



Legislative Assembly of Nunavut

Annual Report

April 1, 2009 to March 31, 2010

Norman Pickell

Integrity Commissioner



Commissaire à l'intégrité du Nunavut Immimut Agviarutiqat tailimanirmut Kamisana

August 31, 2010

The Honourable James Arreak, MLA,
Speaker of the Legislative Assembly of Nunavut,
Iqaluit, Nunavut

Dear Mr. Speaker,

It is an honour to present my second Annual Report of the Integrity Commissioner which covers the period April 1, 2009 to March 31, 2010.

My Report is submitted pursuant to section 57 of the *Integrity Act*.

Respectfully,

Norman Pichell

Norman Pickell

Integrity Commissioner's Annual Report 2009 – 2010

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Annual Report for 2009-2010 of the Integrity Commissioner

Ullukkut

Foreword:

This is my second Annual Report to the Legislative Assembly. It covers the period from April 1, 2009 until March 31, 2010.

Since July 3, 2008, it has been my honour and privilege to be the Integrity Commissioner of Nunavut. The Integrity Commissioner is an independent officer of the Legislative Assembly of Nunavut. This means he or she is free from all influences and outside direction in carrying out his or her duties. The Integrity Commissioner is responsible to the entire Legislative Assembly and to all of Nunavummiut.

Some jurisdictions refer to the person as the Conflict of Interest Commissioner; others call him or her the Ethics Commissioner.

Introduction:

Ethics and integrity remain at the heart of public confidence in government. Avoiding a conflict of interest is part of “integrity.” But integrity embraces much more. Integrity is about values and behaviour.

The document that gave birth to Nunavut’s *Integrity Act* was entitled *For a Culture of Integrity*. The following quote from J. Richard Finlay appeared at the beginning of that document:

“... there is no substitute for a culture of integrity...compliance alone with the law is not enough. History shows that those who make a practice of skating close to the edge always end up going over the line.”

When you have a culture of integrity, you bring integrity to the forefront. You openly discuss it. You constantly practice it. Integrity becomes a way of life.

By calling it the *Integrity Act*, the Legislative Assembly is letting the public know that the emphasis is on integrity, and not simply on avoiding conflicts of interest. The Act focuses on positive behaviour and high standards of conduct, rather than on what cannot be done.

The *Integrity Act* establishes a system of standards and accountability for the conduct of Members of the Legislative Assembly. The Act states that integrity is the first and highest duty of elected office. Each Member must act in a manner that will bear the closest public scrutiny. Nunavummiut expect this of their elected representatives.

Earning the public trust is a constant work in progress.

Activities During 2009-2010

Members' Disclosure Statements:

Transparency of Members' private interests is a fundamental feature of the *Integrity Act*.

All Members of the Legislative Assembly are required to file a Public Disclosure Statement at the times set out in the *Integrity Act*. These statements list the nature and source of their family assets, liabilities and income. I am pleased to report that this year all Members filed their Public Disclosure Statements on or before Friday January 29, 2010, being the date that I had established pursuant to the *Integrity Act*.

Copies of these disclosure statements, including any supplementary ones, are available to the public by contacting the Office of the Clerk of the Legislative Assembly.

Annual Meeting with Members and Their Spouses:

Section 34(1) of the *Integrity Act* requires all Members of the Legislative Assembly to meet, at least annually, with the Integrity Commissioner to obtain advice on their obligations under the *Integrity Act*.

If a Member does not meet with the Integrity Commissioner at least annually for the purpose set out in Section 34(1), that Member would be contravening the *Integrity Act* and could be subject to a Review under Section 40 of the *Integrity Act*.

Section 34(2) of the *Integrity Act* also requires Members of the Legislative Assembly to use their best efforts to have their spouses attend the annual meeting with the Integrity Commissioner.

I was in Iqaluit the first week of March 2010 so that the 18 Members could fulfill their obligations under section 34 of the *Integrity Act*. (The Constituency of Nattilik did not have a Member at the time.)

I am pleased to report that all Members of the Legislative Assembly met the requirement of section 34(1) of the *Integrity Act* for the 2009-2010 fiscal year.

I also met with the spouses of 4 Members when I was in Iqaluit.

In my first Annual Report last year, I made some suggestions for possible amendments to the *Integrity Act*. One of those suggestions had to do with meeting with the spouses of Members.

