

OFFICE OF THE SENATE ETHICS OFFICER



Inquiry Report

**under the *Ethics and Conflict of Interest Code for Senators*
concerning former Senator Don Meredith**

June 28, 2019

REQUEST FOR INQUIRY

By way of a letter dated July 15, 2015, Senator Leo Housakos (“Senator Housakos”)¹ made a request under paragraph 47(2)(b) of the *Ethics and Conflict of Interest Code for Senators* (the “Code”) that my predecessor conduct an inquiry in order to determine whether then Senator Don Meredith (“Mr. Meredith”)² had complied with his obligations under the Code. Senator Housakos’ request was based on information contained in a workplace assessment report commissioned by the Standing Senate Committee on Internal Economy, Budgets and Administration (“the CIBA”) and entitled *Report of Evidence Relating to the Workplace in the Office of Senator Don Meredith* (“the Workplace Report”). The Workplace Report was dated July 13, 2015.

Senator Housakos argued that, based on the contents of the Workplace Report, he had reasonable grounds to believe that Mr. Meredith, who at that time was a Senator, had not complied with his obligations under the Code. He did not go into detail other than to refer to the contents of the Workplace Report, which he alleged contained “prima facie evidence of abusive authority, harassment and sexual harassment”. He took the position that the conduct described in the Workplace Report would be a breach of sections 7.1, 7.2 and 8 of the Code. Sections 7.1 and 7.2 mandate ethical conduct generally, and in the performance of parliamentary duties. Subsections 7.1(1) and 7.1(2) require that a Senator’s conduct uphold the highest standards of dignity inherent to the position of Senator and that a Senator refrain from acting in a way that could reflect adversely on the position of Senator or the institution of the Senate. Section 7.2 requires a Senator to perform his or her parliamentary duties and functions with dignity, honour and integrity. Section 8 addresses conflicts of interest. Section 8 prohibits a Senator from acting or attempting to act in a way to further his or her private interests or those of a family member, or to improperly further the private interests of another person or entity, when performing parliamentary duties and functions.

On July 16, 2015, Senator Housakos issued a press release informing the public that the CIBA had received the Workplace Report on July 14, 2015 and, following a careful review and discussion of the information contained therein, the Steering Committee had concluded that it was imperative that the matter be referred to the Senate Ethics Officer.³

On August 18, 2015, my predecessor informed Senator Housakos that his complaint did not set out “reasonable grounds” as it did not provide sufficient detail for his belief that Mr. Meredith had not complied with his obligations under the Code. In order to address this issue, Senator Housakos sent a further letter with clarifications concerning his reasonable grounds, dated August 25, 2015. In this second letter, Senator Housakos stated that the allegations in the Workplace Report recount a history and pattern of misuse of Senate resources and abusive behaviour. He again referred to

¹ Appointed for the province of Quebec (Wellington).

² Former Senator Meredith was appointed for the province of Ontario on December 18, 2010. He resigned from the Senate on May 10, 2017 following a report from the Standing Senate Committee on Ethics and Conflict of Interest for Senators, dated May 2, 2017, on a separate and unrelated matter.

³ The Code does not contemplate a Senate committee making a request for an inquiry to the Senate Ethics Officer. Subsection 47(2) provides that the Senate Ethics Officer must conduct a preliminary review if he or she (a) has reasonable grounds to believe that a Senator has not complied with his or her obligations under the Code; or (b) receives a request from a Senator who has reasonable grounds to believe another Senator has not complied with his or her obligations under the Code. As such, a request may only be made by a Senator acting on his or her own initiative, rather than a group of Senators acting together. Moreover, the Code does not contemplate a Senator making a request for an inquiry acting in his or her capacity as a designated official of the Senate, for example, the Chair of a committee, the Leader of Government in the Senate, the Leader of the Opposition, or the Speaker of the Senate.

“prima facie evidence of abusive authority, harassment and sexual harassment” and provided specific page references in the Workplace Report for each of these allegations to substantiate his belief. This provided sufficient detail for my predecessor to be able to proceed with the request for an inquiry into the matter.

Use of the Workplace Report for the purposes of the inquiry was and still is problematic. Although I have a copy of it and have examined it thoroughly, my predecessor had been instructed by the CIBA on January 26, 2016 that this document formed part of *in camera* proceedings, is protected by parliamentary privilege and any unauthorized disclosure could be treated as a breach of privilege. As such, I am not permitted to disclose its contents.⁴ It follows that I was not permitted to relay its contents to any of the participants in the inquiry, with the exception of Mr. Meredith who, as the Senator who was the subject of the Workplace Report, had already received a copy from the CIBA once the Workplace Report had been prepared.

PROCESS

There were a number of complicating factors that affected the progress of this inquiry, some of which will be described further below. At all times, I ensured that I respected my obligations under the *Code*, Mr. Meredith’s rights under the *Code*, and the scope of the provisions of the *Code* at issue, two of which (sections 7.1 and 7.2) have been little tested. One of those provisions, section 7.1, has been considered twice in a Senate Ethics Officer’s inquiry and the other, section 7.2, only once. Section 8 of the Code was no longer relevant after a certain point, as will be described in detail below.

Once the more detailed request for an inquiry had been received from Senator Housakos, my predecessor forwarded this request to Mr. Meredith on August 27, 2015, in accordance with paragraph 47(4)(b) of the *Code*. In a letter accompanying Senator Housakos’ request, my predecessor advised Mr. Meredith that, pursuant to paragraph 47(2)(b) of the *Code*, the Senate Ethics Officer would be conducting a preliminary review of this matter in order to determine whether an inquiry was warranted. My predecessor also provided Mr. Meredith 15 days within which to respond to the allegations, in accordance with subsection 47(7) of the *Code*.

By letter dated September 11, 2015, Mr. Meredith’s counsel submitted that his client “disagrees vehemently with, and categorically denies, a great many of the reported comments and observations contained in the [Workplace Report]”. Counsel also argued that this correspondence was not the proper place to go into substantive detail with respect to those disagreements.

However, he took the position that, “at first glance, it appears that there are at least elements of the Workplace Report that properly fall within the jurisdiction of the SEO’s investigative functions”. He indicated that he was prepared to ask his client to produce point by point written comments on the relevant contents of the Workplace Report, including submissions as to their completeness and veracity.

On September 29, 2015, my predecessor wrote to Mr. Meredith’s counsel to confirm that, as noted in her letter of August 27, 2015, Mr. Meredith had been given 15 days for the very purpose of making submissions in respect of the allegations, which counsel had failed to do in his letter of

⁴ Letter to the Senate Ethics Officer from Senator Leo Housakos, Chair of the Standing Senate Committee on Internal Economy, Budgets and Administration, dated January 26, 2016.

September 11, 2015. In that same letter, my predecessor advised counsel that, since he seemed to have misunderstood that the 15 day timeframe was provided for the purpose of providing written submissions, she granted Mr. Meredith an extension of a further 15 days, pursuant to subsection 47(8) of the *Code*, in order to respond to the allegations.

Mr. Meredith's counsel provided my predecessor with an extensive response on October 14, 2015. In his letter, counsel again stated that Mr. Meredith denied in large part the Workplace Report's characterization of the workplace within his office. However, he also stated that there were clearly areas and issues identified where improvements could be made. Counsel advised that Mr. Meredith was committed to taking action, in cooperation with the Senate Administration and his Senate staff, to ensure that his office was an inclusive, supportive, and respectful workplace. Counsel also informed my predecessor that Mr. Meredith was, at that time, investigating potential training or coaching programs that would assist him in striving towards this objective. Counsel informed my predecessor that she would be kept updated on the status of these efforts. We received no further updates on this matter from either Mr. Meredith or his counsel.

Mr. Meredith's counsel informed my predecessor that Mr. Meredith was particularly committed to ensuring that new staff members would receive the support, training, and guidance necessary for them to succeed. Counsel noted, however, that this issue also has systemic dimensions. He argued that both Mr. Meredith's office and the Senate as a whole could and should strengthen the training and support provided to Senators' staff.

Counsel also made a number of submissions in respect of the specific allegations that had been raised in the Workplace Report.

He also raised procedural issues concerning hearsay evidence. He took the position that hearsay evidence could not form the basis of the findings of a preliminary review (or an inquiry, should one be undertaken). He argued that any findings my predecessor made should be based on the direct evidence of witnesses. In particular, he argued that my predecessor could not rely on the Workplace Report itself as evidence of any particular fact, and that she could not rely on the attributed statements of third parties as evidence of the truth of those statements.

My predecessor responded to these concerns by way of a detailed correspondence, dated December 10, 2015, in which she advised counsel that proceedings under the *Code* are not court-like proceedings. They are administrative proceedings. Moreover, the Senate Ethics Officer's activities under the *Parliament of Canada Act*⁵ and related to the *Code* are not judicial or quasi-judicial in nature.⁶

She also advised counsel that administrative bodies are masters of their own proceedings⁷ and that administrative bodies are not bound by the strict rules of evidence.⁸

⁵ RSC 1985, c.P-1, ss. 20.1 to 20.7.

⁶ *Tafler v. British Columbia (Commissioner of Conflict of Interest)*, 1995 CanLII 1367 (BCSC).

⁷ For this principle, see, for example, *Prassad v. Canada (Minister of Employment & Immigration)*, [1989] 1 SCR 560; *Burnbrae Farms Ltd. v. Canadian Egg Marketing Agency*, [1976] 2 FC 217; and *International Longshore and Warehouse Union Local 500 v. Palm*, 2015 FC 1228.

⁸ The jurisprudence concerning this principle is clear. For example, in *Canadian Recording Industry Assn. v. Society of Composers, Authors and Music Publishers of Canada*, 2010 FCA 322, the Federal Court of Appeal stated the following at paragraph 20:

Specifically in relation to the issue of hearsay, in *Basra v. Canada (Attorney General)*,⁹ the Federal Court of Appeal was clear at paragraph 21:

The adjudicator is not bound to accept hearsay evidence but he cannot reject it out of hand simply because it is hearsay. The issue is whether it is reliable ... *It was unreasonable, and an error of law, for the adjudicator to conclude that evidence was not to be considered simply because it was hearsay.* [Emphasis added]

Administrative bodies are meant to apply accessible, informal procedures that should remain unencumbered by technical rules such as the laws of evidence, given that administrative bodies serve a different function than the courts. The policy considerations are different. With respect to similar inquisitional processes, like public inquiries, in *Canada (Attorney General) v. Canada (Commissioner of the Inquiry on the Blood System) (T.D.)*,¹⁰ the Federal Court (Trial Division) referred to their broad public purpose, at paragraph 143:

Inquiries are not governed by the strict rules of evidence. Their broad public purpose is generally facilitated by relaxed rules regarding the admission of hearsay and other evidence that is not strictly admissible in judicial proceedings.

Finally, subsection 20.5(2) of the *Parliament of Canada Act* provides that the Senate Ethics Officer is cloaked with the privileges and immunities of the Senate and its members when carrying out the duties and functions of his office. One of these privileges is to conduct proceedings under the *Code* as the Senate Ethics Officer sees fit. The British Columbia Court of Appeal in *Tafler v. Hughes*,¹¹

In any event, the Board is not a court; it is an administrative tribunal. While many tribunals have specific exemptions from the obligation to comply with the rules of evidence, there is authority that even in the absence of such a provision, they are not bound, for example, to comply with the rule against hearsay evidence.

The Court then went on to cite, with approval, *Alberta (Workers' Compensation Board) v. Appeals Commission*, 2005 ABCA 276, [2005] AJ No. 1012, in which the Alberta Court of Appeal wrote as follows at paragraphs. 63-64:

While rules relating to the inadmissibility of evidence (such as the Mohan test [[1994] 2 S.C.R. 9) in a court of law are generally fixed and formal, an administrative tribunal is seldom, if ever, required to apply those strict rules: *Practice and Procedure before Administrative Tribunals* at 17-11. "Tribunals are entitled to act on any material which is logically probative, even though it is not evidence in a court of law": *T.A. Miller Ltd. v. Minister of Housing and Local Government*, [1968] 1 W.L.R. 992 at 995 (C.A.); *Trenchard v. Secretary of State for the Environment*, [1997] E.W.J. No. 1118 at para. 28 (C.A.). See also *Bortolotti v. Ontario (Ministry of Housing)* (1977), 15 O.R. (2d) 617 (C.A.).

This general rule applies even in the absence of a specific legislative direction to that effect. While many statutes stipulate that a particular tribunal is not constrained by the rules of evidence applicable to courts of civil and criminal jurisdiction, "these various provisions do not however alter the common law; rather they reflect the common law position: in general, the normal rules of evidence do not apply to administrative tribunals and agencies": *Administrative Law*, supra, at 279-80.

⁹ 2010 FCA 24 (CanLII).

¹⁰ [1996] 3 FC 259.

¹¹ [1998] BCJ No. 1332; 161 DLR (4th) 511.

quoting Mr. Justice Melvin of the Supreme Court of British Columbia, explained this concept at paragraph 16:

*... the Commissioner is acting for and on behalf of the Legislative Assembly in providing that body with information and opinion. The nature of the investigation relates to the functioning of the member of the Legislative Assembly. Control over members or a member, or sanction of a member, remains with the Legislative Assembly. In my opinion, information gathering which may assist the Assembly in dealing with its own members is a vital step in the decision of the legislature and is necessary to the proper functioning of the Assembly as McLachlin J. referred to in [...] the *New Brunswick Broadcasting* decision. Consequently, the manner in which it chooses to deal with its members in the context is one cloaked with privilege, the exercise of which is not reviewable. [Emphasis added]*

As such, for the reasons outlined in her letter, my predecessor informed counsel of her conclusion that she could rely on hearsay evidence where it is reliable.

This concluded the preliminary review stage and, by letter dated December 10, 2015, my predecessor informed Mr. Meredith, pursuant to subsection 47(10) of the *Code*, of her decision that an inquiry was warranted pursuant to paragraph 48(2)(a). She first delivered this decision to Mr. Meredith, pursuant to subsection 47(14) of the *Code*, and then to Senator Housakos, pursuant to subsection 47(15).

In her detailed letter, my predecessor provided the reasons for her conclusion that sections 7.1, 7.2 and section 8 were engaged by Mr. Meredith's alleged conduct and explained that she had concerns about his compliance with these provisions of the *Code*. She also made reference to the principles of the *Code* as expressed in section 2. In particular, she referred to subsection 2(1) requiring Senators to give precedence to their parliamentary duties and functions over any other duty or activity. Paragraph 2(2)(b) was noted – requiring that Senators fulfill their public duties while at the same time upholding the highest standards and maintain and enhance public confidence and trust in the integrity of each Senator and in the Senate. Finally, paragraph 2(2)(c) requires that Senators arrange their private affairs so that foreseeable real or apparent conflicts may be prevented.

I should note that during the preliminary review of this matter, a number of former employees of Mr. Meredith who had participated in the workplace assessment and were featured in the Workplace Report, made a request to my predecessor to be provided with access to the portions of the Workplace Report that reflected statements and comments attributed to them. Some made this request through their respective counsel. In some cases, this request was made as a condition of their participation in this inquiry.

Since the Workplace Report had been commissioned by the CIBA but had never been made public, my predecessor sought the CIBA's permission to provide access to these former Senate employees of Mr. Meredith by way of letter dated December 15, 2015 to the then Chair of the Committee, Senator Housakos. As already noted earlier in this inquiry report, in a letter to my predecessor dated January 26, 2016, Senator Housakos, on behalf of the CIBA, advised my predecessor that the Workplace Report formed part of *in camera* proceedings of the Committee and that any

unauthorized disclosure of the Workplace report could be treated as a breach of parliamentary privilege.

As a result of this decision, the Office of the Senate Ethics Officer communicated with the various former employees, or their counsel where they were represented by counsel, and relayed the fact that the Senate Ethics Officer was not authorized to provide them with the access they had requested. Notwithstanding the denial of these requests, none of the former employees whose evidence was relevant to this inquiry did not cooperate with the Office of the Senate Ethics Officer by reason only of the fact that they did not have access to the Workplace Report.

The inquiry then ensued. But on May 10, 2017, Mr. Meredith resigned from the Senate and, pursuant to subsection 48(21), my predecessor was required to permanently suspend the inquiry into this matter, unless the Standing Senate Committee on Ethics and Conflict of Interest for Senators (“the Committee”) decided otherwise.

On June 21, 2017, the Committee tabled its Third Report in the Senate, which instructed the Senate Ethics Officer to continue the inquiry in this matter. My predecessor resumed the inquiry that same day. (Due to unforeseen circumstances, she resigned on June 30, 2017 and I was appointed Interim Senate Ethics Officer on July 10, 2017 and appointed Senate Ethics Officer for a 7-year term on January 10, 2018.)

