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Commissioner Nancy Belanger
Office of the Commissioner of Lobbying of Canada
255 Albert St. 10th Floor
Ottawa, ON, K1P 6A9

September 11, 2020

Re: WE Scandal and Interpretation of the *Lobbying Act*

Dear Commissioner Belanger,

I am pleased to learn that you have followed up on our request for an assessment as to whether WE Charity breached their legal obligations under the *Lobbying Act*. Given the complex relationships that were developed between the Kielburger group and key government ministers, your investigation will need to be thorough. In fact, I believe that the credibility of the *Lobbying Act* as instrument of transparency and compliance will rest on the findings of this investigation. To this end, I am concerned by a number of public claims made by the Kielburger brothers regarding their interpretation of the Act.

I am hoping that you will provide some clarity on some key issues relating to the Kielburger's interpretation of their obligations. This would go a long way to informing the public about the role of lobbying and the legal obligations that exist in Canada for those engaging with government departments.

Question 1 - Consequences for false declarations

In my previous letter to you, I raised the issue that WE Charity was possibly in breach of its obligation to register to lobby due to the significant volume of contacts with public office holders evident in the public record. Not only did they have a Director of Government Relations on staff but were in the process of hiring a Manager of Government Relations as well – and yet, there was no effort made to register these individuals to lobby.

I note that following questions by the House of Commons Finance and Ethics Committees regarding their lobbying activities, WE Charity made the decision to register and to back date their interactions with government. They listed 18 individuals on the registration and reported 65 contacts dating back to January 2019 – more than General Motors over the same time period. As you are well aware, it is incumbent on lobbyists to submit monthly communication reports to your office, and that failure to do so can result in serious penalties.

WE made this public statement of its lobbying activities on the same day that its former Director for Government Relations was required to give testimony to the Finance Committee. A late registration with this unheard-of level of activity is extremely concerning.

However, my question for you relates to the contribution agreement they signed with the federal government to obtain the funds to launch the Canada Student Service Grant. In clause 7.1 it is stipulated that, as a condition of receiving funds, the WE group were in compliance with the *Lobbying Act* at the time any representations to government were made. However, the fact that they did not register any lobbying activities until the parliamentary investigation was undertaken suggests that this was not the case.

In your opinion as Lobbying Commissioner did the WE organization sign a false statement regarding compliance with the Act? If so, is this a matter in which your office has jurisdiction to investigate under the *Lobbying Act*, or is this better handled under procurement rules or criminal investigation?

Question 2 – The Kielburgers’ obligation to register

What has become clear from the testimony at the Finance and Ethics committee is that both Craig and Mark Kielburger engaged in extensive meetings and contacts with government officials. From the documents released by the government on August 18th, it is fair to say that they spearheaded their organization’s efforts to obtain funding for two projects, setting up and attending meetings, directing WE Charity staff to various actions, and negotiating directly with senior government employees.

And yet, the Kielburger’s have taken the public position that they are not obligated to register as lobbyists since they are unpaid volunteers for the charity. Leaving aside the question of the definition of payment in the *Act*, which you have ruled is restricted to monetary compensation despite the more inclusive language in the *Act’s* text, Craig and Mark Kielburger are in a unique position that deserves clarification in law.

In the recent past, you ruled that the Aga Khan was not required to register to lobby on behalf of the Aga Khan Foundation because, similarly, his position on the board of directors was not paid. The Aga Khan, by all accounts, takes a hands-off approach to the Foundation, and does not materially benefit from his charitable work and lives off the returns from his substantial inherited wealth. His situation is very different from that of the Kielburgers, who have

substantial involvement in WE Charity's projects, as well as an ongoing material interest in the Charity's success – or did until the announcement that WE Charity would be wound up.

The Kielburger brothers control a network of related organizations, including ME to WE Social Enterprise, the WE Charity Foundation, WE Well-being Foundation, WE 365 LP, We365 Holdings Inc., WE 365 GP Inc., among others. Craig Kielburger testified to the Committee that fundamentally, the core of the WE organization was WE Charity and ME to WE Social Enterprise. One is a registered charity, and the other a for-profit corporation that self-defines as a social enterprise that “shares a common mission and work[s] towards a common goal” with the Charity, according to their website. There is a clear stated reciprocal public and financial relationship between the two organizations: the social enterprise's profits subsidize the charity, while the charity provides valuable branding, recognition and public legitimacy to the social enterprise.

The Kielburger brothers, on top of their role as unpaid volunteer co-founders of WE Charity, collect their official salary from ME to WE Social Enterprise, which, as described above, has close, acknowledged financial ties as well as shared branding.

I would note that in their pitch to senior government officials to obtain the Canada Summer Service Grant, the Kielburger brothers included materials related to the for-profit ME to WE events. This suggests that they see the two roles as complimentary. As well, we see from the 5,600+ pages in documents that the CSSG would have provided badly needed funds to the WE group and provide thousands of new hires for their operation.

This raises an important question: in the case of closely related organizations, at what point does advocacy for one organization become lobbying if an individual stands to indirectly yet materially benefit from improvements in the first organization's position?

Are the Kielburger brothers, as the founders, the frontline face and major advocates of both the charitable and profit driven wings of their enterprises able to engage in meetings and efforts to obtain government contracts because they as “volunteers” are exempt from the *Lobbying Act*? This raises fundamental questions about how seriously groups should or should not take the *Lobbying Act*.

Commissioner, I am sure that you can see these two items raised in the case of WE Charity's activities has created some concern. In order for Canadians to have confidence in the accountability measures that have been put in place in Ottawa, it is essential to have some clarity on these topics. I look forward to hearing from you in this matter.

Sincerely,

A handwritten signature in dark ink, appearing to read "C. Angus", with a horizontal line drawn underneath the name.

Charlie Angus, MP
Timmins—James Bay