
CANADA)
PROVINCE OF ONTARIO) In the matter of an Application for a Production
EAST REGION) Order pursuant to section 487.012 of the *Criminal*
Code.

INFORMATION TO OBTAIN A PRODUCTION ORDER

This is the Information of **Corporal Greg Horton** a Peace Officer of the Royal Canadian Mounted Police, in the city of Ottawa, Ontario.

I have reasonable grounds to believe and do believe that an offence contrary to an Act of Parliament has been committed, to wit:

- **Mahmoud (Mac) Harb** between December 2, 2003 and July 1, 2013 at Ottawa, Ontario, being an official in the Senate of Canada, did commit breach of trust in connection with the duties of his office by filing inappropriate expense claims contrary to section 122 of the *Criminal Code*.

AND THAT there are reasonable grounds for believing that the following documents and/or data will afford evidence of the said offence:

- All declarations of primary and secondary residence submitted by Senator Mahmoud (Mac) Harb between September 8, 2003 and July 1, 2013.
- All Travel Expense Claim forms (for 64 points travel system and living expenses in the NCR) and supporting documentation and receipts submitted by Senator Mahmoud (Mac) Harb between September 8, 2003 and July 1, 2013.
- All billing statements of all American Express corporate travel cards issued to Senator Mahmoud (Mac) Harb by the Senate of Canada, dated between September 8, 2003 and July 1, 2013.
- All detailed billing statements pertaining to all mobile telephones issued by the Senate of Canada to Senator Mahmoud (Mac) Harb, dated between September 8, 2003 and July 1, 2013.
- Senate attendance records of Senator Mahmoud (Mac) Harb for all days that the Senate was in session, between September 8, 2003 and July 1, 2013.
- Copies of the four documents submitted to the Senate by Senator Mahmoud (Mac) Harb as supporting indicators of where his primary residence is located, consisting of: a driver's licence, provincial health card, information from personal income tax return providing provincial tax information, and a signed statement of where he voted.

- A copy of the electronic calendar maintained by Senate Finance documenting Senator Mahmoud (Mac) Harb's travel and expenses, and corresponding legend of codes used on the calendar.
- A system generated report to show records of all expense claim payments from the Senate to Senator Mahmoud (Mac) Harb between September 8, 2003 and July 1, 2013.
- A system generated report to show records of all expense repayments by Senator Mahmoud (Mac) Harb to the Senate between September 8, 2003 and July 1, 2013.

AND THAT there are reasonable grounds for believing that the said documents and/or data or some part of them are in the possession or control of:

- Nicole Proulx and Michel Patrice of the Senate of Canada in Ottawa, Ontario

INTRODUCTION

I, Greg Horton, a member of the Royal Canadian Mounted Police (RCMP) in the Province of Ontario, make oath and say as follows:

1. I am a peace officer in the RCMP for the past 21 years with experience in major crime investigations and applications for judicial authorizations. I have personal knowledge of the matters hereinafter set out, and I believe all of the information in this Information to be true.
2. I am currently assigned to Sensitive and International Investigations within the National Division of the RCMP, responsible for investigating matters of significant risk to Canada's political, economic and social integrity. My role in this investigation is that of the lead investigator, and as part of that role, to seek when appropriate, judicial authorizations. Throughout this Information, where I state my belief, that belief is based on my experience as set out above and on the other information in this Information.

OVERVIEW

3. This application is in relation to an RCMP investigation into the activities of Senator Mahmoud (Mac) Harb, whom I believe has committed the offence of Breach of Trust. The offence is in relation to travel and housing expense claims, submitted in relation to his duties as a Canadian Senator.
4. This investigation commenced in March 2013, after several media stories were published in relation to the Senate referring travel and housing expense claims of Senators Mike Duffy, Patrick Brazeau, and Mac Harb to Deloitte, a management and accounting firm,

for the purpose of external audits. At issue were claims for travel and housing allowances in relation to where the Senators actually live. A Senator is eligible for certain housing and travel expenses while working in Ottawa, if their primary residence is located more than 100 km from the National Capital Region (NCR). Because of the extensive media coverage, and the mandate of National Division, I commenced this investigation in preparation of the release of the Deloitte reports. In May 2013, the Senate received and publicly released three Deloitte reports, one pertaining to each Senator being audited. My team then commenced a review of the three reports, as well as laws, rules, policy and guidelines which govern the Senators. We also monitored developments in the media. While the investigation is focusing on all 3 Senators, this application is specifically related to Senator Harb.