While the inquiry was underway, I received information that ultimately gave me reasonable grounds to believe that Mr. Meredith may have committed an offence under the *Criminal Code*. As such, on November 2, 2017, I contacted the Ottawa Police by telephone without providing any details about the reason for my call and asked to meet with the Chief of Police. My request for a meeting was granted and on November 9, 2017, pursuant to my obligations under subsection 52(5) of the *Code*, I notified him of this reasonable belief and the grounds for it. By letter dated December 1, 2017, the Ottawa Police requested that I suspend my inquiry into this matter while the police investigation was underway. I complied with this request and suspended the inquiry under paragraph 52(1)(b) of the *Code* that same day (December 1, 2017) in order to avoid causing prejudice to the police investigation in this matter. On April 12, 2018, I received a letter from the Ottawa Police advising me that it had closed its investigation into this matter. As a result of this, I resumed my inquiry, effective that same day, i.e., on April 12, 2018.

My predecessor interviewed Mr. Meredith once under oath and with his counsel present. Mr. Meredith’s interview was conducted in person at my office. The interview was conducted over two days, on March 9, 2016 and March 11, 2016. I have carefully reviewed the transcripts of this two part interview for the purposes of this inquiry.

My predecessor and I also interviewed six former Senate employees of Mr. Meredith also under oath, some of which were represented by counsel who were also present during the interviews. I should note that, though my predecessor interviewed some of the employees and I did not (as I had not yet been appointed), I have carefully reviewed all the transcripts of the testimony in this case in order to assist me in making my findings.

Given the sensitive nature of the allegations involved in this matter, I have decided not to identify these employees in this inquiry report. As such, for the purposes of this report, I refer to these former employees as “Employee 1”, “Employee 2”, “Employee 3”, “Employee 4”, “Employee 5”, and “Employee 6” in order to preserve their anonymity. I have also decided not to disclose the

identity of a Senate constable who also testified in this inquiry. However, the identity of these individuals was disclosed to Mr. Meredith in order to afford him the opportunity to fully respond to the allegations made against him.

During the interviews, my predecessor and I advised the witnesses that all of their comments and answers would be kept confidential (since inquiries under the *Code* are required to be conducted confidentially), except for any information that would be necessary to carry out the inquiry and any information that would be included in my report, which would be made public.

The following former employees of Mr. Meredith were interviewed on the following dates:

- Employee 1 – April 6, 2016
- Employee 2 – April 14, 2016
- Employee 3 – April 21, 2016
- Employee 4 – April 13, 2016
- Employee 5 – August 30, 2016
- Employee 6 – June 6, 2018

The following witnesses were also interviewed under oath on the following dates:

- Constable Scott Fuller – September 29, 2017
- Mr. Joseph Law – October 6, 2017
- Ms. Karma Macgregor – October 13, 2017
- Ms. Nicole Proulx – October 20 and November 17, 2017
- Mr. Patrick McDonell – October 24, 2017
- Constable X – November 15, 2017
- Mr. Gilles Duguay – March 27, 2019
- Mr. François Paradis – March 29, 2019
- Hon. Elizabeth Marshall – April 3, 2019

Once we were nearing the end of this inquiry, follow up information and clarification was requested and received *via* email from Employees 1, 3, 4 and 5 between April 12, 2019 and May 23, 2019.

I also requested the attendance of certain Senators, both former members of the CIBA and members of its Steering Committee during the relevant time period. I could not interview them as part of this inquiry due to claims of parliamentary privilege.

We also requested the attendance of Mr. Darshan Singh, the Director of Senate Human Resources during the relevant time period, but his counsel advised that he would not participate in this inquiry. I decided not to pursue the matter further in order to avoid further prolonging this inquiry and to proceed with the evidence I had available to me.

However, my predecessor and I obtained a significant amount of documentary evidence from the Senate Administration, following the approval to provide it to us by the CIBA, including all email exchanges between Mr. Meredith and nine of his former Senate employees. The emails ranged from February 1, 2013 to March 1, 2015.

On April 9, 2019, I requested from the CIBA further documentary evidence and email exchanges specifically concerning the matter involving a Senate constable, referred to in this report as Constable X. On April 12, 2019, I received an e-mail message from the Clerk of the CIBA informing me that the members of the Subcommittee on Agenda and Procedure would review my request at their next meeting tentatively scheduled for April 30, 2019. After a number of discussions with my office and at the CIBA's request, I provided the CIBA on May 7, 2019 with additional information clarifying and limiting the request of April 9. On June 4, 2019, the CIBA sent me a letter concerning this request in which, among other matters, parliamentary privilege was invoked in relation to some of the information and I was advised that a decision had not been made as to whether a portion of it would ever be provided. From this letter, it was unclear what information I was permitted to use for the purposes of this report, even if I received it. It was not even clear whether I was permitted to disclose the contents of the CIBA's letter to me. The only way in which I would have certainty that I am not breaching parliamentary privilege by disclosing any such information would be to raise each piece of evidence with the CIBA that I would need to use for the inquiry report, which in turn would result in further delays and would also be inappropriate. Finally, on June 10, 2019, I did receive some of the information that I had requested on April 9, 2019, but not all of it, and I did examine what was provided to me. On June 13, 2019, just as I had completed my final deliberations in this inquiry report, I received another letter from CIBA indicating that it had approved the rest of my request. The Senate provided this information that same day. I am not permitted to otherwise disclose the contents of these exchanges because of parliamentary privilege.

Some documentary evidence obtained during this inquiry was provided by Mr. Meredith and some of the former employees of Mr. Meredith, with records again being requested pursuant to the authority given to me under subsection 48(4) of the *Code*.

Throughout the preliminary review and inquiry processes, Mr. Meredith was given numerous opportunities to make representations to my office. Both he and his counsel did so, orally and in writing, as described above, at the outset of the process.

Evidence that my predecessor deemed to be relevant or potentially relevant was put to Mr. Meredith during his interview of March 9 and March 11, 2016.

Toward the end of the inquiry process, and once all the relevant witnesses had been interviewed who were willing to be interviewed and all the documentary evidence available to me had been reviewed and assessed, we contacted Mr. Meredith's last counsel to confirm whether he was still acting as counsel for Mr. Meredith in this matter. This was done on April 9, 2019. After several attempts by my office to obtain a response on this, on April 25, 2019, Mr. Meredith's counsel confirmed that his retainer had ended when Mr. Meredith left the Senate.

As such, I was required to contact Mr. Meredith directly. To this end, I requested Mr. Meredith's current contact information from the Senate Administration on April 25, 2019 and, on May 1, 2019, the Senate Administration provided me with this information after its release had been approved by the Steering Committee of the CIBA.

On May 1, 2019, we contacted Mr. Meredith by e-mail and by letter sent by priority post requesting that Mr. Meredith attend a second interview. We provided two specific dates as options. The purpose of the second interview was to provide Mr. Meredith an opportunity to make representations on new evidence received during the inquiry that could result in any adverse

findings. This letter was never picked up by Mr. Meredith, and it was returned to my office on May 30, 2019. But on May 6, 2019, Mr. Meredith did inform me by email that he would provide a letter by May 10 upon consulting his counsel. On May 8, 2019, Mr. Meredith's former counsel informed us that he would be representing Mr. Meredith in this matter after all, and requested relevant documents. On May 9, 2019, we sent the relevant documents to Mr. Meredith's counsel. On May 17, 2019, as we had received neither Mr. Meredith's letter as promised on May 6, nor a response from Mr. Meredith's counsel concerning our request for a second interview, we offered Mr. Meredith, through his counsel, the opportunity to respond to our questions by affidavit rather than by interview. To that end, we provided the first set of written questions and all the relevant evidence and requested that he respond within one week. On May 21, 2019, we provided the second and final set of written questions, as well as the relevant evidence, and also provided a week to respond. On May 29, 2019, Mr. Meredith's counsel informed us by letter that Mr. Meredith was no longer willing to engage in this inquiry process. No responses to our questions were provided.

In this letter, Mr. Meredith's counsel raised a number of concerns regarding process. First, he called into question the propriety of my actions in continuing to investigate allegations emanating from the Workplace Report, some of which date to 2013. He also raised two issues concerning my office and the process for which I am responsible, specifically:

- the timeline I provided for responding to the questions I raised with Mr. Meredith; and
- my request that the responses from Mr. Meredith be in the form of an affidavit.

Mr. Meredith's counsel also took the position that Mr. Meredith was "denied a fair process leading up to the [Workplace] [R]eport". Finally, concerns were also raised about the confidentiality of the process.

My office responded by letter dated May 30, 2019.

In that letter, we explained that under subsections 48(21) and (22) of the *Code*, the Standing Senate Committee on Ethics and Conflict of Interest for Senators has the discretion to direct the Senate Ethics Officer to proceed with an inquiry notwithstanding that the person who is the subject of the inquiry is no longer a Senator. The Committee directed the Senate Ethics Officer to proceed with this inquiry in its Third Report dated June 21, 2017.

As for the timeline for responding, we explained that we were of the view that the timeframe provided was reasonable under the circumstances. We noted that Mr. Meredith's counsel had not requested an extension of time on the basis that the time provided was insufficient to provide responses.

With respect to the request that Mr. Meredith's responses be in the form of an affidavit, we noted that we had initially requested that Mr. Meredith attend an interview under oath in person (as per the usual process that this office follows in such matters); however, Mr. Meredith's counsel had advised us in an email dated May 8, 2019 that his client was unavailable on the dates we had offered. Mr. Meredith's counsel advised that he would get back to us about this once he had had an opportunity to review the materials we provided to him but he did not contact us again with further dates for the interview. In the circumstances, we provided Mr. Meredith and his counsel with the alternate approach of receiving the questions and the relevant evidence in writing and of

obtaining Mr. Meredith's written responses within a given timeframe (pursuant to subsection 48(9) of the *Code*). This was done for Mr. Meredith's convenience and for overall efficiency. We reminded Mr. Meredith's counsel that we were not advised that his client preferred an in-person interview under oath.

Regarding the process leading up to the Workplace Report, we explained that the inquiry process under the *Code* only began after the Workplace Report was prepared and provided to the Senate. As such, we could not comment on this issue.

With respect to counsel's concerns about the confidentiality of the process, we responded by reiterating the information provided in an email to him dated May 9, 2019. In that email, we had advised as follows:

[...] this process is required to be conducted confidentially under the *Code* and this obligation to maintain confidentiality also applies to anyone participating in the inquiry process, including the subject of the inquiry process, with the exception of course of whatever evidence and information is necessary for the purposes of the inquiry report, which will be made public, pursuant to subsections 48(18) and 48(19).

Finally, we advised Mr. Meredith's counsel that, while we understood that his client had declined to participate in this process any further, Mr. Meredith would be given an opportunity – the same opportunity provided to any Senator who is the subject of an inquiry – to review and provide comments respecting the first portions of the draft inquiry report. I was of the view that providing Mr. Meredith this opportunity to make representations in the last stages of the process was important as a matter of procedural fairness.

Neither Mr. Meredith nor his counsel responded to this third and last attempt to engage Mr. Meredith in the inquiry process. On June 7, 2019, we sent a final letter to Mr. Meredith's counsel, confirming that since Mr. Meredith did not respond to our last letter, we understood that he had declined the invitation to review the partial draft of the report.

I should note that I did not initiate proceedings to attempt to compel Mr. Meredith to provide evidence to us in this last part of the process for two reasons:

1. I am satisfied that Mr. Meredith's refusal to participate did not compromise the findings in this process and I am confident that, notwithstanding his lack of participation in the concluding stages of the inquiry, the right conclusions have been reached on the available evidence.
2. The main purpose for providing these opportunities to Mr. Meredith was to be fair to him and to protect his procedural fairness rights and, in this respect, he was entitled to waive the protection that we sought to offer him. That said, his refusal to participate further entitles me to draw certain inferences in this respect.

PRELIMINARY MATTERS

A number of preliminary matters that are of significance should be addressed before I turn to the facts of this case and make my findings. In addition, it is important to account for the delay in concluding this inquiry.

Turning first to the reasons for the delay, I should note that this inquiry was inordinately long but that this delay was due to the unusual circumstances involved in this matter, including the following:

- The inquiry was required to be suspended upon Mr. Meredith's resignation from the Senate.
- My predecessor resigned unexpectedly during the course of this inquiry.
- I was appointed Interim Senate Ethics Officer on July 10, 2017.
- I was appointed Senate Ethics Officer for a 7-year mandate on January 10, 2018.
- The inquiry was suspended a second time as a result of an ongoing police investigation into the same matter.
- Parliamentary privilege was invoked concerning the Workplace Report, which required that all the information contained therein could not be relied upon in this inquiry. It was also invoked concerning a number of other requests I had made for information.
- All documents that were provided to me for the purpose of this inquiry had to be approved by the CIBA.
- Employee 6 only agreed to testify in June 2018 and this testimony was essential to this inquiry.
- Mr. Meredith was no longer a Senator during the latter portion of this inquiry, which raised a number of novel and unusual issues.
- On June 17, 2019, Senator Marshall raised a point of privilege in the Senate Chamber concerning her involvement in this inquiry.

Some of these issues are addressed in more detail below.

(a) Mr. Meredith's resignation and the Third Report of the Standing Senate Committee on Ethics and Conflict of Interest for Senators

On May 10, 2017, Mr. Meredith resigned from the Senate following the Second Report of the Committee in which it recommended the expulsion of Mr. Meredith from the Senate as result of the findings of my predecessor on a matter separate and apart from this inquiry.¹² The inquiry concerning the matter at hand was still ongoing at the time of Mr. Meredith's resignation.

Under subsection 48(21) of the *Code*, an inquiry in respect of a Senator who ceases to be a Senator is permanently suspended unless the Committee decides otherwise. As such, and in accordance with subsection 48(21), my predecessor suspended her inquiry into this matter. She did so on May 10, 2017, immediately following Mr. Meredith's resignation.

¹² Standing Committee on Ethics and Conflict of Interest for Senators, 'Second Report', May 2, 2017.

On June 21, 2017, the Committee tabled its Third Report before the Senate under subsections 48(21) and (22) of the *Code*.¹³ In its Third Report, the Committee directed my predecessor to continue her inquiry into this matter. The Committee explained its rationale for this decision at page 1 of its Report:

The committee believes that allegations of sexual harassment, harassment and abuse of authority in the workplace should be fully investigated for the fairness of the employees involved and former Senator Meredith. This forms part of the Senate's responsibility as an institution and as an employer. The completion of the process is also important to "maintain and enhance public confidence and trust in the integrity of Senators and the Senate" (Code, paragraph 1(a)) as a "breach of the Code by any one Senator affects all Senators and the ability of the Senate to carry out its functions" (Code, subsection 44(1)). The committee believes that the completion of the inquiry by the Senate Ethics Officer is the most effective process to address the allegations raised by the complaint and to have a determination in their regard.

My predecessor resumed her inquiry that same day (on June 21, 2017). However, due to unforeseen circumstances of a personal nature, she resigned on June 30, 2017.

I was appointed Interim Senate Ethics Officer on July 10, 2017 and appointed Senate Ethics Officer for a 7-year term on January 10, 2018.

Having examined all the allegations and interpreted the Committee's direction, I have decided to only address those pertaining to sections 7.1 and 7.2 of the *Code*. The reason for doing so is that, while the Committee directed the Senate Ethics Officer to carry on the inquiry pertaining to the allegations concerning harassment, sexual harassment and abuse of authority, it also directed the Senate Ethics Officer not to resume the inquiry concerning Mr. Meredith's trips to Trinidad and Tobago and Jamaica, a separate inquiry that was still ongoing at the time of Mr. Meredith's resignation. The latter inquiry involved allegations related to section 8 of the *Code*, i.e. furthering private interests that are primarily financial in nature. The issues pertaining to section 8 of the *Code* in relation to this inquiry are very similar in nature to those that were at issue in the inquiry concerning Mr. Meredith's trips to Trinidad and Tobago and Jamaica. Since the Committee directed the Senate Ethics Officer not to pursue that inquiry, the same issues that have arisen in the context of the inquiry at hand will not be pursued either for the same reasons.

(b) Workplace Assessment Report and other Information Protected by Parliamentary Privilege

As already noted above, the request for an inquiry in this matter was based on allegations made in the context of the Workplace Report that was commissioned by the CIBA. As described above, my predecessor was advised by the CIBA that the Workplace Report was part of *in camera* proceedings of the Committee and that any unauthorized disclosure of the report could be regarded as a breach of parliamentary privilege.

The fact that neither my predecessor nor I was authorized to disclose the information contained in the Workplace Report, notwithstanding that the request to undertake an inquiry from Senator

¹³ Standing Committee on Ethics and Conflict of Interest for Senators, 'Third Report', June 21, 2017.

Housakos was in fact entirely based on the information contained therein, resulted a number of challenges related to this inquiry.

First, my predecessor and I were required to obtain all the evidence pertaining to this matter *de novo* since we were precluded from relying on the information contained in the Workplace Report for the purposes of this inquiry. It could only serve as the basis for the reasonable grounds in the preliminary review. In other words, we were required to interview all those who had been interviewed in the context of the Workplace Report and in doing so, we were not able to put the information in it directly to the witnesses for questioning. This, in turn, resulted in certain delays in moving the inquiry forward. Moreover, a number of the former employees of Mr. Meredith did not understand why they had to undergo an interview with the Senate Ethics Officer given that they had already been interviewed by the firm that undertook the Workplace Report for the Senate.

