



**OFFICE OF THE ETHICS COMMISSIONER
PROVINCE OF ALBERTA**

**Report of an Investigation concerning allegations made with
respect to activities of**

**The Canadian Association of Petroleum Producers,
An Organization Lobbyist Registered
Under the Lobbyists Act**

**Submitted to the Speaker
of the Legislative Assembly of Alberta by**

**Neil Wilkinson,
Ethics Commissioner**

November 28, 2011

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ALLEGATIONS

[1.] On August 18, 2011, the Office of the Ethics Commissioner received a letter from Ms. Nancy Furlong, Secretary Treasurer of the Alberta Federation of Labour ["AFL"] and written on behalf of the AFL. This letter requested that the Registrar conduct an investigation under the Lobbyists Act ["the Act"] with respect to a possible breach or breaches of the Act by the Canadian Association of Petroleum Producers ["CAPP"], a non-profit association registered as an organization lobbyist on the Lobbyists Registry.

[2.] That same date, the AFL issued a Press Release stating in part:

Investigation demanded into lobbying by Big Oil group: Alberta government should not leave decisions to industry, says AFL

The Alberta Federation of Labour (AFL) today called for an investigation into the lobbying activities of the Canadian Association of Petroleum Producers (CAPP).

"We have come into possession of a government of Alberta Briefing Note that shows CAPP is using industry insiders to lobby the province on a communications strategy for shale gas, but has not registered those industry insiders as its lobbyists," says Nancy Furlong, Secretary Treasurer of the AFL, which represents 145,000 workers.

"The way the government handles lobbyists is important. It must be a completely transparent process. Albertans need to have faith that its government is setting policies, not leaving them to unelected pressure groups," says Furlong.

The AFL has written a [letter](#) to the Registrar of the Lobbyist Act calling for an investigation and has sent him a copy of the [briefing note](#).

"This briefing note reveals that CAPP approached the Alberta government asking for input on enhancing the communications strategy on shale gas development for the Alberta, B.C. and Saskatchewan governments. It appears that the Alberta government is willing to let industry take the lead," says Furlong.

"This is not the first time CAPP has been given too great a role in setting communications strategies for governments. Only one week ago, media reports revealed that CAPP was responsible for organizing a key meeting and some controversial messaging, in partnership with the federal and Alberta governments, to polish the image of Alberta's oil sands industry," she says.

"It is telling that the only external stakeholder mentioned in the briefing note is CAPP. Where are the community groups that have legitimate concerns? Where are the environmental groups? This kind of behaviour, of allowing industry to craft government communications strategies on such important issue, is simply unacceptable. It says that industry is in the driver's seat, and our government is abdicating its responsibility to govern for **ALL** Albertans."

This Press Release is posted on the AFL web site¹ and contains hyper-links to the letter sent to the Office of the Ethics Commissioner requesting this Investigation and to the internal Alberta Government Briefing Note which was “leaked” to the AFL. This Briefing Note was also attached to the letter received by this Office, and according to the AFL provides the evidence of the breach or breaches of the Act warranting this Investigation.

[3.] In Ms. Furlong’s letter requesting the investigation, she said in part:

...

The Alberta Federation of Labour came into possession of a government of Alberta Briefing Note entitled, “**New West Partnership and project charter – “Collaboration and Information Sharing, Industry Water Use and Hydraulic Fracture Technology”**” (hereafter referred to as the ‘Briefing Note’). The Briefing Note describes priority initiatives for the governments of British Columbia, Alberta and Saskatchewan to address fracture technology (a.k.a. “fracking”) and water-use issues. I have attached a copy of said Briefing Note along with this letter.

Of particular concern is the section dealing with shale gas communications which states on page two:

Shale Gas Communications (GoA/CAPP & CSUG). CAPP has approached the GOA requesting collaboration to enhance public communication on Alberta shale gas development. The DOE along with SRD, AENV and ERCB, are currently reviewing the CAPP request to determine the level of government involvement.

Section 1(1)(e) of the **Lobbyists Act** defines the term “lobbying.” Clearly the activity described in the Briefing Note is lobbying. That is, the activity described therein involves the development of directives and guidelines involved with the “public communication on Alberta shale gas development.”

