP. Mr. Wright rejected this proposal and said that if criminal wrongdoings were identified, it would be referred;
- ii. The payment was made on March 26, 2013, and with the payment was a letter which was similar to the proposal of Senator Tkachuk. He had little contact/involvement with Senator Duffy after that;
- jj. On April 29, 2013, he attended a meeting with Senators LeBreton, Tkachuk, Stewart Olsen, and others to discuss the 3 Deloitte Reports and the rollout schedule. He was informed of the Deloitte finding that the rules were ambiguous and they could not determine residency;
- kk. On May 7, 2013, his staff was provided a copy of the draft Senate Report. He did not see it himself. His staff disagreed with the wording of the report as they felt it did not reflect the Deloitte findings, and they informed him of this. He supported the approach that the report should reflect the Deloitte findings. His staff (Chris Woodcock and Patrick Rogers) worked on this matter, as did Senators Stewart Olsen and Tkachuk. He is not sure if they worked together, or separately. He said he had no other involvement in the Senate Report and that there was no agreement with Senator Duffy to change the report;
- ll. The Steering committee met again on May 8, 2013. There was at least 1 Conservative staff member who did not agree to removing parts of the Senate Report. He does not remember who that person was; but the matter was resolved;
- mm. On May 14, 2013, there was an inquiry from the media about an e-mail, and about having co-signed a residential loan for Senator Duffy. Mr. Wright then told Chris Woodcock to contact Senator Duffy and find out what he has been telling people. Senator Duffy in turn sent Mr. Woodcock a copy of a February 20 e-mail which Senator Duffy had written from PEI, to Janice Payne, after he and Mr. Wright had spoken. Mr. Wright couldn't recall all that was in the e-mail, but generally he described it as Senator Duffy telling Janice Payne that Senator Tkachuk called him with the proposal of Senator Duffy paying the money back

and the Deloitte audit would be stopped. Senator Duffy had also set out conversations he had with others. Mr. Wright said he couldn't recall the whole e-mail, but that he was working through his lawyers to get RCMP investigators access to it;

[As I stated previously, Nigel Wright did provide e-mails to the RCMP, and I will discuss them in detail in the next section]

- nn. He said the Prime Minister was aware on February 22, 2013, that Senator Duffy had agreed to repay the money, that he would say that he had made a mistake, and that there would be consistent media lines. He felt this was something the Prime Minister needed to know because there could be technicalities within the Senate rules which allowed Senator Duffy to make such claims, and having a Senator pay back money when there were possible technicalities could set a precedent. He felt the Prime Minister should know that since such a decision could affect future situations. He maintained that he did not tell the Prime Minister of his eventual personal decision to pay the \$90,000 to Senator Duffy;
- oo. He was never paid back any of the money, and never expected to be paid back. There was a suggestion, possibly by Senator Gerstein, that he file a claim for \$60,000 legal fees that he previously incurred as part of his role within the PMO on an unrelated matter, for which he had paid out of his own pocket, but he rejected that idea;
- pp. Mr. Perrin became involved after the February 19, 2013, exchange when Senator Duffy asked for the name of a legal representative who his lawyer could communicate with. Thereinafter, Janice Payne and Benjamin Perrin communicated on this matter;
- qq. Mr. Perrin was aware of Mr. Wright's personal decision to pay the money, but was in no way involved in the decision;
- rr. Mr. Wright believed that he did not break any laws and that the e-mails he intended to provide to police would show that. He agreed to waive any privilege attached to e-mails.

E-mail Review:

- 35. Over the course of the investigation, I obtained copies of e-mails of many of the people involved. Initially, Nigel Wright provided 2 binders of e-mail material that he had collected. This was material that he told me that he felt was relevant to the investigation, and was communication of which he was a part of, as a sender or receiver. This material was first reviewed by the PMO to ensure that there were no matters of national security or of privilege. Based on my initial review of the e-mails provided by Nigel Wright, I determined that there was a need to also obtain the e-mails of other PMO employees involved in the communication, specifically Benjamin Perrin, Chris Woodcock, Patrick

Rogers, David van Hemmen, and Nigel Wright. Rob Staley, legal representative for the PMO, advised my office that he had clear orders from the Prime Minister to provide complete cooperation with the investigation, and to provide any assistance or documentation the RCMP requested. The PMO employees (current and former) whose e-mails I deemed relevant, have all provided privacy waivers through their legal counsel, relating to the content of their e-mails. The PMO has also waived solicitor-client privilege for those e-mails. I was advised that the e-mails of Benjamin Perrin were no longer available because he completed his tenure at the PMO in April 2013, before the relation that Mr. Wright reimbursed the money to Senator Duffy. Internal practice within the PMO is that a person's account and e-mails are removed from the computer server once their employment ends. Upon learning of the allegations, and the subsequent RCMP investigation in May 2013, Prime Minister Harper ordered that all e-mails of PMO staff were to be retained for the RCMP, should they be required. This information was relayed to the RCMP through external PMO legal counsel. My team then set out the terms and conditions by which RCMP computer forensic investigators would conduct a consensual search of computer servers located within the Privy Council Office (PCO), which houses the e-mails of the PMO. Those terms were agreed to by the PCO and PMO, and with the assistance of Information Technology staff within the PCO, the consensual search was conducted over a 4 day period. The time period under examination was December 2012 to September 4, 2013. The process resulted in the initial identification of approximately 260,000 e-mail items of possible relevance. E-mail item refers to either e-mails, or attachments to e-mails. Through a review process that number was reduced to approximately 19,000 items. Further detailed analysis of that data reduced the number of e-mail items containing possible evidentiary value to approximately 2600.

36. Investigators on my team subsequently reviewed the 2600 e-mails in greater detail. From that review, they identified and provided me with hundreds of e-mail exchanges that they deemed directly relevant to this investigation. I have reviewed all of those e-mails, as well as those provided by Nigel Wright, and will now provide a summary of their content below. I believe that these e-mails will show that there were concerted efforts by the PMO to have Senator Duffy repay his expenses. Senator Duffy did not believe that he had done anything wrong, and engaged his lawyer, Janice Payne, to look into the matter. On behalf of Senator Duffy, Janice Payne made a series of demands of the PMO, including that the Deloitte audit be stopped, and that Senator Duffy be reimbursed his repaid expenses, as well as legal fees. The PMO asked Senator Gerstein to speak to a contact within Deloitte to see if repayment by Senator Duffy would result in the audit being halted. He was advised that it would not. The Conservative Party initially considered covering Senator Duffy's expenses, when they were believed to be approximately \$30,000. However, when it was realized that the cost was \$90,000, they no longer considered it an option. The party did pay the legal fees of Janice Payne. In an effort to end the matter, Nigel Wright decided that he would personally pay the \$90,000 to reimburse Senator Duffy. He did so with a bank draft to Janice Payne. He also told some of his staff in the PMO that he was doing this. Part of the agreement between the PMO and Janice Payne (Mike Duffy) was that each side would adhere to previously agreed upon media lines; the Conservative caucus in the Senate would defeat any motion

to have Senator Duffy's expenses further reviewed; and acknowledgment that Senator Duffy has always met the requirements to sit as a Senator from PEI. The initial draft Senate Report was critical of Senator Duffy, and identified his primary residence as being in Ottawa, not PEI. This report went against some of the terms of the PMO/Duffy agreement, and PMO wanted the report changed to have the criticism of Senator Duffy removed. They engaged and applied pressure to the Conservative Senators on the committee to achieve this.

There were often many recipients to the e-mails, and some of the e-mails are quite lengthy. In an effort to keep things less confusing, I have not always identified each recipient, but have focused on the sender and some of the more relevant recipients. I have written this portion in a format that assumes that the authors and recipients of the e-mails are the persons associated to each e-mail account. I have paraphrased some e-mails, and at other times have used direct quotes. All dates are in 2013 unless otherwise stated, and 4 periods (...) indicates that the e-mail contains more content, and that I am quoting only a portion. Information contained in [square brackets] are comments which I have added, providing clarification or belief. At times I will reference or quote from e-mails of people whose e-mails I do not have. In those instances, those e-mails have been obtained because they were forwarded to someone within the PMO whose e-mails I do have. Many e-mails contain what may normally be considered to be protected by solicitor-client privilege, however under these circumstances privilege has either been waived, or deemed abandoned because it had been passed on to a third party. The e-mails primarily involve the following individuals who held the positions indicated at the time:¹⁸

Nigel Wright (Chief of Staff to Prime Minister Harper)
Benjamin Perrin (Special Advisor and Legal Counsel to Prime Minister)
Chris Woodcock (Director of Issues Management - PMO)
David van Hemmen (Executive Assistant to Prime Minister's Chief of Staff)
Patrick Rogers (Manager of Parliamentary Affairs - PMO)
Ray Novak (Deputy Chief of Staff to Prime Minister)
Andrew MacDougall (Director of Communications - PMO)
Senator Marjory LeBreton (Government leader in the Senate)
Senator David Tkachuk (Chair of the Senate Standing Committee)
Senator Carolyn Stewart Olsen (Member of the Senate Standing Committee)
Christopher Montgomery (Issues Management for Government in the Senate)
Janice Payne (Legal Counsel for Senator Duffy)
Senator Mike Duffy (Senate of Canada)

¹⁸ The facts contained in the above introductory paragraphs pertaining to the Email review have been ascertained by me through discussions with members of my team. While I have not been involved in every discussion or review outlined in these paragraphs, I have been informed of developments in the investigation as it progressed.

The e-mails are summarized as follows:

- a. On February 6, Chris Woodcock advised Nigel Wright that Senator Duffy would issue a brief statement about documents he provided to the Senate about his residency. Nigel Wright responded: *“Agree. But let this small group be under no illusion. I think that this is going to end badly. That is what Sen. Tkachuk strongly implies. I will try to understand the facts, but David is not an alarmist and is not a poor manager of this process.”*;
- b. On February 7, Christopher Montgomery advised Chris Woodcock that the Steering Committee was going to announce that the matters of Senators Brazeau, Harb and Duffy were being sent to an audit. In response to a comment from Ray Novak about the legalities of Senator Duffy’s expense claims, Nigel Wright responded:

“....the concept of a primary residence implies the existence of at least one other residence. So Mike could be primarily resident in the NCR for expense rules and still constitutionally resident in PEI. That leaves the very big problem of his having collected \$900 per month. The only plausible ways out of that are that (i) it was wrong and he has to be disciplined and/or repay, or (ii) there was ambiguity so it will be clarified and he will not claim the amount going forward....”;

- c. On February 7, Senator Duffy was made aware that the matter was going to be referred to Deloitte for an independent audit/review. He sent an e-mail to Senators Tkachuk and Stewart Olsen, which was forwarded to Nigel Wright. It stated:

“After speaking to my lawyer, I now understand that the issue in question is not whether I own property in PEI; but rather whether my principal residence is there, thus entitling me to expenses for my home in Kanata. If this is indeed the issue, then this is the first time a concern has been raised with me by anyone. I have been claiming these expenses routinely, as I was told I could do at the time of my swearing-in in 2009. However if there is anything improper about these expense claims, I want to correct it. I have no interest in claiming expenses to which I am not entitled. Can we discuss this matter before you issue any media release naming me, as I believe we can resolve this expense issue without the need of an audit.”;

- d. On February 11, Patrick Rogers wrote to Nigel Wright advising him that Senators Cowan and LeBreton had co-signed a letter stating that any Senator found to have inappropriately claimed money, would be asked to pay back the funds. Nigel Wright responded:

“I met with Duff today. He will repay, with a couple of conditions, including that admitting to a primary residence in Ottawa does not disqualify him from

representing PEI in the Senate. I am meeting Sen. Tkachuk tomorrow. Can the leadership PLEASE coordinate every move with us before taking ANY steps?";

[This is the first documentation in the chronology that I have located which states that Senator Duffy intended to pay. The wording "*with a couple conditions*" suggests that it was Senator Duffy who initially set conditions for a deal in return for repayment.]

- e. After hearing about the Senate letter calling for reimbursements by Senators, Senator Duffy wrote to Nigel Wright: "*What does Marjory's letter mean for our talks?*".

Nigel Wright responded: "*I had no foreknowledge of it. When I learned of it I asked for all unilateral action from that office to cease before being cleared with me. I was not pleased. On its face, it does not make our task more complicated....*"

Nigel Wright sent additional e-mails to others within the PMO stating:

"....Please convey my thanks to Sen. LeBreton's office for making this more difficult...."

"....To repeat Patrick, no further action from that office at all without pre-clearance with us....";

- f. On February 11, Senator Duffy wrote to Nigel Wright, providing several bullets for discussion as identified by Senator Duffy's lawyer (Payne). Nigel Wright referenced this e-mail during his interview with me. The end of the e-mail proposes alternatives, one of which is conditions under which Senator Duffy would repay, including withdrawing him from the Deloitte audit, reimbursement of his legal fees, and mutually acceptable media lines. Nigel Wright responded that he would meet with Senator Tkachuk on Tuesday (February 12) to discuss the matter:

-----Original Message-----
From: MDDuffy@aol.com [mailto:MDDuffy@aol.com]
Date: February 11, 2013 7:06 PM
To: Wright, Nigel
Subject: My lawyer writes ...

Possible bullets for discussion with Nigel

Your lawyers say that there is no doubt that you meet the constitutional qualifications to be senator of PEI. You own property worth over \$4K and you are resident in PEI for at least some of the time; there is no requirement that you be resident year round or that your primary residence be in PEI. Your lawyers are satisfied that there is no risk here.

The only issue is whether your primary residence is in PEI for purposes of claiming expenses for your residence in the NCR.

In support of that, you spent significant \$ to convert your seasonal residence to a year round residence following your appointment, your cars are registered in PEI, you carry a PEI driver's licence, and you spent about 100 days in PEI last year separate and apart from your time on the road and the time you had to be in Ottawa for senate business. No one raised a concern about your expense claims until now.

While we don't have complete documents for past policies (we do need to get these), we do have a copy of the Guidelines in effect in June of 2010 dealing with Senators' Living Expenses in the NCR (provided to us

today) which state that in order to claim living expenses in the NCR a senator had to file with the Clerk and keep up to date a declaration designating a primary residence in the province or territory represented by the senator

wasn't stated that this had to be your only primary residence for all purposes and the implication is that you might properly have more than one, that this spoke to your primary residence in PEI.

If this matter does proceed, we need to get complete policy documents for the entire time since your appointment but our initial impression is that Senate policy was not clear.

At all times you believed you were properly claiming expenses given the investment you made to make your PEI residence a year round residence following your appointment and the amount of time you spent in the province.

The Senate revised its policy language effective June 2012 and arguably added a clearer definition of "primary residence" that does not appear in the 2010 document and may well have been new in 2012.

If it would settle the matter you would repay back to June of 2012 and not claim expenses going forward unless the policy is further revised to make it clear that you can claim expenses or your personal circumstances change so that it is clear that PEI is your only primary residence.

You would need assurance that you will be removed from the audit, your legal expenses will be reimbursed pursuant to Senate policy and a mutually acceptable media release will be issued confirming that you have repaid arrears owing since the travel policy was clarified in 2012 and are not today) which state that in order to claim living expenses in the NCR a senator had to file with the Clerk and keep up to date a declaration designating a primary residence in the province or territory represented by the senator

wasn't stated that this had to be your only primary residence for all purposes and the implication is that you might properly have more than one, that this spoke to your primary residence in PEI.

You would need assurance that you will be removed from the audit, your legal expenses will be reimbursed pursuant to Senate policy and a mutually acceptable media release will be issued confirming that you have repaid arrears owing since the travel policy was clarified in 2012 and are not claiming expenses going forward

As an alternative, you would agree to repay any arrears found by Deloitte to be owing

A third alternative would be to pay all of the arrears with the coverage of legal fees by the Senate and a mutually acceptable media release confirming that you have repaid all arrears although you believed at the time and maintain that the expense claims were proper.

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03

- g. On February 15, there were e-mail discussions within the PMO about the Senate Rules committee and a proposed definition of residency, Nigel Wright e-mailed Benjamin Perrin and wrote:

"I am gravely concerned that Sen. Duffy would be considered a resident of Ontario under this ITB. Possibly Sen. Patterson in BC too. If this were adopted as the Senate's view about whether the constitutional qualification were met, the consequences are obvious"

".... When we feel we have a final draft, I would like this discussed please with Chris Montgomery. Getting something like this agreed to by leadership, or perhaps adopted by the committee on rules and procedures, is all that stands in the way of Sen. Duffy paying back his \$32,000 and closing out his situation...."