Second, we found that the information provided in the Workplace Report was not always reproduced in the context of our interviews with the witnesses. At times, there were discrepancies between the witness statements in the Workplace Report and the evidence my predecessor and I obtained from the witnesses in the course of the inquiry. Of course, I was required to rely on the interviews conducted under oath by my predecessor and me, not the contents of the Workplace Report, and I could not put any such discrepancies to the witnesses for clarification since I could not reveal its contents to them.

Third, though Mr. Meredith was first interviewed on the basis of the Workplace Report – this was permissible since he had been given a copy of it by the CIBA when it had been completed – he was effectively responding to allegations on which we could not rely when questioning the former employees of Mr. Meredith and other witnesses, nor when preparing the final inquiry report. As such, the various parties participating in the inquiry did not have the same information available to them. However, in order to ensure procedural fairness for Mr. Meredith, and as already stated earlier, we provided his counsel with all the evidence we had obtained throughout the course of this inquiry (independent of the Workplace Report) that was relevant to the issues in this case and that could result in adverse findings against Mr. Meredith in order to ensure that he had a fulsome opportunity to respond (though he ultimately chose not to avail himself of this opportunity).

Parliamentary privilege was also invoked by the Senate in relation to a number of requests I had made for information in order to assist me in this inquiry. Unfortunately, refusing to provide information to me on the basis of such privilege results in significant delays because, if the information is material to the issues in the case, attempts must be made to obtain this evidence through alternate means. If an alternate method of obtaining the evidence is not available, this may result in a lack of evidence which may in turn affect my findings in the matter.

(c) Retroactivity / Retrospectivity

Sections 7.1 and 7.2 of the *Code* are critical to this inquiry since they are the provisions that are the basis for the allegations in this matter.

These sections were adopted by the Senate on June 16, 2014. The date of the coming into force of these provisions raised an issue concerning the temporal application of these two provisions; in other words, whether it could have retroactive or retrospective effect such that conduct before this date could be found to violate these two provisions. This is due to the fact that much of the conduct at issue in this inquiry took place before June 16, 2014. Consistent with past precedent, I am of

the view that conduct engaged in prior to June 16, 2014 – the date on which the Senate adopted sections 7.1 and 7.2 – cannot form the basis of a finding that these provisions were breached.

However, to the extent that the allegations relate to conduct that occurred on or after June 16, 2014, as my predecessor has previously stated in another inquiry decision,¹⁴ I conclude that sections 7.1 and 7.2 permit me to consider similar conduct predating June 16, 2014 in order to provide context for assessing whether conduct occurring after that date constitutes a breach of the *Code*.

This approach is consistent with established jurisprudence concerning the temporal application of legislation.¹⁵

(d) Anonymity of Certain Witnesses

Due to the sensitive nature of some of the allegations, a number of witnesses requested anonymity in the final inquiry report of the Senate Ethics Officer.

In accordance with section 56 of the *Code*, and as already mentioned earlier in this report, I have decided to exercise my discretion in respect of certain individuals who were involved in this matter and to withhold their names and certain details about them and about particular events that would likely identify these individuals. Having said that, I have fully canvassed these details in order to come to my findings and conclusions in this matter where those details were material to an issue.

In addition, and as already noted earlier, Mr. Meredith was provided with the names of all the witnesses who had raised allegations about which I could make an adverse finding in order to ensure that he had all the information required for him to have a fair opportunity to respond to these matters.

(e) Refusal of Some Witnesses to Testify/Lack of Sufficient Evidence

Many of the witnesses were not able to recall, even at the outset of this inquiry, the details involving certain events resulting in a lack of evidence concerning some of the allegations. This prevented me from making findings on those allegations. Where I did not have sufficient evidence to make a finding, I did not include the alleged incident in this inquiry report.

Moreover, one former employee refused to participate in this inquiry.

Another former employee who was material to a key allegation in this case refused to testify from the outset of this inquiry and only agreed to participate in June 2018. Without this employee's testimony, I would not have been able to draw any conclusions concerning sexual harassment given that the two other witnesses who raised such allegations only relayed incidents that occurred prior to June 16, 2014 whereas the former employee who had originally refused to testify relayed incidents that occurred after that date.

¹⁴ Senate Ethics Officer, 'Inquiry Report under the *Ethics and Conflict of Interest Code for Senators* concerning Senator Don Meredith', March 9, 2017.

¹⁵ *Épiciers Unis Métro-Richelieu Inc., division "Éconogros" v. Collin*, 2004 SCC 59, para. 46 ["*Épiciers v. Collins*"].

While I have the power to “send for persons” under subsection 48(4) of the *Code*, I did not use that power due to the sensitive nature of the allegations. I did not think it would be appropriate to compel a person to testify in relation to allegations of this nature.

(f) CIBA Required to Approve Requests for Information

A further complicating factor in this inquiry was the fact that any documents or information that we required from the Senate Administration could not be provided to my office without first being approved by the CIBA. In other words, we were not able to receive documents or information directly from the Senate Administration. This caused a number of unnecessary delays in this inquiry but it also raised issues concerning the independence of the Senate Ethics Officer in relation to the Senate.

(g) Mandate of the Senate Ethics Officer and Scope of this Inquiry

The allegations that form the substance of the complaint against Mr. Meredith under the *Code* involve harassment, sexual harassment and abuse of authority. These concepts are found in most harassment policies, whether in the private or public sector. In fact, the Senate’s harassment policy, i.e., the Policy on the Prevention and Resolution of Harassment in the Workplace (the “Policy”)¹⁶, which was applicable to Mr. Meredith at the time of the relevant events, includes all three of these terms. However, it is not the mandate of the Senate Ethics Officer to enforce the Policy. This is the responsibility of the employer, i.e., the Senate.

My mandate as Senate Ethics Officer is limited to the interpretation and application of the *Ethics and Conflict of Interest Code for Senators*. The *Code* does not explicitly refer to harassment, sexual harassment and abuse of authority. However, behaviour that would be characterized in these terms could fall within the ambit of sections 7.1 and 7.2 of the *Code*. These provisions prohibit conduct that is unbecoming of a Senator and impose a positive obligation on Senators to behave with dignity, honour and integrity and to uphold the highest standards of dignity inherent to the position of Senator.

Moreover, the Policy refers to concepts that are well-rooted in the law and in policies all across the public and private sectors. These universal principles help to inform the conduct that is expected of Senators in their relations with their Senate staff. In other words, the Policy sets out standards of behaviour for Senators in the workplace and, to the extent that it does so, it also provides guidance as to conduct that constitutes a breach of sections 7.1 and 7.2 of the *Code*. A breach of Senate policy is therefore relevant to the issue of whether a Senator has met his or her obligations under sections 7.1 and 7.2. To the extent that it is, I will be guided by the principles set out in the Policy to examine the conduct of Mr. Meredith in respect of his dealings with his staff.

(h) The Focus of the Inquiry

A number of witnesses raised allegations of unfair employment practices: compelling a staff member to work while on sick leave, unrealistic workloads and hours of work, refusal to provide

¹⁶ Senate of Canada, Human Resources Directorate, ‘Senate Policy on the Prevention and Resolution of Harassment in the Workplace’, adopted by the CIBA on June 11, 2009 and adopted by the Senate on June 22, 2009 [“Policy”].

compensatory leave, unjustified reduction in pay, extensions of probation and unjustified terminations, and compelling staff to use their own personal equipment.

While these are important issues that should be addressed, they are issues for which the employer is responsible. The purpose of this inquiry was not to determine whether Mr. Meredith was a competent manager. This inquiry was not a management consulting exercise. My mandate does not involve the resolution of employer/employee disputes. The purpose of the inquiry and my mandate is to determine whether there is sufficient evidence to warrant a finding that Mr. Meredith breached certain provisions of the *Code*.

Instead, as will be seen below, this inquiry focused on whether, while he was a Senator, Mr. Meredith engaged in harassment, including yelling and screaming, bullying, threats and/or intimidating conduct toward staff, and sexual harassment and, if so, whether he breached sections 7.1 and 7.2 of the *Code*.

(i) Point of Privilege Raised by Senator Marshall

On June 17, 2019, an issue arose in relation to obtaining evidence for this inquiry that created another delay, albeit a short one, in the publication of this report. Someone whom I had interviewed and sought items from in the course of this inquiry, Senator Elizabeth Marshall, raised a question of privilege in the Senate Chamber. In doing so, Senator Marshall advised the Senate that she had learned from a source that I had sought to obtain the emails from her Senate account without her knowledge or consent. Senator Marshall's statement to that effect requires clarification on my part.

At the conclusion of her interview I sought relevant emails directly from Senator Marshall. Senator Marshall provided some of the requested information to me, but given her testimony that she experienced difficulty in recalling certain matters relevant to this inquiry, I took an additional step in order to exercise due diligence: I also sought the information from the Senate Administration, through the CIBA. Senator Marshall is not the object of this inquiry but her evidence was relevant to it.

The Senate Administration provided my office with a short exchange of emails, five (5) in total, involving Senator Marshall, all dated May 7, 2013, three (3) of which she had already provided to me directly.

With respect to Senator Marshall's concern that I did not obtain her consent to obtain these emails, as noted above, the Senate Administration provided that information to me after being authorized to do so by the CIBA. (As noted above, the CIBA invoked parliamentary privilege in several instances in this particular inquiry.) This was the process that I was instructed to comply with in order to obtain such information. I do not have direct access to Senators' emails or documents within the Senate Administration's possession. Moreover, I do not have any knowledge as to the process that the Senate followed in order to provide me with the information with which it provided me, or why it decided to provide what it did in this inquiry. In any event, as is commonplace with similar investigative processes, I sought that information from alternative sources in order to ensure completeness and to promote a timely completion of my investigation.

The powers of the Senate Ethics Officer are set out in subsection 48(4) of the *Code*. This provision provides that "in carrying out an inquiry, the Senate Ethics Officer has the power to send for

persons, papers, and records.” Subsumed within that broad power is the power to compel the production of documents, including emails. In that power, there is no requirement that the Senate Ethics Officer first seek the consent of the Senator whose emails are being sought.

The power under subsection 48(4) can be exercised by making a request to the Senator himself or herself and/or to the CIBA. Where the latter course was followed, the CIBA determined what information was eventually provided to me.

On June 20, 2019, the Speaker of the Senate, Senator Furey, ruled on Senator Marshall’s point of privilege.¹⁷ In his ruling, he states that: “...the requirements for a case of privilege have not, at this time, been met, and a case of privilege cannot be established” because, under the *Senate Administrative Rules*, any concerns regarding the release to my office of emails by the Senate Administration should be raised with the CIBA and its steering committee, not the Senate, since it is the body that releases the information to me and to my office.

ALLEGATIONS

Six former employees of Mr. Meredith appeared as witnesses in this inquiry. Each alleged that Mr. Meredith engaged in some form of harassing, bullying, threatening and/or intimidating conduct towards them. They also alleged that his conduct in the office created a toxic and poisoned work environment. In addition, two former employees and a Senate constable alleged that Mr. Meredith had engaged in unwanted conduct of a sexual nature towards them. The particulars of these allegations are set out below. As already previously stated, for the purposes of this inquiry report, I refer to these former employees as “Employee 1”, “Employee 2”, “Employee 3”, “Employee 4”, “Employee 5”, and “Employee 6” and to the Senate constable as Constable X, in order to preserve their anonymity.

Though some of the allegations that relate to harassment occurred prior to June 16, 2014, there were in fact some similar allegations that pertain to matters occurring on or after June 16, 2014. As I noted earlier in this inquiry report, I conclude that sections 7.1 and 7.2 permit me to consider conduct predating June 16, 2014 in order to provide context for assessing whether conduct after this date may constitute a breach of the *Code*.

In the present inquiry, considering Mr. Meredith’s pre-June 16, 2014 conduct in this manner can be characterized as an immediate application of the provisions, given that his alleged conduct could be considered to constitute one ongoing factual course of conduct. At the time sections 7.1 and 7.2 were adopted, it appears that an alleged “situation” or course of conduct – yelling, bullying, threatening, and intimidating his Senate staff – was “under way”. Applying the guidance of the Supreme Court,¹⁸ it appears that the nature of the misconduct alleged here attracts an immediate application of sections 7.1 and 7.2 to the events occurring before and after their adoption, with the former being considered in assessing whether the latter constituted a breach of the provisions.

¹⁷ Senate Speaker’s ruling, *Debates of the Senate*, June 20, 2019, pp. 8825-8826.

¹⁸ *Épiciers v. Collins*, *supra*, para. 46.

(1) Harassment (non-sexual)

(i) Yelling and screaming

All six former employees interviewed for the purposes of this inquiry reported that they heard Mr. Meredith yell at either them and/or other employees in his Senate office, though they could not always provide specific details in this respect.

The particulars of the incidents that the former employees could recall are described below.

Conduct Prior to June 16, 2014

(a) Conference Call Incident

Employee 1 testified that he had never witnessed Mr. Meredith yelling because his office was far from the offices of Mr. Meredith and the other employees. He asserted that Mr. Meredith never “yelled” at him. However, Employee 1 alleged that in or around December 2013, Mr. Meredith publicly berated, belittled, and humiliated him while unfairly criticizing his performance and competence in front of staff. He specifically described an incident in which Mr. Meredith had “berated” him in a conference call in front of his colleagues about a newsletter, although he later testified that he thought the subject matter of the phone call was in fact about a speech. Employee 1 testified:

... [Mr. Meredith] wanted to make sure everybody came around the phone and proceeded to berate me about you know the fact that whatever was supposed to have happened wasn't happening to his liking.

Employee 1 explained that this was the most uncomfortable he had felt in his life. He indicated that his recollection was not good because he had tried hard to “... push that stuff out and work very hard to leave it behind.” But he believes the event occurred sometime in December 2013.

He claims that Mr. Meredith’s conduct caused him so much stress that he was required to take sick leave on or around December 3, 2014 and that this ultimately led to his resignation on February 18, 2015. He testified as follows: “In November 2014, the toxicity and disarray in the office reached new heights. Finally, on December 3rd after 18 months my body broke down.”

Employee 4 also provided an account of this conference call, though she recalled that it happened sometime in the first two or three weeks of January 2014. It was her evidence that she received a phone call from Mr. Meredith who was, at that time, in Toronto. He asked her if Employee 1 had come into the office. He had not. Employee 4 recounted that Mr. Meredith asked her to give him a heads up when Employee 1 arrived. She was to contact Mr. Meredith once he did and they were to have a meeting. This meeting was set up with Mr. Meredith in Toronto on a speaker phone with Employees 1, 4 and 5 in his Senate office in Ottawa. Employee 4 testified that, during this phone call, Mr. Meredith yelled at Employee 1. She told us that Mr. Meredith said that he did not know why he paid Employee 1 if he was going to “make him look like a fool”.

Employee 4 explained that Mr. Meredith was angry with Employee 1 concerning a speech that he was supposed to have prepared for Mr. Meredith for the previous day but had not had time to do

it. She stated that he had forgotten about it because he had been so busy preparing other speeches and press releases for Mr. Meredith. Employee 4 testified that, during this phone call, she told Mr. Meredith that she expected that if he had a problem with her, he would pull her aside and have a private conversation with her. She told us that she advised Mr. Meredith that she was not going to remain on the call since this appeared to be more of a meeting concerning “human resource” issues. She testified as follows:

So, about 3 or 4 minutes into this, just him yelling [...] I said, ‘Senator, I’m going to interject here. This sounds more like an HR meeting – or like an HR issue rather than an actual meeting, and I don’t feel comfortable being a witness to this. If you have a problem with me, then I would expect you to pull me aside and have a conversation with me like an adult [...] If [Employee 1] is ok with you yelling at him, that’s fine. But I’m going to leave, and if we have a real meeting, then you can call me back.’

Employee 4 told us that Mr. Meredith replied that he did not think the call was inappropriate and that he thought she needed to hear what he had to say so that she would not make the same mistakes as Employee 1 had made. She testified that, notwithstanding this, she did not remain on the phone call.

Employee 5 also provided information concerning this phone call, though she recalled that Mr. Meredith was dissatisfied with a speech Employee 1 had written for him, rather than because the speech had not been written at all. She recalled that this call occurred in 2014 but could not remember the exact date. She said that Mr. Meredith called the office and told her to put Employee 1, Employee 4 and herself on the call using the speaker phone. She said that Mr. Meredith was very unhappy with the content of the speech and gave Employee 1 a very difficult time while all the others were asked to listen in.

(b) Call while on Sick Leave Incident

Employee 3 testified that Mr. Meredith asked her to review an office newsletter while she was on sick leave. In an email, dated May 6, 2019, providing further details at our request, Employee 3 explained that Mr. Meredith contacted her on January 8, 2014 at home and had Employee 4 email her the draft newsletter for the office to her private hotmail account. She explained that he was upset. She thought this was because he did not feel well supported at work. She told us that Mr. Meredith told her that it had been far too long since a newsletter had been published and he had to have one sent out. He said that this one was supposed to be the holiday issue. She said that she handwrote her changes on the copy of the draft newsletter that she had printed at home. She also explained that he asked her to edit a draft of a press release at this time.