Advice:

All Members of the Legislative Assembly, including regular Members, Cabinet Ministers and the Premier, know that they can ask the Integrity Commissioner at any time for advice on their obligations under the *Integrity Act*. In fact, I welcome them to do so. This advice is usually given on a confidential basis.

My focus is on prevention. I would rather provide advice before something is done which might be a violation of the *Integrity Act*, instead of receiving a complaint that alleges that a Member has broken the law.

I received requests throughout the year for advice and guidance from the Members as well as from their staff. I encourage this to continue.

Blind Trust Agreements:

The *Integrity Act* recognizes that the public benefits from having Members of the Legislative Assembly who come from a variety of occupations and experience. It is too much of a sacrifice to expect a Member who has a business to sell it upon being elected. Likewise, if a Member has an extensive investment portfolio, he or she should not normally be required to sell the investments.

Accordingly, the *Integrity Act* provides for Blind Trust Agreements as one method of giving the public the confidence it needs in those Members who have a business or investment portfolio. A Blind Trust Agreement allows the business or investments to continue. However, the Member is restricted on what information he or she can receive about the business or the investments and generally does not have any input on the decisions made.

During the period covered by this Annual Report, two Members signed Blind Trust Agreements. I worked with these two Members and their representatives to develop what can now be used as a model for future Blind Trust Agreements in Nunavut.

I encourage any Member of the Legislative Assembly to contact me at any time about blind trusts and how they can be used in their particular circumstances.

Review of the Conduct of Members of the Legislative Assembly:

While the emphasis should be on preventing a breach of the statute, from time to time it is necessary to look at whether a Member of the Legislative Assembly has contravened the *Integrity Act*.

In some jurisdictions, only an elected Member can ask the Integrity Commissioner to conduct a Review of an alleged breach. However, under Nunavut's legislation, any person can ask for a Review of a Member.

Pursuant to section 31 of the *Integrity Act*, no employer can take or threaten any action with respect to the employment of any person because the person has provided information to the Integrity Commissioner.

On October 23, 2009, I found that a Member had breached the *Integrity Act* by allowing his Re-Election Campaign Team to send fundraising letters to Deputy Ministers in the Government of Nunavut during the election campaign leading up to the October 27, 2008 territorial election. A copy of my Report, which was adopted by the Legislative Assembly, is found on the Integrity Commissioner's website.

The Reports from the three prior Reviews that have been conducted since the *Integrity Act* came into force July 1, 2001 are also on the Integrity Commissioner's website.

Executive Assistants and Executive Secretaries:

As a result of changes in November 2008 to the contracts of the Executive Assistants and Executive Secretaries to Cabinet Ministers, the Integrity Commissioner now has a role in helping the Executive Assistants and Executive Secretaries avoid conflicts of interest.

I received inquiries throughout the year from Executive Assistants and Executive Secretaries on their own behalf, as well as on behalf of their Ministers. I encourage this to continue.

I also encourage any Executive Assistant or Executive Secretary to a Cabinet Minister to contact me if he or she thinks a blind trust might be useful for him or her.

Other Inquiries:

In addition to receiving inquiries from the Members of the Legislative Assembly and their staff, the media and the public also contact me from time to time. I respond to the media and the public as best I can. However, much of the work that I do, including most of the advice that I provide, is confidential. Therefore, when speaking to the media and the public, I often have to restrict my remarks to those of a general nature.

Contact with my Colleagues:

Every territory and province in Canada, as well as the House of Commons and the Senate has an Integrity Commissioner, Ethics Commissioner or Conflict of Interest Commissioner. We all belong to the Canadian Conflict of Interest Network - CCOIN.

I attended the CCOIN Annual Meeting in Whitehorse, Yukon in September 2009. We discussed issues with which some of us are having to deal. One of the major topics was "gifts, personal benefits and hospitality." More about that subject will be said later in this Report.

There have been occasions throughout the year when I have needed to consult with my territorial, provincial and federal colleagues. At this time I want to express my appreciation for the collegiality and support shown to me by them. They have helped to make my job much easier.

Statistics for the Period from April 1, 2009 to March 31, 2010:

Number and source of inquiries under the *Integrity Act*:
 (not counting when I was actually in Iqaluit):

MLA/Minister/Premier or their Staff on their behalf	13
Trustees of Blind Trusts	7
Executive Assistants/Executive Secretaries to Cabinet Ministers	6
Media	1
Public	8

Total Inquiries	35

By way of comparison, while I only had 1 inquiry in the month of April 2009, I had 6 inquiries in April 2010.

