

Report from the Independent Evaluator to the Standing Senate Committee on Internal Economy, Budgets and Administration

Background.

1. On July 13th, 2015, a *Report of evidence relating to the Workplace in the Office of Senator Don Meredith* (the “Workplace Report”) was issued by an investigation officer mandated by the *Standing Senate Committee on Internal Economy, Budgets and Administration* (the “CIBA”).
2. On July 15th, 2015, based on the contents of the Workplace Report, Senator Leo Housakos made a request under paragraph 47(2) (b) of the *Ethics and Conflict of Interest Code for Senators* (the “Code”) for the Senate Ethics Officer (the “SEO”) to conduct an inquiry to determine whether Senator Meredith had infringed his obligations under the Code.
3. In two separate letters addressed successively to the SEO, Senator Housakos argued that the allegations in the Workplace Report “*recounts a history and pattern of misuse of Senate resources and abusive behavior*” and that these allegations led to “*prima facie evidence of abusive authority, harassment and sexual harassment*” by Senator Meredith.
4. Following a preliminary review into this matter, the SEO decided that an inquiry was warranted and delivered this decision on December 10th, 2015.
5. On May 10th, 2017, Senator Meredith resigned from the Senate following a SEO report on a separate and unrelated matter.

6. The SEO, Pierre Legault, issued his final report on June 28th, 2019 (the “SEO Report (2019)”), where he concluded: *“that Senator Meredith breached sections 7.1 and 7.2 of the Code in engaging in behavior that occurred after June 16,2014 and which constitutes both harassment and sexual harassment”*.
7. With respect to the matter of harassment, the SEO determined that the incidents: *“...taken cumulatively, demonstrate that Mr. Meredith engaged in a pattern of behavior that demeaned, belittled and humiliated his former employees in the workplace.”* (p.44). The improper and offensive conduct by former Senator Meredith towards his staff was identified as (1) yelling and screaming, and (2) bullying, threats and intimidation.
8. As for the sexual harassment, the SEO found that the conduct of Mr. Meredith towards four (4) claimants amounted to sexual harassment causing offense and humiliation.
9. Finally, the SEO established that: *“...there is an abundance of evidence to conclude that Mr. Meredith’s conduct created a poisoned work environment for his staff”* that rendered his employees feeling nervous, tense, anxious, isolated and in some cases, ill. All of this compromised communication and productivity at work.
10. In concluding that Mr. Meredith failed to uphold the highest standards of dignity, the SEO pointed out that the harassment occurred in a situation where the harasser is in a “position of authority and power over his employees making his conduct even more egregious.”. This consideration constitutes an important factor in the determination of the compensation.
11. The SEO also raised an important question on the serious repercussions resulting from misconduct by the former Senator Meredith, on public trust: *“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?”* (p.50)
12. The determinations of the SEO are based on a thorough inquiry where he interviewed former Senate employees of former Senator Meredith and reviewed all the transcripts of

the testimonies of other employees and of Senator Meredith provided by his predecessor, the first appointed SEO who resigned on June 30th, 2017.

13. The SEO was also provided a copy of the Workplace Report which he examined thoroughly. However, the Workplace Report being to this day protected by parliamentary privilege, the SEO was not allowed to relay its contents to any of the participants in the inquiry or disclose its content in his final report.
14. The SEO had access to a significant amount of documentary evidence from Senate Administration including all email exchanges between former Senator Meredith and nine of his former employees.

The Mandate of the Independent Evaluator

15. On July 7th, 2020, I agreed to act as Independent Evaluator and to provide “assessment services” to assist the CIBA of the Senate of Canada in determining potential financial compensation for each former employee who experienced (1) harassment, (2) sexual harassment and (3) discrimination in the office of Mr. Meredith.
16. The complete claim process was conducted by me over a period of seven (7) weeks which included, receiving completed claim forms and submissions, conducting individual videoconference interviews, assessing each individual claim, providing for a recommendation of a financial compensation amount for a Claimant and drafting my final report to CIBA. In fact, in order to close this matter, CIBA asked that the Independent Evaluation be conducted over a short timeframe and for the results of my individual evaluations to be provided to CIBA as soon as practicable or at the latest by September 4th, 2020.
17. The assessment mandate provided, namely, that I assume that all the facts in the SEO Report (2019) are true and proven and that I consider any additional information provided by the former employees of Mr. Meredith during the claim process. I examined the SEO

Report carefully, especially as it pertained to the experience of each Claimant identified as an employee in that report. Also, for those Claimants who did not testify before the

SEO, or for those Claimants who testified before the SEO and sent me additional submissions, I examined all these facts carefully, establishing their credibility on a “balance of probabilities”.