Employee 5 recalled this same incident. She testified that Employee 3 called her while the latter was on sick leave concerning the preparation of the office newsletter in December 2013 or January 2014. Employee 5 told my office that Employee 3 was crying and told her that Mr. Meredith had contacted her and yelled at her. Employee 5 explained that she transferred the call over to Employee 4 who was working on the newsletter at that time.

[...] He was not happy, so he called [Employee 3 at] home. And she called at the office and she was crying. She goes, “He’s screaming and, like, he wants me to do

this and that.” She’s on sick leave. Whatever the reason, she’s on sick leave, so you’re not supposed to ask your former employee to do something. And she goes, “I don’t know what to do, I’m freaking out.”

Conduct after June 16, 2014

(c) Diamond Jubilee Incident and Other Particulars

In her interview with my office, Employee 3 also recalled an incident in November 2014 (after she had returned from sick leave), in which Mr. Meredith yelled at her. She recounted that Mr. Meredith’s office was involved in the presentation of medals for the Diamond Jubilee. Employee 3 recalled that Mr. Meredith wanted to publish a press release listing the names of the recipients but that the Governor General’s Office did not want any of the names released until the Governor General’s Office had first released the entire list. Employee 3 advised Mr. Meredith that he was not permitted to publish the names and she contacted the “Chancellor’s Office” in order to verify that her understanding was correct. She alleged that Mr. Meredith yelled at her for making this call without his permission.

Employee 3 alleged that Mr. Meredith repeatedly yelled and screamed at her when she returned to work in November 2014 from a period of sick leave. She testified as follows:

THE WITNESS: Yes, in the past, before I went on sick leave, he would not yell at me. He would yell at others, but he wasn't yelling at me, until I came back from sick leave.

Employee 3 alleged that, when she returned from sick leave, she also witnessed Mr. Meredith yelling at Employee 6. She told us that only she and Employee 6 were in the office for a certain time period. At that time, Employee 1 was on sick leave. Employee 3 explained that Mr. Meredith, at one point, was yelling at her but mistakenly called her by the name of Employee 6.

When asked what had changed after she returned from sick leave, Employee 3 testified that Mr. Meredith had told her, between Christmas and December 31, 2014, when she asked him about this that he did not feel well supported by staff. She said that she responded that notwithstanding this, he cannot treat staff in that way. In her interview, she stated:

THE WITNESS: Yeah. I had a private conversation when I was -- this was when I was working -- He was in Toronto and I was on the first floor at the time, at that office, and I recall that I was in the office -- there was no one else in their cubicles. I think I even went to close the door. I asked him: What's going on with you? Why are you being so aggressive? That's what I called it. I said: You are being very aggressive, not just towards me, but towards everyone else. And it was very showing, because when he was yelling at me, he called me [Employee 6]. So I thought: Okay, [Employee 6] has been saying -- like, I have heard you yell at her. [Employee 6] has been saying that you yell at her all the time, and when you called me by her name --- [...] And he said: Well, it's just that I have so many frustrations because I haven't been well supported since you were gone. He did say that. And I said: Yeah, but -- you know, that still doesn't give you the right to talk to people

this way, and, you know, you can't treat people this way, it's not right. I said: You know, you can't talk to me that way, and you can't talk to others that way.

Employee 3 told us that, just as she was going on sick leave in August 2013, she had contacted Senate Human Resources – Mr. Joseph Law, a Senate Human Resources Officer at that time – and relayed some of her concerns regarding Mr. Meredith's behaviour. Mr. Law suggested that she speak with Ms. Reina Bernier – then Senior Advisor at the Senate Human Resources Directorate –, which Employee 3 did. In her interview, Employee 3 explained that, at that point, she went on sick leave.

She also told us that, in December 2014, she again contacted Mr. Law about Mr. Meredith's behaviour and told him that Mr. Meredith was screaming at both her and Employee 6. She told us that she advised Mr. Law that Mr. Meredith was threatening and abusive and was demeaning and bullying. She told us that she also discussed the "toxic environment" in Mr. Meredith's office with Mr. Law. In an email dated May 6, 2019, in which she provided further details to us concerning this call to Mr. Law, she said that the environment Mr. Meredith had created made staff anxious, nervous, worried and stressed. She said that he would often raise his voice and yell orders at them. This evidence was corroborated by an email with which I was provided, dated December 18, 2014, from Joseph Law to Reina Bernier, Darshan Singh (the then Director of Senate Human Resources), Michel Patrice (the then Senate Law Clerk) and Peter Nunan (then Manager, Corporate Human Resources) and sent at 10:19 p.m. In that email, Mr. Law tells the addressees that Employee 3 had phoned him that night and conveyed to him that since she had returned from sick leave, Mr. Meredith was "harassing" and "verbally abusive" towards staff.

Employee 3 alleged that Mr. Meredith's conduct led to a panic attack and, ultimately, to her removal from his office in February 2015. She testified that on February 18, 2015, she was in Mr. Meredith's office. He was expected to arrive from Toronto at approximately 2 p.m. Employee 3 told us that she felt as though she were experiencing a heart attack. She explained that she was having palpitations and hyperventilating. She told us that she was taken to the hospital in an ambulance and, after tests, learned that it was an anxiety attack. She said that she had been anxious and dreading Mr. Meredith's arrival back to Ottawa and dreading that she would have to be around him. She explained that she was also anxious because he was planning on taking a trip to Ethiopia that was not authorized by the Government Whip's Office. She returned to the office on February 23, 2015 but was removed from his office by the Senate Administration on February 25, 2015. The Senate Administration had found her a position elsewhere in the Senate because of the difficulties in working with Mr. Meredith.

This evidence was corroborated by a series of email exchanges, of which I was provided copies by Employee 3. In an email from Ms. Karma Macgregor, then Senior Advisor to the Government Whip, to Mr. Meredith, copying Senator Marshall, and dated Friday, February 20, 2015, Ms. Macgregor advised Mr. Meredith that the Whip had not approved his travel to Ethiopia the following week and that the proposed trip had not been sanctioned by PMO or the Department of Global Affairs. In an email from Employee 3 to Ms. Macgregor on February 23, 2015, Employee 3 explains to Ms. Macgregor that she had suffered a medical emergency at work on Monday, February 16, 2015, though in her verbal testimony, she had said that this attack occurred on February 18. In that same email, she advised Ms. Macgregor that Mr. Meredith had already left for Ethiopia. She added that she would like to discuss the "escalating situation" with Ms. Macgregor at her earliest convenience. In a further email from Employee 3 to Senator Marshall,

dated Monday, February 23, 2015, Employee 3 confirms a telephone call that had occurred between her and Senator Marshall that same day and she went on to write that she had also spoken to the then Director of Senate Human Resources, Mr. Singh, regarding Mr. Meredith's "misuse of Senate resources as well as abuse of authority". She also referred to the negative impact his behaviour has had on her health and she writes that she "is forced to work in a toxic environment". She added that she was afraid to report his actions out of fear of being dismissed "given the senator's history of firing his staff" and out of fear of aggravating her health situation.

Moreover, I was also able to obtain a copy of a report prepared by what was at that time referred to as Security Operations in the Senate concerning a call on February 16, 2015 at 4:30 p.m. from Employee 3 to Senate Security requesting assistance since she was not feeling well. The report notes that Senate Security called an ambulance for her. The report describes that she was breathing quickly and feeling anxious.

Mr. Meredith's Position

In his written submissions, dated October 14, 2015, Mr. Meredith's counsel stated that Mr. Meredith did not perceive himself to have yelled or screamed at Employee 3 or at any other staff. Mr. Meredith did, however, acknowledge that he can be a forceful speaker, particularly concerning matters for which he cares passionately. His counsel stated that, in the future, Mr. Meredith would strive to monitor his tone and volume when speaking with staff.

In that same letter, his counsel submitted that Mr. Meredith had first learned of his speaking tone when he read the Workplace Report. His counsel further wrote that Mr. Meredith had engaged the services of a team of advisors to assist him in self-improvement and that he had enrolled in courses, through Landmark, a personal and professional training and development company, to improve in this area.

In his interview on March 9, 2016, Mr. Meredith testified that his colleagues in the Senate never asked him "to keep it down over there". He also testified that he is very vocal in his delivery but that, in respect of staff, "we have open and frank discussions, but not anything intimidating".

(ii) Bullying, Threats and Intimidation

The former employees interviewed for the purposes of this inquiry reported that they experienced some form of bullying, threats or intimidation by Mr. Meredith, the particulars of which are outlined below.

Conduct Prior to June 16, 2014

(a) Macedonia Trip Incident

Employee 3 alleged that Mr. Meredith was rude to her and threatening at times. She also alleged that he would bully other staff. In particular, she recalled an incident in which Mr. Meredith contacted her in the month of August in 2013 on his way back from a trip to Macedonia concerning the travel arrangements that she had made for his spouse. She explained that Mr. Meredith's travel arrangements had been made by the government of Macedonia. She told us that she had had Mrs. Meredith upgraded to first class with Mr. Meredith's travel credits. She testified that Mr. Meredith was very upset because he had not also been upgraded to first class. She

described him as “extremely frustrated, rude, mean and kind of threatening”. She told us that he emailed her the following: “This will NOT happen again.” I obtained and examined a copy of this email. The exchange of emails in respect of this matter are dated August 26, 2013.

Mr. Meredith wrote as follows:

Morning [Employee 3], I am wondering if you had ensured that on the Halifax to Macedonia leg of my flight Aeroplan plan points were collected. If not can you please request for this to [be] done. I have captured the Vienna to Toronto points. In Vienna they did not have a request for an upgrade in the system, and I was not able to use my points to upgrade to business class. If the route and tickets were checked thoroughly last week then we would have gotten the requested upgrade so the ball was dropped on these bookings which has caused a lot of aggravation.

Employee 3 wrote:

Senator, Once again, I did not book your ticket and we had provided numbers to Gordica. When I called, I was NOT able to request upgrade for you [sic]; they insisted that you could ONLY do it at the airport since it was a different ticketing number. You stated to me that you had your number added at the Halifax airport and I will verify that you have collected points for that flight.

Mr. Meredith responded:

Yes [Employee 3]. You did not book my Macedonia flight but as my [position of Employee 3 in the office] I expected better follow up to ensure all was in order. This will NOT happen again.

(b) Clerk’s Travel Report Incident

Employee 3 recalled another incident in June 2014, in which Mr. Meredith had asked her to meet with him. In an email dated May 6, 2019, she provided further details about this incident at our request. She said that Mr. Meredith texted her and wanted to meet with her urgently. Employee 3 was on sick leave at this time but she agreed. She met him at a restaurant at the Chateau Laurier for lunch on May 29, 2014. Mr. Meredith had received a report from the Clerk of the Senate (“Clerk’s Travel Report”). It concerned Mr. Meredith’s travels and some inconsistencies in this regard. She agreed to look at it and provide advice to whomever in the office was tasked with responding to it, but would not agree to prepare the response or review the response. When asked why she went to meet with him even though she was on sick leave, she testified:

THE WITNESS: I don't know [...] I was feeling like --- Every time you said "No" to him --- It was an intimidation thing. Like, every time you said "No" to him, then you would pay. He would be miserable with you, he would just --- I was scared to lose my job, as ridiculous as it sounds. Like, you're just that scared of losing your job, absolutely.

Employee 3 testified that, while still on sick leave, Mr. Meredith sent her the Clerk’s Travel Report on a Saturday and by the following Tuesday, he wrote her an email telling her that he would pay

her on the side to do the work. She explained that the message was very forceful. She said that he would not take 'no' for an answer. She told us that she told him in writing that she would not do it, that she would only speak to the employee who was tasked with preparing the response in order to provide some guidance on the Senate rules and policies but no more than that. She explained that, after that, he refrained from pressing her again about this. Employee 3 provided a number of email exchanges between her and Mr. Meredith at the end of May 2014 in which Mr. Meredith asked her to meet with him for lunch or breakfast to discuss an issue. Employee 3 testified that this request to meet was about the Clerk's Travel Report, although the emails do not explicitly refer to the subject of the meeting or its purpose. We were also provided with a copy of the Clerk's Travel Report.

Employee 3 told us that Mr. Meredith's behaviour affected her health. She said that it caused her a great deal of anxiety, which she had never experienced before. This evidence was corroborated by the email, already referred to above, dated February 23, 2015, to the then Government Whip in the Senate, Senator Marshall, in which Employee 3 writes as follows about this issue:

[Mr. Meredith's] behaviour has had a direct negative impact on my health as well as my return to work and I continue to be forced to work in a toxic environment. I have refrained from reporting his actions out of fear of losing my employment given the Senator's history of firing his staff (i.e. termination of employment of my colleagues [Employee 1, Employee 6, ..., Employee 2...]) or even aggravating current state of affairs and my health.

In her interview, Employee 3 also testified that the experience had ruined her career due to the negative stigma associated with having worked in Mr. Meredith's office.

(c) "Stab you in the Back" Comment

Employee 5 alleged that Mr. Meredith would get very angry and was very intimidating and that he was aggressive and threatening with her.

She testified that during the period when media reports were surfacing concerning Mr. Meredith's questionable expenses, particularly concerning the issue of his travelling first class (February 12, 2014), reporters were calling and emailing the office. Mr. Meredith refused to take the calls. According to Employee 5's testimony, at this time, Mr. Meredith told her and the other staff not to answer the phone for a few days nor to return any calls or emails regarding this issue. Employee 5 explained that Mr. Meredith told the staff that he was entitled to his entitlements, that he was paying a lot of income tax on his Senate salary and that this was his way to get paid back. Sometime during this period, in a meeting with her, Employee 5 alleged that Mr. Meredith used the following threatening language when speaking to her: "What is going on in my office stays in my office. And if I ever hear anything that comes out, I'll know if it comes out of my office. And if that ever happens, if I get stabbed in the back, well, I'll stab you in the back." She told us that Employee 4 was present in the office at that time but was not at the meeting with Employee 5 and Mr. Meredith. Employee 5 told us that Employee 4 was able to overhear the conversation because the door to the room in which they were meeting was open. Employee 5 testified that she and Employee 4 discussed the incident afterwards.

Employee 4 corroborated Employee 5's testimony in this regard. Employee 4 told us that she was in fact in the office at that time and had overheard Mr. Meredith tell Employee 5: "[...] you do

not talk to [Employee 4]. Do you understand me? If you stab me in the back, I'll stab you in yours." Employee 4 testified as follows:

So, [Employee 5] texted me at one point during my 2 weeks, my final 2 weeks there. And she said, I need you to back me up because I know that he's going to yell at me and I don't feel safe. [...] So, I was very concerned for her and her physical wellbeing. So, now we go back to the setup of the room. She purposely left the door ajar in – because he asks to lock both doors, both the door into the office and the door into his – because if you're standing in that front area, you can hear everything that's going on in his office, especially with the type of voice that he has. So, she left the front door ajar from me so I could sneak in. She said, "Just close the door behind you." So, I walked in and I stood there and was listening at the door. And he said, "[Employee 5], you do not talk to [Employee 4]. Do you understand me? You do not talk to [Employee 4]. If you stab me in the back, I'll stab you in yours."

In an email Employee 4 provided to us dated May 23, 2019 outlining further details about this at our request, Employee 4 explained that she thought this occurred within two weeks after February 24, 2014 and prior to her departure from Mr. Meredith's office (March 9, 2014). She wrote that this was an approximate time period.

(d) Breach of Confidentiality

Employee 5 also stated that in November 2013 and again in mid-February 2014, when Mr. Meredith was having issues with the then Government Whip's Office, he reminded her and the other staff that when they had been hired, they had signed a document requiring them to respect confidentiality. In this context, Employee 5 testified that Mr. Meredith threatened to sue staff if they spoke about his office. She testified that he said to her: "If I ever hear that either you or [Employee 4] or [Employee 1] said anything else out of this office, I will sue you for breach of confidentiality. And you won't have any job. You'll no longer have a job."

Mr. Meredith also sent an email to his then staff on March 5, 2013 in which he told them that if any issue "comes back to our office", it will be "grounds for dismissal". Though the email was polite and respectful, his emphasis on breaches of confidentiality and that staff could be dismissed on those grounds is consistent with the testimony of Employee 5 concerning the conversation he had had with her about this issue in November of 2013 and again in February 2014.

(e) Remembrance Day Event

Employee 5 further recalled an incident in November 2013 in which Mr. Meredith was dissatisfied with her work and the work of Employee 1 in relation to a Remembrance Day event that was held in Toronto. Employee 5 explained that she became involved in this event at the last minute; it had been organized by Employee 3 before Employee 3 went on sick leave. According to Employee 5, Mr. Meredith held a debrief meeting on the event the next day in his Senate office at which she and Employee 1 were present. She testified that Mr. Meredith "would get very angry" and that he became very intimidating. Employee 5 alleged that he threatened to fire them if their performance did not improve.

It was Employee 5's evidence that, at this meeting, Mr. Meredith stated:

“Well, [Employee 5], I was not satisfied with you, with how everything turned out. People were late [...] And I was not happy with the pictures you took of me, they're not professional pictures, I didn't look good. You didn't seem to be very attentive to anything. [...] The whole thing was a mess.”