"....Patrick, we are going to need to manage the briefing of the Conservative Senators (including, hopefully Chair) of the Committee. If the Rules and Procedures committee doesn't have the right membership, then the Senate by motion should constitute a special committee that will have the right Senators on board. We cannot rely on the Senate Leader's office to get this right. have to do this in a way that does not lead to the Chinese water torture of new facts in the public domain, that the PM does not want...."

"I think we should lay out the approach in a brief memo to the PM...."

"....Based on Montgomery's response it is clear to me that Ben and I should brief Senator LeBreton directly. Chris simply does not believe in our goal of circling the wagons. Because of this lack of buy in, it was impossible to discuss meaningfully the parliamentary strategy....will work with Ben to get something

for the Prime Minister tonight.”

”I will look to you Patrick, involving Ben, me, and Joanne as much as necessary,because getting confirmation of qualification residency is all that is needed to close out the Duffy situation....and to stop our public agony.... ”;

- h. A February 18 memo addressed to Prime Minister Harper regarding Senate residency, provides some background to the Prime Minister on the matter his staff has been working on. The memo was from Patrick Rogers with Benjamin Perrin, and Nigel Wright and others are listed as carbon copied. The background portion states:

“Your office is working with Senate leadership to seek to bring an end to concerns regarding the constitutional residency of some of our Senators. This constitutional residency issue is separate from, but has become entangled in, the expenses issues surrounding Senators Duffy and Wallin. On Thursday, CTV ran a story questioning the residency of Senator Patterson.

Your office has worked with Senator Duffy on a plan for him to return money that he incorrectly collected when he declared his long time home in Kanata as a secondary residence for expenses. This plan with Senator Duffy is contingent on his ability to remain a Senator from PEI.”;

[This memo, prepared by PMO staff, states their belief at the time that Senator Duffy collected the money incorrectly. It also states that they are working on a plan for Senator Duffy to repay the money, but that the deal is contingent on Senator Duffy’s ability to remain a Senator from PEI. Again, the wording suggests that Senator Duffy made demands of the PMO, not vice versa]

- i. On February 19, Nigel Wright e-mailed Benjamin Perrin and others in the PMO to advise:

“I will advise Sen. LeBreton that we will not take any steps in the Senate to address residency for 23(5) purposes unless anyone challenges the qualification of any of our Senators, in which case we will defend (and defeat any motion regarding) any Senator who owns property in the correct province and division.

I will advise Sen. Duffy that we will defeat any challenge to his residency for 23 (5) purposes, and advise him to settle. the expenses matter promptly.

I will not communicate the PM’s view that ownership of property equates to residence for 23(5) purposes.... ”;

- j. On February 19, Chris Woodcock e-mailed Nigel Wright and others in the PMO. They were discussing proposed media lines and the fact that Senator Duffy stays

in a Charlottetown hotel during winter months. In his e-mail Woodcock stated:
"Describing Duffy's arrangements in Charlottetown as a "residence" may be too cute. I'll cross that line out....";

- k. On February 19, Nigel Wight informed Senator LeBreton that with *"Irving's prior approval"* he offered to have the Conservative Party pay Senator Duffy's legal bills, if they are reasonable. [I believe that Irving refers to Senator Irving Gerstein, chair of the Conservative Fund]

Senator LeBreton responded to Nigel Wright and addressed messaging that would come from the Internal Economy Committee. She ended her reply with:

"...My office will work very closely with PMO and Carolyn [Senator Stewart Olsen] as we go forward. We are making progress!";

- l. On February 20, Mike Duffy sent an e-mail to Nigel Wright and Chris Woodcock stating: *".... My lawyer also wants the letter of instructions to delitte [sic] outlining the scope of their work re me. Nigel says his analysis is I am in violation of the housing allowance policy she also wants that analysis."*

Nigel Wright responded: *"I did not say that, and if you continue to misquote me, then we will be speaking only through lawyers going forward. I said that if you continue on the path you want to take, I expect that Deloitte will conclude that your primary residence is in Kanata. I have said that to you several times. It is based on what you have told me, as I have seen no documentation from you."* ;

- m. On February 20, there was an e-mail exchange between Chris Woodcock and Nigel Wright and others in the PMO to discuss media lines. Woodcock attached a proposed media strategy as well as a statement that Senator Duffy would give to the media. Nigel Wright responded with suggestions and comments such as:

"We should suggest to Mike that he would acknowledge an error and put it down to ambiguities in the rules and forms. Never mention 'wrongdoing' to Mike. I also believe that Mike was doing what people told him he should do, without thinking about it too much."

"....What I have said to Mike, and others can, but I don't see a need to put in writing, is that we believe he meets all residency requirements relating to his ability to sit as a Senator from PEI....and that we will defend his Constitutional residency qualification categorically...."

"....Once you fill out that form and submit it, you get an allowance for the NCR home. Mike says this is a trap. Perhaps it is. But DeBane managed not to get the allowance for his Ottawa home, which is his true primary residence, even though"

he is a QC Senator....”;

- n. On February 20, Nigel Wright received an e-mail from Sandy Melo, Senator LeBreton’s Chief of Staff advising:

“Senator Tkachuk called Marjory late this morning because he had received a disturbing call from Duffy. Apparently he was asking Dave do some things he felt he simply could not. Marjory told Dave to call you as soon as possible. I wanted to mention this to you at our meeting, but you had to leave early.”

Nigel Wright responded: *“I did speak with Dave, thanks. We agreed on a path forward. PMO is engaging with Duffy this afternoon and Dave will be, or will already have, called him too.”;*

- o. On February 20, Nigel Wright sent an e-mail to Chris Woodcock, Benjamin Perrin, and other PMO employees:

“...I have spoken again with Sen. Duffy. Tomorrow morning I shall receive by courier redacted copies of his diaries and other info to back up his claim to have “PEI” (as opposed to his home in Cavendish) as his primary residence. Our team will have to look at that to see if there is anything in it that we would not want his lawyer to send to the Senate steering committee. Maybe it will persuade us to let him take his chances with Deloitte’s findings. If not, then I have told him I will be back on his case about repayment. I have told him that we have comms and issues management materials in preparation.”;

- p. On February 20, Senator Duffy sent an e-mail to Janice Payne stating the following, in part:

- i. *“....Mary and I copied and redacted my 4 years of diaries....and sent it to Nigel by Purolator....” ;*
- ii. *“....Nigel called last night....he said the steering committee of Internal Economy was preparing to issue their own report....they would trump Deloitte by saying....I was in violation of the rules and wasn’t eligible to sit as a Senator from PEI....” ;*
- iii. *“....Tkachuk called to say that if I would write a letter saying I had made an error, and offering to re-pay, the committee would agree to pull my case from Deloitte. I told him I had not made a final decision, but as they had sent me to Deloitte over my string [sic] objections, they would have to wear it. I’m sure he reported this to Nigel....”*
- iv. *“....My old friend Angelo Persichilli....called, urging the same thing. You will be all alone. Your party is against you, the Libs are against you, the*

media is against you.... ”;

- v. *“...then Nigel called tonight....He was expansive, saying we (PMO) had been working on lines and a scenario for me, that would cover all my concern, including cash for repayment....[Nigel Wright said] my sense is Deloitte will find against you. I then said; if that happens, I'll call my bank. I did NOT say I would repay;*
- vi. *[regarding the allegation that Senators Tkachuk and Stewart Olsen were going to trump Deloitte with their own findings, Senator Duffy wrote of Nigel Wright]”He said David Tkachuk, and Carolyn Stewart Olsen were the majority on the steering committee and they wanted to do this....So that is the hammer. He did not make a threat, he said he was trying to protect me from this rogue subcommittee. But the threat seems obvious. You take the dive or this subcommittee will throw you out.... ”*
- q. *On February 21, Janice Payne sent an e-mail to Benjamin Perrin requesting media lines:*

“...Nigel spoke to our client last night and also said he would be sending some media lines. When I last spoke to my client this morning he did not yet have them....”

Nigel Wright proposed to Benjamin Perrin that they relay the media line to Senator Duffy over the phone, and added “...I don't like the optics of our sending lines to his lawyer. We could walk him through the support we would provide.”

Several more e-mails were exchanged discussing the media strategy, talking points, timing, and answers Senator Duffy would give to specific questions from the media. The prepared statement prepared for Duffy was amended by him to insert “PEI-isms” ;

- r. *On February 21, Janice Payne sent an e-mail to Benjamin Perrin with a list of 5 conditions or demands. She acknowledged that there were discussions between Senator Duffy and the PMO, and that “.....Assuming we can work out the communication, we will need agreement on the following before we can proceed:*

1. “The Internal Economy Committee will confirm that Senator Duffy has been withdrawn from the Deloitte review and it will assure him that his expenses are fully in order to date and will not be the subject of any further activity or review by the Committee, the Senate, or any other party. If any member of the Committee makes any statement”, it will ensure that such statement is consistent with the agreed media lines.”

2. *“There will also be a written acknowledgement that Senator Duffy meets and has always met all requirements necessary to sit as the Senator from PEI.”*

3. *“As his apparent ineligibility for the housing allowance stems from his time on the road on behalf of the party, there will be an arrangement to keep him whole on the repayment. His legal fees will also be reimbursed.”*

[I believe that the term “keep him whole” means that Senator Duffy would not be financially out of pocket. Therefore any arrangement to keep him whole would require someone else to incur the cost of repayment.]

4. *“If the Senate rules or travel policy are rewritten to permit Senator Duffy to claim a housing allowance in the future he will be free to do so as at that point in time.”*

5. *“The PMO will take all reasonable efforts to ensure that members of the Conservative caucus, if they speak on this matter, do so in a fashion that is consistent with the agreed media lines.” :*

From: Janice Payne [mailto:janice.payne@nelligan.ca]
Sent: Thursday, February 21, 2013 09:04 PM Eastern Standard Time
To: Perrin, Benjamin
Cc: Christine King <Christine.King@nelligan.ca>
Subject: Senator Duffy

I understand that there are some discussions between our clients.

Assuming we can work out the communication, we will need agreement on the following before we can proceed:

6. The Internal Economy Committee will confirm that Senator Duffy has been withdrawn from the Deloitte review and it will assure him that his expenses are fully in order to date and will not be the subject of any further activity or review by the Committee, the Senate, or any other party. If any member of the Committee makes any statement, it will ensure that such statement is consistent with the agreed media lines.
7. There will also be a written acknowledgement that Senator Duffy meets and has always met all requirements necessary to sit as the Senator from PEI.
8. As his apparent ineligibility for the housing allowance stems from his time on the road on behalf of the party, there will be an arrangement to keep him whole on the repayment. His legal fees will also be reimbursed.
9. If the Senate rules or travel policy are rewritten to permit Senator Duffy to claim a housing allowance in the future he will be free to do so as at that point in time.
10. The PMO will take all reasonable efforts to ensure that members of the Conservative caucus, if they speak on this matter, do so in a fashion that is consistent with the agreed media lines.

I am available to discuss in the morning.

* Above is an image of the e-mail from Janice Payne. This is a version forwarded within the PMO, with comments (not depicted). I believe this resulted in the numbers 6-10 being added, which is misleading in the image.

- s. That same day, Nigel Wright addressed Ms. Payne's e-mail in a response to Benjamin Perrin and others in the PMO. Nigel Wright inserted his own comments in each of Janice Payne's statements in brackets. I've placed them in bold for ease of reading:

1. The Internal Economy Committee will confirm that Senator Duffy has been withdrawn from the Deloitte review (this is what will happen because the only subject matter that Deloitte is reviewing with respect to Sen. Duffy will have become moot, and that understanding is a commitment I will receive from Sens. LeBreton, Tkachuk, and Stewart-Olsen) and it will assure him that his expenses are fully in order to date and will not be the subject of any further activity or review by the Committee, the Senate, or any other party (I think we can say that the Steering Committee will determine that the secondary residence issue will be closed by the act of repaying what has previously been received and not receiving any further payments unless Sen. Duffy's living arrangements change in a way that permit him to receive the payments. I do not think it could say anything about any other expenses as no one has ever raised an issue with respect to them. Only the Senate committee could make such a commitment, and they cannot reasonably do that) If any member of the Committee makes any statement, it will ensure that such statement is consistent with the agreed media lines (this is precisely the position we will take with Sen. LeBreton and the Conservative Senators on the Steering Committee as the media lines will be accurate and we only want these Senators providing accurate comments).

2. There will also be a written acknowledgement that Senator Duffy meets and has always met all requirements necessary to sit as the Senator from PEI. (I have been specific with Sen. Duffy that a "senior government source" will make a statement on the day of his statement to the effect that there is no doubt he is qualified to sit as a Senator from PEI. The PM will also give this answer is asked, as will other authorized spokespeople for the Government. That is because it is true. There will not be a written acknowledgement.)

3. As his apparent ineligibility for the housing allowance stems from his time on the road on behalf of the party, there will be an arrangement to keep him whole on the repayment. His legal fees will also be reimbursed. (I do not know the amount of the legal fees and their reasonableness, so that has to be disclosed forthwith. Without acknowledging the accuracy of the premise of this item, the Party is open to keeping Sen. Duffy whole since it is clear that any overpayments were innocently received. I have a call into the Party to confirm this as I think that the Senator has a right to have it confirmed.)

4. If the Senate rules or travel policy are rewritten to permit Senator Duffy to claim a housing allowance in the future he will be free to do so as at that point in time. (The Senator should be free to receive any future allowance or reimbursement to which he is clearly entitled by the rules of the Senate. Where

there is any possible ambiguity, he should seek advice in advance from the relevant Senate authorities.)

5. The PMO will take all reasonable efforts to ensure that members of the Conservative caucus, if they speak on this matter, do so in a fashion that is consistent with the agreed media lines. (Agree, this is our view since the agreed media lines are accurate and we do not wish people to make inaccurate statements.)

t. On February 22, Benjamin Perrin responded to Nigel Wright:

"I have just spoken with Janice and conveyed all of the points below. After a little back and forth, she was generally satisfied with the responses I think."

"Point 3 requires follow-up from her and us. She will provide info on her rate and hours for legal fees....you spoke of further communications with the party.."

"I noted this is all conditional on agreement on the statement and communications bounds being respected by the Senator. She said they would be replying with some proposed changes shortly...."

Nigel Wright responded that he would try to speak with Senator Gerstein;

u. Later on February 22, Nigel Wright e-mailed Benjamin Perrin and others in the PMO stating :

"I now have the go-ahead on point three, with a couple stipulations:

- I would like to understand who if anyone Sen. Duffy ever intends to inform about point 3 (or, for that matter, the entire arrangement). I assume that I know the answer, but I would like it to be explicit. For its part, the Party would not inform anyone.

-Related to that, funds disbursed from the Party under point 3 would be paid to Ms Payne's law firm, since a good portion of them are in payment of their fees. -I would like to cap legal fee reimbursement at \$12,000 (I wouldn't kill it on this basis, but I just want to do this) and we need an accounting of what Sen. Duffy owes the Senate (we do not need the latter before his statement is rolled out).

Ben, please go back to Ms Payne on these points and ascertain where they stand on everything else. I do want to speak to the PM before everything is considered final."

Less than an hour later, Nigel Wright followed up with an e-mail stating "We are good to go from the PM once Ben has his confirmation from Payne."

Benjamin Perrin followed up with an e-mail to Nigel Wright advising that Janice Payne wanted the agreement in writing, and stated “...I explained that was not happening. We aren't selling a car or settling a lawsuit here. She seemed to get it eventually....”

- v. Later on February 22, Nigel Wright requested that the government lines be sent to Senators Tkachuk and LeBreton, and also asks to be reminded that “...Duffy still has to send the letter to the Steering Cttee, mimicking his public lines, saying ambiguity in the rules, might have made a mistake, desires to repay, needs to know the amount....”
- w. There were several back and forth e-mail exchanges between Benjamin Perrin and Janice Payne, as well as between Mr. Perrin and staff within the PMO. There were negotiated and changed media lines until all parties came to an agreement. Based on the e-mails, the agreed upon media lines are in two parts. Lines before the Senate Standing Committee meets, and lines after they meet. The lines are:

Lines until the Committee meets:

“-We have committed to ensuring that all expenses are appropriate, that the rules governing expenses are appropriate and to report back to the public on these matters.

-Senator Duffy maintains a residence in Prince Edward Island and has deep ties to the province.

-He has indicated that he will be taking steps to correct any possible error in how the forms were filled out.”