Furthermore, you’ll note that according to the Briefing Note, CAPP “approached the GOA [government of Alberta] requesting collaboration.” CAPP was not invited by the government to collaborate on public communication on Alberta shale gas development, rather CAPP approached the government. This distinction is important in that the **Lobbyists Act** allows individuals to submit information to a public office holder if that submission is requested by the public office holder (**Section 3(2)(c)**). The information in the Briefing Note makes it clear that is not the case here.

Thus, CAPP was lobbying the government of Alberta and although CAPP is in the Lobbyists Registry, none of the individuals lobbying the government on behalf of CAPP are registered as CAPP lobbyists.

...

¹ www.afl.org

According to the Briefing Note, three people are listed as CAPP representatives: Richard Dunn, Lara Conrad, and Christa Seaman. Richard Dunn is a registered lobbyist with EnCana Corporation. Christa Seaman is a registered lobbyist with both Canadian Natural Resources Limited and Shell Canada Limited. Lara Conrad is not registered to lobby the Alberta government. We assume that these three people requested collaboration between CAPP and the Alberta Government to enhance public communications on Alberta shale gas development.

According to the **Lobbyists Act**, the designated filer for an organization must submit changes to the Registrar within 30 days after the change occurs (**Section 10(1)(a)** of the **Lobbyists Act**). It appears as though CAPP has failed to inform you, and by extension the Alberta public, of the addition of Richard Dunn, Christa Seaman and Lara Conrad to their coterie of registered lobbyists.

. . .

Please consider this to be an official request for an investigation pursuant to **Section 15(1)** of the **Lobbyists Act** and if wrongdoing is found assess the highest penalty possible.

APPLICABLE LEGISLATION

[4.] The Lobbyists Act, S.A. 2007, Chapter L-20.5, received Royal Assent on December 7, 2007, was amended in the Spring Session of 2009, and was Proclaimed on September 28, 2009. The legislative purpose of the Act is found in the Preamble which states:

Preamble

- WHEREAS free and open access to government is an important matter of public interest; and
- **WHEREAS lobbying public office holders is a legitimate activity**; and
- WHEREAS it is desirable that the public and public office holders be able to know who is engaged in lobbying activities; and
- **WHEREAS a system for the registration of paid lobbyists should not impede free and open access to government**; and
- WHEREAS it is desirable that the public and public office holders be able to know who is contracting with the Government of Alberta and Provincial entities
(emphasis added)

[5.] The Act is comprehensive and complex; the majority of issues that can arise under the Act are factual in nature and include:

- whether the Act applies;
- if it does apply, how it applies;
- if it doesn't apply, why it doesn't apply;
- whether there's an apparent breach of the Act;
- if there is a breach, whether such was inadvertent or deliberate; and
- whether the breach is deserving of sanction – either by imposition of an administrative penalty or prosecution.

[6.] All these (and more) are questions that can only be answered by having all the pertinent facts.

[7.] The main sections of the Act that are germane to this matter are the Preamble, sections 1(f), 1(g), 1(h),1(i), 3(1)(l), 3(2)(c), 15, 17, 18, 19 and Schedule 2 of the Act, section 2 (c). These sections, with the key terms requiring consideration highlighted, are reproduced in Appendix A.

PRELIMINARY CONSIDERATIONS

[8.] When a request for an investigation has been received, or allegations of impropriety have been made in the media, the Registrar reviews the information provided by the lobbyist in its Registration(s) to see whether there is anything on the face to support the allegations. In this instance, the information provided in the Registrations filed on behalf of CAPP clearly indicates that the persons named as representatives of CAPP in the Briefing Note are not listed as paid staff of CAPP engaged in lobbying on behalf of CAPP. A search of the Registry web site however does indicate that each is listed as a paid organization lobbyist of his or her employing organization, and each such organization is a member organization of CAPP.

[9.] The next step for the Registrar is to review the information provided in the request for investigation, or in the media story, to see whether there is any factual evidence contained therein to support allegations of impropriety. In this instance, the information that is alleged to provide evidence of a breach or breaches is said to be found in the included Briefing Note.