Of the 8 inquiries from the public, 3 were from residents of Nunavut and 5 were from outside of Nunavut. The inquiries from outside of Nunavut were usually asking about specific sections of Nunavut's *Integrity Act*. But some had to do with the activities of Members.

Number of Blind Trusts Signed:	2
Number of Reviews (Investigations) completed:	1
Number of other complaints received and resolved from my standpoint:	2
In both cases, I determined that I did not have jurisdiction because they were local government issues which are governed by other legislation.	

Nunavut Elections Act.

All Canadian territorial, provincial and federal election statutes have enforcement provisions. Usually these enforcement provisions include the laying of charges by the police and the prosecution of those charges in the courts.

Nunavut and Canada's House of Commons are unique. At the present time, they are the only jurisdictions in Canada which provide for Compliance Agreements as an alternative to judicial enforcement.

Under the *Nunavut Elections Act*, the Integrity Commissioner has the authority to negotiate a Compliance Agreement with persons alleged to have committed offences under that Act.

Compliance Agreements may provide for a variety of sanctions. Notice of the Compliance Agreement is published in the *Nunavut Gazette*.

The *Nunavut Elections Act* also requires the Chief Electoral Officer, the RCMP, the Prosecutor and the Integrity Commissioner to enter into an Enforcement Protocol Agreement outlining the enforcement roles of the various parties. I signed a revised Enforcement Protocol Agreement dated October 1, 2008.

A Territorial General Election was held on October 23, 2008. By-Elections were held on November 3, 2008, December 15, 2008 and March 2, 2009. As a result of the election and by-elections, the Chief Electoral Officer of Nunavut filed complaints against a total of 27 people who had been either candidates or financial agents. As Integrity Commissioner, I offered Compliance Agreements to 23 of those 27 persons. Of those 23, 20 signed a Compliance Agreement and 16 completed the requirements of their Compliance Agreement.

Attached as an Appendix to this Annual Report is a list of the Candidates and Financial Agents to whom I offered a Compliance Agreement and what the results were.

In April 2009, I met with the Chief Electoral Officer of Nunavut and her lawyer. We discussed ways in which the enforcement process can be improved. As a result, the Chief Electoral Officer has proposed some changes to the wording of the *Nunavut Elections Act*.

Travel to Nunavut:

While I have an office in the Legislative Assembly Building in Iqaluit, my main working office is in Goderich, Ontario.

With the assistance of the telephone, email and fax, most of my work as Integrity Commissioner is done from Goderich. I am available to travel to Nunavut whenever the need arises. The only trip to Nunavut that was needed during the period covered by this Report was in March 2010 when I met with the Members, the spouses of some of the Members, some Executive Assistants and Executive Secretaries to Cabinet Ministers, some Deputy Ministers, the Trustee of one of the Blind Trusts and some other officials.

Gifts, Personal Benefits and Hospitality:

In last year's Annual Report, I talked about Members' activities on behalf of Constituents. This year I would like to comment on Gifts, Personal Benefits and Hospitality.

When one hears the word "lobbying," one often thinks of negative things. However, lobbying of Members of the Legislative Assembly by individuals, corporations and non-profit organizations is a legitimate activity. If lobbying is done properly, it is perfectly acceptable – in fact, it is encouraged. For example, a trade organization might make a presentation to several Members of the Legislative Assembly to show why a piece of legislation should be amended to achieve a public good. The result is often a better statute than what was

originally proposed. Another group might lobby for a new arena or medical clinic in their community.

There is a distinction between the formal lobbying that is undertaken by representatives of companies and organizations on one hand and the day-to-day communication and advocacy that ordinary, individual residents engage in with their elected Members.

Even though Nunavut does not have the formal regulation of paid lobbyists which exists in some parts of Canada, lobbyists who are hired by and work for companies should follow a certain protocol.

On the other hand, ordinary individuals who want to talk to their own elected Member of the Legislative Assembly are free to do so. As I said last year in my Annual Report, the *Integrity Act* specifically states that a Member is able – and must be able – to engage in certain activities on behalf of his or her constituents.

Nunavut is unique among Canada's provinces and territories. It has a relatively small population. A Member of the Legislative Assembly likely knows most of his or her constituents by name. As a result, Members in Nunavut communicate on a daily basis with their constituents in a wide variety of surroundings.