Employee 5 further testified in this regard:

And we all felt like we were the only [ones] responsible for that. [Employee 1] was helping me with the content of his speech. He was not happy with that, so he told [Employee 1]. So he said, “You know, if you guys are not getting any better, I mean, I'm just going to let you go.”[...] [I]t was just like nothing constructive. It's always like there were threats.

When asked about this incident, Employee 1 said that he could only vaguely recall it. In an email dated April 18, 2019, he explained that he was not involved in the logistics of the event but was involved in the communications aspect of it. He noted that Employee 5 was dealing with the logistics of the event and went to Toronto with Mr. Meredith for it. Given his poor recollection about it, he could not provide further details.

Conduct After June 16, 2014

The evidence obtained in the course of the inquiry did not disclose any specific incidents of threats or intimidating behaviour occurring after June 16, 2014.

Mr. Meredith's position

In his letter dated October 14, 2015, Mr. Meredith's counsel took the position that Mr. Meredith did not make any threats against staff, but acknowledged that the staff may have perceived him to be intimidating from time to time. Counsel offered the assurance that Mr. Meredith would strive in the future to ensure that his office was supportive, inclusive and respectful. Mr. Meredith undertook to work on the tone, affect and forcefulness of all of his verbal communication with staff.

(2) Sexual Harassment

Two of the former employees and a Senate security constable alleged that Mr. Meredith had engaged in conduct towards them of a sexual nature and that this conduct was unwelcome. Other witnesses provided evidence that corroborated some of these allegations. Given that the allegations of sexual harassment were made by these three individuals, their evidence will be referenced below in accordance with each of the three individuals, rather than by incident name (as was done in the non-sexual harassment section above).

Conduct Prior to June 16, 2014

(a) Employee 5

Employee 5 testified that she had daily meetings with Mr. Meredith. She testified that, at this daily meeting, when Mr. Meredith was in the office, he would kiss and hug her. She described the first time this happened. She stated that it was the week after the Throne Speech in October 2013. She explained that she was responsible for providing him with a book which contained letters for Mr. Meredith to read, letters to sign and other such matters that had to be brought to his attention. On this particular occasion, Mr. Meredith asked her to come into his office and then closed the door. Employee 5 described a round table in his office with four chairs. She said she put the book that she was to provide to him on this round table to show him. He sat at the table and so she did as well. When she got up to leave with the book after having discussed its contents, she testified that he “just grabbed me and kissed me”. She explained that she was in shock and instead of doing anything about it at the time, she just left the office.

During her interview, Employee 5 stated that she did not tell anyone of this incident at that time because she thought no one would believe her. She also explained that since she was only replacing someone in the office who was on sick leave, and therefore was only supposed to be working there temporarily (with her employment being renewed week to week), she thought she would not be there long in any event and would soon be gone. However, during this time Mr. Meredith continuously extended and renewed her contract.

Employee 5 also testified that, sometimes when Mr. Meredith had not been alone with her in his office in the course of a day because she had been on the telephone, for example, Mr. Meredith would call her into the kitchen of the office at the end of day. She testified that once she was there, Mr. Meredith would “do whatever he wanted to do in here before leaving”. When asked what Mr. Meredith was doing, she testified, “Touching me, kissing me, putting his hands under my skirt.”

In her interview, Employee 5 was asked how she reacted to these daily advances. She answered:

The first time, I was [i]n shock. I was shocked but I quickly understood that I was stuck because I didn't have any other job for sure, and that he knew that he was – senators have all the rights. Like, they can let go employees, they don't have to give any reasons. He's a man of god, like he used to call himself fourteen thousand times a day, and take advantage of that. So, if I wanted to feed my kids and pay my mortgage and just hope to one day have another position, well, that was part of the deal.

It was Employee 5's evidence that in November 2013, she told Mr. Meredith that his advances were unwelcome. She traveled to Toronto for a Remembrance Day event. Mr. Meredith picked her up at the airport in Toronto and took her to her hotel to check in. He said he wanted to help her with her bags and so went up to her room with her. She testified that, when he was in her room, he said “Okay, we've got to make this quick because I have an interview and we have to see the venue”. She testified:

[...] [He] sat on my bed and he pulled me, like, “Come on, just.” So, I sat there and he started to touch me. And this is where I said, “Why are you doing this? I

mean, you know it's wrong. You're a pastor, you can't do this, you know?" And this is when he told me, "Ah, it's been I don't know how many years I'm married and I've –". And I said, "Have you done this before?" And he said, "Yes, once." [...] And I said, "Okay. We've got to go, you know? We've got to, yes." And so, I kind of – I got up and he says, "Okay. I'll wait for you in the car, freshen up just to make sure you look good, and just I'll be waiting for you in the car."

Employee 5 described another incident that occurred in a hotel room where Mr. Meredith was staying at the time in Ottawa. She could not recall the exact date but thought it took place in November or December 2013. It was before Christmas. Mr. Meredith asked her to drop off some papers to his room that he required before attending a meeting. She explained that when she arrived at his hotel with the documents, he opened the door and asked her if anyone had seen her. She responded that she did not know. She described that he was only wearing his pyjama bottom when he opened the door. He then asked her to sit down. She told him that she had to get back to the office to answer the telephone. He told her that he wanted to talk. He then laid on the bed and she testified that he "... took out his genitals and he just started kissing me". She told him she had to leave. She said that she told him: "Okay, no, that's enough. No, no, no, no." He did not force her to stay.

It was Employee 5's evidence that Mr. Meredith would sometimes contact her and invite himself to her home. She explained that she always refused to allow him to attend her residence.

She also told us in an email dated May 3, 2019 that Mr. Meredith would sometimes call her on her personal cell phone outside of working hours, in the evenings and on weekends and would proceed to ask her personal questions. She said that he asked the following questions during these calls: "What are you doing? Are you alone? What are you wearing? Can you send me a picture of you? Do you miss me?"

Employee 5 referred to an incident in which Mr. Meredith was absent from the office. It was a Friday, though she could not recall the date or even an approximate date. Mr. Meredith called the office and spoke with her. He asked her what she was wearing. She told him jeans and a t-shirt. He asked her repeatedly to send a picture of herself. She initially declined, but finally did so after he made repeated requests. She testified that she used her private telephone to take the photograph and send it to him, but she no longer had that phone.

She also described a further incident shortly after she had just been hired. It concerned the Caribbean Parliamentary Association on the Hill. Mr. Meredith, Employee 4 and Employee 5 were at a meeting to discuss an event surrounding Mardi Gras. Mr. Meredith suggested that Employee 5 wear a revealing traditional costume to the event. Employee 4 corroborated Employee 5's testimony in this regard and testified that she found Mr. Meredith's comment very inappropriate. As it happens, the Mardi Gras event did not take place.

In describing how Mr. Meredith's conduct towards her made her feel, Employee 5 testified:

Well, I thought I was at my lower point when I got there, but I found out it was a lower level that could be touched. I just believed that I would never be able to get out of this alive. I put myself in a position to be very numb so I could not process everything on a daily basis. Because every morning when I was getting up and

dressing, getting myself ready, I knew what was waiting for me. And I've kind of [disconnected] myself from my mind and my body so I could just survive this. And I had trouble sleeping, eating, you know, everything that comes along with stress like that. Lost self respect. And at one point as I mentioned, one day, I just felt like taking my life because I thought no one would believe me.

Employee 5 also explained that at some point later in January 2014 she met with Mr. Darshan Singh, the then Director of Human Resources in the Senate. Employee 4 was also present at this meeting. Employee 5 testified that she told Mr. Singh at this meeting that Mr. Meredith was making inappropriate sexual advances toward her. She was given the option of filing a formal complaint under the existing Senate policy on harassment but explained that she was afraid of reprisals, including being terminated. She said that she did not feel that the Policy was robust enough to protect her. It was her evidence that Mr. Singh told her he would address the matter, and that sometime later, Mr. Singh informed her that he had spoken with the then Speaker of the Senate.

She also testified that Ms. Macgregor was assisting her in finding alternate employment because of the situation. Employee 5 testified that she had told Ms. Macgregor over the telephone in February 2014 about the fact that Mr. Meredith was making unwanted sexual advances towards her. She testified that subsequent to this conversation, Ms. Macgregor contacted her to tell her that she had found a position for her in another Senator's office.

Employee 5 resigned from Mr. Meredith's office by letter dated March 14, 2014 effective that same day. A copy of this letter was provided to me.

(b) Constable X

In her testimony, Constable X described a number of incidents involving Mr. Meredith. These events were largely corroborated by an email from Mr. Gilles Duguay, former Director General of the Senate Parliamentary Precinct Services, to Senator Marshall, dated May 7, 2013, and which was provided to me by Senator Marshall. In Gilles Duguay's email, he described meetings that Constable X had with her supervisor, Mr. Pat McDonell, on April 30, 2013 and on May 3, 2013 in which she recounted the events to which she also testified in her interview in this inquiry.

Constable X testified that on one occasion, in 2012, when she was posted in the Centre Block outside the Visitor's Welcome Centre, Mr. Meredith came up to her and asked her how she was doing. He then asked her if they could have coffee together at some point. Mr. Meredith suggested that they get together on her lunch break or after work. She responded "Well, we'll see." She explained that she thought he might want to talk to her about a job offer. She claimed she had been doing a good job and thought this could be the reason for the meeting with her. She was not interested in the Senator in a personal way. Ultimately, the meeting did not take place.

She testified that there were two incidents in which Mr. Meredith kissed her. At the time of both these incidents, she was posted at the Centre Block and was standing in front of the doors there. She testified that Mr. Meredith came up to her and said "hello" and then kissed her on the cheek. Constable X also testified that there were other constables present who were at the desk or standing beside her on both occasions but she could not remember who they were. Though she could not recall the timeframe for these incidents, an email from Mr. McDonell to Mr. Duguay, dated May

7, 2013, which provides notes of the meeting that Mr. McDonell had with Constable X on April 30, 2013 about Mr. Meredith's behaviour towards her, states that these two incidents occurred before Christmas in 2012. Constable X explained that she was concerned that others had seen these incidents. Constable X said that she did not say anything to Mr. Meredith at the time but thought that she would have to "watch this guy". She was worried about her reputation.

Constable X said that, as a result of these incidents, she was more careful when Mr. Meredith was around. She told us that she thought he understood that she did not welcome his advances because he stopped approaching her for a while. She also said that he never tried to kiss her again.

But she described two further incidents. She testified that, on at least two other occasions, Mr. Meredith commented on her appearance. She described one of these situations in which Mr. Meredith "was checking me out and made comments that I was looking great or looking fine." She told us that she "didn't want that from a senator or anybody else".

She later testified that, in one instance, he looked at her "from head to toe and back up again" and then told her "you're looking awfully fine today". She said that he had come up to her and another female constable and asked them how they were doing.¹⁹ She told him that they were fine and after this, she said that he went into the Reading Room.

Constable X testified that, on one occasion, when she was at post 256 on the second floor just outside of a committee room, Mr. Meredith approached her, told her that he noticed that she had [hand]"cuffs", and told her "so you should come back to my office there and we should try them out together". In that same email referred to above from Mr. McDonell to Mr. Duguay, dated May 7, 2013, which provides notes of the meeting that Mr. McDonell had with Constable X, Mr. McDonell writes that this incident occurred sometime in early April 2013.

It was Constable X's testimony that after this last incident, she went to speak with her superior, Pat McDonell, the then Director of Security, about this matter. She met with Mr. McDonell twice in his office. Because of the passage of time, she could no longer recall the dates of these meetings, but certain emails from Mr. McDonell to Mr. Duguay dated May 7, 2013 indicate that Mr. McDonell met with Constable X on April 30, 2013 and May 3, 2013. These emails also state that another female constable, already referred to above, was also present at these two meetings with Constable X and Mr. McDonell.

In his testimony, Mr. McDonell substantially corroborated Constable X's evidence. He testified that Constable X met with him sometime during 2013 and told him that Mr. Meredith had approached her several times, mentioning that he found her attractive and that he wanted her to visit him in his office. Mr. McDonell confirmed that Constable X told him that she wanted no part of Mr. Meredith's advances and wanted them to stop as she felt very uncomfortable.

Constable X also testified that she also met with Mr. Duguay not long after her meetings with Mr. McDonell and that both Mr. McDonell and Mr. Duguay came to see her and advised her that "things were taken care of." Mr. Duguay confirmed that he met with Constable X. He recalled being accompanied by Mr. McDonell but he had difficulty remembering the timeframe. Mr.

¹⁹ While Constable X did provide the name of this other female constable during her interview, I have decided to withhold her name for the same reasons that I have not identified the former employees who participated in this inquiry and Constable X.

Duguay understood that the purpose of the meeting was to reassure Constable X that she could make a complaint without any fear of reprisals, despite Mr. Meredith's status at the time as a Senator. In referring to Constable X's account of what Mr. Meredith had said to her, Mr. Duguay testified:

What [Mr. Meredith] said was that he wanted to meet with her, and he was – as far as I can remember, he wanted to meet with her, like, to go to his office, or to meet somewhere else outside his office, which was totally – you just can't do that. I mean, it's totally out of the ordinary for a senator to ask a constable to meet with him in his office or outside the office, outside of hours.

It was Mr. Duguay's evidence that he sought permission from Senator Marshall to speak with Mr. Meredith about this matter. A chain of emails between Mr. Duguay and Senator Marshall on May 7, 2013 confirms that Mr. Duguay met with Senator Marshall and relayed the situation concerning Constable X to her. He testified that Senator Marshall indicated to him that there would be no tolerance for this type of behaviour and granted him permission to speak to Mr. Meredith about it. Mr. Duguay and Mr. McDonell met with Mr. Meredith in a meeting room located at the back of the Senate Chamber. Mr. Duguay informed Mr. Meredith that the gestures he had made towards Constable X were not welcome. Mr. Duguay testified that Mr. Meredith did not deny his approaches to Constable X but he seemed surprised by the fact that she did not welcome the attention. Mr. Meredith told Mr. Duguay that he "loved" all the constables and had respect for their work. According to Mr. Duguay, the matter ended there. Sometime after this meeting, Mr. Duguay followed up with Mr. McDonell to ask if Mr. Meredith's conduct towards Constable X had ceased. Mr. McDonell confirmed that the conduct at issue had stopped. The chain of emails of May 7, 2013 also indicates that Senator Marshall met with Mr. Meredith about this that same day and asked Mr. Duguay to monitor the situation and let her know if, subsequent to her speaking with Mr. Meredith, the matter had been resolved. Senator Marshall confirmed in her interview that this meeting with Mr. Meredith took place, though she could not recall the date of it.

Conduct After June 16, 2014

(c) Employee 6

According to Employee 6's testimony, Mr. Meredith invaded the personal space of female employees, including herself. This included coming behind her desk and putting his hand on her chair. Employee 6 testified that this caused her to feel uncomfortable and she thought to herself: "Why does my boss need to be hand on chair right beside me [...]"

She testified that a month or two after she commenced work in Mr. Meredith's office (in the spring of 2014), he attempted to hug her when he was leaving the office for the day. The first time he tried to do so, Employee 6 stated that she was caught "off guard" and told him "no". When she did so, he remarked that she gave hugs to her MP friends. She told Mr. Meredith that she has known them for many years. A few weeks after the first incident, Mr. Meredith tried to hug her again. Employee 6 explained that in June 2014, at the end of her first term with the office, she relayed her concerns about Mr. Meredith to a Senate Human Resources officer, Ms. Reina Bernier.

In August 2014, Employee 6 returned to Mr. Meredith's office because she was unable to find other work. It was her evidence that another incident occurred in October 2014. Employee 6 drove

Mr. Meredith to the Bruyère Hospital to present a certificate to a dying patient. She waited for him outside the hospital, in her car. Mr. Meredith returned to the car and she drove him to the Westin Hotel. Before getting out of the car, he leaned in towards her in order to give her a kiss goodbye. Employee 6 testified that she moved back, put her hand up, said “no thank you”, and then shook his hand. When she said “no thank you”, Mr. Meredith responded “Oh, okay”.

It was Employee 6’s evidence that shortly after this incident in October 2014, Mr. Meredith informed her that her probation was being extended and the working relationship between Mr. Meredith and herself deteriorated. Mr. Meredith would barely talk to her, and when he did, his tone was harsh and abrasive. She testified that Mr. Meredith made the working environment very uncomfortable for her. Senate Human Resources informed her that Mr. Meredith explained his decision to extend her probation by claiming that she had failed to provide him certain invitations and due to his complaints about her telephone etiquette.

In November 2014, Employee 6 spoke to Ms. Bernier a second time about the situation. She asked for assistance in finding alternate employment given the difficult working conditions in Mr. Meredith’s office. In her interview, Employee 6 explained that she thought Mr. Meredith treated her badly because she was not accepting his advances towards her.

Employee 6 described two occasions in which Mr. Meredith referred to her as “sweetie”. She could not recall the details of these two incidents, except that the first time this happened, she did not respond to him and that the second time it happened, she told him “That’s not my name. It’s [Employee 6’s first name].” She testified that he then laughed and walked away. As Mr. Meredith was doing so, she added, “Well, that’s what my parents called me. They didn’t call me Sweetie. They called me [Employee 6’s first name].”