[10.] As noted at the outset, the facts that are germane to the request for investigation must first be determined, as the legal ramifications flow from the facts as found. Based on the information provided, the key legal elements that guide the fact-finding are found in the high-lighted words and phrases in the Act as reproduced in Appendix A. This can be summarized in the following queries:

1. Are the activities in which the CAPP representatives are engaged, as set out and described in the Briefing Note, activities that constitute “lobbying” within the meaning of section 1(1)(f) the Act? If the answer to that is “No”, then none of the other issues that are raised are of any significance. If the Answer is “Yes”, then
2. Notwithstanding that the activities on the face constitute “lobbying”, did government initiate the conversation, thereby rendering the activity “not lobbying” pursuant to the section 3(2)(c) exception? If the answer is “Yes”, then that concludes the matter. If the answer is “No”, then
3. Are the CAPP representatives named in the Briefing Note paid employees of CAPP within the meaning of sections 1(1)(h), 1(1)(i), and Schedule 2, section 2(c) and thus required to be listed on the CAPP registration filed with the registry? If the answer to that is “No”, then that is the end of the matter. If the answer is “Yes”, then
4. Did CAPP deliberately fail to include the names these individuals on its registration, or deliberately choose to not add these names within the time limited under the Act? The

answer to this question, should it come to this, will largely determine the appropriate response in terms of enforcement.

PERSONS INTERVIEWED/EVIDENCE OBTAINED

[11.] The Registrar interviewed by telephone the author of the Briefing Note, the Director of the Department within which that Note was authored, and the General Counsel of CAPP .

[12.] The Registrar carefully reviewed the Briefing Note and a letter sent by the General Counsel of CAPP to the Registrar, dated August 24, 2011, and which responded to the allegations made by AFL²

[13.] The Registrar also reviewed the AFL web site, and the information contained there concerning the focus of this request for investigation.

[14.] The Briefing Note in its entirety will not be appended to this Investigation report; the Registrar takes the view that had this Note come into the possession of AFL as a result of a FOIPPA request properly made through the appropriate channels, it would then be acceptable to reproduce it in its entirety. Since that is not what happened, the Registrar will only quote from the Note as necessary to demonstrate the evidence in support of findings of fact.

FINDINGS

1. Are the activities in which the CAPP representatives are engaged, as set out and described in the Briefing Note, activities that constitute “lobbying” within the meaning of section 1(1)f) the Act?

[15.] As the AFL noted in its letter requesting this Investigation, and quoting directly from the Note:

“Shale Gas Communications (GoA/CAPP & CSUG). Capp has approached the GOA requesting collaboration to enhance public communication on Alberta shale gas development. The DOE along with SRD, ANV and ERCB are currently reviewing the CAPP request to determine the level of government involvement.”

[16.] The common dictionary definition of “collaboration includes:

“collaboration [kə, ləbəˈreɪʃən]

n

1. (*often foll by on, with, etc.*) the act of working with another or others on a joint project
2. something created by working jointly with another or others”

[17.] Section 1(1)(f) of the Act states:

Interpretation 1(1) In this Act,

² A copy of that letter is attached as Appendix B.

...

(f) “lobby” means, subject to section 3(2),

(i) in relation to either a consultant lobbyist or an organization lobbyist, to communicate with a public office holder **in an attempt to influence**

(A) the development of any legislative proposal by the Government or a prescribed Provincial entity or by a Member of the Legislative Assembly,

(B) the introduction of any bill or resolution in the Legislative Assembly or the amendment, passage or defeat of any bill or resolution that is before the Legislative Assembly,

(C) the development or the enactment of any regulation or any order in council,

(D) the development, establishment, amendment or termination of any program, policy, directive or guideline of the Government or a prescribed Provincial entity,

(E) the awarding of any grant or financial benefit by or on behalf of the Government or a prescribed Provincial entity,

(F) a decision by the Executive Council or a member of the Executive Council to transfer from the Crown for consideration all or part of, or any interest in or asset of, any business, enterprise or institution that provides goods or services to the Crown or a prescribed Provincial entity or to the public, or

(G) a decision by the Executive Council or a member of the Executive Council to have the private sector instead of the Crown provide goods or services to the Government,

(emphasis added)

It is clear that “lobbying” requires some form of communication with government “**in an attempt to influence**” government with respect to the listed items, and it is equally clear by inference that in each instance the desired outcome, if the lobbying effort is successful will in some way benefit the organization doing the lobbying.

[18.] “Collaboration to enhance public communication. . .” does not, on its face, fall within any of the categories listed in section 1(1)(f) nor does it, by definition, constitute an activity intended to benefit the organization doing the collaborating. Quite the contrary; if anything, the communication in this case clearly amounts to an “offer” from CAAP to work collaboratively with the Government of Alberta, through the appropriate Departments, as well as other stakeholders named in the Note, in an effort to benefit government.