Lines Once the Committee has met to consider the matter:

“-We have committed to ensuring that all expenses are appropriate, that the rules governing expenses are appropriate and to report back to the public on these matters.

-Senator Duffy has taken steps to correct any possible error in how the forms were filled out.

-He maintains a residence in Prince Edward Island and has deep ties to the province.

-The Committee considers all issues relating to Senator Duffy now resolved.”

- x. Chris Woodcock then proceeded to work on a draft letter for Senator Duffy, which Senator Duffy would send to Senator Tkachuk stating that he filled out the housing forms in good faith and intends to pay back what he owes. He asked that the Steering Committee provide him with the amount owing. He provided the draft to Nigel Wright. That same date, February 22, Senator Duffy sent an e-mail to Senators Tkachuk and Stewart Olsen containing the exact wording (with the exception of one word). The PMO also received a lawyer rate summary from Janice Payne's office, claiming 28.7 hours at a rate of \$475.00 per hour, for a total of \$13,632.50. The document also outlined a rate of 4.8 hours for Christopher Rootham, at \$280.00 per hour, for a total of \$1,344.00;
- y. On February 26, David van Hemmen e-mailed Nigel Wright to advise that he had just been informed that Senator Duffy also charged meals and per diems, and will owe approximately \$80,000. Nigel Wright responded "*Marjory told me. I am beyond furious. This will all be repaid.*"
- z. Also on February 26, Mike Duffy e-mailed Nigel Wright after hearing a news story referencing the Liberals wanting the RCMP to investigate the Senate matter. Nigel Wright responded "*I can't figure out why the RCMP would have anything to do with this - unless there is clear fraud, which I have never heard.*"
- aa. On February 27, Janice Payne e-mailed Benjamin Perrin advising that Senator Duffy received a letter from Senator Tkachuk advising him that he owed \$90,172.24. She stated that Senator Duffy needed assurances from the Internal Economy Committee that repayment would result in his being withdrawn from the Deloitte audit. She sent another e-mail later that date stating: "*Essentially we need confirmation expenses are in order, withdrawal from Deloitte and the\$ arrangements*". Benjamin Perrin forwarded this to Nigel Wright who responded to Mr. Perrin:

"Ben, I do find this frustrating. There is a letter from the Subcommittee stating precisely what expenses are owed relating to the primary residence claim. Once those are paid, the Subcommittee can scarcely say that it got its amount wrong and needs more. Does Janice truly understand that if Mike has improperly charged for travel on Senate business when no Senate business actually took place that we cannot now say to him that those expenses are in order?"

Withdrawal of Deloitte is as we noted earlier - I agree that the Subcommittee has to do its work on that. Chris and Patrick are following the status of that. By "the\$ arrangements", I will arrange for the amount to be wired to Janice Payne in trust. Presumably Mike knows or can find out how to remit the proper amount to the Senate?"

Nigel Wright addressed the matter again on February 28:

"I foresee the Deloitte statement being made in the report it provides to the Senate subcommittee and then, on that basis, Sen. Tkachuk on behalf of the subcommittee would inform Sen. Duffy. That said, we are not in total control of how that Subcommittee does its work, so we should not over-commit on modalities at this stage. As I said before in these e-mail exchanges, if I were Sen. Duffy I would not release my cheque until I have seen something from the Subcommittee on that."

- bb. On March 1, Senator Gerstein received an e-mail from Nigel Wright advising him that he had a solution;

[This e-mail was provided to investigators by Senator Gerstein]

- cc. On March 1, Senator Stewart Olsen e-mailed Nigel Wright about something that happened the day before:

"Hi Nigel, just a quick note to say that I am always ready to do exactly what is asked but it would have been a great help to know in advance what the strategy was. I can only do so much without background. I think I could have stick handled it better with that knowledge. Prob could have avoided yesterday's fervor. Some personalities take a bit of management"

Nigel Wright responded:

"Please stay close to Chris and Patrick, Carolyn.

As for Wednesday night and Thursday, we got a draft report, we asked for necessary changes. You should have been part of those conversations.

As for strategy, I am extremely frustrated that we seem to be unable to get either the subcommittee or Deloitte to the point where it is agreed that the Deloitte examination of Duffy's secondary residence claim is completed by the combination of (i) Deloitte determining the amount of expenses incurred by reason of the claim of secondary residence, and (ii) Mike agreeing to repay that amount. Once we know that repayment will permit the subcommittee and Deloitte to state that that matter is resolved, then the repayment will follow forthwith. Somehow, despite agreement to this in advance from you, Marjory, and David, no one on the Senate side is delivering. Chris and Patrick are our point people on this, please stay close to them and help make this happen."

Senator Stewart Olsen responded:

"Confidentially both Marj and David are telling each other the audit will not be pulled....I think the only way to do this is to tell Deloitte that we are satisfied with the repayment and end the audit. The non partisan nature of the committee is a

problem as is the Clerk who seems to have his own agenda. Mind you it is a good agenda. He wants to clean up the place. In fairness Chris did talk to me about revisions but said he was talking to Dave so I left it. Checked with Dave later to see if they had spoken and was he ok with revisions and he said yes. I don't envy you your job. As I said though, if I had know from the start where we needed to finish it prob could have been managed."

Nigel Wright responded:

"Thanks Carolyn. I agree that the auditor (it's not really an audit) should report. But the report can be - if Kanata were a primary residence, here is how much would be owed. It shouldn't conclude that "Kanata is the primary residence", and it doesn't need to conclude that because Mike has committed to repay the money as if that were the case. I could use your help getting them to understand that and making it happen."

Nigel Wright forwarded the above e-mail exchange to Chris Woodcock and Patrick Rogers and advised that he would be asking for Senator Gerstein's assistance in the matter.

dd. Also on March 1, Janice Payne e-mailed Benjamin Perrin for an update on Senator Duffy being withdrawn from the Deloitte audit. Mr. Perrin inquired with Nigel Wright, who wrote:

"No we do not have an update for her on the Deloitte audit....Chris and Patrick and I are trying to make this happen.... Today I asked Sen. Gerstein to actually work through senior contacts at Deloitte and with Sen. LeBreton....the outcome we are pushing for is for Deloitte to report publicly that IF Kanata were the primary residence then the amount owing would be the \$90 thousand figure and that since Sen. Duffy has committed to repay this amount then Deloitte's work in determining primary residence is no longer needed....The nub of what I said to Mike is that his expenses would have to be repaid, so his choice was between having that plus a finding that they were inappropriate or that without such a finding. That is what we are working towards. Despite pre-clearing that with the relevant Senators, I am no longer 100% sure we can deliver, but if we can't then we and Mike have a bigger problem."

"....As to her timing, she can set whatever deadlines she wants, but none has been agreed to by us. Sen. Duffy would make this easier if he did not have outbursts in Senate caucus that make Senators oppose anything that helps him save face for expense claims that they see as inappropriate and as putting their own reputations in harm's way. We are working on this matter. We are doing so with more dispatch than Sen. Duffy showed in bringing this to a resolution. I do not gather from the tone of her e-mail that she understands any of this, and it might

help if she did.”

- ee. On March 5, Janice Payne e-mailed Benjamin Perrin and Arthur Hamilton (Conservative Party lawyer) seeking advice. She stated the following:

“Senator Tkachuk took the initiative to speak to Senator Duffy today and suggested to him that I write to Deloitteand state the following:

- ff. *“As you are no doubt aware, Senator Duffy has decided to resolve this matter by repaying the housing allowance paid to him since his appointment. He does so not because he believes he improperly claimed the allowance but because the rules are not clear and he prefers to make the repayment rather than continue to suffer the considerable distraction that this matter has caused him and his family....Please confirm that he will be withdrawn from the review you have been asked to undertake as soon as the repayment has been made....”*

“Ben and Arthur: Please confirm today that you have no difficulty with this approach. If some other approach or course of action is under consideration, please update me.”

Nigel Wright responded to PMO employees:

“I would like this checked with Irving....I would support taking the approach below IF I can be satisfied that Deloitte will accept the proposal. I do not trust that Sen. Tkachuk has ascertained that with Deloitte before making the suggestion to Sen. Duffy....I am reluctant to have her ask Deloitte to specify the amount of expenses owing because that would give Deloitte an excuse to ask for documents from Sen. Duffy again....”

- gg. On March 8, after an inquiry from the media about the Conservative party possibly paying Senator Duffy’s expenses, Nigel Wright advised Chris Woodcock in an e-mail that there had been discussions, but that the party was not paying. He added:

“...For you only: I am personally covering Duffy's \$90K....”

- hh. On March 8, during e-mail correspondence pertaining to Deloitte’s mandate from the Senate, Patrick Rogers stated:

“Senator Gerstein has just called. He agrees with our understanding of the situation and his Deloitte contact agrees. The stage we're at now is waiting for the Senator's contact to get the actual Deloitte auditor on the file to agree. The Senator will call back once we have Deloitte locked in.”

- ii. On March 20, after sending an e-mail to Benjamin Perrin and Arthur Hamilton about the Deloitte process, Janice Payne sent an e-mail to Senator Tkachuk seeking confirmation that the audit would be called off upon repayment. This information was relayed in an e-mail from Chris Woodcock to Nigel Wright.

Nigel Wright responded:

“Very dangerous tactic by her. Also, I wonder if she is paying attention, because Ben will have explained to her several times that it is not ‘the audit being called off’, but rather Deloitte not having to come to a conclusion on primary vs secondary residence.... the assumption that Kanata is the primary residence, an assumption made valid by Sen. Duffy’s decision not to contest-that point....”

- jj. On March 21, Patrick Rogers advised Nigel Wright and others that he heard from Senator Gerstein with an update on his inquiries with Deloitte. He advised that:

“Any repayments will not change Deloitte’s conclusions because they were asked to opine on residency. However, they can’t reach a conclusion on residency because Duffy’s lawyer has not provided them anything. This is despite their attempts use ‘public information’ about Duffy’s residency. Their report will state that Duffy’s lawyer did not provide information when requested. They were asked to complete the work by the end of March and plan to.”

Patrick Rogers later wrote:

“....I would propose that the Senator continue to not engage with Deloitte. I believe that we should make arrangements for repayment knowing that Deloitte will not say one way or another on his residency.

If asked following the report why he did not participate with Deloitte the Senator can say because he had already made the decision to repay the money and as he said at the time, he looked forward to moving on. It is then up to our esteemed Senators on the committee and our Senate leadership to move on.”

Benjamin Perrin responded with:

“At a minimum, I think in good faith they need to know the info you found out. We would then need to convinced them why they should do nothing. The Senator’s instinct may be to go in and fight this out again with Deloitte....”

Nigel Wright responded with:

“I do agree with Patrick’s suggestion....I would suggest that they send a similar response....that since Sen. Duffy has taken off the table the one issue DT [Deloitte] was asked to review, they do not see a purpose for that review. They

will want to add "or any reason to provide the information requested". We can never suggest that they say this latter bit, because we cannot trust them never to say that PMO told them not to respond to DT's requests for information...."

kk. On March 21, Senator LeBreton sent an e-mail to Nigel Wright stating:

"Hi Nigel. Senator Duffy was whining to me this afternoon in the Senate Chamber saying Carolyn Stewart-Olsen and David Tkachuk are not giving him any assurance that the audit would be withdrawn even though he reminded them that he has a commitment from you and PMO. I said "Mike you have just got to trust us on this and please don't crashing around invoking Nigel' s name or that of the PMO. Go through your lawyer and pay the money - I'm sure that everything will be fine." He said he heard Carolyn was going to move a motion to force him to sit as an Independent. I asked him where on earth he heard such nonsense and wondered if he lies awake at night dreaming up these things! I assured him that this is not going to happen! Just so you know. Marjory"

ll. On March 23, Janice Payne e-mailed Benjamin Perrin and stated:

"Ben, yesterday we discussed the Senator sending a cheque to Deloitte with a letter explaining our position that the ongoing review should now be moot. I am preparing such a letter...." She then sent Mr. Perrin a draft of the letter she intended to send to Deloitte, and solicited comments from Mr. Perrin and Nigel Wright.

Nigel Wright responded to Benjamin Perrin: *"...I think that this is perfectly fine (and I resist making minor suggestions since I would prefer to be able to answer, if necessary, that PMO did not write it)."*

Nigel then followed up with an e-mail to David van Hemmen:

"My cheque is in the correspondence folder. I don't have enough funds in my chequing account, so I have e-mailed Murray Culligan to ask him to transfer them in from another account. You might call him on Monday morning to assure that he is doing it, as I dated my cheque for Monday and I expect them to negotiate it that day...."

In an earlier e-mail to Benjamin Perrin, Nigel Wright stated:

"I think her approach works. I will send my cheque on Monday"

mm. On March 24, Janice Payne sent an e-mail to Benjamin Perrin stating that Senator Duffy *"....asks for assurance that should any Senator seek his removal,*

the Gov't leader in the Senate will urge her caucus to vote against such a motion, as well as any motion to refer the matter of his housing and expense claims for further investigation or action by Deloitte or any other party..."

Follow-up e-mails between Nigel Wright, Benjamin Perrin, and Patrick Rogers show that they need to speak to Senators LeBreton and Tkachuk before making that commitment. Nigel Wright stated:

"It has to be handled very delicately. We are not asking Senators to absolve him of anything - they would refuse that, quite properly. We are asking them to treat the repayment as the final chapter of the expenses issue relating to his designation of the PEI cottage as his primary residence to this point in time. That is something to which Sens. LeBreton and Tkachuk and Stewart-Olsen already agreed once."

Patrick Rogers followed up with separate e-mails on March 25 stating that both Senators Tkachuk and LeBreton were on side and in agreement.

- nn. On March 25, Janice Payne sent an e-mail to Benjamin Perrin stating that Senator Duffy wanted better clarity, and changed the previous language regarding assurances that the government leader in the senate would urge caucus to vote against motions to refer his matter. The new language included a reference to urging caucus to vote against any motion to refer the matter to the RCMP. Nigel Wright refused to agree to this language.
- oo. On March 25, David van Hemmen e-mailed Janice Payne and advised her that he had a bank draft to deliver to her on behalf of Nigel Wright.
- pp. On March 26, Benjamin Perrin received an e-mail from Janice Payne's office stating : *"we have just sent the cheque to Senator Tkachuk by courier"*.
- qq. On April 18, Senator LeBreton responded to an e-mail from Senator Duffy pertaining to a request from media for an interview. Senator LeBreton provided encouragement, advised him to await the Deloitte audit results and avoid the media. Senator LeBreton forwarded the e-mail to Chris Woodcock and Nigel Wright, advising them that Senator Duffy had stopped by her office that afternoon because of media report and rumors he heard. Senator LeBreton stated: *"I assured him that all of us are working on a plan to manage this once we have the audits and have prepared the report to be tabled in the Senate. I told him once again that he must trust us on this and not complicate the issue by talking to the media"*.
- rr. By April 19, it still had not been publicly announced that Senator Duffy had repaid the \$90,000. There were several back and forth e-mails between Chris Woodcock and Senator LeBreton, as well as internally within the PMO, about inquiries from the media citing sources that Senator Duffy had paid the money

back. They discussed preparing media lines and Woodcock stated: “....we will need to confirm the amount, that it was repaid in March, and nothing else”.

- ss. On April 20, Deloitte auditors sent an e-mail to Senate Administration citing a letter from Senator Duffy in which he offers to appear before the auditors or Senate Committee. Deloitte states that as a result, they wish to meet with Senator Duffy and also request documents from him for their audit that he had yet to provide. Deloitte adds that this would affect the timing of their report.

Jill Anne Joseph of Senate Administration responded to Deloitte, agreeing that meeting with Senator Duffy and his documentation would be helpful to Deloitte, and that a short delay may be acceptable. Gary O'Brien, Clerk of the Senate, passed the information on to Senator Tkachuk and asked how he wished to proceed.

On April 22, Senator Stewart Olsen e-mailed Chris Woodcock regarding Senator Duffy. She stated: “Is asking to meet with Senate audit committee or the auditors themselves. Do you know why he wants to escalate?”. The e-mail was forwarded to Nigel Wright who responded: “Never heard of this. Is bad.”.

On April 23, Christopher Montgomery e-mailed Nigel Wright, Patrick Rogers, and Chris Woodcock stating:

“I am told that Steering decided today to send a letter to Duffy indicating that the audit has concluded and he will therefore not have an opportunity to meet with the auditors....”

Senator LeBreton was brought into the e-mail chain, and responded:

“Thanks. This course of action makes sense. My only concern is Sen Duffy. Even though he claims he is careful in what he says and does, the evidence is the opposite! We have to be very careful what we say to him.”