Therefore, while in other parts of Canada the most appropriate place for the lobbying of Members to take place is usually the Member's office, that may not always be the case in Nunavut.

A Member of the Legislative Assembly in Nunavut may have a conversation about a particular matter while out hunting or fishing with a constituent. Another constituent might want to talk to the Member when the Member is walking down the street or sitting in an airport departure lounge.

Wherever the conversation takes place, a Member always has to be vigilant to make sure that someone is not trying to improperly obtain special treatment for himself or herself or for another person or business.

The *Integrity Act* states that a Member shall not accept any remuneration, gift or personal benefit that is connected directly or indirectly with the performance of the Member's duties of office. The Member's spouse and the Member's family (as that term is defined in the *Integrity Act*) are also subject to the same prohibition.

But section 1 of the *Integrity Act* states (in part):

"The purpose of this Act is to affirm in law the commitment of the members of the Legislative Assembly to serve always the common good in keeping with **traditional Nunavummiut values**"

The majority of Nunavummiut are Inuit. Traditional Inuit culture places a great deal of emphasis on community, sharing and respect for others. The communities are small. Social times are important. In fact, by virtue of section 2(d) of the *Integrity Act*, Members of the Legislative Assembly are encouraged to participate actively in the social life of their community.

Gifts and personal benefits include, but are not limited to:

1. carvings;
2. gift certificates;
3. meals paid for by someone else; and
4. free tickets to a sporting event or a concert.

There are some exceptions to the general prohibition on accepting gifts and personal benefits. These exceptions are:

1. A gift or personal benefit that is received as an incident of the protocol, customs or social obligations that normally accompany the responsibilities of office.
2. Transportation, accommodation and hospitality if the receipt of the same is unlikely to affect the Member's performance of his or her duties of office.
3. A gift or personal benefit that the Integrity Commissioner has authorized on the basis that it is unlikely to affect the Member's performance of his or her duties of office.

In order to decide whether the gift, personal benefit or hospitality comes within one of the exceptions, all of the circumstances must be considered. The Member should also ask himself or herself:

1. Who is offering the gift, benefit or hospitality?
2. Why is it being offered?
3. What does this gift or hospitality have to do with the performance of my duties as a Member or Cabinet Minister?
4. Is there an expectation that I will do something for the donor in return?

5. What is the value of the hospitality being offered?
6. What would the voters whom I represent think about me accepting the gift, benefit or hospitality?

All Members should keep in mind section 4(b) of the *Integrity Act* which states:

“Each member shall refrain from accepting any remuneration, gift or benefit the acceptance of which **might** erode public confidence and trust in the integrity, objectivity or impartiality of the member, and in all other respects **act in a manner which will bear the closest public scrutiny.**”

The *Integrity Act* uses the phrase “unlikely to affect the Member’s performance of his or her duties of office” when considering some of the exceptions to the prohibition on accepting gifts or hospitality.

I do not want anyone to think that I believe that a Member of the Legislative Assembly in Nunavut can be “bought” for the price of a lunch or a gift. Likewise a Member in Nunavut is not going to be compromised because he or she attends social events during a festive season where the Member has the opportunity to socialize with friends, relatives and colleagues. In my 2 years as Integrity Commissioner I have developed the highest respect for all of the Members with whom I have the privilege of working.

The issues around “gifts, benefits and hospitality” are complex. It is very difficult to come up with absolute rules. Often each situation will be slightly different.

It is preferable for a Member to contact me about a potential gift, benefit or some free hospitality. In fact, there is an expectation that Members will contact the Integrity Commissioner for advice and guidance when such issues arise. Every Member knows how to reach me.

Let me give some examples of what would be considered acceptable and unacceptable gifts, benefits and hospitality for a Member (“MLA”) to receive.

Example 1:

An MLA assisted a constituent with respect to a matter. The constituent wants to give the MLA \$100 to show appreciation. Assisting constituents is one of the MLA’s duties. Therefore, it is not appropriate for the MLA to accept the money. It is also a violation of section 13(1) of the *Integrity Act*, which states that an MLA shall not accept any remuneration, other than the pay and benefits received from the Legislative Assembly for being an MLA, that is connected with the performance of the MLA’s duties.

Example 2:

An MLA assisted a constituent with respect to a matter. The constituent wants to give the MLA a \$50 gift certificate to show appreciation. Gift certificates are treated as the equivalent to cash. Therefore, it is not appropriate for the MLA to accept the gift certificate for the same reason as set out in Example 1.