[19.] Government working collaboratively with stakeholders does not automatically make those stakeholders “lobbyists” within the meaning of the Act.

[20.] Since the activities complained of do not constitute “lobbying” within the meaning of the Act, the answer to Question 1 is “No”. CAPP is not in breach of the Act.

[21.] In the result, the other questions need not be addressed however, in the interest of providing some guidance to the AFL and others who might be inclined to call for an investigation under the Act, the answers to Questions 2 and 3 will also be considered here.

2. Notwithstanding that the activities on the face constitute “lobbying”, did government initiate the conversation, thereby rendering the activity “not lobbying” pursuant to the section 3(2)(c)?

[22.] Representatives of stakeholder groups and representatives of several Departments of the governments of Alberta, Saskatchewan, and British Columbia have been meeting together on the various matters of common interest set out in the memorandum of Understanding [“MOU”] referenced in the Note for a period of almost 2 years. The stakeholders participating in these meetings, including CAPP, are there at the invitation of the respective governments that are parties to the MOU.

[23.] That CAPP is a participant in these meetings, and working collaboratively with the Departments of the 3 governments that are parties to the MOU, satisfies the requirement of section 3(2)(c) of the Alberta Act, in that in essence, government has initiated the conversation and therefore the conversation that ensues does not constitute “lobbying” within the meaning of the Act. Once the conversation begins, whether during the course of it a particular topic is first raised by government or a stakeholder is of no consequence.

[24.] Therefore the answer to Question 2 is “Yes”, and that would be sufficient to determine the matter. CAPP is not in breach of the Act.

3. Are the CAPP representatives named in the Briefing Note paid employees of CAPP within the meaning of sections 1(1)(h), 1(1)(i), and Schedule 2, section 2(c) and thus required to be listed on the CAPP registration filed with the registry?

[25.] The Act is very clear in the definition of “organization lobbyist” [section 1(1)(h)] that it is the “paid” members of the organization, engaging in lobbying activities on behalf of the organization, that must be listed on the organization registration. The Act is equally clear that “volunteers” are exempt from registration [section 3(1)(l)].

[26.] The persons named in the Note as being the representatives of CAPP are not employees of CAPP and are not paid by CAPP for any lobbying activities in which they may engage, and therefore would not be listed as lobbyists on the CAPP registration. The Registrar has taken the position however, that where the “volunteer” lobbyists for an organization such as CAPP are employees of a member organization, then they must be listed as organization lobbyists on their employing organization’s registration.

[27.] The three persons³ named in the Note as representatives of CAPP are each listed as organization lobbyists on the registrations of their respective employers.

[28.] The answer to Question 3 above is “No”, and therefore CAPP is not in breach of the Act.

³ The AFL points out in its request for investigation that one of the CAPP representatives, Lara Conrad, does not appear to be listed as an organization lobbyist for any member organization of CAPP. This is incorrect; Larissa Conrad is the correct full name of this individual, and she is listed on the registration of her employer, EnCana Corporation. “Lara” is a short form of “Larissa”, just as “Bob” is a short form of “Robert”.

CONCLUSIONS

[29.] **CAPP is not in breach of the Act.** The totality of the evidence clearly shows that CAPP is in full compliance with the requirements of the Lobbyists Act.

SANCTIONS

[30.] There being no breach or breaches of the Lobbyists Act by the Canadian Association of Petroleum Producers, no administrative penalty or other sanction is warranted or imposed.

Investigation conducted and Investigation Report prepared by:

Bradley V. Odsen, Q.C.
Lobbyists Act Registrar

And respectfully submitted by:

Neil Wilkinson
Ethics Commissioner

Dated: November 28, 2011

APPENDIX A

LOBBYISTS ACT

Chapter L-20.5

Interpretation

1(1) In this Act,

...