5. After examining an 18 month period of expense claims, Deloitte produced a report (the Deloitte Report) finding Harb identified a residence in Cobden or Westmeath, Ontario as his primary residence, and claimed a residence that he owns in Ottawa as his secondary residence. He collected a housing allowance for the Ottawa residence. The Deloitte Report found that there was a lack of clarity in the Senate regulations and guidelines when referring to primary and secondary residences. It did not conclude any fault on Harb's part, but did provide a breakdown on where he spent his time, the majority being in Ottawa.

[Harb purchased a house in Cobden in 2003 which he claimed as his primary residence. He sold it in 2011. He purchased a house in Westmeath in 2010 which he claimed as a primary residence after selling the Cobden residence. At times throughout this document I will refer to the residences collectively as Cobden/Westmeath. At other times, when necessary, I will specify which residence I am referring to.]

6. As a result of the Deloitte Report, the Senate Standing Committee on Internal Economy, Budgets and Administration (The Standing Committee) produced its own report identified as the *Twenty-fourth Report* (The Senate Report) pertaining to Harb. The Senate Report summarizes the Deloitte Report findings as well as the Senate committee findings. The Senate Report concluded that the minimal amount of time that Harb spent at his declared primary residence did not support a declaration of primary residence, and he therefore was not entitled to claim a living allowance for a secondary residence in the NCR. He was ordered to repay living expenses, with interest. To date he has repaid approximately \$51,000 without admitting liability, and is contesting the Senate's order in court.
7. I believe, based on the investigation to date that Senator Harb has not lived primarily at his Cobden/Westmeath homes, while travelling to Ottawa and incurring expenses for a secondary residence for Senate business. While he has owned homes in both Cobden and Westmeath, the investigation has shown that neither of those homes was his primary residence. I believe he resides primarily in the NCR, and as such is not entitled to collect a housing allowance claiming that residence as 'secondary'.

8. The purpose of this application is to obtain documents and data from the Senate of Canada, which will provide evidence relating to Senator Harb's travel and housing expense claims. The period of time for which I am seeking documents and data is for the entire time that he has been in the Senate, for which records are available. Harb has been in the Senate for approximately 10 years. The Senate maintains financial records dating back 8 fiscal years, however Michel Patrice, Deputy Law Clerk at the Senate has advised that it is possible that records exist beyond the past 8 years. I believe that an analysis and audit of these records and expenses will provide evidence of the named offence by demonstrating that Harb's primary residence is in Ottawa. They will also provide a record of all the inappropriate housing expenses claimed by Harb, and assist in advancing the investigation.

GROUNDS FOR BELIEF

Senate Expenses Controversy Timeline

In this section I will provide a brief chronology of events, which will be followed by a summary of the investigation to date. Once a general timeline is described, I will then address some of these events or topics in greater detail under additional individual headings.

9. Since 1989, the Senate has a policy that Senators who come to Ottawa to carry out their parliamentary functions, and who are more than 100 kilometers from their registered primary residence, are considered to be on travel status while in Ottawa, and may be reimbursed for eligible living expenses in the National Capital Region.¹
10. In September 2003, Mac Harb was appointed to the Senate by then Prime Minister Chretien². Less than 3 months later, he purchased a house in Cobden, Ontario and commenced claiming it as his primary residence³, thus collecting an allowance for maintaining a secondary residence in Ottawa.
11. On December 6, 2012 The Standing Senate Committee on Internal Economy, Budgets and Administration (Standing Committee) instructed the Senate Administration to conduct an audit to assess whether all senators' declarations of primary and secondary residence are supported by sufficient documentation.⁴
12. To determine primary residency, all Senators were asked to submit copies of:⁵

- a. a driver's license;

¹ Statement of Senator Tkachuk on the 19th report of internal economy dated February 28, 2013

² Senate of Canada Harb bio page, and Harb's court filed Affidavit dated June 14, 2013.

³ Harb's court filed Affidavit dated June 14, 2013.

⁴ I learned this by reading a Senate news release dated December 6, 2012.

⁵ I first read this in the news, and later confirmed it in interviews with Deloitte auditors, as well as Nicole Proulx from Senate Finance.