Example 3:

A person doing business with the Government of Nunavut offers an MLA free tickets to a National Hockey League game. The MLA should not accept the free tickets. If the person wants to discuss business with the MLA, the appropriate place to do so would be in the MLA's office, and not in a corporate box at a hockey arena.

Example 4:

An organization doing business with the Government of Nunavut offers an MLA free tickets to a concert. The MLA proposes to give the tickets away and not keep them. Whether the MLA should accept the free tickets under those circumstances will depend on a number of factors, including where the concert is being held, the value of the tickets and whether it is connected with the culture of Nunavut. If, for example, the ticket was for a concert being held in a Nunavut community that featured amateur Northern performers and had a value of \$25, it would be acceptable for the MLA to take the tickets and give them away. The MLA could even keep the tickets for his or her own use under these circumstances.

Example 5:

Someone doing business (or wanting to do business) with the Government of Nunavut offers to donate some free tickets for a sporting event to a charity of the MLA's choice in the name of the MLA. The MLA should tell the donor to donate the tickets directly to the charity and not attach the MLA's name to them. It is acceptable for the MLA to suggest the name of a charity. But the MLA's name should not be publicized in any way with the donation.

Example 6:

An MLA receives a free ticket to a charitable event from the event's organizing committee. The MLA can accept the free ticket and attend the event.

Example 7:

An MLA receives a free ticket to a charitable event from a corporation who does business in Nunavut. The MLA should refuse to accept the free ticket and not attend the event. Alternatively, the MLA could pay the full price for the ticket and attend the charitable event.

Example 8:

An MLA's child wants to give the MLA a carving worth \$500. That is acceptable, since the gift is being given to a parent, and is not connected in any way to the performance of the MLA's duties of office. And because the gift is not connected to the performance of the MLA's duties of office, the MLA does **not** have to file a Public Disclosure Statement of Gifts and Personal Benefits, even though the value of the gift exceeds \$400.

Example 9:

A resident of the MLA's community who is not a member of the MLA's family wants to give the MLA a carving or a piece of traditional clothing worth \$800. If the resident is a paid lobbyist representing a major company that does business with the Government of Nunavut, the MLA should not accept the gift. However, if the donor of the gift is the carver or maker of the clothing, the protocol of Inuit culture would allow the MLA to accept the carving in most circumstances. Because the gift is worth more than \$400, the MLA will have to file a Public Disclosure Statement of Gifts and Personal Benefits.

Example 10:

A Cabinet Minister visits a Hamlet to make a presentation or announcement and the Hamlet gives the Minister a carving. The Minister can accept the carving as part of protocol. If the carving is worth more than \$400, the Minister will have to file a Public Disclosure Statement of Gifts and Personal Benefits.

Example 11:

A Minister is invited to tour a facility which receives funding from the Minister's Department. Light refreshments will be provided free of charge. The Minister can accept the invitation to attend and can consume the light refreshments.

Example 12:

A group of companies representing a segment of the Nunavut economy invites all of the MLAs to an educational event which includes a free moderately-priced dinner. The invitation can usually be accepted. But it would be prudent to consult my office for guidance.

Example 13:

A single corporation which does business (or hopes to do business) with the Government of Nunavut, or one of its Crown Corporations, invites all of the MLAs to an expensive free “meet and greet” dinner. The MLAs should decline the invitation.

Example 14:

A single airline which is starting up a new service to a community invites several MLAs to the official opening ceremonies at which free food will be available. The MLAs can accept the invitation.

Example 15:

A Cabinet Minister goes out for dinner with someone who does business with the Minister’s Department. The Minister pays for his or her own dinner. That is acceptable since there is no free hospitality. But the fact that the Minister paid for his or her own meal should be documented in case someone later asks about it.

Example 16:

A company who does business with the Government of Nunavut invites all of the MLAs to a Christmas reception at which light refreshments and snack food will be served. There will be other invited guests at the reception from a cross-section of the community. It is acceptable for all of the MLAs to attend the reception. The key is that the event has representation from a broad segment of the community in attendance, as opposed to simply having MLAs present.

Example 17:

An MLA is invited to a free dinner as part of a celebration in the MLA’s constituency. Everyone in the constituency is invited to come free of charge. The MLA can accept the invitation.

Example 18:

An MLA is invited to a free dinner as part of a celebration in the MLA’s constituency. Everyone in the constituency is invited to come, but they have to pay for their own ticket. The MLA should pay for his or her own ticket too.