(f) “lobby” means, subject to section 3(2),

(i) in relation to either a consultant lobbyist or an organization lobbyist, to communicate with a public office holder **in an attempt to influence**

(A) the development of any legislative proposal by the Government or a prescribed Provincial entity or by a Member of the Legislative Assembly,

(B) the introduction of any bill or resolution in the Legislative Assembly or the amendment, passage or defeat of any bill or resolution that is before the Legislative Assembly,

(C) the development or the enactment of any regulation or any order in council,

(D) the development, establishment, amendment or termination of any program, policy, directive or guideline of the Government or a prescribed Provincial entity,

(E) the awarding of any grant or financial benefit by or on behalf of the Government or a prescribed Provincial entity,

(F) a decision by the Executive Council or a member of the Executive Council to transfer from the Crown for consideration all or part of, or any interest in or asset of, any business, enterprise or institution that provides goods or services to the Crown or a prescribed Provincial entity or to the public, or

(G) a decision by the Executive Council or a member of the Executive Council to have the private sector instead of the Crown provide goods or services to the Government,

...

(g) “organization” includes any of the following, whether incorporated, unincorporated, a partnership or a sole proprietorship:

(i) a business, trade, industry, enterprise, professional or voluntary organization or institution;

(ii) a trade union or labour organization;

- (iii) a chamber of commerce or board of trade;
- (iv) a non-profit organization, association, society, coalition or interest group;
- (v) a government other than the Government of Alberta;

(h) “organization lobbyist” means, subject to subsection (2), an employee, officer or director of an organization **who receives a payment for the performance of his or her functions**, or a sole proprietor, or a partner in a partnership,

(i) who lobbies or whose duty is to lobby on behalf of the organization at least 100 hours annually, or

(ii) whose lobbying or duty to lobby on behalf of the organization together with the lobbying or the duty to lobby of other persons in the organization amounts to at least 100 hours annually;

(i) “payment” means, except in section 7 but subject to section 6, money or anything of value and includes a contract, promise or agreement to pay money or anything of value, **but does not include a reimbursement of expenses**;

...

Restrictions on application of Act

3(1) This Act does not apply to any of the following when acting in their official capacity:

...

(1) **a person acting as a volunteer who does not receive a payment**;

...

(2) This Act does not apply in respect of a submission made in any manner as follows:

...

(c) to a public office holder by an individual on behalf of a person or organization **in response to a request initiated by a public office holder for advice or comment** on any matter referred to in section 1(1)(f)(i);

...

Investigations

15(1) The Registrar shall conduct an investigation if the Registrar has reason to believe that an investigation is necessary to ensure compliance with this Act.

(2) The Registrar may refuse to conduct or may cease an investigation with respect to any matter if the Registrar is of the opinion that

(a) the matter is one that could more appropriately be dealt with according to a procedure provided for under another enactment,

(b) the matter is minor or trivial,

(c) dealing with the matter would serve no useful purpose because of the length of time that has elapsed since the matter arose, or

(d) there is any other valid reason for not dealing with the matter.

(3) For the purpose of conducting an investigation, the Registrar may

(a) in the same manner and to the same extent as a justice of the Court of Queen's Bench,

(i) summon and enforce the attendance of individuals before the Registrar and compel them to give oral or written evidence on oath, and

(ii) compel persons to produce any documents or other things that the Registrar considers relevant to the investigation,

and

(b) administer oaths and receive and accept information, whether or not it would be admissible as evidence in a court of law.

(4) An investigation must be conducted in private.

(5) Evidence given by an individual in an investigation and evidence of the existence of an investigation are inadmissible against the individual in a court or in any other proceeding, other than in proceedings for perjury in respect of a statement made to the Registrar.

(6) The Registrar shall not make adverse findings against an individual unless that individual has had reasonable notice of the substance of the allegations against him or her and a reasonable opportunity to present his or her views.

(7) The Registrar, and every individual acting on behalf of or under the direction of the Registrar, may not disclose any information that comes to their knowledge in the performance of their duties and functions under this section, unless

(a) the disclosure is, in the opinion of the Registrar, necessary for the purpose of conducting an investigation under this section or establishing the grounds for any findings or conclusions contained in a report under section 17,

(b) the information is disclosed in a report under section 17 or in the course of a proceeding for perjury in respect of a statement made to the Registrar,

(b.1) the disclosure is, in the opinion of the Registrar, necessary for the purpose of enforcing administrative penalties, or

(c) the Registrar believes on reasonable grounds that the disclosure is necessary for the purpose of advising the Minister of Justice and Attorney General or a law

enforcement agency of an alleged offence under this Act or any other enactment of Alberta or under an Act of Parliament.