18. Also, the assessment mandate provided that I use three public sector settlements, *Merlo v. Canada* 2017 FC 533, *Heyder v. Canada (Attorney General)* and *Tiller v. Canada* 2020 FC 323, to determine the amount of any financial compensation for each former employee. To do so, I was to calculate the average of the amounts that would likely be provided to a claimant if he or she participated in these settlement processes. As the compensation levels and factors that are used in these three settlements are based on the analysis of human rights tribunal, court decisions and professional comments, I have used them as a framework to assist me in determining a recommendation for financial compensation for each claim.
19. Also, as mentioned previously, the Workplace Report being covered by parliamentary privilege, I was not given access to its contents.
20. The Office of the Law Clerk and Parliamentary counsel identified all potential claimants and provided the Independent Evaluator with the list of eleven (11) claimants who agreed to participate in the claim process.
21. While I read the SEO’s Report concerning Mr. Meredith very carefully and considered all the facts and incidents involving the employees, I did not know their identities as their names were not divulged in the report. The name of the victims has been replaced by a number identification. Thus, for claimants who participated in the SEO Report, each one authorized the SEO to disclose their identity to me, as Independent Evaluator, so that I may use for my assessment, the content of the report as it relates to them.

22. Each claimant was informed by letter on the evaluation process and received a detailed Claim Form to enable them to tell their workplace story. Furthermore, claimants were informed that I could conduct a confidential videoconference, if I considered it necessary to clarify the additional information or if the claimant requested it. If needed, they were encouraged to be accompanied by a friend, a family member, or a treating health care professional during the videoconference for the purpose of providing support.
23. Furthermore, the claimants were allowed to be accompanied by a lawyer. The legal fees had been determined according to the criteria of necessity, reasonableness and proportionality.
24. I conducted a series of interviews by videoconference, individually with each Claimant (except one), between August 10th, 2020 and August 18th, 2020.
25. The homologated settlements in the three class actions are mostly based on sexual harassment. My mandate allowed me to incorporate harassment, discrimination and abuse of authority in the three (3) class actions compensation levels despite the fact that in some claims, the harassment wrongdoings do not result from sexual harassment. Moreover, the section “Effects on the victim” in the three (3) class actions encompasses many of the effects generally recognized in harassment and abuse of authority.
26. *Tiller* and *Merlo* are identical in the calculating method. However, *Heyder* has four (4) different level of claims that add up to the final compensation amount. It makes the calculation of the compensation more complex although the final amounts of the three settlements are generally comparable.

HARASSMENT AND ABUSE OF AUTHORITY

27. The *Senate Policy on the Prevention and Resolution of Harassment in the Workplace* defines harassment, at section 1.5, as:

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.

28. Abuse of authority is a form of harassment. It implies the use of "... 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." (section 1.5 of the Senate Policy).
29. The independent evaluation aims to compensate claimants for wrongdoing committed in the Senate precinct under Senator Meredith. These acts include any form of harassment including abusive conduct, words and behaviors that affected the working conditions of the complainants as well as all the consequences subsequent to these acts.
30. In Human Rights law, it is well accepted that an unequal power dynamic makes acts of harassment and sexual harassment even more harmful for employees in precarious employment.
31. Harassment was experienced by almost all complainants in various forms which, however, had the same constant: an abuse of authority that created a poisonous work environment. These acts of misconduct manifested themselves in particular by humiliation, denigration,

sudden attacks of yelling and screaming, telephone calls during the night to perform additional work, requirement of work during sick leave, threats, bullying, intimidation.