- tt. On April 28, Marjory LeBreton responded to an e-mail from Nigel Wright and stated “....Just to assure you, I will double my efforts to ensure that there is no reference to the legitimacy of Senate seats in the report to be tabled as a result of the audits. It has never been the Internal Economy's mandate to adjudicate on such issues....”
- uu. On May 2, after the Senate committee had received the Deloitte Reports, Senator Stewart Olsen e-mailed Chris Woodcock stating: “Liberals putting pressure to send them out to RCMP. May be a fight if we can't diffuse....”

Nigel Wright responded to Woodcock: “By fight, I assume she means that the Conservative Senators will vote that down, and quickly (not after weeks of

debate).”

vv. On May 7, Senator Duffy exchanged a series of e-mails discussing media lines, and Senator Duffy provided suggestions on what should be said, and how to choreograph his exit from the Senate.

ww. On May 8, the day the major changes were made to the Senate Report on Senator Duffy, Patrick Rogers sent an e-mail to Nigel Wright, Chris Woodcock, and David van Hemmen at 1:54 pm. Subject of the e-mail is “Report on Duffy”. Rogers wrote:

“The meeting is about to begin at 2pm. I just met with CSO [Carolyn Stewart Olsen]. I gave her our changes. She agreed with them 100%. I reinforced with her that the implementing of all of the changes to the report was the fulfillment of her commitment to Nigel and our building. She indicated she understood this.”

Nigel Wright responded: *“....I am sure that she blamed someone else for the inflammatory language.”* To which Patrick Rogers responded: *“You are correct. It was all Tkachuk’s fault”*.

At 2:34 pm, Senator Stewart Olsen e-mailed Patrick Rogers and stated: *“So I was too optimistic. Montgomery says we as Senators should not compromise ourselves”*. Patrick Rogers forwarded the e-mail to Nigel Wright, stating *“Here is the latest from the committee. This is unbelievable.”*

At 2:35 pm, Patrick Rogers responded to Senator Stewart Olsen stating: *“This is the direction. You are not compromising yourself. You’re fulfilling commitments that were made.”* Senator Stewart Olsen responded: *“I am fight my way. No fun.”*

At 3:00 pm, from Nigel Wright to Patrick Rogers and Chris Woodcock: *“Do I need to call Marjory? They think they are hurting Duffy, but they will end up hurting the Prime Minister.”* Chris Woodcock responded: *“I can stop by her office....If Chris [Montgomery] is operating on the Minister’s instructions, she needs to know. If he is not, she definitely needs to know.”*

At 3:06 pm from Chris Montgomery to Senator Stewart Olsen: *“Talked to the boss. Says the report has to be consistent with the other two, that you need a to claim to the money and that those paragraphs are crucial to the end.”* Senator Stewart Olsen forwarded that e-mail to Patrick Rogers, who forwarded to to Nigel Wright stating *“I think you should call LeBreton”*.

At 3:30 Patrick Rogers e-mailed Nigel Wright and Chris Woodcock stating: *“I am in a meeting with Montgomery, LeBreton, Sandy, CSO [Carolyn Stewart Olsen] This is epic. Montgomery is the Problem.”* Nigel Wright responded *“Should I come over?”*.

At 3:42 pm, Chris Woodcock responded: *"We're done, Patrick made it happen."*

- xx. On May 8 at 5:28 pm, Patrick Rogers sent an e-mail to Senator Stewart Olsen: *"Please tell me you were successful"*. Senator Stewart Olsen Responded: *"Only one para that we have to move a motion for...."*. She further advised that Senator Tkachuk agrees and that they will move a motion and vote. The PMO then proceeded to work with the Senate to develop the media lines that would be used by Senators Tkachuk, LeBreton, and Duffy.

[I believe this related to having the 3rd criticism of Senator Duffy removed from the report on May 9. As previously stated, there were 3 criticisms removed from the report. The removal of the first two would have taken place after the back and forth e-mail exchanges between 2pm and 4pm above.]

- yy. On May 9 at 9:40 am, the day the final Deloitte Report and Senate Report was going to be made public, Senator Stewart Olsen wrote to Chris Woodcock and Patrick Rogers regarding "Duffy" : *"He needs to get out of committee. He just handed the Libs the reason to go to the police"* [Senator Duffy made comments in committee about having been contacted by Senator Tkachuk during the audit process, about claiming per diems in error while on vacation in Florida]. Senator LeBreton then wrote to Nigel Wright: *"Hi Nigel - Is there any way we can get Duffy to stay away and most importantly avoid any media. By his appearance at Internal Economy he has really complicated our day!"*. Chris Woodcock followed up with: *"I spoke to Duffy. He won't do any media and will stay away from the Chamber today."*

- zz. On May 9, Senator Linda Frum e-mailed Ray Novak and stated:

"Feel compelled to speak out ...By protecting our own we are making Marjory and PM look terrible. Not fair to them. I feel safe in telling you that our caucus would support forced resignations. These are my friends so this is painful to even write. But PM's reputation -- and that of Sen caucus -- going down in flames. It's collective guilt. Not a good approach...."

Ray Novak forwarded the e-mail to Nigel Wright, to which he responded:

"...I don't know if the RCMP really are investigating. I personally don't think that Mike committed a crime at all - if I did we would have pursued a different course. One way or another, the RCMP will arrive at their own determination about that....and we call upon all three Senators to assist the RCMP if it makes any requests for info."

- aaa. On May 14, Andrew MacDougall sent an e-mail to Nigel Wright and others advising that he received inquiries from a journalist about Nigel Wright co-

signing a loan for Senator Duffy to repay the money. Carl Vallee, PMO Press Secretary, responded:

"Would the PM know the actual answer to the question? Just in case he asks us."

Nigel Wright responded:

"The PM knows, in broad terms only, that I personally assisted Duffy when I was getting him to agree to repay the expenses. On the specific matter, I did not co-sign a loan."

bbb. On May 15 at 8:00 am, in response to a question from Chris Woodcock on whether he advised the Senate Ethics commissioner of the loan/gift for repayment, Senator Duffy responded:

"No. Anyone who asked was told the truth: that I paid with my personal cheque on my rbc acct. Did I have help. Yes from the RBC and my wife who co signed for the extension of my. Line of credit."

.ccc. Later on May 15, Senator Duffy received an e-mail from Chris Rootham, a lawyer within Janice Payne's law firm. Senator Duffy forwarded that e-mail to Nigel Wright and Chris Woodcock. It contained a legal opinion as to why Senator Duffy was not required to report the \$90,000 to the Senate Ethics Officer. Mr. Rootham advised Senator Duffy to seek further advice on the matter from the Ethics Officer, and offered to prepare the letter.

ddd. On May 15 at 5:04 pm, Nigel Wright received an e-mail from Chris Woodcock containing an embedded e-mail from Senator Duffy. Senator Duffy's e-mail contained the body of what appears to be a proposed letter from Senator Duffy to the Senate Ethics Officer. It was also dated May 15, 2013. I do not know if Senator Duffy actually sent the letter. The body of the letter states in part:

- i. *"In early February 2013 there were some concerns expressed about expenses that I claimed during my tenure as a Senator. I was claiming living expenses while I was in the National Capital Region on the grounds that my primary residence was in Prince Edward Island. There was a concern that since I spent the majority of my time in the National Capital Region (for Senate business), my primary residence was not in Prince Edward Island....the amount of these expenses came to \$90,172.24...."*
- ii. *"After further discussions through counsel over the next month, it was eventually determined that Nigel Wright (Chief of Staff of the Office of the Prime Minister of Canada) would send a bank draft to my counsel in the amount of \$90,172.24, who in turn would release those funds to me. At the same time, I wrote a personal cheque to the receiver general of Canada in*

the amount of \$90,172.24....Mr. Wright sent those funds on March 25, 2013."

- iii. *"I had first considered that this payment was part of "sponsored travel" under s. 18 of the Conflict of Interest Code for Senators – it was reimbursement of travel and living expenses...."*
- iv. *"After considering the matter further, I am unsure about this conclusion: because this payment of 90,172.24 from Mr. Wright was the result of an arrangement discussed through counsel, this payment may be a source of income over \$2000 from a contract...."*
- v. *"On May 15, 2013 this payment became a matter of public record. At the time Mr. Wright described it as a "gift". There was some concern expressed that if this matter was a gift, I should have disclosed the gift within 30 days...."*
- vi. *"I am writing to ask your opinion of whether or how I should report this payment...."*
- vii. *"In the event that you conclude that this payment must be disclosed, I would like the opportunity to discuss with you the extent of the information that will be contained in the public disclosure summary in respect of this matter."*

[Cpl. Jolette advised me that letter was located in an e-mail of Chris Woodcock. I have viewed this document and it appears as an e-mail from Senator Duffy to Senator Duffy. Cpl. Jolette further advised me that there are other instances when e-mails from Senator Duffy appear like that within Chris Woodcock's e-mails. I believe that a possible explanation for this is that Senator Duffy had sent the e-mails to himself, and sent them to Chris Woodcock as a blind copy. The email from Senator Duffy to Senator Duffy was sent on May 15, 2013 at 5:01 pm and the subject is "Changes? If you agree will send Thursday? Mike". Chris Woodcock forwarded the e-mail to Nigel Wright.]

- eee. On May 16, Chris Woodcock e-mailed Senator Duffy regarding a May 15 news story which quoted Senator Duffy as saying "*The Royal Bank helped me...I dealt with my bank personally. Nigel played no role*" and asked if the quote was taken out of context.

Senator Duffy responded: "*Yes. Because I did not know until ray novak told me that nigel and given the money. I was told I would be made whole I said I did not. Want to know the name of the donor because I did not want to be beholding to anyone. I negotiated the loan and heather cosigned. I wrote the cheque and some*

time later a credit appeared in my account.”

Ray Novak responded to Woodcock:

“Yes, we need to discuss this. His lying really is tiresome.”

[Senator Duffy asserts in this e-mail that he did not know that Nigel Wright was personally reimbursing the \$90,000. However, in the letter dated May 15, 2013, addressed to the Senate Ethics Officer referenced previously, he stated that after further discussions through counsel in February and March, it was determined that Mr. Wright would reimburse the funds to him. As will be seen later in this Information, Senator Duffy gave an address to the Senate in October 2013, during which he stated that Nigel Wright personally told him that he would write the cheque.]

Interviews and Statements:

Over the course of this investigation, I and members of my team have conducted many interviews. Some of those interviews relate to other aspects of the investigation, and are not pertinent to the named offences. In this section I will provide details of statements that relate only to this application.

Senator Marjory LeBreton:

37. On July 3, 2013, S/Sgt. Arbour and I interviewed Senator Marjory LeBreton during which she stated the following:
- a. As a result of the ongoing review into Senate expenses, she and Senator Cowan (Liberal leader in Senate) signed a letter to committee asking for repayment from any Senator found to have claimed money they were not entitled to. This occurred around the end of January, 2013;
 - b. She denied providing direction to anyone to change the Senate Report on Senator Duffy, and said it was normal procedure to prepare draft report prior to a final report being completed;
 - c. It was Senator Stewart Olsen's idea to not write a critical report of Senator Duffy because he had paid the money back. Olsen met with her in her office and presented those thoughts on behalf of herself and Senator Tkachuk. Senator Tkachuk may have been present as well, but that she does not recall;
 - d. She communicated only once with Mr. Wright on the matter of Senator Duffy. That occurred during a meeting at the end of April, 2013. Also present were

Sandy Melo, Christopher Montgomery, Senator Tkachuk, Senator Stewart Olsen, Robin Hay, and Patrick Rogers. The purpose of the meeting was to discuss issues management in relation to the upcoming release of the reports on May 9;

[In contrast, the evidence shows that: On February 20, a member of Senator LeBreton's staff contacted Nigel Wright over a disturbing call that Senator Tkachuk had received from Senator Duffy, asking him to do something that he felt he could not, and that Senator LeBreton suggested he call Mr. Wright as soon as possible. On March 21 and April 28 Senator LeBreton had e-mail communication with Nigel Wright about the matter of Senator Duffy. On May 9, the day the Senate and Deloitte Reports were to be made public, she contacted Nigel Wright and asked that Senator Duffy stay away from Parliament Hill and avoid media. In addition, the PMO provided the media lines to Senator LeBreton throughout the process, and she adhered to them.]

- e. She did not know that Nigel Wright had paid \$90,000 to Senator Duffy until she saw it on the news;
- f. She took a hands-off approach, and did not want to involve the government in the work of the Internal Economy Committee;
- g. There was no direction, pressure, or suggestion by Nigel Wright or anyone else in the PMO to go lightly on Senator Duffy in the Senate Report, nor was there a suggestion by the PMO that Senator Duffy should be withdrawn from the Deloitte audit if he repaid;

[In contrast, the evidence shows that : Senator LeBreton e-mailed Nigel Wright on March 21, 2013, stating that Senator Duffy approached her in the Senate chamber concerned about the audit not being stopped. She stated in her e-mail that she urged him to pay the money and not worry because he had a commitment from the PMO. In a March 24, 2013, e-mail about having Senator Duffy withdrawn from the Deloitte audit, Nigel Wright stated the matter has to be handled delicately, and that it is something which Senator LeBreton has already agreed to once. A follow-up e-mail from Patrick Rogers stated that Senator LeBreton is in agreement. On April 23, 2013, Senator LeBreton communicated with PMO, in agreement that the Deloitte audit be concluded, resulting in Senator Duffy not appearing before Deloitte as he had requested. On April 28 Senator LeBreton advised Nigel Wright that she would double her efforts to ensure there was no reference to the legitimacy of a Senator to hold a seat within the Senate Report. According to e-mails, Senator LeBreton was in a meeting on May 8, 2013, with Patrick Rogers, Senator Stewart Olsen, and Chris Montgomery when the PMO was trying to convince the Senators to agree to their changes, and when Chris Montgomery was not in agreement.]

- h. She had no communication with Senator Tkachuk about how the Senate Report should be worded;
- i. The last time she spoke to Senator Duffy was when he came to her office at the time of the Global News story which stated that he may not pay the money back. At the time, she believed that he had already paid the money back. He came to her office blaming her for his situation, for changing the rules. She said she may have spoken to him briefly one more time in the hall after a caucus meeting;

[The evidence shows that, based on a statements that Senators Duffy and LeBreton made in the Senate in October 2013, which I will address later in this document, she spoke to Senator Duffy by phone just hours prior to him stepping down from the Conservative Caucus in May 2013.]

- j. She had no knowledge of anyone agreeing to repay Senator Duffy from the Conservative Fund. She said that could not have happened as it would have to be cleared by the board that oversees the fund. "*There's just no way in hell that that could've happened*". When asked who sat on the board, she said many people, and that Senator Gerstein was the Chair.

[In contrast, the evidence shows that Nigel Wright told her in an e-mail that Senator Gerstein had agreed to the Conservative Fund paying Senator Duffy's legal fees, as long as they were reasonable. In response, Senator LeBreton told Nigel Wright that her office would work very closely with the PMO and Senator Stewart Olsen as they move forward.]

38. During the review of the e-mails that I have previously referenced, I located an exchange of messages that did not deal specifically with the repayment and reimbursement of the \$90,000, however they are relevant to the scope of the investigation. The e-mails, which I have appended to this Information, relate to a proposal by Senator LeBreton to create a committee in order to clarify and strengthen rules in the Senate regarding travel and residency. Based on the e-mails and attachments, there was discord between Senators over this proposal, as well as between the PMO and Senator LeBreton. This resulted in a letter from Senator LeBreton to the Prime Minister, dated March 21, 2013, explaining the situation. Further e-mails show that there exchanges between David van Hemmen, Joanne McNamara, Chris Woodcock, Patrick Rogers, and Nigel Wright. These exchanges show the level of involvement of the PMO staffers in preparing a response to Senator LeBreton on behalf of the Prime Minister, as well as a memo to the Prime Minister from his staff explaining their response to the Senator. The purpose of including these e-mails and draft documents in this Information is that it demonstrates the level of control that some staff within the PMO tried to impose when dealing specifically with the matter of Senators' residency. I've attached the following exhibits to this Information:

- a. Appendix 'B' – An e-mail from David van Hemmen to Joanne McNamara, Chris Woodcock and Patrick Rogers dated March 21, 2013 at 10:26 am. Attached to the e-mail is the letter from Senator LeBreton.
- b. Appendix 'C' – E-mail exchanges between Patrick Rogers, Chris Woodcock, Joanne McNamara, and Nigel Wright dated March 21/22, 2013. The e-mails contain a draft response to Senator LeBreton as well as a draft memo to Senator LeBreton in response to her letter.