(8) The Registrar shall immediately suspend an investigation under this section if the Registrar discovers that the subject-matter of the investigation is also the subject-matter of an investigation to determine whether an offence under this Act or any other enactment of Alberta or under an Act of Parliament has been committed or that a charge has been laid with respect to that subject-matter.

(9) The Registrar may not continue an investigation under this section until any investigation or charge regarding the same subject-matter has been finally disposed of.

...

Report

17(1) After an investigation has been conducted by the Registrar, the Registrar shall prepare a report of the investigation, including findings and conclusions and reasons for the findings and conclusions.

(1.1) The Ethics Commissioner shall submit the report referred to in subsection (1) to the Speaker of the Legislative Assembly.

(2) On receiving the report from the Ethics Commissioner, the Speaker shall lay the report before the Legislative Assembly if it is then sitting or, if it is not then sitting, within 15 days after the commencement of the next sitting.

(3) If the Legislative Assembly is not sitting when the Ethics Commissioner submits the report to the Speaker, the Speaker shall forthwith distribute a copy of the report to the office of each Member of the Legislative Assembly.

(4) After the copies of the report have been distributed under subsection (3), the Ethics Commissioner may make the report public.

(5) Despite subsection (3), if there is no Speaker or if the Speaker is absent from Alberta, the Clerk of the Assembly shall comply with subsection (3) as if the Clerk were the Speaker.

(6) The report may contain details of any payment received, disbursement made or expense incurred by an individual who is named in a return required to be filed under section 4 or 5 in respect of any communication referred to in section 1(1)(f) or any meeting referred to in section 1(1)(f)(ii) if the Ethics Commissioner considers publication of the details to be in the public interest.

Administrative penalties

18(1) Where the Registrar is of the opinion that a person has contravened a provision of this Act or the regulations, the Registrar may, subject to the regulations under subsection (9), by notice in writing served on the person personally or by mail, require that person to pay to the Crown an administrative penalty in the amount set out in the notice for each contravention.

- (2) The maximum amount of an administrative penalty that may be imposed under subsection (1) is \$25 000.
- (3) A person who pays an administrative penalty in respect of a contravention may not be charged under this Act with an offence in respect of that contravention.
- (4) A notice under subsection (1) may not be issued more than 2 years after the date on which the contravention occurred.
- (5) A person who has been served with a notice of administrative penalty pursuant to this section shall pay the amount of the penalty within 30 days from the date of service of the notice.
- (6) A person who has been served with a notice of administrative penalty may appeal the imposition of the penalty in accordance with the regulations under subsection (9).
- (7) Subject to the right to appeal, where a person fails to pay an administrative penalty in accordance with the notice of administrative penalty and the regulations under subsection (9), the Registrar may file a copy of the notice of administrative penalty with the clerk of the Court of Queen's Bench and, on being filed, the notice has the same force and effect and may be enforced as if it were a judgment of the Court.
- (8) Repealed 2009 c5 s8.
- (9) The Lieutenant Governor in Council may make regulations
- (a) respecting the form and contents of notices of administrative penalties for the purposes of subsection (1);
 - (b) prescribing contraventions in respect of which an administrative penalty may be imposed and, subject to subsection (2), prescribing the amounts, or the manner of determining the amounts, of the administrative penalties that may be imposed;
 - (c) respecting appeals from notices of administrative penalties issued under this section;
 - (d) respecting any other matter necessary for the administration of the system of administrative penalties.

Offences and penalties

19(1) A person who contravenes section 4, 5, 6 or 10 or a prohibition imposed under subsection (6) is guilty of an offence.

(2) A person who lobbies without a return being filed as required by this Act is guilty of an offence.

(3) A person who provides false or misleading information in a return filed or other document submitted to the Registrar under this Act is guilty of an offence.

(4) A person does not commit an offence under subsection (3) if, at the time the information was provided, the person did not know that it was false or misleading and, with the exercise of reasonable diligence, could not have known that it was false or misleading.

(5) A person who is guilty of an offence under subsection (1), (2) or (3) is liable

(a) for a first offence, to a fine of not more than \$25 000, and

(b) for a 2nd and each subsequent offence, to a fine of not more than \$100 000.

(6) If a person is convicted of an offence under this Act, the Ethics Commissioner may, if satisfied that it is necessary in the public interest, taking into account the gravity of the offence and the number of previous convictions or administrative penalties imposed, if any, prohibit the person who committed the offence for a period of not more than 2 years from lobbying and from filing or having a return filed in respect of the person.