- b. a provincial health card;
- c. relevant information on their income tax return;
- d. a signed statement of where they vote

[The Ontario health card does not contain an address, so I do not know how this was to assist the Senate in determining primary residency]

13. On February 8, 2013 the Senate announced that the residency declarations and related expenses of Senators Brazeau, Harb, and Duffy were referred to external auditors at Deloitte for review and report.⁶ This caused significant media attention over the next several weeks, resulting in the RCMP commencing an investigation in March to gather information available in the public domain, as well as through police indices, in preparation for the results of the Deloitte audit.
14. On May 9, 2013 the Senate publicly released the Deloitte reports pertaining to Senators Brazeau, Duffy, and Harb, which I have read. There were three reports in total, one for each Senator. The remainder of this Information will relate only to Senator Harb, and the related police investigation.

[It should be noted that I am also investigating Senators Brazeau and Duffy for similar but unrelated offences. In addition to Breach of Trust, I am investigating Duffy for accepting approximately \$90,000 from Nigel Wright, former chief of staff to Prime Minister Harper, to repay inappropriately claimed expenses.]

15. Among its findings, the Deloitte Report stated that existing regulations and guidelines did not contain criteria for determining "primary residence", and as such they were not able to assess the status of Harb's primary residence. The Deloitte Report will be discussed further under a separate heading.
16. The Senate Standing Committee also released its own report, *Twenty-fourth Report* (The Senate Report) dated May 9, 2013 which summarizes the Deloitte Report, and presents the findings of the Senate committee looking into the matter of expenses and housing claims. The Senate Report noted that Deloitte could not assess the status of Harb's primary residence based on the Senate regulations and guidelines, but the Senate found that he was not eligible to claim living expenses in the NCR and ordered him to pay back claimed expenses.⁷ This report will be discussed later in this document.
17. My team is conducting an ongoing investigation relating to Senator Harb's expenses and declared residency. As part of that investigation, several people have been interviewed, and evidence gathered through inquiries, leading me to believe that Cobden/Westmeath was not the location of Harb's primary residence between 2003 and 2013. The results of these inquiries to date are set out below.

⁶ I learned this by reading a Senate news release dated February 8, 2013.

⁷ I learned this by reading the Senate report dated May 9, 2013.



POLICE INVESTIGATION

18. According to the Harb's Senate biography web page, which I have read, Mac Harb's political career started when he became an alderman in Ottawa in 1985. He served as Deputy Mayor of Ottawa in 1987 and 1988, and entered Canadian federal politics when he was elected to the House of Commons in 1988 as Member of Parliament for Ottawa Centre. He was appointed to the Senate of Canada on September 8, 2003 by Prime Minister Chretien.
19. I conducted CPIC / Ontario Paris driver's license queries relating to Harb and found that he has an Ontario license history dating back to 1975. His license information also provides an address history dating back to 1982. According to those records, for the past 31 years, his home addresses associated to his driver's license have all been in Ottawa, except for a 4 year period between December 2007 and October 2011 when it was listed as 62 Durack Line, Cobden, Ontario. His associated driver's license addresses since he has been in the Senate are as follows:⁸
- a. 2204-440 Gloucester Street, Ottawa - February 1989 to November 1997
 - b. 1522-195 Clearview Street, Ottawa - November 1997 to December 2007
 - c. 62 Durack Line, Cobden - December 2007 to October 2011
 - d. 2401-1380 Prince of Wales Drive, Ottawa - October 2011 to present

-62 Durack Line Road, Cobden Ontario

20. When Mac Harb was appointed to the Senate in September 2003, he resided in Ottawa. Approximately 3 months later he purchased a house located at 62 Durack Line Road in Cobden, Ontario.⁹ This is approximately 123 km from Parliament Hill¹⁰. The land registry history for that address are as follows:¹¹
- a. On December 2, 2003, the property title for 62 Durack Line Road was transferred to the name of Mahmoud Harb of 1522-195 Clearview Avenue, Ottawa;
 - b. On October 12, 2007, the property was transferred from Mac Harb as the sole owner, to Magdeline Teo and Mac Harb as tenants in Common. Teo held 99.99% interest in the property and Harb held 0.01% interest. Harb's address on the records remained as Ottawa and Teo's was listed as 62 Durack Line Road;

⁸ I learned this from reading an Ontario Paris report dated March 6, 2013.

⁹ I learned this through land registry documents for 62 Durack Line Road, as well as through Harb's court filed Affidavit sworn on June 14, 2013.