Employee 6 testified that in January of 2015, she had had enough of the situation and spoke with Ms. Bernier yet again and asked her to convince Mr. Meredith to let her go. Employee 6 testified:

I couldn't be treated like that anymore. I couldn't be harassed anymore. I couldn't be, you know, verbally abused by, you know, and with degrading language, and, not language, tones. And to be in that. Because I have a good reputation. And when [Employee 3] came back, and it was obvious that there was still something there, I thought, “I can't be tied up with this person anymore. I'm out, I'm done.”

She also testified as follows:

And that's why I went in, again, [to see Ms. Bernier] and I said, “I can't work anymore here. You need to get me out of this office. But I can't quit, because if I quit, I don't get benefits.” So Reina called him and had him think that he was the one who decided to let me go. But it was really me. I had approached Reina and said, “I can't do this anymore, but you need to get him to let me go.” So that's the only thing she did for me, to help at the end. Was [that] she managed to get him to think that he was letting me go.

Mr. Meredith's position

In his written submissions, dated October 14, 2015, Mr. Meredith denied all the allegations related to sexual harassment. Nonetheless, Mr. Meredith stated that he would ensure that any training he obtained would include training on the issues of gender, cultural differences, and appropriate supervisor-employee rapport.

(3) *Poisoned Work Environment*

All six former employees that were interviewed for the purposes of this inquiry described the working environment in Mr. Meredith's office as poisoned.

Each of them testified directly as to the difficult working environment created by Mr. Meredith. Employees 1 and 3 used the term "toxic". Employee 6 referred to it as "harassing, awful", "could cut it like a knife"; she said it was "the worst professional experience" she had ever had. Employee 2 called it "tense", "walking on eggshells" and Employee 4 said it was "rather uncomfortable". Employee 5 described it as "a stressful environment", "very strict", "it felt like being in jail". Employee 5 explained the environment further:

[...] well, it's not like a specific conversation more than [...] a climate that you know when he's not happy, it's like you're [...] you know that he can pop up at any moment.

Other witnesses provided evidence that corroborated these allegations.

The former employees also gave specific examples of how the environment in Mr. Meredith's office was poisoned. They are set out below.

(a) Interactions with Whip's Office

Employee 5 described an incident in February 2014 concerning an event which Mr. Meredith attended called the National Prayer Breakfast in Washington. She alleged that Mr. Meredith was not authorized to go to this event and that the Government Whip's Office had specifically told her that he was not permitted to go because he was required to be in committee meetings during that time. Employee 5 alleged that when she told Mr. Meredith about this, he instructed her not to listen to the then Senior Advisor to the Government Whip, Ms. Karma Macgregor. Employee 5 testified that Mr. Meredith told her: "[to not] listen to this black – that fat bitch. She can just kiss my big, black, fat ass".

Employee 5 also told us that Mr. Meredith told her not to respond to the Whip's phone calls.

Employee 4 also reported that Mr. Meredith referred to Ms. Macgregor as a "bitch". In an email, dated May 23, 2019, Employee 4 told us that she could not recall if this comment was made in person or by telephone. She wrote that this occurred in late January 2014 or early February 2014 prior to his departure to Washington for the National Prayer Breakfast. She said that he made this comment in response to his staff relaying the Government Whip's insistence that he stay in Ottawa and not attend the event in Washington. She could not recall which other staff members were present when this comment was made.

Employee 4 stated in her interview that Mr. Meredith accused the then Government Whip, Senator Elizabeth Marshall, and Ms. Macgregor of being racists. She clarified, at our request, in an email to us dated May 23, 2019 that Mr. Meredith made this comment at the same time that he referred to Ms. Macgregor as a “bitch” and in the same context. In her interview, Employee 5 also testified that Mr. Meredith called them and others racist and that he said they were “all against his religious beliefs”.

Employee 1 also testified that Mr. Meredith instructed the staff not to interact with the Government Whip’s Office. When asked for further details about this, in an email dated April 18, 2019, he told us that Mr. Meredith became increasingly “paranoid” that there were “people out to get him”, particularly in light of the Senate expense scandal and also because of the poor work conditions in his office. Employee 1 told us in that same email that the instruction had been very clear. Mr. Meredith had expressed it both at formal and informal staff meetings. He could not recall the exact dates and times of these communications but he thought they began after a trip Mr. Meredith had taken to a prayer breakfast in Washington, DC, a trip that was not authorized by the Whip’s Office.

In his interview, Employee 1 testified as follows:

Q: Did Senator Meredith ever raise with all of you discussions about the Whip's Office, how to deal with them?

THE WITNESS: Oh yes, oh yes, oh yes, we were completely banned from conveying or interacting ---

Q: Banned?

THE WITNESS: Yes, do not tell them -- I was privy to, now stuff is coming back, [Employee 5] and later [Employee 6] being chastised about -- so they would actually have to sneak to deal with the Whip's Office because he really didn't want them knowing any of his business, any of his business stuff.

(b) Isolating and Controlling Behaviour

Employee 5 also detailed her feelings of isolation. She testified that, in December 2013, she was first instructed by Mr. Meredith to keep the front door of her office locked at all times. In an email dated May 3, 2019, she clarified that this instruction continued to be imposed until she left Mr. Meredith’s office in March 2014.

Employee 5 also described at length the extent to which Mr. Meredith would be controlling of her. She told us that he would ask “Where were you? Were you talking to somebody?” She alleged that she felt terrorized by Mr. Meredith.

She stated that Mr. Meredith told her not to speak with anyone, including the Whip and to “isolate herself from the rest of the Hill”. She told us that, in particular, Mr. Meredith asked her about the nature of her relationship with Employee 1. She alleged that when she replied that they were friends, Mr. Meredith told her: “You’re not supposed to make friends at work, you just keep things for yourself”. In an email dated May 3, 2019 providing further details at our request, Employee 5 explained that Mr. Meredith told her this more than once. In that same email, she told us that the first time he said this, Employee 1 had been in her office while Mr. Meredith was trying to reach

Employee 1 in his own office. She could not recall the specific date these comments were made; however, she explained that this controlling behaviour began at approximately the same time that Mr. Meredith began to make sexual advances towards her, the details of which have already been described above under 'Sexual Harassment'. She told us that if she was not at her desk when he was calling from Toronto, he would ask her where she had been and would be upset with her if he had to call her a few times before she responded.

Employee 4 described that, after she left Mr. Meredith's employ, she received multiple text messages from Employee 5 in which Employee 5 described how she could not go on any longer and that she was experiencing a lot of stress. In her interview, Employee 4 told my office that Employee 5 wrote to her: "I can't go on. This is too much. I feel like giving up [...] cause this is too much to deal with. I'm so stressed out". Employee 4 explained that these texts were sent from mid-March 2014 to April 2014.

(c) Threats of Dismissal

As indicated above, Mr. Meredith, on numerous occasions, threatened to fire employees for purported failings on their part. The particulars in relation to this are recounted within the section above entitled *Harassment*.

Mr. Meredith's position

In written submissions dated October 14, 2015, Mr. Meredith's counsel wrote that "Senator Meredith denies in large part the [Workplace] Report's characterization of the workplace within his office. However, there are clearly areas and issues identified where improvements can be made. Senator Meredith is committed to taking action, in cooperation with the Senate Administration and his staff, to ensure his office is an inclusive, supportive, and respectful workplace". He also wrote that Mr. Meredith was at that time investigating potential training or coaching programs to assist him in meeting that objective.

In his first interview of March 9, 2016, Mr. Meredith testified that the environment in his office was "open" and "inclusive". On this point, he testified as follows:

So, I created that open transparent environment for everyone to participate and feel comfortable to give their ideas without scrutiny, without, you know, any sort of criticism whatsoever. No one, none of my employees ever come to me. I have said to them all the time, "If you have an issue with me, please feel free to come and speak to me". No one had ever.

He went on to say that: "There was [sic] no issues of volatility or any kind of animosity".

He stated that he was absolutely shocked to hear that his former employees were of the view that the environment was poisoned.

In fact, he testified that it was not until February 2014 that he was made aware by anyone that the employees had concerns about his office. He told us that he found out at a meeting with Senator Marshall, the then Government Whip, and Senator Stephen Greene, the Deputy Whip. He testified that, at this meeting, he was told:

These are rumours. There are no sexual allegations, there are no harassment issues against you, Senator. There's absolutely nothing, it's just rumours and we wanted you to be aware of it.

He told us that the Whip and Deputy Whip raised "rumours" about him yelling and swearing in his office and issues regarding his use of Senate resources. He claimed that he thanked the Whip and Deputy Whip for bringing these matters to his attention but that Human Resources had not raised them with him and it is their responsibility to protect employees, as well as to protect Senators.

FINDINGS OF FACT

Assessment of Credibility and Reliability

In order to make findings of fact, it is necessary for me to assess the credibility of the individuals my predecessor and I interviewed, and the reliability of their evidence.

Credibility is assessed by reference to a number of well understood criteria, including whether the witness seemed honest, whether the witness has an interest in the outcome, whether the witness was able to provide accurate and complete observations, whether the witness appeared to have a good memory, whether the witness provided first-hand testimony as opposed to an account provided by someone else, whether the witness's account was reasonable and consistent (both internally and when considered in light of others' testimony, and the witness's manner (demeanour when testifying). However, this last criterion should not be the only or dominant item in assessing credibility, for it has been accepted that demeanour can be a misleading factor.

In addition, as the Ontario Court of Appeal has observed,

Credibility and reliability are different. Credibility has to do with a witness's veracity, reliability with the accuracy of the witness's testimony. Accuracy engages consideration of the witness's ability to accurately

- i. observe;
- ii. recall; and
- iii. recount

events in issue. Any witness whose evidence on an issue is not credible cannot give reliable evidence on the same point. Credibility, on the other hand, is not a proxy for reliability: a credible witness may give unreliable evidence [...].²⁰

My assessments of the witnesses' credibility, and the reliability of their evidence are outlined below.

I found Employee 5 to be credible. Her evidence was consistent both internally and with that of other witnesses. Furthermore, although Employee 5 testified that acts of sexual harassment

²⁰ *R. v. H.C.*, 2009 ONCA 56, para. 41, *per* Watt JA.

occurred every working day, I find that she did not exaggerate the incidents she described to us. For example, when she described the incident with Mr. Meredith in a hotel room in Ottawa in 2013, she freely acknowledged that he did not force her to stay once she decided to leave. It was reasonable that Employee 5 was unable to recall points of detail about events that she was not expected to record at the time. Employee 5 also gave her evidence in a clear and forthright manner, but I accept that demeanour can be an unreliable indicator of credibility. She appeared to be candid and sincere about how she felt and described in detail how Mr. Meredith's conduct affected her. Overall, and with due allowance for the precarious employment situation in which Employee 5 was in during the relevant times, I found her version of events to be reasonable. I also found it to be reliable.

Mr. Meredith attempted to challenge the credibility of Employee 6 by alleging that she was difficult to work with and that is why he had to terminate her employment. He said that she was rude and abrasive and had a bad telephone manner. Mr. Meredith also said that she did not give him his invitations. He claimed that she and Employee 3 did not get along and that they argued, most notably about a parking spot that originally belonged to Employee 3 but was given to Employee 6 while Employee 3 was on sick leave. He said that Employee 6 was upset that the spot was returned to Employee 3 on her return from sick leave. However, notwithstanding these claims, I am satisfied that Employee 6 did not lie. She was clear and direct in answering questions and was very consistent in her responses. Most importantly, there was substantial confirmatory evidence in that Employee 6 complained about Mr. Meredith's behaviour to her co-worker (Employee 1), to Senator Marshall and to the Whip's Office.

Moreover, Employee 6 did not embellish her evidence. For example, when asked whether she considered Mr. Meredith's action in calling her "Sweetie" to be demeaning or sexist, Employee 6 testified that the proper characterization was "inappropriate". While Mr. Meredith testified that Employee 6 was abrasive, aggressive, rude and had a bad manner on the telephone, having carefully reviewed the entirety of her testimony and her response to that particular assertion by Mr. Meredith, I conclude that it is more likely that Employee 6 conducted herself in a professional manner, and Mr. Meredith has invented an explanation for their difficult working relationship. I found her evidence to be reliable.

I found Constable X to be very credible, and her evidence to be reliable. She provided evidence in a direct and forthright manner, and her answers were consistent both internally and with that of other witnesses, a number of whom corroborated much of her evidence. Significantly, Constable X also corroborated the evidence of Employee 5 in material respects.

I similarly found Employees 1, 3 and 4 to be credible. All three provided evidence in a direct and forthright manner, and their answers were almost entirely consistent both internally and with that of other witnesses.

While it is unreasonable to expect the former employees of Mr. Meredith to recall every detail about the events that transpired during their term in his office, Employee 2, who was also interviewed in the course of this inquiry, was unable to provide sufficient detail in respect of his allegations to be able to assist us in any significant way.

Mr. Meredith was cooperative throughout the interview and he answered all of the questions that were put to him at that time. While I found him to be credible at times, there were numerous occasions when his answers were inconsistent, both internally and with that of other witnesses,

and were not plausible or not a sufficient justification for his conduct. In many cases, he also seemed to lack self-awareness in terms of his behaviour and its impact and seemed to believe that his conduct was justified. He also rationalized his behaviour through considerable finger-pointing at the former employees that were involved in this inquiry and their job performance. Although he acknowledged that he can be intimidating at times, at no point did he acknowledge the impact of his behaviour on any of the employees.

Although none of the employees filed a formal complaint against Mr. Meredith, I conclude that this does not compromise their credibility. Their testimony reflects their genuine concern with Mr. Meredith's conduct throughout their employment and their attempts to address the situation by various means, as was outlined more fully above. It is also reasonable for them to have been concerned about the impact it would have on their career and employment to bring forward allegations regarding Mr. Meredith in a more formal manner. At the relevant times, there was a stark power imbalance between each of them and Mr. Meredith.

Overall, I have no reason to doubt the credibility of the six former employees of Mr. Meredith and Constable X and generally found them to be open, honest, forthright and balanced in their presentation of the evidence. I did not see any evidence of collusion between the former employees that were involved in this inquiry and found that their evidence was not only largely consistent, but was also supported by the documents and other witnesses. Although the former employees acknowledged seeking advice and support from each other, this was reasonable given Mr. Meredith's persistent and often severe harassment, as already outlined above. Having scrutinized their evidence carefully, I do not find that there has been any collusion among them.

In light of the above findings of credibility, where there was a conflict between the evidence of the former employees and that of Mr. Meredith, I accepted that of the former employees unless otherwise specifically stated below.

In order to make a finding of fact, the test I must consider in each instance is whether the conduct occurred on a "balance of probabilities". This is sometimes referred to as the civil standard of proof and required that I ask myself whether it is more likely than not that the alleged conduct occurred. This is a much lower threshold than the criminal standard of proof "beyond a reasonable doubt".

Based on a review of the numerous emails, documents, witness statements, and the above findings of credibility, I make the following findings of fact.

(1) Harassment

I find that the incidents described by the former employees of Mr. Meredith, as outlined above, did in fact take place. I refer specifically to the following incidents: the Conference Call Incident, Call While on Sick Leave Regarding Newsletter Incident, Diamond Jubilee Incident, Macedonia Trip Incident, Clerk's Travel Report Incident, "Stab You in the Back" Comment, Breach of Confidentiality, and the Remembrance Day Event.

Though Mr. Meredith argued that he did not perceive himself as yelling or screaming at staff, he conceded that he can be a "forceful" speaker. In my opinion, the weight of the evidence supports the allegation that he did in fact yell and scream at staff. I also believe the version of the events

described by the employees, as set out above, concerning Mr. Meredith being threatening and intimidating towards his staff.

(2) Sexual Harassment

I find that the incidents described by Employees 5 and 6 and Constable X that involved behaviour of a sexual nature did take place. As already noted above, they were credible witnesses who gave reliable evidence. I believe their testimony over that of Mr. Meredith concerning these matters.

(3) Poisoned Work Environment

Having reviewed all the evidence in this respect, I also find that there was in fact a poisoned work environment in Mr. Meredith's office, caused directly by his behaviour. I base my findings on the following:

(a) Interactions with Whip's Office

I believe the evidence of the employees that the incidents involving interactions with the Whip's Office occurred. Their evidence was corroborated by Ms. Macgregor, who testified that the Whip's Office had difficulty reaching Mr. Meredith's office. Ms. Macgregor testified:

Over the course of the time while he was a Senator we always had a hard time getting responses from his office. And we would call, they would ignore the number or they would not give us the information. And I was told on a number of occasions by I'd say four different staffers in that office that they were explicitly told not to respond to the Whip's Office unless they were told by him they could do so. And that's abnormal.

I am not concerned here with the dynamic between Mr. Meredith's office and the Whip's Office. What concerns me about these interactions is the extreme manner in which Mr. Meredith instructed his staff to avoid and ignore the Whip's Office and made them uncomfortable and nervous because of it and because of the derogatory manner in which he referred to the Whip and her staff. He heightened the tension in the office and caused the staff to feel anxious when the Whip's Office tried to reach them, thus contributing to a hostile and unwelcoming work environment.