(7) The Ethics Commissioner may make public the nature of an offence, the name of the person who committed it, the punishment imposed and, if applicable, any prohibition under subsection (6).

(8) If the Ethics Commissioner imposes a prohibition under subsection (6), the Ethics Commissioner shall ensure that information relating to the prohibition is entered into the registry.

(9) A prosecution for an offence may not be commenced more than 2 years after the date on which the contravention occurred.

...

Schedule 2

Organization Lobbyist Return

...

2 The designated filer shall set out in the return for the purpose of section 5 the following information:

...

(c) if the return is filed by a designated filer described in section 1(1)(d)(i) of this Act, **the name of each organization lobbyist in the organization**

(emphasis added)

APPENDIX B



August 24, 2011
Bradley V. Odsen, QC
Registrar, Lobbyists Act
Office of the Ethics Commissioner
1250, 9925 – 109 St. NW
Edmonton, AB T5K 2J8

Re: Alberta Federation of Labour August 18, 2011 Letter

Dear Mr. Odsen,

We obtained the above letter and related attachment from the Alberta Federation of Labour (AFL) website after the AFL issued a press release which then led to a media inquiry of CAPP. In view of the public approach the AFL has taken to their letter, the present letter may be made public.

The Canadian Association of Petroleum Producers (CAPP) represents Canadian oil and gas producers and has a legitimate role and responsibility to represent industry views to governments and work with governments to refute misrepresentations of the oil and gas industry that are clearly not in the best interest of Albertans and Canadians more broadly. CAPP engages with governments on a regular basis, and takes lobbyist registration very seriously. It is our policy to comply strictly with lobbyist registration requirements and we have a compliance program designed to achieve this.

The New West Partnership Energy Memorandum of Understanding (MOU) of December 16, 2010 is a government led initiative. The MOU specifically contemplates in its Guiding Principles collaboration with industry. This collaboration includes looking for new opportunities to jointly collaborate with industry and to support initiatives of mutual interest. CAPP was invited to participate in this collaborative effort. As the AFL letter clearly recognizes, when government invites stakeholder participation in a government initiative, lobbyist registration does not apply.

CAPP has identified member company volunteers to represent CAPP in certain activities related to the MOU including those mentioned in the AFL letter. However, contrary to the assertion in the AFL letter, all three CAPP member volunteers are registered under their member company.

The New West Partnership Energy MOU has been undertaken in light of the importance of the responsible development of energy to the economies of the three provinces: Alberta, British Columbia, and Saskatchewan. It serves the public interest. It is a public and visible initiative. It includes, among many other things, and as is stated in the news release of December 16, 2010, continued promotion of the region's energy goods.

Communications is specifically identified as a Purpose in the MOU. CAPP has raised collaboration on communications in regard to shale gas as an initiative that could be pursued under the MOU. This was raised by CAPP staff members. Those staff members are all registered under CAPP's registration. Thus, contrary to the AFL letter, an industry suggestion for collaboration on communications is within the scope of the MOU.

CAPP would also observe that when government chooses to collaborate with any entity or organization on matters of mutual interest it does not constitute lobbying. It is plainly in the interest of Alberta and Albertans to correct ill-informed campaigns that are designed to discredit Alberta energy and confuse the public so that the economic interests of Albertans are not unjustly injured.

Of course, CAPP shares the concern that the reputation of Canadian energy be maintained. However, the New West Partnership is government led. It is government that decides what projects will be undertaken under the MOU and it is government that decides how those projects will be undertaken. CAPP fully respects the role of government as the decision-maker. CAPP's role is to provide information and input to assist government to make well-informed decisions and to take prudent action.

The AFL characterization of the process is highly inaccurate. Furthermore, AFL's actions in publicly releasing their letter suggest an agenda that focuses less on serving the public good or the real interests of Alberta workers than it does on attacking governments and industry. This approach appears to align closely with other campaigns to unfairly attack Canadian oil and gas to the detriment of the Canadian public and the hundreds of thousands of Canadian workers whose jobs depend on this industry.

While CAPP believes the AFL letter is unfounded, CAPP assures you that it will assist in every way possible in whatever steps you determine are necessary.

Yours sincerely,

"Nikol J. Schultz"

Nikol J. Schultz
General Counsel