Senator Carolyn Stewart Olsen:

39. On June 21, 2013, S/Sgt. Arbour and I interviewed Senator Carolyn Stewart Olsen during which she stated the following:

- a. After the Deloitte Report was received on April 29, the Senate administration prepared a draft Senate Report. She stressed that there were many drafts of the Senate Report, but then acknowledged that there were only sub-committee meetings on two days, May 7 and 8, after the draft report was received from Senate Administration;
- b. Changes were made to the Senate Report by the sub-committee on both May 7 and 8, but she does not remember what the changes were. The report was then tabled in the Standing committee on May 9, and changes made on that date too. She does not remember what those changes were either;
- c. When asked if the draft reports still exist, and who would have them, she questioned aloud about the legalities because the meetings were held in camera. Mr. Patrice, deputy law clerk in the Senate was present and confirmed they do exist, and are in possession of Clerk of the Senate;
- d. She did not have communication with Senator Duffy or Deloitte, and recalls only communicating with Nigel Wright on one occasion, at a meeting at the end of April 2013, to provide an update on the audit process;
- e. She is unaware of any discussions between individuals where a deal would be made with Senator Duffy to go easy on him in the Senate Report if he repaid the money;
- f. She is unaware of any deal that if Senator Duffy repaid the housing allowance, he would be withdrawn from the Deloitte process;
- g. She said that the decision to change the Senate Report was a collective decision, based on a motion that she moved. The Report was written the way it was because Senator Duffy paid back the \$90,000. She added that she did not believe in the Deloitte findings. She felt the rules were very clear and Deloitte could have been

more direct in finding fault on Senator Duffy's part;

- h. Senator Furey was not in agreement with the Senate Report, and it became a partisan exercise which she found "*deplorable*";
- i. She and Senator Tkachuk discussed the Senate Report outside of subcommittee meetings but no one gave her direction or orders to change the Senate Report. There was no communication, influence or direction by anyone in the PMO to make any changes to the Senate Report, and there was no conversation between her and Mr. Wright or anyone in the PMO regarding the report;
- j. She discussed the Senate Report with Senator LeBreton in meetings, but did not discuss the matter in private;
- k. She first heard that Mr. Wright paid the \$90,000 in the media, and scoffed at the idea that the Conservative Fund would have been considered to pay back the money when it was believed that Senator Duffy only owed \$32,000.

[Based on the investigation and evidence gathered to date, I believe that Senator Stewart Olsen's version of events to police was incomplete, and not consistent with the facts. From the e-mails previously outlined, it is clear that she was in contact with Nigel Wright and others within the PMO, relating to Senator Duffy: In a March 24 e-mail about having Senator Duffy withdrawn from the Deloitte audit, Nigel Wright states the matter has to be handled delicately, and that it is something which Senator Stewart Olsen has already agreed to once. On April 22 Senator Stewart Olsen advised Chris Woodcock in an e-mail that Senator Duffy was asking to appear before the Deloitte auditor, and questioning why he is escalating the situation. On May 2 Senator Stewart Olsen sent an e-mail to the PMO advising that the Liberals were pressuring to refer the Deloitte Reports to the RCMP. On May 8 Senator Stewart Olsen accepted the PMO changes to the Senate Report from Patrick Rogers, and took them forward. When Chris Montgomery objected to those changes at the meeting, stating that Senators were compromising themselves, Senator Stewart Olsen was present, as were PMO staff. On May 9, she contacted the PMO and said that Senator Duffy needed to get out of the committee because he had just given the Liberals a reason to refer the matter to the RCMP.]

Senator David Tkachuk:

40. On July 26, 2013, Insp. St-Jacques and S/Sgt. Arbour interviewed Senator David Tkachuk during which he stated the following:¹⁹

¹⁹ I know this from reading the report of S/Sgt. Arbour dated August 2, 2013 at 1054 hours, and by reviewing the transcript of that interview.

- a. He was chair of the 15 member Senate Standing Committee on Internal Economy, Budgets and Administration, as well as chair of the 3 member sub-committee responsible for reviewing the expense claims of Senator Duffy;
- b. During the Deloitte audit process he had no direct dealings with Deloitte other than speaking with them about budget and timing. Jill Anne Joseph was the Senate liaison for that purpose;
- c. He does not remember if Senator Duffy requested changes to the press release in February announcing the referral to Deloitte, which would differentiate him from the other Senators being referred;
- d. In mid-April he attended a verbal presentation by Deloitte, at which they provided an update on their findings. It was at that presentation when he first learned that Senator Duffy may have been in Florida while claiming NCR per diem. He went to see Senator Duffy as a result of this information, and advised him to explain himself in a written letter;
- e. He had no private meeting or negotiation with Senator Duffy to pay the money back. He received confirmation that Senator Duffy intended to pay the money back after seeing it in a televised press conference. He was told by someone in the PMO that there would be a press conference by Senator Duffy, and he watched it on TV;
- f. His personal view was that if Senator Duffy paid back the money, then there was no need for the audit to continue. He said he may have brought the idea to the table, but also believed that it was a political impossibility to halt the audit;
- g. During the Deloitte audit, he had ongoing communications with the PMO, because it was "*hurting their brand*". He spoke to Nigel Wright as well as Chris Woodcock;
- h. He initially thought Senator Duffy owed approximately \$30,000, but when requested to determine how much Senator Duffy owed, he determined the amount to be \$90,000. He advised the PMO;
- i. He is not aware of anyone, including Senator Gerstein contacting Deloitte for the purpose of stopping the audit process on Senator Duffy. He did ask Deloitte at one of their meetings if they would be stopping the audit if Senator Duffy paid back. Deloitte auditors just looked at him and did not respond to his question;
- j. He does not recall proposing a solution to Nigel Wright that if Senator Duffy paid the money back, the Steering committee would stop the Deloitte audit. He explained that any conversations he had with Senator Duffy were predicated on Senator Duffy paying the money back, and suggested that his (Duffy's) lawyer

could ask Deloitte that in a letter;

- k. He does recall that there was correspondence, a letter, from Senator Duffy's lawyer, containing five points. He does not recall the contents, or who the letter was addressed to;

[I believe this is the letter that Janice Payne sent to the PMO on February 20, 2013. I do not have a copy of, nor have I seen that letter. I have seen subsequent e-mails referencing that letter between Benjamin Perrin and Nigel Wright, containing the five conditions of repayment.]

- l. He did not know that Nigel Wright paid \$90,000 to Senator Duffy until he saw it on the news;
- m. There was no committee consideration to refer the matter of Senator Duffy to the RCMP because Senator Duffy had already paid the money back. He had considered the matter closed. Senator Furey did ask that question of Deloitte auditors, and that they advised that they did not find criminality;
- n. After receiving the Deloitte Report on April 29, 2013, Senator LeBreton called a meeting which he attended. Several others attended as well, including Nigel Wright. They discussed logistics of the final reports being completed;
- o. The Senate Clerk and his staff completed the initial draft Senate report. He may have been provided an advance copy by the clerk, but does not recall;
- p. There were two Steering Committee meetings during which they reviewed the draft Senate report, and made changes. They occurred on May 7 and 8, 2013. He does not recall if he met with people from the PMO during those two days, but it is possible that he met with Chris Woodcock and Patrick Rogers;
- q. He does not recall if he met with Senator Stewart Olsen or others to discuss the report after the meeting on May 8, 2013;
- r. The report was tabled to the full 15 member committee on May 9, when an additional change was made to the report, tabled by Senator Stewart Olsen;
- s. He does not recall if a draft of the Senate Report was sent to the PMO;
- t. He does not recall if PMO staff helped with the writing of the Senate Report, but it is possible;
- u. He does not recall if he had further meetings with anyone regarding changes that would be made on May 9. There was another change made in the Standing committee meeting, moved by Senator Stewart Olsen, and then the report was

referred to the whole Senate;

- v. The changes made on May 8 were to remove some of the more critical aspects of the report because Senator Duffy had paid the money back. *"I'm the chairman. I have the right to make changes and suggest changes to the report. And that's what I did."*;
 - w. He does not believe that Senator Furey was in favor of the changes;
 - x. Since he has been chair of the Steering Committee, this is the first time that the PMO has become directly involved in discussions over a matter they were looking into, but he felt those discussions were necessary;
 - y. He received no direction from the PMO to make changes to the Senate Report. *"I don't get orders from the PMO."*;
 - z. He identified two reasons that Senate Report on Senator Duffy was less critical than that of Brazeau and Harb. Senator Duffy had paid the money back, so he believed there was no need to be critical of Senator Duffy in the report, and Senators Brazeau and Harb were being examined by a different Senate sub-committee, so the Senate Reports were different;
 - aa. He had no conversation with Senator Gerstein about the Senator Duffy matter or the repayment of money;
 - bb. He does not recall if he spoke with Nigel Wright on February 20, suggesting a solution that if Senator write a letter and repaid the money, the Deloitte audit would be halted;
 - cc. He and Senator Stewart Olsen discussed the matter and exchanged e-mails on the matter. He described it as a *"big deal"*;
 - dd. When asked if he would agree to investigators obtaining copies of all his correspondence with Senator Duffy or Senator Duffy's lawyer, he hesitated and said he would have to think about it.
41. Ascertaining Senator Tkachuk's complete involvement is difficult to determine because he said that he does not recall many of the specific details about conversations and meetings. From the e-mails I have viewed, some not previously mentioned in this document, I have been able to determine that:
- a. Senator Tkachuk had communications with the PMO about the February 8 Senate media release announcing the referral to Deloitte, and about differentiating Senator Duffy from Harb and Brazeau in the release;

- b. On February 7, 2013, Senator Duffy sent Senator Tkachuk a draft of a statement he would make the following day in response to the referral to Deloitte;
- c. Senator Duffy sent Senator Tkachuk and Senator Stewart Olsen an e-mail late in the evening of February 7, 2013, saying he wanted to correct any improper expenses he may have claimed, and asking to discuss the matter to resolve it so that there would be no need for an audit;
- d. According to an e-mail from Nigel Wright, Senator Tkachuk was to meet Nigel Wright on February 12, 2013 to discuss the conditions under which Senator Duffy would repay the money;
- e. A February 20, 2013, e-mail to Nigel Wright states that Senator Tkachuk received a call from Senator Duffy, asking him to do something that he felt he could not. This was reported to Senator LeBreton, and subsequently to Sandy Melo, who sent an e-mail to Nigel Wright;
- f. Senator Tkachuk agreed to stick to government media lines, and was sent a copy of those "*confidential until further notice*" media lines by Chris Woodcock, relating to what would be said to media after Senator Duffy issued his February 22, 2013 statement, announcing that he intended to repay;
- g. Senator Duffy sent an e-mail to Senator Tkachuk on February 22, 2013, announcing his intent to repay, and asking for the amount that he owed;
- h. Senator Tkachuk called the PMO on February 26, 2013, and advised that Senator Duffy owed approximately \$80,000;
- i. Senator Tkachuk sent Senator Duffy a letter dated February 27, 2013, advising him that he owed \$90,172.24;
- j. According to an e-mail dated March 6, 2013, Senator Tkachuk spoke with Nigel Wright in caucus. Mr. Wright advised him that it might not be wise to advise Senator Duffy ask Deloitte to withdraw from their review, and risk having them commit to an answer. Senator Tkachuk agreed and asked to be kept updated on strategy;
- k. On March 7, 2013, at the request of the PMO, Senator Tkachuk sent Chris Woodcock a copy of Deloitte's Statement of Work relating to the Senator Duffy audit;
- l. According to an e-mail dated a March 20, 2013, Senator Tkachuk received an e-mail from Janice Payne seeking confirmation that the Deloitte audit would be called off upon repayment. He contacted the PMO for a suggested response

before replying;

- m. According to an e-mail dated March 25, 2013, Patrick Rogers spoke to Senator Tkachuk who told him that "...he will join Senator LeBreton in fending off any attacks on residency. Agrees that this will be the final chapter for Duffy in committee."

Senator George Furey:

42. On June 19, 2013, S/Sgt. Arbour and I interviewed Senator George Furey during which he stated the following:

- a. He is the former head of the Internal Economy Committee. He currently sits on that committee which is headed by Senator Tkachuk. He also sits on a subcommittee, the Steering committee, made up of himself, Senator Tkachuk, and Senator Stewart Olson. Senator Tkachuk also heads the subcommittee;
- b. Late last year, Senate administration identified some issues with Senator Wallin's expenses. The subcommittee subsequently referred the matter to Deloitte;
- c. Journalists then identified some issues with Senator Brazeau's expenses. This resulted in an ad hoc committee, formed to review specifics relating to Senator Brazeau. The committee was comprised of Senators Marshall, Comeau and Campbell;
- d. Further expense claim issues were identified relating to Senator Harb, and the ad hoc committee headed by Senator Marshall was asked to review this matter as well;
- e. Based on their review, the ad hoc committee decided to refer the matters of Senators Harb and Brazeau to Deloitte for an external audit;
- f. When issues pertaining to Senator Duffy were identified, the Steering Committee decided to refer the matter directly to Deloitte for an audit;
- g. The purpose of the Deloitte audit was to review Senators' expense claims and determine if they were proper based on primary and secondary residency of the Senators. Deloitte later told them that the proper terminology for their task was that of a forensic investigation, rather than an audit;
- h. On April 16, 2013, Deloitte auditors verbally presented their findings. At this meeting they also identified an issue relating to Senator Duffy's NCR per diem claims during a time period when he appeared to have been in Florida;

- i. On April 29 or 30, 2013, the sub-committee received the final Deloitte Report. Their role was to then review that report and then prepare a Senate Report. Senate Reports are usually prepared by a committee clerk, which in this case was Gary O'Brien;
- j. On May 7, 2013, the sub-committee received and reviewed a draft Senate Report. It contained 3 primary criticisms of Senator Duffy. Those criticisms related to Senator Duffy's travel pattern, his declaration of residency, and the time he spent in Ottawa compared to PEI;
- k. After reviewing the report, he and Senators Tkachuk and Stewart Olsen agreed on some minor changes to be made to the report;
- l. On May 8, 2013 the sub-committee met again. At the meeting, Senator Tkachuk proposed bigger changes to the report by removing 2 of the 3 criticisms against Senator Duffy. Senator Furey objected to the changes, wanting the criticism to remain;
- m. Senator Stewart Olson agreed with Senator Tkachuk. Senator Furey was the minority on the sub-committee and the report was changed. Senator Furey insisted that when the report was tabled that it be noted that it was not unanimous;
- n. On May 9, the report was presented to the 15 member committee of internal economy. A motion was moved to remove the 3rd criticism of Senator Duffy from the report. The Conservative party has a majority on the committee and the report was amended to reflect this change;
- o. The reasons Senator Tkachuk offered for wanting to change the report was that Senator Duffy had paid back the money, so they did not need to be critical of him in their findings;
- p. Senator Furey is aware of the letter from Senator Duffy to Senator Tkachuk in February 2013, asking how much money he would owe, and is aware that Senator Tkachuk responded with an amount of approximately \$90,000;
- q. He first heard of Nigel Wright's involvement in paying the \$90,000 when it appeared in the media. He questions to himself why Senator Tkachuk suddenly wanted to change the Senate Report on May 8th, when the day prior it was fine with he and Senator Stewart Olsen.

