Conflict of Interest and Ethics Commissioner Mary Dawson
Office of the Ethics Commissioner
Parliament of Canada
P.O. Box 16, Centre Block
22nd Floor, 66 Slater
Ottawa, Ontario KlA 046
Fax: 613-995-7308

May 4, 2012

RE: Petition for investigations of, and rulings on, situations involving Conservative government representatives and Rahim Jaffer

Dear Commissioner Dawson,

After reviewing research conducted by the reputable group Democracy Watch, I am filing this letter to petition for, under the provisions of the federal Conflict of Interest Act (Act), an investigation of and ruling on the actions of Conservative government representatives. I submit this petition as the Member of Parliament for Saanich-Gulf Islands.

According to thorough research by Democracy Watch, Rahim Jaffer communicated and/or met with various representatives of the Conservative government on behalf of various companies in 2009 and 2010, and in one case his associate Patrick Glémaud attended a meeting. Democracy Watch believes these representatives are covered by the Act and I tend to agree.

Documents totalling 68 pages were disclosed on Wednesday April 28, 2010 to the House of Commons Standing Committee on Government Operations and after review, I agree with Democracy Watch's opinion that the documents provide reason to believe that the representatives of the Conservative government gave the companies and people preferential treatment because Mr. Jaffer was representing the companies and people.

Democracy Watch has made available the collection of documents at:
http://www.dwatch.ca/camp/jaffer-documents.pdf

Below, Democracy Watch provides opinions regarding the situations that provide reasons to believe that preferential treatment was given to the companies and people because Mr. Jaffer was representing them. I share the opinions of Democracy Watch and ask that you act on this matter.

- the document at page 2 of the collection of documents is a letter dated April 16, 2010 to you by David Pierce, Director of Parliamentary Affairs, Office of the Minister of Industry in which Mr. Pierce states that he received an email from Rahim Jaffer on March 16,2010 requesting information, an email with the subject line "Hope you are well my friend" and that came from an account controlled by Helena Guergis, Mr. Jaffer's spouse and at that time a Minister of State. In response to the email, Mr. Pierce almost immediately requested to speak with Mr. Jaffer and spoke with him the next day and, as he states in his letter to you, he did this in part because "he had not spoken with him in quite a while" and "Until Mr.

Jaffer's 2008 defeat, I worked with him and his office on matters related to Mr. Clement's portfolio." Democracy Watch's opinion is that unless Mr. Pierce can show clearly that he responds to requests for such information as quickly as he responded to Mr. Jaffer, then his actions show clearly that he gave Mr. Jaffer preferential treatment.

- the documents at pages 7-10 of the collection of documents show that Doug Maley, Assistant Deputy Minister in Edmonton with the Department of Western Economic Diversification and Mr. Jaffer spoke on May 26, 2009 and then Mr. Jaffer sent Mr. Daley a proposal by email on May 27,2009 referring to their conversation and stating "I look forward to golfing together in June". Mr. Maley then forwarded the email and proposal on to David Woynorowski eight minutes after receiving it from Mr. Jaffer with the cover message "Can you have someone review this on a priority basis as I need to get back to Rahim this Friday afternoon . . ." Mr. Maley then responded to Mr. Jaffer just under two hours later with an email that states "Great speaking with you yesterday. V/e will review this and get back to you shortly." On June 4, 2009, in response to an email from Mr. Jaffer, Mr. Maley indicates that the internal review has been completed, congratulates Mr. Jaffer on his convocation for his MBA degree and proposes getting together for "a coffee or lunch" with Mr. Jaffer when he is in Edmonton. Democracy Watch's opinion is that unless Mr. Maley can show clearly that he responds as quickly to proposals sent by everyone, then his actions show clearly that he gave Mr. Jaffer preferential treatment.
- at pages 11-22 of the collection of documents show Parliamentary Secretary Brian Jean granted Rahim Jaffer a meeting without an appointment in June 2009, and then Mr. Jean and his assistant kept in regular touch with Mr. Jaffer via email through until August 2009 concerning three proposals submitted by Mr. Jaffer. Democracy Watch's opinion is that unless Mr. Jean can show clearly that he responded to proposals of everyone else in the same way that he responded to Mr. Jaffer's proposals, then his actions show that he gave Mr. Jaffer preferential treatment.
- the documents at page 23-24 of the collection of documents show that two members of the staff of the Minister of State for Science and Technology met with Rahim Jaffer's associate Patrick Glémaud and a representative of another company on November 13, 2009, within a week or so after the meeting had been requested. Democracy Watch's opinion is that unless the Office of the Minister of State can show that they responded to requests for meetings from everyone as they responded to this request, their actions show that they gave preferential treatment.
- the documents at pages 37-61 show intervention by the Office of the Minister of Public Works in a decision-making process by public servants, including at page 37 an email by Sébastian Togneri, Director of Parliamentary Affairs for the Minister that directs two public servants "to set up a meeting" with "former Member of Parliament, Rahim Jaffer", and at page 45 an email from Mr. Togneri that states "The sector has had this for weeks, what's the hold-up?", and at page 47 an email from Mr. Togneri that states "Set up meetings for Sandy regarding Mr. Glémaud's and Mr. Jaffer's solar panel idea today and please invite me", and at page 54 an email that states about a meeting that "it is back on track and the Minister's office wants to be involved", and at page 58 an email that states "We have had others such as Bullfrog (very recently) express an interest in" putting solar panels on government building roofs, and at page 59 an email that states "This request comes from Minister Office". Democracy Watch's opinion is that unless staff of the Minister's office can show

clearly they responded to everyone (including Bullfrog) in the same way that they responded to Mr. Jaffer, then their actions show that they gave Mr. Jaffer preferential treatment.