Example 19:

An MLA is invited to a gathering of elders in his or her community at which the MLA will be offered country food along with tea and bannock. The MLA can accept the invitation.

Example 20:

A company whose business is very important to the economy of Nunavut invites all of the MLAs to tour its facilities. The invitation includes a free flight to the facilities and a free dinner. The purpose of the visit is to give the MLAs an opportunity to see first hand the unique facilities. There is no other practical way to give the MLAs a good understanding of what this company does. In all likelihood, it would be acceptable for the MLAs to accept the invitation. However, the most prudent course of action is to consult my office for guidance. If the free flight and free dinner are accepted, each MLA will have to file a Public Disclosure Statement of Gifts and Personal Benefits (since the total value will likely exceed \$400).

Example 21:

Another company whose business is also very important to the economy of Nunavut invites all of the MLAs to visit its facilities. The invitation includes a free flight and a free dinner. The purpose of the visit is to give the MLAs an opportunity to see first hand the company's operations. But the facilities are not unique. In addition, the company could provide the MLAs with a video of their facilities. Any MLA who is considering accepting the free invitation to visit the facilities should consult my office for guidance. However, it would be acceptable for the MLAs to pay their own way, including the flight and the meal.

Example 22:

A Cabinet Minister is invited to speak to a conference that deals with that Minister's Department. The Minister can accept the invitation to eat a free meal at the conference. But the Minister should have his or her Department pay for his or her own transportation and accommodation at the conference.

Example 23:

A mining company opens a new mine in Nunavut. Several MLAs are invited to attend the opening ceremonies. At the opening ceremonies, the mining company presents each of the MLAs with an item made from the product of the mine. The MLAs are able to accept the gifts as an incident of protocol. However, if the gift is worth more than \$400, each MLA will need to file a Public Disclosure Statement of Gifts and Personal Benefits.

These examples are only some of the many situations that a regular Member or Cabinet Minister can encounter.

I encourage a Member to contact me about a potential gift, benefit or some free hospitality. Then we can discuss the specific situation in order to determine if the Member should accept the offer.

Instead of having 5 or 10 MLAs contacting me individually about the same event, it would be preferable for an organization or business to contact me directly to see if what is being proposed is acceptable. This is often done in other jurisdictions.

The *Integrity Act* states that if a Member or his spouse or any other member of his family (as defined in the *Integrity Act*) receives a single gift, benefit or hospitality which exceeds \$400 in value, the Member must file a Public Disclosure Statement of Gifts and Personal Benefits with the Clerk of the Legislative Assembly. The Disclosure Statement must also be filed if the Member and his family receive gifts and benefits from one source which exceed \$400 in any 12-month period.

But the filing of the Gift Disclosure Statement only applies if the gift, personal benefit or hospitality should have been received in the first place. The filing of the Gift Disclosure Statement does not make an inappropriate gift an acceptable gift. In other words, first decide if the gift is acceptable. If the answer is "No," then the Member should not accept the gift. If the gift is acceptable, then look at the value of the gift to decide if a Public Disclosure Statement of Gifts and Benefits needs to be filed.

Copies of the Public Disclosure Statement of Gifts and Personal Benefits Form which Members file are available to the public by contacting the Office of the Clerk of the Legislative Assembly.

Observations and Recommendations

Behaviour of the Members in the Legislative Assembly:

Again I want to commend the Members for their behaviour in the Legislative Assembly. It was a privilege for me to sit in the public gallery in March 2010 and observe the proceedings.

In some jurisdictions in Canada, the Members' conduct in the Legislative Assembly falls below the standard of acceptable behaviour. However, based on my personal observations, this is not true in Nunavut.

Future Possible Amendments to the Integrity Act:

As I have already stated, in my first Annual Report last year, I made some suggestions for possible amendments to the *Integrity Act*. They are attached as an Appendix to last year's Annual Report.

I understand that the suggestions that I made last year for possible amendments are being considered by the Management and Services Board of the Legislative Assembly.

This year I am suggesting that there be some amendments to two sections of the *Integrity Act*.