Christopher Montgomery - Senate:

43. On September 11, 2013, Cpl. Jolette and I interviewed Christopher Montgomery during which he stated the following:

- a. His former job at the Senate was Director of Parliamentary Affairs, working for Senator LeBreton. He held that position since 2007 and his employer was the Privy Council Office. He has recently left that job, and is moving out of province to accept a new position in the private sector;
- b. One of his roles was that of issues management - assessing issues and providing advice to various people, including Senators LeBreton, Tkachuk, Stewart Olsen and staff at the Prime Minister's Office (PMO);
- c. He first learned about Senator Duffy's alleged inappropriate expenses in an Ottawa Citizen article;
- d. His primary contact at the PMO was Chris Woodcock. They would regularly discuss issues and decide with him how communications should be handled;
- e. Media lines would be passed back and forth from Montgomery's office representing Senator LeBreton and the PMO. This is common procedure;
- f. He attended a meeting where the following people were present: Senators Tkachuk, Stewart Olsen, LeBreton, Nigel Wright, Patrick Rogers, Chris Woodcock, and Sandy Melo (LeBreton's Chief of Staff). They discussed timing around the Deloitte Report and Senate Report;
- g. His understanding was that Senator Duffy's primary concern was that he not lose his Senate seat;
- h. He (Montgomery) advised the PMO, specifically Patrick Rogers and Chris Woodcock, that they should not be involved in the Senate audit and reports regarding Senator Duffy. Montgomery stated that Rogers and Woodcock did not share this view and continued;
- i. During his 7 years in the Senate, he cannot recall other times when representatives from the PMO actually attended meetings and insisted on wording of a Senate Report;
- j. Senators make the final decision on how their reports are worded;
- k. In February 2013, Patrick Rogers came to his office and suggested that they call a Senate Rules Committee meeting and declare Senators Duffy and Wallin as residents in their provinces. Mr. Montgomery explained to him why that was not a workable solution;
- l. He did not know why Nigel Wright would write in an e-mail to others in the PMO that: "*Senator LeBreton agrees that Chris might not be fully on board*";

- m. Regarding an e-mail from Deloitte to the Senate, asking for Senator Duffy's cooperation in the audit, he does not know if Senator Duffy participated in the audit and who he spoke to regarding the audit;
- n. Regarding an e-mail from Nigel Wright, asking him to speak to Senator Duffy regularly to see where he is at, Montgomery stated that he "*...ignored Nigel's request*". He did not want to get involved in the audit process;
- o. He gave advice to Senators Stewart Olsen and Tkachuk not to amend the report as they had an obligation to the Senate to give a rationale for having reclaimed the money from Senator Duffy;
- p. Present at a May 8, 2013, meeting were Senator LeBreton, Senator Stewart Olsen, Montgomery, Patrick Rogers, Chris Woodcock, Sandy Melo. They discussed the draft Senate report pertaining to Senator Duffy, and the PMO staff present were urging to have the report amended to be less critical of Senator Duffy. He (Montgomery) wanted it to remain unchanged, and there was a clear disagreement on the issue. Senator LeBreton's view was that it was up to the committee to decide. He cannot remember how the meeting ended and the outcome of the discussion;
- q. He has never discussed repayment of Senator Duffy's expenses with Senator Gerstein. He only knows about this through media reports;
- r. He believes he gave a paper version of the draft Senate Report to Patrick Rogers. He does not recall ever possessing an electronic copy;
- s. He heard of the Nigel Wright payment to Senator Duffy was on the news. He had no prior knowledge;
- t. At one point Senator Tkachuk spoke to him about the possibility of shutting down the audit of Senator Duffy, and his advice to him was that he could not do that. Senator Tkachuk told him that he wanted to shut the audit on Senator Duffy down, but does not know why.

David van Hemmen - PMO:

- 44. On July 26, 2013, Cst. Williams-Pelly and I interviewed David van Hemmen, former Executive Assistant to Nigel Wright while employed at the PMO. During the interview Mr. van Hemmen stated that:
 - a. He has been working in the PMO for approximately 1 year. His job there is Executive Assistant to the PM's Chief of Staff, formerly Nigel Wright and currently Ray Novak;

- b. His primary job was to assist Nigel Wright in all capacities, which included preparing briefs, setting up meetings, and arranging phone calls. He was essentially the barrier that people went through to reach Mr. Wright;
- c. He first became aware of Senator Duffy's potential Senate issue when there were media stories relating to Senator Duffy applying for a health card in PEI;
- d. His involvement in the matter was peripheral. He would arrange for meetings or phone calls between Mr. Wright and others such as Senator Duffy or Senator Tkachuk, but he was not directly involved in discussions;
- e. He was often carbon copied in e-mails by Mr. Wright, or to Mr. Wright;
- f. The decision by Nigel Wright to pay \$90,000 to Senator Duffy was a personal decision taken by Mr. Wright, from an ethical position that the money needed to be reimbursed;
- g. His impression was that Mr. Wright did so begrudgingly as he was not impressed by Senator Duffy's attitude of self-entitlement. At the same time, it was clear that Senator Duffy had no means of paying back the money himself;
- h. He made all the arrangements for Nigel Wright by dealing directly with Mr. Wright's bank, arranging for a transfer of funds from one account to another, picking up the bank draft in Ottawa, and delivering it to the office of Janice Payne, Senator Duffy's lawyer;
- i. He knew the week prior to that Mr. Wright was going to pay the money;
- j. He was also not aware of any plan by the Conservative Fund to repay Senator Duffy. The only contact he had with Senator Gerstein was to arrange phone calls between Senator Gerstein and Nigel Wright;
- k. He knew that Ms. Payne and Benjamin Perrin were in communication, so assumed that Mr. Perrin was aware of Mr. Wright's arrangement to pay the money;
- l. He was not aware of other PMO staffers being aware at the time. As the executive assistant to Mr. Wright, he kept their conversations private;
- m. He has no knowledge of any plan to reimburse Mr. Wright for the money, and does not believe that Mr. Wright received any direction to pay the money;
- n. He has no knowledge that the Prime Minister was ever aware of the arrangement;

- o. He had no involvement with the writing of the Senate Report, but that it would not be uncommon for someone like Patrick Rogers to have input into such a report.

Senator Irving Gerstein:

45. On September 16, 2013, Supt. Carrese and Insp. St-Jacques interviewed Senator Irving Gerstein during which he stated the following:²⁰
- a. He has been a Senator since 2009;
 - b. He first became aware of the issue regarding Senator Duffy's expenses through the media;
 - c. Relating to the matter of Senator Duffy's expenses, he did not have any communication with Senators Tkachuk, LeBreton, Stewart Olsen, or Duffy;
 - d. In February 2013, he spoke on a conference call with Nigel Wright, Dan Hilton (an Executive Director of the party) and Arthur Hamilton (party legal counsel);
 - e. Mr. Wright stated that Senator Duffy had a liability of approximately \$30,000 regarding residency, and an additional \$12,000 in legal expenses. Mr. Wright suggested that the Conservative Fund pay this obligation;
 - f. He (Senator Gerstein) stated that it is something he would consider. The reason that he wanted to consider it was because his role as Chair of the fund is specifically to bring revenue to the party. Their relationship with their donors and the integrity of the fund is of critical importance;
 - g. He did not have difficulty with paying the legal fees because the fund has looked after legal funds for other party members in the past. He did have concerns about the optics of paying the \$30,000 relating to expense claims;
 - h. He raised the issue of whether Senator Duffy would keep such a payment confidential. No decision on repayment was made at that time;
 - i. A short period of time later, perhaps days, he was advised by Mr. Wright that the amount owed was actually \$90,000. He (Gerstein) was emphatic that there would be no more consideration to repay on behalf of Senator Duffy;
 - j. His next communication with Mr. Wright was in an e-mail dated March 1st, 2013. In it, Mr. Wright advised Senator Gerstein and Arthur Hamilton that he found a

²⁰ I know this from reading the police report of S/Sgt. St-Jacques dated October 2, 2013 at 0947 hours, and by reading the transcript of that interview.

solution. Mr. Wright later told him during a phone call that he was going to pay for Senator Duffy's expenses personally;

- k. Mr. Hamilton and Mr. Hilton were also made aware of his decision to personally repay the money;
- l. Senator Gerstein agreed that the Conservative Fund would cover the cost of the legal fees. This was facilitated by Arthur Hamilton, Conservative Fund legal counsel, to Senator Duffy's counsel;
- m. All payments from the fund require signatures of two fund Directors, and any payment over \$25,000 would require one of those signatures be Senator Gerstein;
- n. He never had conversations with the Prime Minister or Senators Duffy, Tkachuk, Stewart Olsen or LeBreton about this situation, or anything in relation to the Senate investigation of Senator Duffy's expenses;
- o. He was surprised that Mr. Wright had decided to pay the balance;
- p. On another occasion, he received a call from Mr. Wright who appeared frustrated and annoyed by not knowing what was happening with the Senate sub-committee investigation relating to Senator Duffy. He (Wright) asked him to contact Deloitte to try to ascertain the status of the audit;
- q. As the chair of the Conservative Fund, Senator Gerstein knows one of the partners at Deloitte, Michael Runia. He called Mr. Runia and asked if there was anything he could share with him regarding the status of their audit. Mr. Runia advised him that he did not know anything about it, but would inquire. Senator Gerstein relayed this Patrick Rogers;
- r. During the second call with Nigel Wright and Patrick Rogers, he was asked to contact Deloitte and ask if repayment of the \$90,000 would result in conclusion of the audit. Mr. Runia told him that the audit would continue.

[Insp. St-Jacques and S/Sgt. Arbour interviewed Mr. Runia who confirmed that he and Senator Gerstein have regular contact because Deloitte is involved in auditing the Conservative Fund. He was not involved in the audit of any of the Senators. He advised that Senator Gerstein did call him and asked what would be the result if Senator Duffy repaid the money. His response was that he believed the auditors would still report, and note the repayment in their findings.²¹]

²¹ I learned this from reading the report of Insp. St-Jacques date October 8, 2013 at 1515 hours.

Gary O'Brien – Clerk of the Senate

46. On September 18, 2013, Cpl. Jolette and I interviewed Gary O'Brien, Clerk of the Senate, during which he stated the following:
- a. He started working at Parliament in 1975, working in the Library of Parliament, then in the House of Commons. He moved to the Senate in 1980, where he worked as Director of Journals, Director of Committees and eventually as the Deputy Clerk. He retired in 2006 and returned in 2009 when he was appointed Clerk of the Senate;
 - b. As Clerk of the Senate, his roles include being the chief administrative officer for the Senate, being the Clerk of the Internal Economy Committee, Clerk of the Steering Committee (Procedures & Agenda), and Clerk of the Audit Sub-Committee;
 - c. Internal Economy Committee meets every week, and he works with the Chairman very closely. The chair of the committee, up to recently, had been Senator Tkachuk;
 - d. He reports to the Speaker of the Senate and the Chairman of Internal Economy;
 - e. Before Christmas 2012, the Internal Economy Committee requested that Senator provide 4 specific documents to support their residency locations. Using those indicators, an internal audit would be done by Jill Anne Joseph, on all Senators;
 - f. The decision to send Senator Duffy's case to Deloitte for an audit, was made in the Steering Committee, approximately in early February. The matter was discussed, whether it should be sent directly to the police for investigation but it was decided to send it to Deloitte;
 - g. On May 8, 2013, the sub-committee headed by Senator Tkachuk held a meeting and reviewed the Senate draft report at 2:00 pm;
 - h. At approximately about 4:00 pm that day, Senator Tkachuk came to his office and asked to see the final report of Senator Duffy before it went to committee [This was just after the meeting between PMO and Senate staff where the PMO were wanting changes to the report, and Christopher Montgomery was advising against it]. He said that he and Senator Stewart Olsen wanted to make changes to the Senate Report by deleting the comments about Senator Duffy's travel patterns being Ottawa-PEI-Ottawa, and deleting the conclusion pertaining to the location of Senator Duffy's primary residence. He did not know if Senator Furey was aware that these changes were being made;
 - i. Such changes are normally made in a committee context, however the Conservatives had a majority in the committee, and there was need to expedite the

matter because there was a meeting of the 15 member Internal Economy Committee at approximately 5:30 pm, and they wanted to be able to table the report at the meeting;

- j. At 5:30 pm that same day, the reports pertaining to Senators Brazeau and Harb were tabled and finalized. Senator Duffy's report was set over until the next day due to a timing issue;
- k. On May 9th, at 9:00 am, a meeting was held where Senator Duffy and his lawyer were present. Senator Duffy asked for a copy of the Senate Report. Senator Tkachuk read the report aloud. Senator Stewart Olsen moved an amendment to have another part of the report deleted. This caused a controversy within the meeting. The Liberals asked for an adjournment to speak among their caucus. By the end of the meeting Senator Stewart Olsen's amendment was carried and the report was adopted. The Senate Report and Deloitte Report were then made public;
- l. When additional stories emerged about the repayment of the \$90,000, and per diem claims made by Senator Duffy while he was in Florida, a further financial analysis was done by Nicole Proulx of Senate Finance. A troubling pattern was detected and the matter was referred to the RCMP;
- m. Jill Anne Joseph is the Senate employee who prepared all of the draft Senate Reports pertaining to Senators Duffy, Harb, and Brazeau, as well as requested amendments. She then gave them to him for review and approval;
- n. There was never any discussion about making changes to the reports pertaining to Senators Harb's and Brazeau's, despite the fact that Senator Marshall disagreed with the findings of Deloitte and what was included in their reports;
- o. At one point Senator Stewart Olsen wanted the audit on Senator Duffy to be quashed. He said they had discussions about her partisan behavior and a disagreement about her not acting properly as an audit sub-committee member. He believes that she is now supportive of his efforts to "clean the place up";
- p. He never attended a meeting of the Internal Economy Committee or Steering/Audit Committee, where members of the Prime Minister's Office were present.

Jill Anne Joseph – Senate Administration

- 47. On September 18, 2013, Cpl. Jolette and I interviewed Jill Anne Joseph, the Senate Administrator who prepared the Senate Report on Senator Duffy, during which she stated the following:

- a. She has worked at the Senate since 1989, and is currently the Director of Internal Audit and Strategic Planning. Her current duties includes audits, planning, clerk-at-the-table, and a senior advisor to the Clerk;
- b. The matters of Senators Duffy, Harb, and Brazeau were all referred to Deloitte for an external audit. Their objective was to review the Senate's policy framework, determine whether the Senators' expense claims were appropriate, and to the best of their ability, determine where the Senators' primary residences were located;
- c. On approximately April 16th, Gary Timm, Alan Stewart and another member of Deloitte came to the Senate and provided a verbal report on their findings for Senators Duffy, Brazeau and Harb;
- d. When the final written reports were received, she prepared the draft Senate Report pertaining to each Senator. In doing so, she relied on what was written in the Deloitte Reports, as well as what was said by the Senators during committee meetings;
- e. It was her understanding that the general agreements by the Senators was that Senators Duffy, Brazeau and Harb should have known better, and must repay the money they claimed;
- f. She prepared all three draft reports, one pertaining to each Senator, and they were provided the applicable sub-committee. [Brazeau's and Harb's to Senator Marshall's committee, and Senator Duffy's to Senator Tkachuk's committee];
- g. Senator Marshall's committee made few changes to her report;
- h. Senator Tkachuk's committee met on May 7 and 8 to make changes to the report pertaining to Senator Duffy. Senator Stewart Olsen wanted a portion of the report deleted. She did not agree, because it was a fairly important part of the report;
- i. All changes were made by her. She then sent the final report to Gary O'Brien, Clerk of the Senate, where additional changes were made that she was not involved in;
- j. On May 9, Senator Stewart Olsen moved a motion in Committee to make more changes to the report by deleting more lines. She felt that the report was becoming "*scant*";
- k. Senator Tkachuk wanted Deloitte to stop their audit because repayment by Senator Duffy was secured;

- l. Senator Stewart Olsen seemed to have a separate agenda rather than deal with the problem.

Mary McQuaid:

48. On September 11, 2013, S/Sgt. Arbour and Sgt. Robineau interviewed Mary McQuaid, policy adviser for Senator Duffy. She was interviewed in relation to other aspects of this investigation, and in relation to this application she stated that:²²
 - a. In February 2013, she drove Senator Duffy to a television interview in PEI during which he said he may have made a mistake. At the time, he told her that he was receiving pressure, but she is not sure from who. Senator Duffy told her that he was told to admit mistakes, or people would appear on news programs and destroy his reputation;
 - b. She did not know that Nigel Wright paid the \$90,000 until she saw it on the news;
 - c. Senator Duffy told her that Senator Tkachuk told him that after the audit report came back he would get his money back;
 - d. She was in Ottawa the day the Report was released on Senator Duffy. Senator Duffy had a private meeting with Senators Tkachuk and Stewart Olsen in Senator Duffy's office. After the meeting, she went in the room to tidy up and saw the revised Senate Report.

Senator Duffy – Address to Senate #1

49. On October 22, 2013, Senator Duffy addressed the Senate of Canada in response to a motion to suspend him from the Senate without pay. I listened to that address and obtained a transcript from the website of the Globe and Mail, during which Senator Duffy made several statements. Senator Duffy enjoys Parliamentary privilege while speaking in the Senate, and none of what he said can be used against him in a legal setting. However, in fairness to Senator Duffy and others involved, he has offered explanations and details of circumstances which I believe should be addressed. Below are some of the statements made by Senator Duffy. My comments pertaining to some of the statements follow each in [square brackets]. I've included a copy of the full transcript of Senator Duffy's speech as part of Appendix 'D'.
 - a. *Dec. 3rd, 2012, The Ottawa Citizen ran a story asking how I could claim expenses for my house in Kanata, when I had owned the home before I was appointed to the Senate? The inference was clear. I was doing something wrong. I immediately contacted Nigel Wright, the Prime Minister's Chief of Staff and*

²² I know this from reading the police report of S/Sgt. Arbour dated September 19, 2013 at 1533 hours.

explained that I was doing nothing improper. Nigel Wright e-mailed me back, saying he'd had my expenses checked and he was satisfied that my accounts were in order. That all was in compliance with Senate rules. In fact he said there were several other Senators in the same situation, and that this was a smear.

