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The Commissioner

Public Inquiry into Foreign Interference in  
Federal Electoral Processes and Democratic  
Institutions

Dear Commissioner:

**Re: Commission Hearings of Week of January 29**

On behalf of our client, Michael Chan, we provide submissions with respect to the legal and logistical challenges discussed during the hearings of the week of January 29, 2024.

Mr. Chan is former member of the Ontario Legislative Assembly, a former cabinet minister in the Ontario government and is now a City Councillor in the City of Markham.

Our comments relate to processes that might be considered by the Commission if the federal government agrees to the public disclosure of classified documents (in a redacted or unredacted form) or summaries of information contained in such documents.

The comments are provided from the perspective of an individual who has been the subject of press articles apparently based upon leaked classified information.

In particular, press reports have indicated that classified CSIS documents have suggested that Mr. Chan may have been instrumental in, and improperly acted in connection with, Mr. Geng Tan not receiving the nomination as Liberal candidate for Don Valley North in the federal election of 2019 and Mr. Han Dong becoming that nominee.

Mr. Chan first wishes to state that any opinion formed by CSIS that he has acted improperly is incorrect.

Mr. Chan does not know the information that CSIS may have relied upon in forming any such opinion but must question its reliability or the analysis/synthesis by CSIS of that information.

Mr. Chan has never had any opportunity to see or challenge such information. Indeed, Mr. Chan has never been asked by CSIS to discuss any concerns it might have.

Mr. Chan appreciates that this Inquiry is a broad inquiry and that it is not confined to information that would be admissible in a court.

At the same time, the publication of (possibly flawed) CSIS investigations and analysis about the alleged actions of individuals present challenges. The publication of CSIS documents containing allegations, in the minds of a cross-section of the public, may well be treated as proof of such allegations and may unjustifiably cause harm to the reputation of individuals.

Mr. Chan is personally aware of this reality.

An issue to be considered may therefore be how to reduce the risk of such harm.

We assume that to the extent the Canadian Government agrees that classified documents (redacted or unredacted) or summaries may be disclosed that the Commission counsel or participants may seek to introduce some of these documents into the public record.

Although we are not aware of the form and content of such documents, the report of the Special Rapporteur suggests that the documents may, at least in part, be based on information that was conjecture or hearsay (or even rumour).

Given the possibility that a cross-section the public might tend to equate the information or statements in such documents as "evidence" or even "proof", it may be appropriate that any publication of classified documents containing allegations against, or information related to, any individual be accompanied by an explanation of the possible frailties inherent in the creation such information.

This will not avoid all harm being caused but may serve to limit it somewhat.

A further consideration for the Commission is the form of any such documents to be produced to counsel.

Normally, the rights of individuals to challenge and rebut information impacting them should be real rights, which would suggest significant detail should be provided of allegations and evidence. However, even if the Federal Government allows the Commission to provide some previously classified documentation (or summaries) to counsel, the discussion during the week of January 29, 2024 suggests it would, given the nature of the intelligence process, be highly resistant to (or even legally prohibited from) providing any significant detail.

It is not clear to the writer at present whether there is any solution to this dilemma.

Yours very truly,  
MILLER THOMSON LLP



John J. Chapman  
c.c Andy Chan