¹⁰ I determined the distance using Google maps on July 8, 2013.

¹¹ I learned this from reading the police report of Sgt. Robineau dated June 13, 2013 at 1124 hours and from viewing land registry and transfer documents pertaining to 62 Durack Line Road.

- c. The annual property Assessment Rolls compiled in 2004, 2005, 2006 and 2007 list Harb as the property owner with a contact address of 1522-195 Clearview Avenue, Ottawa;
- d. Assessment Rolls compiled in 2008, 2009 and 2010 list Harb and Magdeline Teo as owners, with an address of 2401-1380 Prince of Wales Drive, Ottawa;
- e. On May 27, 2011 the property was sold and ownership transferred to a 3rd party.

21. Investigators from my unit interviewed Larry Mulligan and Lisa Clark who reside approximately 1 kilometer from Harb's Cobden residence. Mr. Mulligan advised that he rented the pasture land at 62 Durack Line Road prior to Harb buying the house. After Harb purchased the house, Mr. Mulligan continued to rent the pasture land from him for the next 3 or 4 years. He kept cattle on the property between May and October each year. He described the house as a vacant old stone house on which Harb built an addition¹². Mr. Mulligan had a key for the house because the electrical breaker would trip frequently, affecting the well that was used to water the cattle. He would have to go into the house and reset the breaker. He checked on his cattle 3 or 4 times per week, and never saw anyone at the property during the week. He sometimes saw Harb on weekends. He recalled once seeing a woman and two kids at the property who he assumed were Harb's family. Ms. Clark added that Harb lived in Ottawa and had given them his contact information in Ottawa should they ever need to reach him. She said that they kept an eye on the property because the house was often empty. She does not believe Harb stayed at the residence very often. After the addition was completed on the house, Mulligan told Harb that the well on the property would not sustain a family living in the house. Harb asked him to take care of having a new well installed for him, which he did. When Harb decided to sell the house, he offered it to them first. He told Mulligan that he was selling the house because he was not using it and his family did not want to be there.¹³

22. Investigators from my unit spoke to Michael Limlaw who confirmed that he installed a new well on Harb's property. He did not recall ever meeting Harb. His wife, Marilyn Limlaw provided investigators with a copy of the invoice for the work dated May 19, 2006. It stated the following:¹⁴

*"Well Owner: Mac Harb
Mailing Address: 195 Clearview , 1522, Ottawa, Ontario K1Z6S1
Telephone: 613 722 6561
Address of Well location: County - Refrew, Township Bromley*

¹² Investigators located records which show that On May 31, 2004, the Township office of Admaston Bromley issued a construction permit to Mac Harb for a 2266 square foot addition to the house at 62 Durack Line. The permit valued the addition at \$125,000 and listed Mac Harb as both the owner and contractor

¹³ I learned this from reading the police report of Sgt. Robineau dated June 13, 2013 at 0752 hours.

¹⁴ I learned this from reading the police report of Sgt. Robineau dated June 20, 2013 at 1407 hours.



23. Investigators from my unit interviewed Terry Moore, a contractor who worked on Harb's Cobden residence, who stated that:

- a. He was one of the first contractors hired by Harb to work on the old house, before the addition, to level the basement floor;
- b. He worked in the house for approximately 4 months over a 1 year period;
- c. He was also hired to perform other jobs such as a bathroom renovation and window replacement;
- d. Harb would sometimes show up at the property unannounced to check up on the progress of the work;
- e. The house was in very rough shape when he worked on it, and was still in rough shape when he and his partner completed their work;
- f. He recalls that someone was working on the old fireplace at the time that he was doing his work.

24. Investigators from my unit interviewed Wade Ellison who advised that:¹⁵

- a. He was hired by Harb to do stonemason work on Harb's Cobden house in November or December 2004;
- b. He believes he worked on the house for a total of 10 months over an 18 month period, both inside and outside;
- c. Building of the addition had been completed prior to him applying all the exterior stone;
- d. Besides the exterior, he also did stone work inside the residence doing 2 or 3 fireplaces;
- e. He was in and out of the house throughout;
- f. He did not believe that Harb was living there, but said Harb was on site a lot;
- g. There were a lot of other workers and contractors on site as well doing various jobs such as electrical.
- h. Harb was sometimes there in the morning when he showed up for work, but he does not know if Harb slept there.