[I have read the e-mail Senator Duffy referred to. It does not state that Mr. Wright checked Senator Duffy's expenses. It states "I am told that you have complied with all the applicable rules and that there would be several Senators with similar arrangements. I think the Standing Committee might review those rules.". My office has sent a letter to Donald Bayne, legal counsel for Senator Duffy, and requested a copy of that e-mail. Mr. Bayne responded that they will provide this e-mail. It has not yet been received at the time of this application. The e-mail that I am relying on was provided by legal counsel for the Prime Minister's Office.]

- b. *So after caucus on Feb. 13th I met the Prime Minister and Nigel Wright. Just the three of us. I said that despite the smear in the papers, I had not broken the rules. But the Prime Minister wasn't interested in explanations or the truth. It's not about what you did. It's about the perception of what you did that has been created by the media. The rules are inexplicable to our base. I was ordered – by the Prime Minister – to "pay the money back!" End of discussion. Nigel Wright was present throughout.*

[Nigel Wright previously told me about this conversation during his interview. He described it as Senator Duffy approaching the Prime Minister after a caucus meeting. Mr. Wright stated he interjected into the conversation, and provided arguments as to why Senator Duffy needed to repay the money. Mr. Wright's versions is somewhat substantiated in a May 31 e-mail from Andrew MacDougall, where he states a similar set of facts, however it is unclear if MacDougall's e-mail is media lines, or an explanation of fact.]

- c. *The next week, while I was at home in PEI, I had a series of discussions with Nigel Wright. I said I did not believe I had broken the rules, and that to repay would be an admission of guilt.*

[Based on what Nigel Wright stated in his interview, I believe this is an accurate statement.]

- d. *Some honorable Senators called me in PEI; – one Senator, and he knows who he is, left several particularly nasty, menacing messages. Do what the Prime Minister wants! "Do it for the PM and for the good of the party." I continued to resist. Finally the message from the PMO became "do what we want or else." And what was the "else?" I was told the Conservative majority on the steering committee of the Board of Internal Economy – Senators Tkachuk and Stewart-Olson, would issue a press release declaring me unqualified to sit in the Senate. However, if you do what we want, the Prime Minister will publicly confirm you*

are entitled to sit as a Senator from PEI, and you won't lose your seat.

[I have seen no evidence to date that this occurred. I believe that the e-mails show that Nigel Wright was committed to ensuring that the constitutionality of Senator Duffy's Senate seat not be an issue. In a February 20 e-mail to his own lawyer, Senator Duffy stated that Nigel Wright did not threaten him with removal from the Senate, but that he believed the threat appeared obvious. In addition, in a March 21 e-mail to Nigel Wright, Senator LeBreton referenced this as something that Senator Duffy dreamed up: "*He said he heard Carolyn was going to move a motion to force him to sit as an Independent. I asked him where on earth he heard such nonsense and wondered if he lies awake at night dreaming up these things! I assured him that this is not going to happen!*"]

- e. *"I made one last effort to dissuade the PMO and save my good name. I don't believe I owe anything, and besides which I don't have \$90,000! Don't worry, Nigel said, I will write the cheque. Let the lawyers handle the details, you just follow the plan, and we'll keep Carolyn Stewart-Olson and David Tkachuk at bay."*

[In contrast, the evidence I have viewed shows that the first involvement of lawyers in the chronology of events that I am aware of occurred on February 11 when Senator Duffy sent Nigel Wright an e-mail with several bullets for discussion with Mr. Wright, prepared by Senator Duffy's lawyer. Regarding the \$90,000 donor, Senator Duffy stated in a May 16 e-mail to Chris Woodcock that he did not know who had provided the money until Ray Novak told him, and that he did not want to know.]

- f. *"There were elaborate undertakings which were negotiated among the several lawyers involved who were taking instructions from their clients. Lawyers for the PMO, for the Conservative Party and me."*

[There were negotiations between Benjamin Perrin and Janice Payne in regard to the matter of the Senate and the \$90,000 repayment. Arthur Hamilton was involved in the repayment of legal fees to Janice Payne.]

- g. *"There was an undertaking made by the PMO, with the agreement of the Senate leadership, that I would not be audited by Deloitte – that I would get a pass; and further that if this phoney scheme ever became public, Senator LeBreton, the government leader of the day would whip the Conservative caucus to prevent my expulsion from the chamber."*

[Evidence to date shows that it was Senator Duffy, through his legal counsel Janice Payne who made the demands of the PMO that the Deloitte audit be halted, that a statement be issued acknowledging that he meets the requirements to sit as a Senator for PEI, and that the Conservative caucus will defeat any motion to

have his expenses reviewed further.]

- h. *"I was called at home in Cavendish by Ray Novak, senior aide to Prime Minister Harper. He had with him Senator LeBreton, Leader of the Government in the Senate. Senator LeBreton was emphatic. The deal was off. If I did not resign from the Conservative caucus within 90 minutes, I would be thrown out of the caucus immediately. With Ray Novak and my wife and sister listening, Senator LeBreton was insistent 'You've got to do this Mike, do what I'm telling you, quit the caucus within the next 90 minutes! It is the only way to save your pay cheque.'"*

[Based on the evidence I have viewed, I cannot substantiate or refute this statement. I have viewed involving Ray Novak, Carl Vallee, Chris Woodcock, Andrew MacDougall, and Jenni Byrne, all on May 16, 2013, it was known within the PMO that Senator Duffy was going to step down from the Conservative caucus, and there were internal preparations relating to that announcement. Andrew MacDougall asked in one e-mail: "*Did Duffy agree to jump before he was pushed*". I have not seen an e-mail with an answer to that question.]

- i. *"Let me be clear: I violated no laws, I followed rules as they then were. And I never received a single note from Senate Finance or the leadership that suggested there was anything amiss."*

Senator LeBreton – Address to Senate

- 50. On October 23, 2013, Senator LeBreton addressed the Senate in response to Senator Duffy's speech the day before. I listened to that speech and obtained a transcript from www.canada.com news. Like Senator Duffy, she enjoys Parliamentary privilege when speaking in the Senate chamber. (I've included a copy of the full transcript of Senator LeBreton's speech as part of Appendix 'D.'). In her address she stated, in part:
 - a. That Senator Duffy's claim of a private meeting with the Prime Minister and Nigel Wright after caucus on February 13, 2013, was inaccurate. She said the conversation was not a meeting, and it took place in the caucus room. She added that this was the one and only exchange between the Prime Minister and Senator Duffy on the matter.
 - b. *"Senator Duffy claims 'there were elaborate undertakings.' I repeat 'with the agreement of Senate leadership, that I would not be audited by Deloitte, that I'd be given a pass and further, that if this phony scheme ever became public, Senator LeBreton, the leader of the Government of the day, would whip the Conservative caucus to prevent my expulsion from the chamber'. Honourable Senators, this is not true; this is false. Not one single person ever suggested to me that this be done. Never did I hear of such a scheme – as a matter of fact, on Tuesday when Sen. Duffy uttered those words, it was the first time I had ever heard this."*

[In contrast, the evidence shows that there was a plan to have Senator Duffy withdrawn from the Deloitte audit if he repaid, and the e-mails show that Senator LeBreton was aware of it. Regarding whipping of the Conservative caucus, there was an agreement to urge the caucus to vote against referring Senator Duffy's expenses for further review, and Senator LeBreton was aware of that.]

- c. *"I felt that this decision by the internal economy committee was the correct and proper course of action. It demonstrated how serious the Senate was about getting to the bottom of these serious issues and it demonstrated to the public that we were not dealing with these issues from within, which as we know, the public was most skeptical about. How can we expect the Senate to police itself, they said. We on both sides agreed! To then suggest that I would agree that he not be audited – that he would be given a pass – when in fact I wholeheartedly supported the calling in of independent auditor is false."*

[Senator LeBreton may have supported the decision to refer Senator Duffy to Deloitte in the first instance, however the e-mails show that she also agreed that the audit of Senator Duffy be halted if he repaid, once requested to do so by the PMO.]

- d. *"In his speech Senator Duffy said on Thursday evening over the supper hour, Ray Novak and I placed a call to Sen. Duffy. Two scenarios were laid out for his consideration – I will only speak for myself here and report from my notes about what I said: Scenario 1: 'Senator Duffy has informed me that he has resigned from Caucus to sit as an independent Senator'; and Scenario 2: that I put out a statement saying 'given the growing number of questions relating to Sen. Duffy's conduct, he has been removed from the Conservative caucus.' Once he was presented with these options, I said to him, 'Mike, do the right thing and get out in front of this.'"*
- e. *"I said the following in order to assure him that sitting as an Independent did not impact his position as a senator: 'Mike, this is the only option that can ensure your future livelihood.' A few angry words were spoken and he hung up on us. Cooler heads prevailed and we got word back that he would issue a statement saying he was leaving to sit as an independent until these matters were resolved."*
- f. *I have searched high and low, checked my files and for the life of me I can find no memo which supposedly gives my approval to Sen. Duffy to claim his property in Prince Edward Island as a principal residence in order to claim living expenses while in Ottawa.*

Senator Duffy – Address to Senate #2

51. On October 28, 2013, Senator Duffy again addressed the Senate. I listened to that address, and obtained a transcript from the website of the Globe and Mail newspaper. (I've included a copy of the full transcript of Senator Duffy's speech as part of Appendix 'D'.) His address, in part, contained the following statements:

- a. *"Not only that, but when I insisted on written guarantees that repaying money I did not owe would not be seen by the Senate as a guilty plea, Nigel Wright arranged to have my legal fees paid. That is right. One cheque from Nigel Wright? No, ladies and gentlemen, there were two cheques, at least two cheques. The PMO, listen to this, had the Conservative Party's lawyer, Arthur Hamilton, pay my legal fees. He paid for my lawyer -- Arthur Hamilton -- a cheque, \$13,560. That is right, senators: not one payment -- not one payment -- but two."*

[It is true that the Conservative Fund paid for Senator Duffy's legal fees. This was a matter that Nigel Wright asked Senator Gerstein about. As chair of the fund, he approved it]

- b. *"Contrary to the prime minister's assertion on CFRB last week that he ordered repayment because Senate expense rules were, in his words, "beyond the shadow of a doubt broken," he had my legal bills fully paid. Why would he do that? He would never do it, if he believed my expense claims were improper. He did this because, as I have said from the start, this was all part of his strategy, negotiated by his lawyers and the Conservative Party's lawyers, to make a political situation, embarrassing to his base, go away."*

[I believe that the evidence shows that the PMO found the situation embarrassing, and wanted it to be resolved. However, I have seen no evidence that the Prime Minister was involved in having Senator Duffy's legal bills paid. The evidence I have viewed suggests that the Prime Minister was informed by his staff that they were working on a plan to have Senator Duffy repay expenses. He may have been aware that the Conservative Fund would pay the cost of Senator Duffy's legal fees, as Nigel Wright referenced in an e-mail on February 22, 2013, that he wanted to speak to the Prime Minister before finalizing the agreement with Janice Payne. Details of what he discussed with the Prime Minister are not contained in the e-mails. I have seen no evidence to suggest that the Prime Minister was personally involved in the minutiae of those matters. As for it being part of the Prime Minister's "strategy", the evidence suggests it was Senator Duffy's strategy to seek repayment and have his legal fees paid for.]

- c. *"He took their money -- I suspect; I can't prove it yet. I suspect he took their money, the base's money, to pay off -- to make this all go away. The cheques tell who is telling the truth and who is not."*

[The "he" Senator Duffy is referring to is Prime Minister Harper. I am not aware of any evidence that the Prime Minister was involved in the repayment or reimbursement of money to Senator Duffy or his lawyer.]

- d. *"Mike Duffy, the man they now claim is a cheat, had more than \$13,000 in legal expenses paid by Arthur Hamilton, the Conservative Party's lawyer from Cassels Brock, this on top of the \$90,000, which they say came from Nigel Wright. I have never seen a cheque from Nigel Wright, but I do have the cheque stub and the transmittal letter from Arthur Hamilton, the Conservative Party's lawyer...."*

[According to Senator Gerstein, this is accurate. The Conservative Fund paid for Senator Duffy's legal fees, and that was facilitated by Arthur Hamilton.]

- e. *"The links to the \$90,000 payment, and now the further \$13,000 payment from the party lawyer to my lawyers, shows that this monstrous fraud was the PMO's creation from start to finish."*

[As I previously stated, the evidence I have seen shows that the demands made by Senator Duffy in February were the start of the "monstrous fraud".]

- f. *"When you have an opportunity to read these e-mails, you will see the back and forth as the PMO lawyers checked with their principal on the language which would be used to direct the future actions of Senator LeBreton and others in the Conservative Party leadership. As a senator, it saddens me to see that at one point, when Senator LeBreton actually tried to act independently, Nigel Wright wrote me a letter saying he was displeased by this freelancing by Senator LeBreton and her colleagues. His tone was, who do they think they are? He ordered the Senate leadership and the Conservatives on the steering committee of the Board of Internal Economy to fall into line and stop unilateral action. It's all here in writing."*

[The evidence shows that Mr. Wright did tell Senator Duffy in a February 11, 2013 e-mail that he asked for all unilateral action from Senator LeBreton's office to cease before clearing it through him.]

- g. *"Senator LeBreton says she can't find that two-page legal memo written on her behalf by her constitutional adviser. Well, the document is dated January 6, 2009"*

and.... further explains that residency does not depend in any way on the number of days spent in one's home province or at a given residence."

[I have read the memo that Senator Duffy referred to. It was prepared by Christopher McCreery who was a senior adviser to Senator LeBreton at the time, and it addressed constitutional requirements of a Senator to own property in the province they represent. It does not address primary and secondary residency, and what expense claims are permissible. My office has sent a letter to Senator Duffy's legal counsel, Donald Bayne, and asked if he wished to provide the memo or any other material evidence to investigators. Mr. Bayne responded that he and Senator Duffy would be pleased to provide the documents. I have not yet received them at the time of making this application. The memo I am relying on was provided to the RCMP by legal counsel for the Prime Minister's office.]

- h. *"And this wasn't a casual encounter, as Senator LeBreton suggests. The meeting was set up on February 11 when I met with Nigel Wright in the Langevin Block. That's when I first heard about it and immediately voiced my objections to this fake pay-back scheme."*

[I have seen no evidence that Senator Duffy ever objected to someone else paying for his expenses. That was one of his conditions made through his lawyer on February 20 or 21, 2013.]

- i. *"On February 21, after all of the threats and intimidation, I reluctantly agreed to go along with this dirty scheme. The PMO spin machine was in high gear. Cellphone and PMO telephone records from February will show there were numerous phone calls and e-mails to me as the PMO developed their version of events, and rehearsed with me right up until minutes before I went on television the lines I would use with the media."*

[I have not seen evidence of threats and intimidation as alleged by Senator Duffy, however the e-mails show that the PMO was actively involved in scripting the media lines.]