32. Almost all complainants described their work experience as “*the worst thing that ever happened to me in a workplace*”.
33. This toxic work environment generated anxiety, fear, tension for most Claimants. Most experienced adverse health consequences as they lost sleep, took medication and had to consult therapists and other health professionals. Some claimants just resigned from their positions; others were fired when not responsive to the abusive and oppressive conduct of Mr. Meredith.
34. The Claimants have tried to gain support and remedies from the Senate Administration, but the exceptional circumstances of the Meredith matter and the numerous investigations launched by the Senate and other authorities slowed the process and resulted ultimately in years of delay which accentuated the vulnerability and the isolation of the Claimants. This length of time to provide justice to the complainants is an aggravating factor in the determination of the compensation.
35. Prompt intervention to investigate harassment and sexual harassment minimizes the length of time that the victim of the harassment is required to endure the harassment. Intervention by the employer includes promptly treating the complaint as a serious matter, and involves various actions such as making resources available, providing a healthy work environment for the complainant and communicating the action taken to the complainant.
36. Complainants who experienced these events were traumatized and, to varying degrees, endured the after-effects for several years later.

37. The independent evaluation measured and quantified the consequences of wrongdoings and the delay taken to remedy the situation, to rescue and assist the Claimants in a timely manner. This is part of the consequences after the commission of wrongdoing.

SEXUAL HARASSMENT

38. The *Senate Policy on the Prevention and Resolution of Harassment in the Workplace* defines sexual harassment, at section 1.5, as:

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.

39. The sexual harassment experienced by four (4) Claimants took the following non-consented forms: repeated explicit requests, personal phone calls at home, touching, kissing and hugging (or attempt to) and in the one worst case, caresses under the skirt of the Claimant and exhibition of genitals to the Claimant.

40. The Claimants' refusal to respond to the sexual advances of Mr. Meredith was punished with reprimands, denigration and humiliation or they were ignored by him in front of their colleagues.

41. One claimant who experienced sexual harassment on a continuous basis while in Mr. Meredith's employ, suffered major health consequences due to this despicable behavior: anxiety, panic attacks, sleep disorders, headaches, post traumatic asthma, loss of self-esteem, and shame. She attended on-line therapy at the workplace. She finally resigned. Her personal life is still seriously affected by this trauma.

42. Despite the Claimant's complaining of the former Senator's discreditable conduct and her willingness to participate in many Senate inquiries and testimonies, she remains frustrated

by the slowness of the Senate's remedy process and, ultimately, the inability to protect her in due course. She also concluded in expressing her wish that Senator Meredith would no longer be called "Honorable".

LEGAL FEES

43. Two (2) Claimants had recourse to a lawyer, [REDACTED] to accompany them since January 2020, in all the steps leading to the final Senate Independent Evaluation. [REDACTED] was present during their interviews. The two (2) Claimants have been instrumental in the long process leading to the final step of evaluation. I have been provided with the lawyer's invoice for legal service rendered. I have reduced the amount of the invoice in applying the criteria of reasonability, necessity and proportionality. Finally, I consider that the professional assistance of [REDACTED] has benefited all claimants.

CONCLUSION

44. The mandate given by CIBA for an independent evaluation is a broad and comprehensive one. It encompasses not only the wrongdoings but their consequences. It allowed me to take into consideration the long-time effects on each complainant.

45. The sound and detailed *Inquiry Report issued by the Senate Ethics Officer*, Mr. Pierre Legault, on June 28th, 2019 guided my independent evaluation regarding the credibility of the claimants and the assessment of the claims.

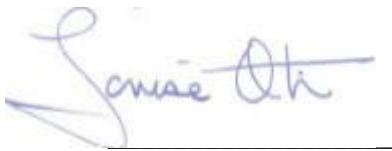
46. The independent evaluation would allow CIBA to put an end to this unique and sad episode of harassment, sexual harassment and abuse of authority carried on by a member of the Senate.

47. In addition, the new Policy on *The Prevention and Resolution of Harassment in the Senate Workplace* to be adopted in 2020 is designed to eradicate harassment by implementing a

robust system aimed to deter all forms of harassment and make all potential harassers fully accountable for their acts. This clearly sends the message that harassment will never be tolerated in the Senate.

48. To put an end to the crisis generated by the Senator Meredith's years at the Senate and to shut off the all criticisms based on the opacity of the process, I will recommend making this report accessible to the public.

Montréal, August 20, 2020



Louise Otis

Independent Evaluator