25. Investigators from my unit interviewed John Mulligan who lives approximately 1.3 kilometers from Harb's Cobden residence. He stated that Harb approached him one day, after the addition had been completed, and asked him to plow his driveway during the winter. He stated that Superior Propane needed to have access to the house. Mulligan estimates that he cleaned the driveway out 10 to 15 times per winter, for three winters, and did not consider the house to be occupied. He only saw Harb there a few times per

¹⁵ I learned this from reading the police report of Cst. Rysanek dated June 26, 2013 at 1203 hours, as well as listening to the audio statement.

year, sometime with who he assumed was his wife and 2 kids.¹⁶

26. RCMP investigators from my unit interviewed Wilson Rae, the real estate listing agent who sold the house in Cobden to Harb. Mr. Rae stated that:¹⁷
- a. When Harb purchased the property, his (Harb's) brother acted as his real estate agent. Harb told him he was looking for a place to get away from the city;
 - b. The property had been an old house with barns and pasture land, of little value and in poor condition;
 - c. After purchasing the property, Harb completely renovated the house and had an addition built;
 - d. When Harb was selling the house, he (Mr. Rae) showed it up to half a dozen times to prospective buyers. Normal practice is to make an appointment with a homeowner to show their house, but he knew the home was vacant so there was no need to. He would advise the listing agent at times, but other times he just used the key code to access the house to show it;
 - e. The house was sparsely furnished, with no sign of anyone living there.
27. RCMP investigators from my unit interviewed Dan Vodenicar, the listing agent who sold Harb's Cobden house in 2011. He advised that:¹⁸
- a. The house was first listed in 2010, and relisted again in 2011;
 - b. He believed the residence had the appearance of being occupied as it contained furniture and beds. He does not recall seeing food, toys, or clothing;
 - c. Most of his communication with Harb was via phone or e-mail;
 - d. He believes Harb told him he was selling because his family was not interested in living there, and did not want to move there;
 - e. Someone else may have been listed on file as a co-owner. He cannot recall the details.
28. RCMP investigators interviewed Carl Schruder who advised that he purchased Harb's Cobden home from Harb in May 2011. Harb had told him he was selling the house

¹⁶ I learned this from reading the police report of Sgt. Robineau dated June 28, 2013 at 1013 hours.

¹⁷ I learned this from reading the police report of Sgt. Robineau dated June 13, 2013 at 0843 hours.

¹⁸ I learned this from reading the police report of St. Robineau dated June 28, 2013 at 1105 hours, as well as by reviewing the statement transcript.

because his wife and kids did not like the area. Mr. Schruder was of the opinion that no one had lived in the house for a long time prior to him buying it as it was sparsely furnished, the lawn had not been cut for a long time, and the condition of the house was unkempt.¹⁹

29. RCMP investigators interviewed Karen Anderson who advised that:²⁰
- a. She was hired by Harb to clean his Cobden residence in April 2010 in order to get it ready to sell;
 - b. It took her a week to clean the residence as it was quite dirty with dust and dead flies. She did not believe the residence had been lived in for some time;
 - c. Harb told her he was selling the property because his wife and kids did not like the country;
 - d. She kept the house clean for the next approximately 3 months while it was being shown to potential buyers;
 - e. Harb told her he has a cottage in Quebec as well as property in Florida.
30. Investigators from my unit met with Edwin Eden of Lanark Mutual Insurance Company who provided extensive information and documentation pertaining to insuring and inspecting the property of Mac Harb at 62 Durack Line Road. Sgt. Robineau participated in the interview and prepared a report detailing the information gathered and summarizing the documents received. I have read Sgt. Robineau's report, as well as the supporting documentation. The following information is a summary:²¹
- a. Lanark Mutual commenced insuring the property in 2003. It had been referred to them through a broker, Bradley's Insurance in Stittsville. The policy was in the name of Mac Harb at the time. The property was categorized as a "fixer upper" requiring a lot of work, and Harb intended to do renovations and live there;
 - b. By 2006/2007, a large addition had been added to the house, and inspectors made note that no one was living at the property full time;
 - c. An annual statement was mailed to the residence however was returned to Lanark Mutual in May 2004 as unclaimed. Lanark inquired with Bradley's Insurance and was advised that Harb was using the mailing address of his brother at 410 bank Street, Ottawa;
 - d. On July 30, 2004, the policy was amended to add builders risk to the insurance relating to a 1300 square foot addition that would be added, and completed in approximately 8 weeks.