Section 46(1)(e) presently reads as follows:

“If, after a review, the Integrity Commissioner finds that the member has contravened this Act, the Integrity Commissioner shall, in his or her report, recommend one or more of the following:

(e) that the member **be ordered to** pay a fine not exceeding \$10,000;”

None of the other recommendations listed in section 46(1) use the phrase “be ordered to.” Section 50(1) says (in part):

“If the Legislative Assembly accepts the Integrity Commissioner’s recommendations the Legislative Assembly shall be **deemed to have ordered** the recommendations”

Therefore, in my respectful opinion, the words “be ordered to” in section 46(1)(e) are redundant and should be deleted.

Section 50(1) presently reads as follows:

“If the Legislative Assembly accepts the Integrity Commissioner’s recommendations the Legislative Assembly shall be deemed to have ordered the recommendations **and the recommendations may be filed with the Nunavut Court of Justice and shall be enforceable as an order of the Court.**”

The recommendations listed in section 46(1) include:

- a reprimand by the Legislative Assembly;
- an acknowledgement by the member in the Legislative Assembly of his or her conduct;
- a suspension of the member’s right to sit and vote in the Legislative Assembly; and
- declaring the member’s seat vacant.

None of those recommendations listed above need the Nunavut Court of Justice to be enforced. They can and should be enforced by the Legislative Assembly itself.

The only sanctions which might need to be enforced through the Nunavut Court of Justice are fines, restitution and compensation payments and costs.

Accordingly, I respectfully suggest that section 50(1) be amended so that it reads as follows:

"If the Legislative Assembly accepts the Integrity Commissioner's recommendations the Legislative Assembly shall be deemed to have ordered the recommendations."

I would, then, respectfully suggest that a new section 50(3) be added to read:

"Any fine, restitution, compensation and costs ordered by the Legislative Assembly to be paid by a member pursuant to section 50(1) may be filed with the Nunavut Court of Justice and shall be enforceable as an order of that Court."

These suggested amendments to sections 46 and 50 have been discussed with the Department of Justice and with the Clerk of the Legislative Assembly. I thank the Department of Justice for having initially raised these matters with me.

Expansion of Accountability:

As I have already stated, *For a Culture of Integrity* formed the basis of Nunavut's *Integrity Act*.

The *Integrity Act*, which covers only Members of the Legislative Assembly, sets an example of honesty, openness and accountability for all who govern and administer the Territory.

As noted on page 20 of *For a Culture of Integrity*, in 1999 the Northwest Territories Review Panel made the following recommendations:

34. Deputy Ministers and those functioning at an equivalent level should be subject to the same standards as Ministers. Those standards should be legislated and should include the filing of an annual financial statement and an annual meeting with the Conflict of Interest Commissioner.
36. Such appointed officials should be subject to post-employment restrictions with respect to lobbying activities and assuming employment with organizations that had significant dealings with their department or agency. The period of restriction should be six months.

When the Legislative Assembly of Nunavut passed the *Integrity Act* in 2001, it was decided the Act should focus at that time exclusively on persons elected to the Legislative Assembly.

Since then, the first Integrity Commissioner, the Honourable Robert Stanbury, has suggested on several occasions that perhaps the time has come to complete the system of standards and accountability to cover senior unelected officials in expanded or parallel legislation.

In his 2004-2005 Annual Report, Commissioner Stanbury made the following comment:

"Remaining unresolved is the longstanding recommendation that Deputy Ministers and those functioning at an equivalent level be subjected to the same legislated standards as Ministers."

The 2006-2007 Annual Report of the Integrity Commissioner had the following paragraph:

"Attention could ... be turned to expanding the reach of now-established principles of public integrity to the entire governance and administration of the Territory. Senior officials still lack a system of legislated standards and accountability similar to that self-imposed by legislators. A code of conduct for all Government of Nunavut employees is said to be under study, as well as "whistle-blowing" protection for disclosure of wrong-doing. The value of lobbyist regulation, introduced by other jurisdictions, might be considered. All these initiatives have the potential to contribute to a Nunavut-wide culture of integrity in its public institutions."

From my reading of past Annual Reports of the Integrity Commissioner, it appears that the "code of conduct" referred to above has been under study in Nunavut since 2003.

As I have already mentioned, Executive Assistants and Executive Secretaries to Cabinet Ministers now have some of their actions scrutinized by the Integrity Commissioner. I am also aware that some of the terms of employment for Deputy Ministers and Heads of Crown Corporations are similar to many of the concepts in the *Integrity Act*. Those are good first steps.

With the recent Rahim Jaffer affair, the spotlight has again been shone on the lobbyists in Ottawa. Perhaps it is time to give the topic of lobby regulation more consideration in Nunavut. In my respectful opinion, there should be rules to ensure that lobbying is done ethically and transparently.