(b) Isolation and Controlling Behaviour

I also believe the testimony of Employee 5 concerning Mr. Meredith's attempts to ensure that she was isolated from others in the office and others outside the office. I find that this contributed to creating a work environment for her that was poisoned and unbearable. She expressed fear of retributions if she spoke with others leaving her in a situation in which she could not even seek help and support from others.

(c) Threats of Dismissal

As indicated above, Mr. Meredith, on numerous occasions, threatened to fire employees for purported failings on their part. These threats were, at times, expressly made by Mr. Meredith and at other times, implied by his words and actions. I found an abundance of evidence in this regard,

particularly as it related to Employees 1, 3 and 5. This includes but is not limited to the following incidents: Clerk's Travel Report Incident, "Stab You in the Back" Comment, the Breach of Confidentiality issue and the Remembrance Day Event issue. This had an extremely negative effect in the workplace; everyone seemed to be in fear of being dismissed. It was obvious from the testimony that Mr. Meredith created and fostered a climate of fear, such that every perceived error could expose the employee to the risk of being dismissed by Mr. Meredith for any mistake, large or small. This undoubtedly contributed to the toxicity of the workplace environment.

(d) Other Evidence of Poisoned Work Environment

I am further convinced that the incidents outlined above did occur, contributing to a poisoned work environment, given the independent evidence that I received from a number of sources about the fact that Mr. Meredith's employees relayed these matters to various officials in the Senate. First, Senator Marshall provided the notes of meetings she had as well as notes she had taken at the time of the events about a number of her discussions with some of the former employees as well as other Senate officials regarding the problems in Mr. Meredith's office. These were relayed to her either by the employees themselves or by the former Director of Human Resources in the Senate, or other Senate officials.

Senator Marshall provided me with an email, dated Wednesday, February 12, 2014, from the then Director of Senate Human Resources, Mr. Singh, to her concerning the high turnover rate in Mr. Meredith's office during the relevant time period. He copied the then Clerk of the Senate, Mr. Gary O'Brien, on this email. Mr. Singh provided a number of statistics about the turnover rate in Senators' offices and then concluded as follows:

Over the years, we have seen a turnover of approximately 1 in 3 employees. The Senator in question [referring to Mr. Meredith] has seen a rate of turnover that is more than thrice this average.

RELEVANT PROVISIONS OF THE *CODE*

The following are the provisions of the *Code* that are relevant to this matter:

General Conduct

7.1 (1) A Senator's conduct shall uphold the highest standards of dignity inherent to the position of Senator.

(2) A Senator shall refrain from acting in a way that could reflect adversely on the position of Senator or the institution of the Senate.

Conduct: parliamentary duties and functions

7.2 A Senator shall perform his or her parliamentary duties and functions with dignity, honour and integrity.

Standard of proof

48 (11) The determination that a Senator has breached his or her obligations under the Code shall be made on the balance of probabilities.

ISSUES

In my view, the following five issues arise in this case:

- (1) Did Mr. Meredith engage in conduct towards his Senate employees that constitutes harassment of a non-sexual nature?
- (2) Did Mr. Meredith engage in conduct towards his Senate employees that constitutes sexual harassment?
- (3) If Mr. Meredith did engage in conduct towards his Senate employees that constitutes harassment, non-sexual and/or sexual, in doing so, did he fail to uphold the highest standards of dignity inherent to the position of Senator, contrary to subsection 7.1(1) of the *Code*?
- (4) If Mr. Meredith did engage in conduct towards his Senate employees that constitutes harassment, non-sexual and/or sexual, in doing so, did he act in a way that could reflect adversely on the position of Senator or the institution of the Senate, contrary to subsection 7.1(2) of the *Code*?
- (5) If Mr. Meredith did engage in conduct towards his Senate employees that constitutes harassment, non-sexual and/or sexual, in doing so, did he fail to perform his parliamentary duties and functions with dignity, honour and integrity, contrary to section 7.2 of the *Code*?

Subsection 48(11) of the *Code*, set out above, requires that the determination that a Senator has breached his or her obligations under the *Code* be made on a balance of probabilities. Because of the interrelation between the first two issues and the last three, I have applied that standard of proof to each of these issues.

ANALYSIS

I begin my analysis with the issues pertaining to harassment (including abuse of authority) and sexual harassment.

A. Harassment

- (1) Did Mr. Meredith engage in conduct towards his Senate employees that constitutes harassment of a non-sexual nature?
- (2) Did Mr. Meredith engage in conduct towards his Senate employees that constitutes sexual harassment?

Law on Harassment and Senate Harassment Policy

Harassment

The Senate Policy on the Prevention and Resolution of Harassment in the Workplace defines harassment as follows:²¹

Harassment

Any improper conduct by an individual, that is directed at and offensive to another person or persons in the workplace, and that the individual knew or ought reasonably to have known would cause offence or harm. It comprises any objectionable act, comment or display that demeans, belittles, or causes personal humiliation or embarrassment, and any act of intimidation or threat. The conduct may be done on a one time basis or in a continuing series of incidents. Sexual harassment, discrimination within the meaning of the *Canadian Human Rights Act*, abuse of authority and making a complaint in bad faith are considered forms of harassment under this policy.

Harassment does not include normal managerial activities as long as these are not being done in a discriminatory or abusive manner.

This widely adopted definition of harassment is consistent with the manner in which the term is defined in policies applicable to various Canadian public and private sector institutions.

An assessment of whether a person has been harassed requires that the alleged harasser must have known or reasonably ought to have known that the behaviour was unwelcome.²² This involves both a subjective and an objective test.

Assessing whether someone knew or ought to have known that the conduct would cause offence or harm requires a consideration not only of whether the person who is the subject of the allegations did know, but whether a reasonable person ought to have known that the comments and conduct would cause harm.

As such, even where the person accused of harassment denies knowing that the behaviour was unwelcome, if a reasonable person under the circumstances would have known, then that would be sufficient to making a finding of harassment. If someone willfully or negligently avoided the signs that their behaviour was unwelcome, the objective part of this test ensures that they may still be held accountable for their behaviour.²³

Further, it is not necessary to prove an intent to offend on the part of the alleged harasser. In other words, whether that person considered how their behaviour might impact on the person against

²¹ *Policy*, s. 1.5, *supra*

²² Malcolm MacKillop, Jamie Knight and Meighan Ferris-Miles, *Investigating Harassment in the Workplace*, 2nd ed. (Toronto: Carswell, 2011), p. 3 [“MacKillop et al., *Investigating Harassment*”].

²³ *Ibid.*

whom the behaviour was directed need not be addressed. The fact that the harasser intended to engage in the behaviour is sufficient.²⁴

Another element that must be found for behaviour to constitute harassment is that behaviour was unwelcome from the perspective of the person who was allegedly harassed.²⁵

Abuse of Authority

Abuse of Authority, which is considered a form of harassment, is defined in the Policy as follows:

Abuse of Authority

Improperly using a position of authority or power to endanger another person's job, undermine job performance, threaten the person's livelihood or negatively interfere with his or her career. It includes humiliation, intimidation, threats and coercion.²⁶

As can be seen, there are common characteristics in harassment and abuse of authority. In this inquiry report, I deal with abuse of authority under the rubric of harassment.

Sexual Harassment

The Policy defines sexual harassment in the following way:

Sexual Harassment

Any conduct, comment, gesture or contact of a sexual nature, whether on a one-time or recurring basis, that might reasonably be expected to cause offence or humiliation, or might reasonably be perceived as placing a condition of a sexual nature on employment, training or promotion.²⁷

Poisoned Work Environment

Some authorities also refer to a concept known as "a poisoned work environment". On its own, the creation of such an environment is a form of harassment.²⁸ One such authority offers the following definition for this term:²⁹

A poisoned work environment refers to a workplace in which behaviours create a hostile and unwelcoming environment for employees and negatively affects communication and productivity.

²⁴ *Ibid.*

²⁵ *Ibid.*

²⁶ Senate Harassment Policy, *supra*, s. 1.5.

²⁷ *Ibid.*

²⁸ MacKillop et al., *Investigating Harassment*, *supra*, p. 15.

²⁹ *Ibid.*, p. 14.

The authors explain further:³⁰

It is important to note that specific incidents taken alone may not demonstrate a poisoned work environment, but examined collectively they may reveal a workplace environment that is poisoned for certain employees.

The Treasury Board's Guide "*Is it Harassment? A Tool to Guide Employees*"³¹ contains the following definition of "poisoned work environment":

A poisoned work environment refers to a workplace in which comments or behaviours create a hostile or offensive environment for individuals or groups and negatively affects communication and productivity. These activities (e.g., yelling at no one in particular; pounding a desk in frustration) are not necessarily directed at anyone in particular.

In Ontario, the Ontario Human Rights Commission contains the following explanation of how the *Ontario Human Rights Code* prohibits the creation of a poisoned environment:³²

8. Harassment/poisoned environment

[...]

In addition, the Code prohibits the creation of a poisoned environment. A poisoned environment is a form of discrimination and can arise from even a single incident. It may be created by the comments or actions of any person, regardless of his or her status. The comments or conduct do not have to be directed at a particular individual.

While the Senate Policy on the Prevention and Resolution of Harassment in the Workplace does not include such a definition, I have considered the evidence in relation to the concept for the purposes of this inquiry given that the language in sections 7.1 and 7.2 of the *Code* is broad enough to permit me to do so.

Mr. Meredith's Conduct Constitutes Harassment

It is clear from the evidence that Mr. Meredith engaged in a course of conduct that was improper and offensive to the former employees that participated in this inquiry. If viewed in isolation, some of the incidents taken on their own would not constitute harassment, but taken cumulatively, they demonstrate that Mr. Meredith engaged in a pattern of behaviour that demeaned, belittled and humiliated his former employees in the workplace. The following is my analysis of each of the relevant incidents:

³⁰ *Ibid.*

³¹ Government of Canada, 'Is it Harassment? A Tool to Guide Employees', last modified on August 21, 2015, available at: <www.canada.ca/en/treasury-board-secretariat/services/healthy-workplace/prevention-resolution-harassment/harassment-tool-employees.html#c9> ["Harassment Guide"].

³² Ontario Human Rights Commission, 'Policy on Discrimination Against Older People Because of Age', '8. Harassment/Poisoned Environment', available at: <www.ohrc.on.ca/en/policy-discrimination-against-older-people-because-age/8-harassmentpoisoned-environment>.

(1) Harassment

(i) Yelling and Screaming at Staff

(a) Conference Call Incident

The fact that Mr. Meredith gathered all the staff on a phone call to yell at Employee 1 and disparage his performance in drafting a speech was clearly conduct that was offensive to Employee 1, but was also offensive to Employees 4 and 5 who expressed dismay and concern about the call in their testimony. Employee 4 went as far as telling Mr. Meredith at the time that she found the call to be inappropriate and disengaged because she felt so uncomfortable with it. While Mr. Meredith, as an employer, was entitled to express his dissatisfaction with the work of one of his employees, in my view, the only purpose he would have had to ask that the rest of the staff be privy to this was to shame and belittle Employee 1 and to intimidate all three staff by demonstrating what would happen if they did not perform to his satisfaction.

It is clear from the evidence of Employee 1 that Mr. Meredith's behaviour was unwelcome: he said it made him feel the most uncomfortable he had felt in his professional life.

This incident clearly meets the definition in the Policy, as it is conduct that demeaned, belittled and caused personal humiliation and embarrassment – which a reasonable person would have known would cause offence.

(b) Call While on Sick Leave Incident

The evidence showed that Mr. Meredith called Employee 3 on the telephone while she was away on sick leave in or around December 2013 or January 2014. The incident involved the preparation of the office newsletter. It was established by the testimony of Employee 3 and Employee 5 that Mr. Meredith yelled at Employee 3 during that telephone call. It was equally clear that Employee 3 was greatly upset by Mr. Meredith's behaviour, as according to Employee 5, she was "freaking out" over the incident.

The harassment definition in the Policy prohibits conduct that is directed at and offensive to another person. It was established that Employee 3 was greatly upset by Mr. Meredith yelling and screaming at her. Calling an employee while the person is on sick leave is inadvisable at the best of times; yelling or screaming at that employee during the telephone call would obviously be hurtful to anyone, and Mr. Meredith ought reasonably to have known that his behaviour would be offensive.

(c) Diamond Jubilee Incident

This incident occurred in November 2014 after Employee 3 had returned from sick leave. The matter involved a press release Mr. Meredith wanted to publish, announcing the names of certain Diamond Jubilee medal recipients. Employee 3 contacted the Chancellor's Office to determine whether the recipients' names could be published. She learned that all recipients' names were embargoed until officially announced. After Employee 3 told Mr. Meredith that the Chancellor's Office did not want these names announced until the entire list was released, Mr. Meredith

repeatedly yelled and screamed at her. There was no reason to doubt the veracity of Employee 3's testimony in this regard; furthermore, the offending conduct was consistent with the incident cited above (when Mr. Meredith yelled at Employee 3 while she was on sick leave).

Again, the Policy prohibits this type of conduct. It was clear that Employee 3 was offended by Mr. Meredith's yelling and screaming. It was equally clear that yelling or screaming at an employee in the circumstances would have been offensive and would cause harm to anyone in Employee 3's position, and that Mr. Meredith ought reasonably to have known this.

(ii) Bullying, Threats and Intimidation

(a) Macedonia Trip Incident

Employee 3 cited this incident as an example of Mr. Meredith being rude and threatening. This matter concerned travel arrangements for Mr. Meredith and his spouse for a trip to Macedonia. According to Employee 3, Mr. Meredith was upset that Mrs. Meredith had been upgraded to first class with his travel credits, whereas he had not been upgraded. Although Employee 3 described Mr. Meredith as being rude, mean and threatening, his email of August 26, 2013 does not bear this out. Mr. Meredith simply used the word "not" in capital letters, telling Employee 3: "This will NOT happen again." On balance, despite the fact that Mr. Meredith became inordinately upset, I do not find that this incident constituted harassment.

(b) Clerk's Travel Report Incident

Employee 3 was on sick leave at the time of this incident. She told us that, when Mr. Meredith asked her to assist him with the Clerk's Travel Report even though she was on sick leave, he was very aggressive in his tone. I believe Employee 3's testimony in this regard. I also believe that the reason Employee 3 agreed to help him at the outset was that she felt intimidated by Mr. Meredith and was afraid that if she said "no" to him, there would be reprisals, including losing her job. Employee 3 was credible. This testimony, taken together with the evidence of Employee 5 that she received a call from Employee 3 in which she was extremely distraught about being contacted to work while on sick leave, illustrates the effect that Mr. Meredith's intimidating behaviour had on Employee 3. Mr. Meredith ought reasonably to have known that his aggressive behaviour towards Employee 3 was offensive. All of this evidence is, in my opinion, persuasive, and establishes harassment by Mr. Meredith.

(c) "Stab You in the Back" Comment

This incident is another example of Mr. Meredith engaging in behaviour that falls within the definition of harassment as outlined above. His comment to Employee 5, which was overheard by Employee 4, is a threat. It was obviously meant to threaten and intimidate Employee 5 into silence, which is prohibited conduct under the Policy. Although it did not constitute a threat of physical violence, this kind of language has no place in a respectful workplace and a reasonable person in Mr. Meredith's position would have known this. This is particularly egregious given my finding below that Mr. Meredith also sexually harassed Employee 5 during her employment in his office. This constituted harassment.

(d) Breach of Confidentiality

Reminding employees of their obligations as employees is clearly permissible, but in the context of the manner in which Mr. Meredith treated his employees, threatening to sue them for breach of confidentiality was behaviour that was obviously offensive to them and that Mr. Meredith knew or ought to have known that it would cause offense or harm. While Mr. Meredith, as an employer, had a right to expect confidentiality from his staff, threatening to sue employees for breach of confidentiality was a means of intimidating staff into silence. This constituted harassment.

This behaviour is particularly egregious in respect of Employee 5, whom I have found to have been sexually harassed by Mr. Meredith as well, as will be explained below.

(e) Remembrance Day Event

As a manager, Mr. Meredith was entitled to express dissatisfaction with the work of employees, leaving aside the question as to whether he was being reasonable in this particular situation. However, Employee 5 described him as being very angry with her and Employee 1. She also testified that he threatened to fire them if their performance did not improve. This behaviour on Mr. Meredith's part would clearly have been offensive to Employee 1 and Employee 5. In the broader context of the manner in which Mr. Meredith treated his staff, threats to fire them as in this incident constituted harassment. A reasonable person would know that this behaviour was offensive. Mr. Meredith's dissatisfaction with the outcome of this event was particularly offensive and inappropriate in light of my finding outlined below that he also sexually harassed Employee 5, and particularly in light of Mr. Meredith's unwelcome sexual advances toward her in Toronto at the time of this event.