¹⁹ I learned this from reading the police report of Cst. Rysanek dated June 28, 2013 at 1139 hours, as well as listening to the audio statement.

²⁰ I learned this from reading the police report of Cst. Rysanek dated June 28, 2013 at 1129 hours.

²¹ Police report of Sgt. Robineau dated July 5, 2013 at 0750 hours.

- e. On January 10, 2005, the policy was amended to change Harb's address from Bank Street, to 1522-195 Clearview Avenue, Ottawa. A handwritten notation on the file notes "wife stays in house all the time. Mac in politics stays part time in Ottawa". Mr. Eden believes the handwritten notes were likely made as a result of inquiring whether anyone lives at the residence if Harb was changing his address to an Ottawa address. That would affect the insurance premium;²²
- f. On May 24, 2006 a request was made from Bradley's Insurance to Lanark Mutual to increase the insured value of the residence to reflect the addition, as well as extensive changes to heating, wiring, plumbing, roof, septic, well, stonework and foundation. The request for change contains a note that Harb has been living at "both places" for the past year or so, but will live in Cobden once all the construction is completed. A subsequent June inspection noted the quality of the home and approved the increase;
- g. An October 26, 2007 inspection by Lanark Mutual contains the following notation:

Insured didn't show up for the appointment. I waited for 25 minutes. I don't think the house is being lived in full time, yard is not being maintained. This is the second time no one showed up. I recommend we do not renew.^{23 24}

- h. In a November 1, 2007 e-mail, Marg Durack apologized and took responsibility for Harb having missed the inspection meeting, claiming she was to have confirmed it with him. She provided a lengthy explanation to Lanark Mutual stating that Harb is only at the house Fridays through Mondays. She also advised that the policy needed to be amended to add Magdeline Teo as an absentee homeowner, because her name was now on the deed with Harb. She speculated that she may be Harb's future wife;
- i. A follow-up inspection by Lanark Mutual dated November 16, 2007 contains the following notations:

*I finally got in. House doesn't have much furniture. Insured only here 3 or 4 days per week. House needs a good cleaning. A Lot of bird shit in the basement. A lot of mouse traps have been set. Mac said the bird problem has been fixed, still working on mice...Should this be a premium? House is not fully complete. Not lived in full time. Don't raise coverage anymore.*²⁵

²² This notation was made by an employee of Lanark, and reference having spoken to 'Marg', a reference to Marg Durack who works for the broker, Bradley's Insurance.

²³ Quote is not verbatim as typos have been fixed

²⁴ In a November 1, 2007 e-mail on the file, Marg Durack takes responsibility for the missed appointment and details a lengthy explanation.

²⁵ Quote is not verbatim as typos have been fixed and recommendations not noted in the quotation.

A letter was subsequently sent to Harb at his Ottawa address, containing a list of areas requiring corrective action.

- j. On February 19, 2008, a request was made by Bradley's Insurance to Lanark Mutual to update Harb's policy to reflect an address change. His new address was listed as 2401-1380 Prince of Wales Drive, Ottawa. Lanark responded asking for confirmation that the Cobden residence was owner occupied and Bradley's insurance confirmed it was.
- k. The Insurance policy was cancelled as of May 27, 2011 as a result of Harb having sold the house.

31. As mentioned previously, the ownership of 62 Durack Line Road in Cobden changed in 2007, resulting in Harb only owning .01% of the property, and Magdeline Teo owning 99.99%. Further inquiries relating to this transaction revealed that Harb was granted a mortgage on the property on October 12, 2007 for \$177,000. Later that same day the property was sold to Teo, with Harb maintaining a .01% interest in the property. The sale price was \$567,000. Harb's \$177,000 mortgage was not discharged until 2011²⁶. Obtaining a mortgage on the property and then transferring 99.99% ownership of the property to Teo on the same day potentially put the bank at risk. Additional investigation will be conducted relating to this transaction.

32. To date Magdeline Teo has refused to meet with or speak to investigators. She has advised that she wants all questions submitted to her in writing. Investigators determined that Ms. Teo was a diplomat in Canada. She was described in a March/April 2006 edition of *Diplomat & International Canada* as the Brunei Darussalam High Commissioner. She is currently the Brunei ambassador to China²⁷. The relationship between Teo and Harb has not been determined by investigators on my team, nor is it clear why Harb maintained a .01% interest in the residence after selling it to Teo, or why she refuses to speak to investigators. The following is a list of questions asked of Teo in writing, and her responses²⁸:

Q. When did you live in Canada?

A. End 2004-2007.

Q. Why were you living in Canada?

A. I was a diplomat stationed in Ottawa.

²⁶ Police report of Sgt. Robineau dated July 18, 2013 at 1021 hours, as well as a verbal explanation from Sgt. Robineau July 16, 2013.