Closing Remarks

Integrity Commissioner's Website:

The Integrity Commissioner's website is found at www.integritycom.nu.ca.

The website includes general information about the *Integrity Act*, a complete copy of the Act, all of the Annual Reports which are submitted by the Integrity Commissioner to the Legislative Assembly, any Special Reports which are prepared by the Integrity Commissioner, Reviews that have been done concerning the conduct of Members, the blank Public Disclosure Forms, and information about the Integrity Commissioner, including how to contact him.

Tributes and Appreciation:

I am thankful for the cooperation and assistance that I received throughout the year from the Clerk of the Legislative Assembly and all of his staff, the Law Clerk and the Chief Electoral Officer and her staff.

I also appreciate the courtesy and cooperation that I have received from the Members of the Legislative Assembly this past year.

I am grateful for the opportunity to be of service to Nunavummiut.

Nakurmiik.

**Norman Pickell
Integrity Commissioner
August 31, 2010**

Appendix to Integrity Commissioner's Annual Report 2009-2010

NUNAVUT ELECTIONS ACT - COMPLIANCE AGREEMENTS

A. Each of the following persons, being either a candidate or a financial agent for a candidate in the Nunavut General Election of October 27, 2008, signed a Compliance Agreement with the Integrity Commissioner pursuant to section 231 of the Act, and has complied with such Agreement:

Elijah Amarook	Baker Lake	Napatchie McRae	Iqaluit
Levinia Brown	Rankin Inlet	Sheila Napayok	Arviat
Donald Havioyak	Kugluktuk	Kakki Peter	Iqaluit
Louie Kamookak	Gjoa Haven	Harry Tootoo	Chesterfield Inlet
Johnny Manning	Sanikiluaq	Celestino Uyarak	Igloolik

B. Each of the following persons, being either a candidate or a financial agent for a candidate in one of the By-elections held on December 15, 2008 and March 2, 2009, signed a Compliance Agreement with the Integrity Commissioner, and has complied with such Agreement:

Elisiusi Alakanuark	Kugaaruk	Marie Kringuk	Repulse Bay
Ovide Alakanuark	Kugaaruk	Marius Tungilik	Repulse Bay

C. In summary, each person listed in A and B above acknowledged having breached the Act by failing to comply with certain financial filing requirements and

- accepted responsibility for such breach,
- recognized the importance of compliance with the Act,
- paid a fine to the Government of Nunavut,
- made a public apology for failure to comply with the Act, and
- promised to respect and comply with the Act in the future.

D. The following person, being a candidate in the Nunavut General Election of October 27, 2008, signed a Compliance Agreement with the Integrity Commissioner, and has complied with such Agreement:

Joanna Haulli Quassa	Igloolik
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In summary, she acknowledged having breached the Act by failing to comply with certain financial filing requirements and

- accepted responsibility for such breach,
- recognized the importance of compliance with the Act,
- paid a fine to the Government of Nunavut, and
- promised to respect and comply with the Act in the future.

E. The following person, who filed a declaration of candidacy in the Nunavut General Election of October 27, 2008 when she did not meet the residency requirement, signed a Compliance Agreement with the Integrity Commissioner, and has complied with such Agreement:

Okalik Eegeesiak Iqaluit

In summary, she

- paid a fine to the Government of Nunavut, and
- made a public apology.

F. The following persons, being either a candidate or a financial agent for a candidate in the Nunavut General Election of October 27, 2008, signed a Compliance Agreement with the Integrity Commissioner, but **did not comply** with the Agreement:

Uriah Amaruq Baker Lake Joe Sageatook Iqaluit

G. Each of the following persons, being either a candidate or a financial agent for a candidate in the By-election held on November 3, 2008 signed a Compliance Agreement with the Integrity Commissioner, but **did not comply** with the Agreement:

Zeke Ejesiak Cape Dorset Josie Sharky Cape Dorset

H. Each of the following persons, being a financial agent for a candidate in the Nunavut General Election of October 27, 2008, was offered a Compliance Agreement with the Integrity Commissioner, but **refused to sign** a Compliance Agreement:

Royden Aggark Arviat Jacopoosie Peter Iqaluit
Mike Patterk Rankin Inlet

Iqaluit, May 18, 2010

Norman Pickell
Integrity Commissioner of Nunavut