- j. *"Early on, in those discussions with the PMO, the PMO experts predicted the media would ask, "Where did you get the \$90,000?" When they heard that I had been using a line of credit to renovate my home in Cavendish, they jumped right on it. It was suggested I go to the RBC, borrow the cash to pay off that line of credit, and then, when the media asked, "Where did you get the money to pay the \$90,000?", the PMO told me to say, "My wife and I took out a loan at the Royal Bank. Well, that's technically correct, we took out a loan, but that loan wasn't to repay money, the \$90,000 that the PMO agreed I did not owe. That line was written by the PMO to deceive Canadians as to the real source of the \$90,000."*

That line about RBC was part of a script written for me and e-mailed to me by the PMO"

[Based on the bank records I have viewed, that Senator Duffy borrowed \$91,600 from the RBC in the days prior to repayment. One of the documents previously produced by the RBC in relation to a previously Production Order was an application and documentation related to mortgage loan dated March 22, 2013. It is signed by both Mike and Heather Duffy. Other bank records show that on the same day, \$80,000 was paid to Senator Duffy's line of credit. I have not seen any evidence to suggest that this was a plot or script created by the PMO. I have seen e-mails relating to message managing and media lines, but none of them contain any reference to Senator Duffy obtaining a loan to create a fictitious paper trail as he suggested. My office has requested Senator Duffy provide those e-mails to the RCMP if he has them, and his lawyer responded that they would be pleased to provide them. Mr. Bayne has since been in contact with Supt. Carrese, the Officer in Charge of my unit, and advised him that they do not have e-mails specifically relating to the RBC loan. He said that portion of the arrangement was verbal. Further, in a May 15 e-mail previously referenced, Senator Duffy told Chris Woodcock that he paid with a personal cheque from his RBC bank account. Chris Woodcock was one of the PMO employees engaged with Senator Duffy throughout. If the scheme to create a fictitious paper trail had been created by the PMO, then I would expect that Mr. Woodcock would have been one of the people involved in that plot with Senator Duffy. Senator Duffy informing Mr. Woodcock on May 15 that he used a personal cheque from his RBC account suggests that there was no such plot between Senator Duffy and the PMO.]

52. On November 1, 2013, I sent a letter via e-mail to Donald Bayne, legal counsel for Senator Duffy, asking for specific documents reference in Senator Duffy's speeches to the Senate in late October. The letter also invited Mr. Duffy through his counsel to provide any documents to investigators which he believed may be material to the investigation. The purpose of this was to obtain any exculpatory evidence that Senator Duffy may have so that it could be properly reviewed and disclosed. Mr. Bayne acknowledged receipt of that letter the same day and advised that he and Senator Duffy would be pleased to provide the requested documents. On November 6, 2013, there were media stories stating that Senator Duffy commenced providing RCMP with hundreds of e-mails, when in fact no such documents had been provided to the RCMP up to that point. On November 7, 2013, Supt. Carrese spoke with Mr. Bayne who advised that he is seeking to provide documents to investigators, some of a solicitor-client nature, and would be taking steps to provide those documents in the coming week. I have not received those documents at the time of this application.
53. On August 8, 2013, I served the Royal Bank of Canada (RBC) with a production order relating to bank records of Senator Duffy. In response to that Order, some of the documents produced by the RBC were bank statements relating to Senator Duffy's bank account, 00016-2122398. One of the statement pages relating to that account is depicted

in the image below, providing a transaction summary for specific dates in March 2013.

		Business Account Statement		Private Banking	
		February 28, 2013 to March 28, 2013		Account numbers: 00018 212-289-8	
Account Activity Details - continued					
Date	Description	Cheques & Debits (\$)	Deposits & Credits (\$)	Balance (\$)	
11 Mar	Cheque - 312	16.29			
	Cheque - 313	50.27		850.49	
13 Mar	Utility Bill Pmt OTTAWA WATER	54.39		796.10	
15 Mar	Misc Payment KODIAK SECURITY A0001(DEFYPYMT)	25.43			
	Insurance SUN LIFE REGULAR	40.95			
	Hydro Bill Pmt HYDRO OTTAWA	110.00			
	Property Tax CITY OF OTTAWA	493.00		126.72	
18 Mar	Online Banking 3rd party deposit - 1354		1,000.00	1,126.72	
19 Mar	Utility Bill Pmt Enbridge Gas Pre-authorized	110.24			
	Overdraft interest @ RBP+05.00%P.A	0.64		1,015.84	
				92,615.84	
	LOAN PAYMENT	80,000.00		12,615.84	
25 Mar	Federal Payment CANADA		90.90		
	Online Banking payment - 5825	1,000.00			
	Online Banking transfer - 9430	1,000.00			
	BR TO DR - Debit Memo 14530 PROCESSING FEE REF # 001317767	250.00		10,456.74	
	CPP CANADA		1,004.64		
	Online Banking payment - 5611 VISA - CIBC	5,084.33			
	Loan Interest NO.95874269 001	439.29		96,110.00	
	Payroll Deposit THE SENATE OF C		6,605.46		
	Online Banking transfer - 4566	1,000.00			
				11,543.22	

54. The image above shows the following bank transactions, previously referenced in this Information:

- a. A funds transfer credit of \$91,600 related to a mortgage, dated March 22, 2013 (highlighted in red);

[I believe this shows the receipt of funds into Senator Duffy's account from a mortgage loan obtained by Senator Duffy on March 22, 2013, previously referenced. Senator Duffy referred to this during his address to the Senate on October 28, 2013.]

- b. A March 22, 2013 debit, depicted as a loan payment, for \$80,000 (highlighted in yellow);

[This was a payment by Senator Duffy to his line of credit. He also referenced this

in his address to the Senate on October 28, 2013.]

- c. A branch to branch transfer dated March 26, 2013, depicted as credit memo 0236 above, for 90,172.24 (highlighted in blue);

[This is the day after Nigel Wright had a bank draft for the same amount delivered to the office of Janice Payne. I believe this is that money, transferred to Senator Duffy's account. I do not know who transferred the money after the bank draft was delivered to Janice Payne's office, and I do not know where the money was transferred to and from prior to being transferred to Senator Duffy's account. Supporting documentation relating to that transaction is one of the reasons for this application.]

- d. A March 28, 2013 debit of \$90,172.24 relating to cheque #64 (highlighted in green).

[I believe this is Senator Duffy's payment to the Receiver General. A copy of that cheque previously obtained from the Senate, and pasted near the beginning of this document, shows that it was dated March 25, 2013, and is cheque #064.]

Conclusion:

55. Based on the investigation and evidence gathered to date, I believe that Nigel Wright, as Chief of Staff to the Prime Minister, believed from a moral and ethical position that Senator Duffy should repay \$90,000 to the public purse. Also as Chief of Staff, it was his job to mitigate political issues that posed problems for the Prime Minister. I do not believe that he believed that Senator Duffy had committed a criminal offence by filing living allowance expense claims, but rather that Senator Duffy had crossed ethical boundaries by collecting an allowance for a house that he has lived in for many years prior to being appointed to the Senate. Mr. Wright rejected a condition to not refer Senator Duffy's expenses to the RCMP in the future, believing that if criminality was revealed, it should be referred. The e-mails show that Mr. Wright wanted Senator Duffy to repay the money, and at various times was of the belief that Senator Duffy was going to repay.
56. Senator Duffy maintained that he did not do anything wrong, and therefore did not believe that he should have to repay the money. Based on that, Senator Duffy agreed to repay, but with conditions. Back and forth negotiations between Senator Duffy and Mr. Wright were facilitated through legal counsel, Janice Payne and Benjamin Perrin. Senator Duffy set 5 conditions under which he would repay. Those conditions were:
 - a. Withdraw from the Deloitte audit;
 - b. Acknowledgement that Senator Duffy meets requirements to sit as the Senator from PEI;
 - c. Repayment/reimbursement, including legal fees;

- d. Permission to collect a living allowance in the future should the rules change;
- e. The Conservative caucus would speak on the matter consistent with the agreed upon media lines.

The agreed to media lines were:

- f. Senator Duffy has taken steps to correct an error in how the forms were filled Out;
- g. He maintains a residence in Prince Edward Island and has deep ties to the province;
- h. The Committee considers all issues relating to Senator Duffy now resolved.

Efforts to withdraw Senator Duffy from the Deloitte audit failed, and the initial efforts to have the costs of repayment covered by the Conservative Fund fell through when cost was realized at \$90,172.24. With all details of the agreement worked out, Mr. Wright took the personal decision to repay the \$90,172.24. He told few people. On March 22, Senator Duffy obtained a loan for \$91,600 from the Royal Bank. That same day he paid \$80,000 on his line of credit. On March 25, Mr. Wright sent a bank draft for \$90,172.24 to Janice Payne's office, and Senator Duffy wrote a personal cheque to the Receiver General to repay the money owed. On March 26, \$90,172.24 was transferred to Senator Duffy's RBC account, and his cheque for \$90,172.24 was delivered to Senator Tkachuk. It cleared his bank on March 28.

57. After the repayments and money transfers were completed, the matter remained mostly dormant until the release of the Deloitte Report. While Deloitte did not find wrongdoing on Senator Duffy's part, the initial draft Senate Report summarizing the findings of Deloitte and the Senate sub-committee was critical of Senator Duffy. Such criticisms by a committee containing a Conservative majority went against the media lines and conditions already agreed upon by the PMO and Senator Duffy. The PMO in turn set out to have the Senate Report changed to reflect how they wanted it to appear. The PMO changes to the report were given to Senator Stewart Olsen, who brought them forward. She and Senator Tkachuk, being the committee majority, imposed their will and the will of the PMO on the Senate Report. Based on the e-mails, there appears to have been a moment of impasse within the Conservative camp when Christopher Montgomery, in a meeting with Chris Woodcock, Patrick Rogers, Senator LeBreton, and Senator Stewart Olsen, stated that the Senators were compromising themselves by agreeing to the changes to the report. The final result however was a Senate Report which lacked criticism of Senator Duffy, as the PMO wanted.
58. Nigel Wright and Senator Duffy, both whom have dealings with the government of Canada, committed fraud on the government by giving and receiving that sum of money, without prior written approval from the head of the branch of government with whom they had dealings. Senator Duffy set a list of five conditions under which he would publicly repay the money and admit his error. That list included the condition that he be kept "whole", or reimbursed the costs involved. That agreement, to give and accept

money in exchange for something to be done or omitted to be done, constitutes the bribery offence. Regarding the breach of trust, both Mr. Wright and Senator Duffy, officials acting in connection with the duties of their offices, breached the standard of responsibility and conduct demanded of them in their positions of public trust. They used their offices for a dishonest purpose, other than for the public good.

PRODUCTION ORDERS SOUGHT

RBC Bank Records

59. I am now seeking a Production Order to obtain documents and data from the RBC. Specifically I am seeking the following evidence that I believe will provide evidence:

- a. **All supporting documentation relating to the banking transaction of a credit of \$91,600 dated March 22, 2013, to Royal Bank of Canada account 00016-2122398;**

[I believe this documentation will shows the receipt of funds into Senator Duffy's account from a mortgage loan obtained by Senator Duffy on March 22, 2013. This was previously referenced by Senator Duffy during his address to the Senate on October 28, 2013. I believe that this loan was an effort by Senator Duffy to create a paper trail so that he could show that he obtained a loan to repay the money, if ever asked. That documentation is relevant evidence in this investigation]

- b. **All supporting documentation relating to the banking transaction of a debit of \$80,000 dated March 22, 2013, for Royal Bank of Canada account 00016-2122398;**

[I believe that this transaction is a payment by Senator Duffy to his line of credit. He also referenced this in his address to the Senate on October 28, 2013. As stated, I further believe that he obtained a \$91,600 mortgage loan to give the appearance that he was paying back money owed in relation to the expense claims. The cost of that repayment was actually being covered for Senator Duffy, and he knew that based on the conditions he set with the PMO. He now had \$91,600 from a mortgage loan, so having no need for it for the repayment, he put \$80,000 of that money on his line of credit. Documentation to that effect is evidence of the named offences.]

- c. **All supporting documentation relating to the banking transaction of a credit of \$90,172.24 dated March 26, 2013, to Royal Bank of Canada account 00016-2122398;**

[This is the day after Nigel Wright had a bank draft for the same amount delivered to the office of Janice Payne. David van Hemmen sent an e-mail to Janice Payne's office on March 25 advising that he is delivering a bank draft for Nigel Wright. The following day Ms. Payne sent an e-mail advising she had just delivered a cheque to Senator Tkachuk. The cheque received by Senator Tkachuk was a personal cheque from Senator Duffy's RBC account for \$90,172.24. This is the same amount as the deposit/transfer into Senator Duffy's account. I am now seeking those transaction supporting documents so that I can determine the steps that those funds went through prior to being deposited into Senator Duff's account. The bank statement indicates that it was a branch to branch transfer, but details of that transfer, such as the identification of the account that the money was transferred from is evidence in this investigation.]

- d. **All supporting documentation relating to the banking transaction of a debit of \$90,172.24 dated March 28, 2013, for Royal Bank of Canada account 00016-2122398, including a certified true copy of cheque #064.**

[I believe that this transaction represents Senator Duffy's payment to the Receiver General. A copy of that cheque previously obtained from the Senate, and imported near the beginning of this document, shows that it was dated March 25, 2013, and is cheque #064. I believe that this is the cheque that was delivered by Ms. Payne's office to Senator Tkachuk. I believe that cheque is evidence in this investigation, and as such I am seeking production of a certified copy of that cheque.]

60. On November 5, 2013, I spoke to Maxime Siwinski – Royal Bank Security, who told me that the documents and data that I am seeking do exist, and that she has control of them. She advised that the legal name of the bank is Royal Bank of Canada, and that a Production Order can be served on her via e-mail.

Senate E-mails:

61. I am also seeking a Production Order to obtain documents and data from the Senate of Canada. Specifically I am seeking the production of:

- a. **All e-mails and e-mail attachments sent or received between January 1, 2013, and May 19, 2013, for Senate of Canada e-mail accounts of Senators David Tkachuk, Marjory LeBreton, Carolyn Stewart Olsen, and Michael Duffy.**

62. A review of the e-mail correspondence retrieved from PMO e-mail accounts has revealed that all of these Senators have used their Senate e-mail accounts to communicate about the matter of the Senate investigation into Senator Duffy's expenses. Senator Tkachuk has communicated with Senator Duffy, Janice Payne, and PMO staff; Senator LeBreton has communicated with Nigel Wright, Senator Duffy, and Chris Woodcock; and Senator Stewart Olsen has communicated with Senator Tkachuk, Nigel Wright, Chris Woodcock, Patrick Rogers, and Christopher Montgomery. The data in the RCMP possession at this time is that of which someone in the PMO was a party of, or which was forwarded to someone within the PMO whose data has been retrieved as part of this investigation. Data not contained on those computer servers, such as e-mail correspondence of the four Senators relating the matter of Senator Duffy, will also provide evidence of the names offences. Senator Tkachuk stated during his interview that he and Senator Stewart Olsen communicated about the matter via e-mail. I believe such e-mails are relevant to this investigation, and are evidence. As such, I am seeing a Production Order to retrieve data relating to those e-mails.

63. I am proposing that the Production Order be subject to terms and conditions, including;

- a. Data retrieval will be done by qualified Senate personnel under the supervision and assistance of RCMP computer forensic technicians;
- b. Data copied or duplicated and produced will be retained on a secure computer server within the RCMP building at 155 MacArthur Avenue, Ottawa, Ontario. An electronic copy will also be provided to the Senate of Canada;
- c. Data copied or duplicated and produced shall be reviewed by RCMP investigators for evidence relevant to the investigation in the presence of a Senate legal representative. The Senate legal representative shall have access during the review to the data gathered. The review for data of relevance will be limited to:
 - i. The 2013 Deloitte audit of Senator Mike Duffy;
 - ii. The 2013 Senate investigation and review of Senator Duffy's expenses, conducted by the Senate Standing Committee on Internal Economy, Budgets and Administration, and the Senate sub-committee known identified as the Steering Committee;
 - iii. Preparation and production of the Twenty-Second Report of the Senate Standing Committee on Internal Economy, Budgets and Administration;
- d. Nothing in the order shall be so construed as to require the production of any data or documents which are subject to solicitor client privilege.

64. On November 6, 2013, I spoke with Michel Patrice, Deputy Law Clerk at the Senate of Canada. He is aware of this investigation and the Production Order I am seeking. He has in turn conferred with the Speaker of the Senate on this matter, and we are in agreement

with Terms and Conditions I am proposing. Gary O'Brien, The Clerk of the Senate, confirmed to me in a letter dated July 15, 2013, that the e-mail data sought has been preserved as per a request I had previously made. Mr. Patrice further confirmed that as the Deputy Law Clerk of the Senate, he is the person in possession or control of producing the data, and that the data will be produced in accordance with this Order.

AFFIRMED BEFORE ME AT the city of
Ottawa, in the Province of Ontario this
15 day of November, 2013.


INFORMANT

**Andrea Jessie Golden Craig, a Commissioner, etc.,
Province of Ontario, for the Government of Canada,
Department of Public Safety and Emergency Preparedness.
Expires September 25, 2016.
Andrea Jessie Golden Craig, commissaire, etc.,
Province de l'Ontario, au service du gouvernement du Canada,
Ministère de la Sécurité publique et de la Protection civile.
Date d'expiration: le 25 septembre 2016.**


A COMMISSIONER FOR THE TAKING OF
OATHS IN THE PROVINCE OF ONTARIO