

Royal Canadian Mounted Police



Gendarmerie royale du Canada

JAN 22 2007

Deputy Commissioner  
Human Resources

Sous-commissaire  
des Ressources humaines

JAN - 9 2007

OUR FILE NUMBER  
HQ06910636

Mr. Jason Gratl, President  
British Columbia Civil Liberties Association  
Suite 550 - 1188, West Georgia Street  
Vancouver, BC  
V6E 4A2

Dear Mr. Gratl:

This letter provides you with a final report of the investigation conducted into your complaint against the Commissioner of the RCMP, Guiliano Zaccardelli, and unknown members of the RCMP, as lodged with the Commission for Public Complaints Against the RCMP, on July 20<sup>th</sup>, 2006.

The investigation of your complaint was assigned to Sergeant Charles Murphy, a veteran investigator who, in the course of his internal review, obtained a statement from three witnesses, and also examined relevant policies and acts of law.

After having carefully studied the investigation report submitted by Sergeant Murphy, I now wish to share with you the results of this investigation and to detail my decision in respect to each of the allegations identified in your complaint. But first of all, please allow me, Mr. Gratl, to offer a brief summary of background information as it relates to the circumstances surrounding your complaint.

Commissioner Zaccardelli received a letter of complaint dated November 28<sup>th</sup>, 2005 from Ms. Judy Wasylycia-Leis in reference "to the illegal transfer of information". The alleged release of information was concerning the announcement of changes to the taxation of Corporate dividends. Ms. Wasylycia-Leis requested that the RCMP Integrated Market Enforcement Team determine if an investigation was appropriate because of suspicious market activity prior to the release.

In a letter to Ms. Wasylycia-Leis dated the 23<sup>rd</sup> of December, 2005, Commissioner Zaccardelli responded that “the RCMP will be commencing a criminal investigation”.

Your first allegation is to the effect that Commissioner Zaccardelli and other members of the RCMP **“made an inappropriate decision to notify and release a letter to complainant and member of Parliament, Ms. Judy Wasylycia-Leis that the RCMP was upgrading her complaint and undertaking a criminal investigation (not a complaint investigation under Part VII of the RCMP Act) into her complaint”**.

In your letter of complaint, dated March 10, 2006, you also make reference to an RCMP press release dated the 28<sup>th</sup> of December, 2005 "confirming that the RCMP were undertaking a criminal investigation into the matter". Regarding this press release, you state that “some argue that this media scrutiny was a turning point in the federal election”.

I believe that it is worth stating at this point that Ms. Wasylycia-Leis' letter is not a complaint directed at an RCMP member. It is a complaint regarding the possible leak of information which, if substantiated, could lead to criminal charges. Part VII of the RCMP Act deals solely with complaints against members of the RCMP “in the performance of any duty or function under the *RCMP Act*” and therefore does not apply in this case.

This having been said, it is clear from the evidence gathered during the investigation of your complaint, that the Commissioner had the discretionary power to advise the complainant about the status of her complaint and that by doing so, did not contravene any policy or law.

This brings me to your second allegation that Commissioner Zaccardelli and other members of the RCMP **“made an arbitrary decision to publicly confirm, in a press release dated December 28, 2005, the existence of a criminal investigation into the possible leak of information regarding the government's income trust review in November 2005”**;

- (I) in the absence of policy guidelines;
- (ii) in an effort to influence partisan politics or without regard for the reasonably foreseeable consequences of the public announcement of a criminal investigation thereby compromising and undermining public confidence in the independence of the RCMP;
- (iii) in a situation that did not warrant such disclosure; and,
- (iv) in a situation that was not demonstrably in the public interest (reference to para. 2 in Mr. Constant's May 3, 2006 letter to the BCCLA).

The investigation conducted by Sergeant Murphy revealed that the press release dated December 28, 2005, had been released under the authority of Commissioner Zaccardelli. The press release referred to “ a possible breach of security or illegal transfer of information” and not a “possible leak of information” as stated in your allegation, and did not conflict with

either the National Communication Services Policy ( Communication Policy of the Government of Canada) or the RCMP Media Relations Policy on release of information.

The Commissioner's response to Ms. Wasylycia was subsequently uploaded on the NDP website. Consequently, the RCMP believed that it was incumbent upon them to clarify their position to the public, by preparing the press release dated December 28, 2005. Chief Superintendent Constant, who stated in his response letter of May 3<sup>rd</sup>, 2006, that the decision for this press release was based in the public's interest, continues to feel that it was proper under the circumstances.

Your suggestion that the RCMP may have interfered with the elections by "influencing partisan politics", implies an offence under Section 480.(1) of the *Canada Elections Act*, which implies intent. Mr. Gratl, if the RCMP had refrained from releasing this information to the press, one could equally have alleged that we were refraining from doing so in an effort to influence the election campaign. This, in my mind, would have had the effect to "compromise and undermine public confidence in the independence of the RCMP." The RCMP is a police organization bound by law to investigate criminal activity, whether an election campaign is ongoing or not. Consequently, there is no indication whatsoever to suggest that the Commissioner or any other member of the RCMP intended to influence the outcome of these elections.

Finally, this brings me to your affirmation that Commissioner Zaccardelli and other members of the RCMP "**did not conduct an investigation in spite of an announcement to that effect; or, conducted an inadequate investigation**".

During the course of his investigation, Sergeant Murphy spoke with Inspector Barbara Kelly, a senior investigator with the Ottawa RCMP Commercial Crime Section. Inspector Kelly confirmed that there is an ongoing criminal investigation into the illegal transfer of information in advance of the federal Government's announcement of changes to the taxation of Canadian Corporate dividends and Income Trusts and that a team of investigators was formed at the outset of this investigation, which is consistent with Commercial Crime Section practices. Therefore, I cannot support your allegation that Commissioner Zaccardelli and other members of the RCMP "**did not conduct an investigation in spite of an announcement to that effect, or that they conducted an inadequate investigation**".

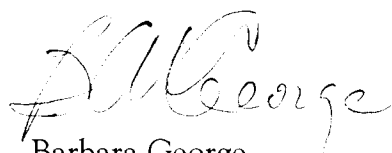
In view of the facts revealed during the investigation of your complaint and outlined above, I am satisfied that the Commissioner's response to the Ms. Wasylycia-Leis and that the RCMP's press release of December 28<sup>th</sup>, 2005, were appropriate under the circumstances.

Pursuant to Section 45.4 of the RCMP Act, I am hereby notifying you that the investigation of your complaint is now concluded. If you are not satisfied with the results, you have the

right to refer your complaint in writing to the Commission for Public Complaints against the RCMP for review, at the following address:

Commission for Public Complaints Against the RCMP  
7337, 137 Street - Suite 102  
Surrey, B.C.  
V3W 1A4  
Telephone: 1-800-665-6878.

Yours truly,



Barbara George,  
Deputy Commissioner Human Resources  
RCMP Headquarters

NB/

cc Commissioner Bev Busson  
Commissioner Guiliano Zaccardelli (ret.)  
Chief Superintendent Denis Constant