(iii) *Mr. Meredith's Position*

Mr. Meredith denies much of the allegations in regard to the incidents cited above. However, the test of harassment will be met if it is clear that the alleged improper conduct was unwelcome or offensive to the recipient, and that a reasonable person would have recognized that his or her behaviour would be unwelcome to that specific recipient under the circumstances. As such, even where an employee did not specifically tell Mr. Meredith that the conduct was unwelcome, I find that the reasonable person would have recognized that his behaviour towards the former employees in the incidents described above was offensive and was not welcomed by them.

(2) *Sexual Harassment*

I find that the conduct described by Employee 5 and Constable X amounts to sexual harassment. Returning to the language of the Policy, I have no difficulty in concluding that it amounts to "conduct, comment, gesture or contact of a sexual nature, whether on a one-time or recurring basis, that might reasonably be expected to cause offence or humiliation, or might reasonably be perceived as placing a condition of a sexual nature on employment, training or promotion".³³

I also find that Mr. Meredith's conduct in relation to Employee 6 constitutes sexual harassment. I make this finding in light of the manner in which sexual harassment is defined in the Policy. In my

³³ Senate Harassment Policy, *supra*, s. 1.5.

view and in the context of the power imbalance that characterized their relationship, Mr. Meredith's actions in encroaching on Employee 6's personal space (as he had done with other female employees), trying to hug her, trying to kiss her, and calling her "Sweetie" amounted to "conduct, comment, gesture or contact of a sexual nature, whether on a one-time or recurring basis, that might reasonably be expected to cause offence or humiliation". While Employee 6 may not have been humiliated and in fact stood up for herself by making Mr. Meredith know that his actions were unwelcome and informing others about it, that in no way diminishes the nature of his conduct. Nor does Employee 6's reaction to it entail a conclusion that Mr. Meredith's behaviour could *not* reasonably be expected to cause offence or humiliation. While her perceptions and reactions cannot be controlling in this analysis, I conclude that on the evidence before me, Mr. Meredith's behaviour could reasonably be expected to cause offence or humiliation and that Employee 6 was offended by it.

(3) Poisoned Work Environment

I have already established above that there is an abundance of evidence to conclude that Mr. Meredith's conduct created a poisoned work environment for his staff. The evidence demonstrates that the environment was hostile and unwelcoming for the employees and it certainly negatively affected communication and productivity. Employees reported feeling nervous and tense. Employee 1 left Mr. Meredith's employ because he became ill as a result of the environment in the office. Employee 3 had an anxiety attack as a result of the hostile environment. Employee 5 reported feeling isolated and not feeling safe in the office. She expressed that his behaviour was "too much to deal with". Some employees were working with the constant fear that they would be terminated and lose their jobs.

I am of the view that Mr. Meredith bears responsibility for subjecting his staff to this negative environment.

B. 7.1 and 7.2 of the Code

I return to the third, fourth and fifth issues stated above.

- (3) If Mr. Meredith did engage in conduct towards his Senate employees that constitutes harassment, non-sexual and/or sexual, in doing so, did he fail to uphold the highest standards of dignity inherent to the position of Senator, contrary to subsection 7.1(1) of the *Code*?
- (4) If Mr. Meredith did engage in conduct towards his Senate employees that constitutes harassment, non-sexual and/or sexual, in doing so, did he act in a way that could reflect adversely on the position of Senator or the institution of the Senate, contrary to subsection 7.1(2) of the *Code*?
- (5) If Mr. Meredith did engage in conduct towards his Senate employees that constitutes harassment, non-sexual and/or sexual, in doing so, did he fail to perform his parliamentary duties and functions with dignity, honour and integrity, contrary to section 7.2 of the *Code*?

Although sections 7.1 and 7.2 of the *Code* have been set out earlier in this inquiry report, for convenient reference they are set out again here:

7.1. (1) A Senator's conduct shall uphold the highest standards of dignity inherent to the position of Senator.

(2) A Senator shall refrain from acting in a way that could reflect adversely on the position of Senator or the Senate.

7.2 A Senator shall perform his or her parliamentary duties and functions with dignity, honour and integrity.

Sections 7.1 and 7.2 of the *Code* prohibit "conduct unbecoming" of a Senator. Prohibiting conduct unbecoming serves an important purpose: to maintain the public's confidence in the integrity and trustworthiness of a profession, a position, and/or an office. By adopting sections 7.1 and 7.2 of the *Code*, the Senate has seen fit to prohibit conduct that could undermine the public's confidence in the office of Senator and in the Senate as an institution.³⁴

Though still relatively new in their application to Senators, obligations of this kind are not unusual. They commonly arise in the context of rules relating to the regulation of professions, particularly those that engage a public trust. For example, statutes and regulations pertaining to lawyers and physicians in jurisdictions across the country prohibit conduct unbecoming a licensee.³⁵

I have already determined that Mr. Meredith engaged in conduct towards his Senate employees that constitutes both non-sexual and sexual harassment, the particulars of which are outlined above, and that this conduct created a poisoned work environment for the employees.

But is that harassment and sexual harassment capable of constituting a breach of sections 7.1 and 7.2 of the *Code*, given that, of the incidents of non-sexual harassment, only the Diamond Jubilee Incident occurred after June 16, 2014 and that the only sexual harassment occurring after that date was in relation to Employee 6? Consistent with the approach in my predecessor's inquiry report concerning then Senator Meredith dated March 9, 2017, I have concluded that sections 7.1 and 7.2 permit me to consider similar conduct predating June 16, 2014 in order to provide context for assessing whether conduct occurring after that date constitutes a breach of the *Code*. When that context is taken into account, I conclude that the post-June 16, 2014 conduct constituted breaches of subsections 7.1(1) and 7.1(2) and section 7.2 of the *Code*. The following analysis compels that conclusion.

Turning first to subsection 7.1(1), in engaging in non-sexual and sexual harassment, and in creating a poisoned work environment for his employees, did Mr. Meredith fail to uphold the "highest standards of dignity inherent to the position of Senator"? I have concluded that Mr. Meredith failed to uphold those standards.

There is no doubt in my mind that by engaging in behaviours that constitute harassment, including sexual harassment, while he was a Senator vis-à-vis his Senate employees, Mr. Meredith failed to uphold the "highest standards of dignity inherent to the position of Senator".

³⁴ For a more detailed discussion of sections 7.1 and 7.2, see Senate Ethics Officer, 'Inquiry Report under the *Ethics and Conflict of Interest Code for Senators* concerning Senator Lynn Beyak', March 19, 2019.

³⁵ *Ibid.* See also, for example, *Law Society Act*, RSO, 1990, c. L-8, s. 33; Law Society of Ontario, *Rules of Professional Conduct*; *Health Professions Procedural Code*, para. 51(1)(c); Schedule 2 of the *Regulated Health Professions Act*, 1991, S.O. 1991, c. 18, and O. Reg. 856/93: Professional Misconduct.

This conduct not only failed to uphold the highest standards of dignity, but it was the opposite of doing so, particularly in light of the fact that the office of Senator is a position of trust vis-à-vis the public. How are Canadians expected to have trust and confidence in the office of Senator and in the institution of the Senate if a Senator harasses his or her employees? Obviously, this behaviour is incompatible with the notion of upholding the highest standards of dignity. Moreover, Mr. Meredith was in a position of authority and power over his employees making this conduct even more egregious.

Turning second to subsection 7.1(2), by engaging in conduct towards his Senate employees that constitutes both non-sexual and sexual harassment, the particulars of which are outlined above, did Mr. Meredith act “in a way that could reflect adversely on the position of Senator or the Senate”? In my opinion, in doing so, Mr. Meredith not only acted in a way that could reflect adversely on the position of Senator and the Senate, he acted in a way that did reflect adversely on the position of Senator or the Senate, contrary to subsection 7.1(2) of the *Code*. Obviously, the behaviour of Mr. Meredith amounted to conduct that brought the reputation of the office of Senator and of the institution of the Senate as a whole into disrepute. This behaviour is unacceptable in contemporary Canadian society and is even more objectionable when the person engaging in such conduct holds a public office, an office of public trust, and is expected to uphold public confidence in the position.

Finally, turning to section 7.2, I have found that when Mr. Meredith was dealing with his Senate employees, he was acting in the performance of his parliamentary duties and functions and that, to the extent that his conduct constitutes harassment, both of a non-sexual nature and of a sexual nature, it was undignified, dishonourable and that he acted without integrity in the way that he managed and dealt with his staff.

Having said the above, my findings on sections 7.1 and 7.2 of the *Code* do not apply to the conduct that occurred prior to June 16, 2014, including the conduct that I have found constituted sexual harassment described by Employee 5 and Constable X. Notwithstanding that Mr. Meredith engaged in a pattern of harassing behaviour and that he sexually harassed Employee 5 and Constable X, I am unable to find that Mr. Meredith’s actions constituted a breach of either section 7.1 or 7.2 of the *Code* on those bases because those provisions of the *Code* did not come into force until June 16, 2014.

Had I found that Mr. Meredith engaged in that conduct after June 16, 2014, I would have found that conduct to constitute a breach of both section 7.1 (on the basis that it was incompatible with upholding the highest standards of dignity inherent to the position of Senator and could certainly reflect adversely on the position of Senator or the institution of the Senate) and section 7.2 (failing to perform parliamentary duties and functions with dignity, honour and integrity). In the latter respect (that is, in relation to section 7.2), as has been alluded to above, I accept that in interacting with their staff – even if inappropriately – a Senator is acting in the course of their parliamentary duties and functions. This conclusion follows because these interactions with staff form part of their “duties and activities related to the position of senator”. If he had not been a Senator, Mr. Meredith would not have had a Senate office and access to Senate resources, including Senate staff.³⁶

³⁶ See Senate Ethics Officer, ‘Inquiry Report under the *Conflict of Interest Code for Senators* concerning Senator Pierre-Hughes Boisvenu’, June 25, 2014.

CONCLUSION

As set out above, I have concluded that Mr. Meredith breached sections 7.1 and 7.2 of the *Code* in engaging in behaviour that occurred after June 16, 2014 and which constitutes both harassment and sexual harassment.

Ordinarily, where I make a finding that a Senator has breached his or her obligations under the *Code*, as I have here, subsection 48(14) of the *Code* would require me to indicate whether remedial measures to my satisfaction have been agreed to by the Senator, whether the Senator did not agree to remedial measures that would have been to my satisfaction and what those measures were, or whether remedial measures were either not necessary or not available. As noted earlier, Mr. Meredith refused to participate in the latter stages of the inquiry process, though even if he had done so, given his resignation from the Senate, it would have been pointless to enter into a discussion with him concerning remedial measures.

GENERAL RECOMMENDATIONS

In its Third Report, in addition to instructing my predecessor to continue the suspended inquiry into this matter, the Standing Senate Committee on Ethics and Conflict of Interest for Senators also invited my predecessor to make any recommendations arising from the matter that concern the *Code* and its interpretation (subsection 48(12) of the *Code*). The Committee stated that it believed that the Senate Ethics Officer's inquiry report could provide guidance respecting the interpretation and application of the general rules of conduct to cases of workplace abuse of authority and harassment, especially in identifying when workplace misbehaviour becomes conduct unbecoming a Senator under the *Code* (sections 7.1 and 7.2). In the Committee's view, the Senate Ethics Officer's recommendations arising from this matter would be relevant to all Senate authorities in the consideration of best practices respecting workplace harassment. The Committee further noted that my report could also assist in clarifying the respective roles of the Senate Ethics Officer and the Committee, as well as the role of the CIBA.

In response to the Committee's invitation in this respect, I have included these recommendations in the form of an annex to this report.

Pierre Legault
Senate Ethics Officer

June 28, 2019

ANNEX

Guidance provided by the Senate Ethics Officer in response to the Third Report of the Standing Senate Committee on Ethics and Conflict of Interest for Senators

On June 21, 2017, the Standing Committee on Ethics and Conflict of Interest for Senators (the Committee) tabled its Third Report, pursuant to subsection 48(21) of the *Ethics and Conflict of Interest Code for Senators* (the *Code*). This report was related to the question of whether the Senate Ethics Officer was required to complete the two inquiries that were ongoing at the time of former Senator Meredith's resignation.

The Committee wrote:

The committee believes that allegations of sexual harassment, harassment and abuse of authority in the workplace should be fully investigated for the fairness of the employees involved and former Senator Meredith. This forms part of the Senate's responsibility as an institution and as an employer. [...]

However, the inquiry report of the Senate Ethics Officer, in addition to the findings, reasons and recommendations specific to the case of former Senator Meredith, "may include [...] any recommendations arising from the matter that concern the Code and its interpretation" (subsection 48(12) of the Code). The committee believes that the Senate Ethics Officer's inquiry report could provide guidance respecting the interpretation and application of the general rules of conduct to cases of workplace abuse of authority and harassment, especially in identifying when workplace misbehaviour becomes conduct unbecoming a Senator under the Code (sections 7.1 and 7.2). The Senate Ethics Officer's report could also assist in clarifying the respective roles of the Senate Ethics Officer and your committee on one side and the Standing Senate Committee on Internal Economy, Budgets and Administration on the other side. The Senate Ethics Officer's recommendations arising from this matter would also be relevant to all Senate authorities in the consideration of best practices respecting workplace harassment.

What follows are my views and thoughts on issues concerning roles and responsibilities in cases involving harassment, including sexual harassment and abuse of authority, as well as other related issues.

1. Clarification of Roles and Responsibilities

(a) The Senate and the Senate Ethics Officer

I concur with the Committee that allegations of harassment, including sexual harassment and abuse of authority in the workplace should be fully investigated. I also concur that it is the Senate's responsibility as an institution and as an employer to do so based on its internal policy concerning these matters, and to take any appropriate remedial measures in accordance with its policies.

The Senate Ethics Officer is not the employer and his role is not to usurp the role of the Senate as an employer by interpreting and applying the Senate's policies. It is not the responsibility of the Senate Ethics Officer to conduct these kinds of investigations.

The role of the Senate Ethics Officer is to administer the *Code* and to conduct preliminary reviews and inquiries under the *Code* in cases of potential breaches.

Only after the Senate has fulfilled its responsibilities as the employer by investigating the allegations of harassment in the workplace, including sexual harassment and abuse of authority – and only if those allegations have been first been substantiated by the relevant authority in the Senate – should a Senator be entitled in his or her personal capacity to request that the Senate Ethics Officer conduct an inquiry under the *Code*. The object of that inquiry would of course be in order to determine whether the conduct already been found to have taken place by the Senate, constitutes a breach of the *Code*. Consistent with the *Code*'s requirements, the Senator making the request would have to provide the reasonable grounds for believing that the Senator who was found to have engaged in such conduct has not complied with his or her obligations under the *Code*. In all future such cases, if the allegations of harassment have not been substantiated by the Senate, the Senate Ethics Officer will not consider that reasonable grounds have been established under the *Code*, and so the matter should not be referred to him.

(b) Parliamentary Privilege

In the case at hand, the CIBA invoked parliamentary privilege on a number of occasions, resulting in an inability to obtain and/or use evidence related to certain issues. Refusing to provide information to the Senate Ethics Officer on the basis of such privilege may result in a lack of evidence which may in turn affect the Senate Ethics Officer's findings in the matter. Claims of parliamentary privilege may also impair the appearance of the process that the Senate Ethics Officer must follow.

If a matter is properly referred to the Senate Ethics Officer for an inquiry, parliamentary privilege should be invoked as minimally as possible in relation to the documents, witnesses and information that are relevant to the inquiry and should be waived by the Senate in certain instances in order to facilitate the work of the Senate Ethics Officer in conducting inquiries. Claims that parliamentary privilege will not be waived on *any material* provided to the Senate Ethics Officer are far too broad and uncertain.

The Senate may wish to consider how to strike the right balance between ensuring that inquiries are conducted expeditiously and with all the relevant evidence required on the one hand, and claims of parliamentary privilege on the other.

In addition, in the inquiry at hand (as in the case of other inquiries), the CIBA decided whether to approve or disapprove of all of my requests for information from the Senate Administration. That information included files, reports, minutes of meetings, papers and email exchanges. Being required to wait for the CIBA to approve my requests and, in some cases deny them while

requesting further details and information about them, may result in unnecessary delays and also may compromise my independence.

2. When Does Workplace Misbehaviour Breach Sections 7.1 and 7.2?

It is important to note that not all workplace misbehavior will necessarily constitute a breach of sections 7.1 and 7.2. Though the working conditions in an office may be undesirable and may have to be addressed by the Senate as part of its responsibility of the employer, those conditions may not be such that they fall under sections 7.1 and 7.2 of the *Code*. The conditions must be of such a significant nature that they have an impact on the reputation of the office of Senator and/or the Senate as an institution. The standard of conduct expected of Senators under sections 7.1 and 7.2 is high, but these provisions are not aimed at dealing with management issues arising in a Senator's office. These kinds of issues should be dealt with through other means outside of the *Code*.

It follows that not all conduct that is determined by the Senate through its own investigation to be workplace misbehaviour should be referred to the Senate Ethics Officer in order to determine if that conduct breaches sections 7.1 and/or 7.2 of the *Code*. There must be reasonable grounds to believe that there has been non-compliance with the *Code* – meaning, in this context that the conduct is sufficiently serious to fall within sections 7.1 and/or 7.2 of the *Code*.