- also, Democracy Watch's opinion is that by allowing Mr. Jaffer to use one of her email addresses for many of his communications on behalf of various people and companies as contained in the collection of documents, and by allowing Mr. Jaffer to use her office for meetings and other business matters, Helena Guergis also provided preferential treatment to Mr. Jaffer.

It should be noted that additional documents may exist concerning these contacts, documents which you have full powers to discover through subpoena under the Act. However, I agree with Democracy Watch's opinion that these documents provide ample reason to believe that preferential treatment was given to the people and organizations represented by Mr. Jaffer.

In addition, based on further research by Democracy Watch, I am petitioning you to investigate and rule on the following situation revealed through the statements of Conservative Minister of the Environment Jim Prentice in the House of Commons on April 23 and26,Z}LO. Mr. Prentice's statements are available in the online Hansard for that day at: <http://www.parl.gc.ca> and you can see a summary of the situation at:
http://www.cbc.ca/canada/edmonton/story/2010/M04/26/jaffer-lobbying-allegations.html

- as revealed by Minister Prentice, a member of his Calgary office staff, Scott Wenger, met with Rahim Jaffer in Ottawa at the office of Mr. Jaffer's spouse Helena Guergis, who at the time was a Minister of State, in April 2009 to discuss proposals Mr. Jaffer was putting forward on behalf of a company. Democracy Watch's opinion is that unless Mr.'Wenger can show he met with everyone who made such proposals, then his actions show that he gave Mr. Jaffer preferential treatment.

The Law
(a) Federal Conflict of Interest Act

The main purposes of the Conflict of Interest Act (the Act - 2006, c. 9, s. 2), which applies to Cabinet ministers, their staff, Cabinet appointees (including senior government officials), are as follows:

"3.(1)(a) establish clear conflict of interest and post-employment rules for public office holders;
(b) minimize the possibility of conflicts arising between the private interests and public duties of public office holders and provide for the resolution of those conflicts in the public interest should they arise;
(c) provide the Conflict of Interest and Ethics Commissioner with the mandate to determine the measures necessary to avoid conflicts of interest and to determine whether a contravention of this Act has occurred. . . ."

With regard to preferential treatment, the Act states that:
"Preferential treatment

7. No public office holder shall, in the exercise of an official power, duty or function, give preferential treatment to any person or organization based on the identity of the person or organization that represents the first-mentioned person or organization."

The words "preferential treatment" are not defined in the Act, and Canadian courts have not interpreted the words in any applicable manner as far as Democracy Watch has determined.

However, in the context of the exercise of an official power, duty or function by a representative of the Canadian government, the words "preferential treatment" have an obvious meaning.

As defined in the dictionary, "preferential" means "show preference or giving preference" while "preference" is defined as "the act, fact, or principle of giving advantages to some over others."

"Treatment" obviously means how one person treats another person.

Therefore, a representative of the government gives "preferential treatment" when they treat one person in a way that gives them an advantage not given to other people.

To have any effect at all on ethical standards in government decision-making processes, which is the purpose of the Act, giving someone an advantage must be interpreted to include making any decision that gives them an advantage, including decisions to communicate with them more directly and with more priority than one communicates with anyone else in a similar position, and granting or arranging meetings with them with more priority than one meets with anyone else in a similar position.

In mine and Democracy Watch's opinion, the situation involving allowing Mr. Jaffer to use government and/or parliamentary resources and office space for his business activities also amounts to preferential treatment.

Application of the law to the situations involving Mr. Jaffer and representatives of the Conservative government

Democracy Watch's opinion is that there is clear evidence that gives rise to a reasonable belief that David Pierce, Doug Maley, Brian Jean, Sébastian Togneri and Helena Guergis provided preferential treatment to people and organizations represented by Rahim Jaffer because the people and organizations were represented by Mr. Jaffer.

Therefore, I share Democracy Watch's opinion that there is reason to believe that these public office holders, all of which Democracy Watch believes were covered by the Act at the time of the events in question, contravened section 7 of the Act.

Request for investigations and rulings on situations, and recusal rulings

Under the Conflict of Interest Act (the Act), you as Commissioner have the power to initiate an examination of a matter if you have reason to believe that a public office holder has contravened the Act.

"Examination on own initiative
45. (l) If the Commissioner has reason to believe that a public office holder or former public office holder has contravened this Act, the Commissioner may examine the matter on his or her own initiative."

I believe that the information set out above gives you more than adequate evidence upon which to form the reasonable belief that contraventions have occurred.

And beyond finding those people covered by the Act in violation of the Act, you also have under the Act the power to make orders as follows:

"Compliance order

30. In addition to the specific compliance measures provided for in this Part, the Commissioner may order a public office holder, in respect of any matter, to take any compliance measure, including divestment or recusal that the Commissioner determines is necessary to comply with this Act."

Therefore, based on research set out above about the various situations and based on the trusted opinions of Democracy Watch, I believe that it is reasonable for you to believe that that various public office holders have contravened the Conflict of Interest Act, and therefore, if you are going to act in a legally correct and effective manner, you must examine the matters addressed in this petition, and if warranted issue rulings that find the public office holders in contravention of the Act, and also issue recusal orders as applicable.

I urge you, in conducting the investigations, to examine in detail whether the Cabinet ministers who representatives are involved in these situations purposely had these representatives communicate and meet with Mr. Jaffer in order to avoid disclosure and scrutiny.

I look forward to your prompt response to the above information and requests.

Sincerely,

Elizabeth May, O.C., M.P.
Member of Parliament, Saanich-Gulf Islands
Leader of Green Party of Canada