²⁷ The Brunei Times article dated June 9, 2013.

²⁸ An e-mail from Magdeline Teo to Sgt. Robineau dated July 19, 2013 at 1229 hours.

Q. Please tell me what you know about the property at 62 Durack Line Road, Cobden, Ontario?

A. In 2007, I purchased the property which was legally documented. Mac Harb continued to reside at the property paying the Monthly ongoing mortgage and operating cost as rent until the property was sold in 2011.

Q. Please tell me what you know about Senator Mahmoud (Mac) Harb?

A. Mac Harb and I have a Personal friendship. We do not and never have had a business relationship or any relationship based on our professional lives.

Q. Is there anything else you think I should be aware of?

A. No.

Q. What are/were your reservations about discussing the above with the RCMP?

A. I answered your questions and have nothing further to add.

[I sent a follow up e-mail to Ms. Teo on July 22, 2013 asking for an explanation as to why Harb retained .01% of the residence in 2007, and the method she received payment for the house in 2011 when the house was sold. At the time of writing this Information, she has not responded to my e-mail.]

-52 Crosby Trail, Westmeath, Ontario

33. On November 1, 2010 Mac Harb purchased the residence at 52 Crosby Trail in Westmeath, Ontario from Jane Behm for \$300,000. The Charge/Mortgage documents obtained from Teranet Inc.²⁹ list Mac Harb of 2401-1380 Prince of Wales Drive, Ottawa as the purchaser or "chargor". Likewise, the portion outlining the transfer of property from Behm to Harb lists Harb's address as Ottawa.³⁰
34. As previously mentioned, Harb later sold the Cobden residence in May, 2011. Based on a sworn Affidavit of Harb, he continued to claim the Cobden residence as his primary residence until June 3, 2011, when he filed a declaration identifying the Westmeath house as his primary residence.³¹ (I will discuss Harb's Affidavit later in this document)
35. Investigators interviewed Linda Crosbie, a neighbor to Harb's Westmeath house, who stated that Harb purchased the house approximately three years ago from the Behm family. She has seen him on occasion drive by her house, but he has never waved or acknowledged her. She has never met him. Since the media attention, she believes she sees him more often. This past Christmas she returned home to find a bottle of wine at

²⁹ According to www.teranet.ca, teranet is an international leader in electronic land registration and is the exclusive provider of online property search and registration in Ontario.

³⁰ Police report of Sgt. Robineau dated July 18, 2013 at 0748 hours.

³¹ I learned this by reading Mac Harb's Affidavit dated June 4, 2013, as well as attached exhibits consisting of his primary residence declarations dated October 2010 and June 2011.

her door with a notes that said "*Dropped by to see you, sorry I missed you, Mac*". She returned the bottle with a note that said "*No thank you*" as she does not believe that Harb actually lives at the residence and did not appreciate the gesture. She qualified her belief by saying that its a small community where people know and see their neighbors. Harb was seldom seen, and not part of the community in her opinion.³²

36. Investigators interviewed Ronald Ethier, who along with his wife Gail deliver mail in the community of Westmeath. Gail has been delivering the mail since 1981, and Ronald began driving for her in 1995. On Crosbie Trail they deliver to a community mail box. There has never been any mail addressed to Harb's residence until recently. He was not aware that anyone even lived at Harb's house. Mr. Ethier recalls seeing two pieces of mail addressed to Mac Harb at 52 Crosbie Trail. The mail could not be delivered however because Harb does not have a mail box. When someone moves to the community, they need to attend the local post office and arrange for delivery. The post office then advises Mr. and Mrs. Ethier. In Harb's case, this was never done. There is also an option to have your mail collected at the post office, but there is a fee for that.³³
37. Investigators interviewed Leroy Behm who stated that Harb purchased the Westmeath house from his (Behm's) mother. He stated that he and Harb have socialized together, that Harb comes to Westmeath on weekends, and that he stays in Ottawa during the week while he is working. He defended Harb against assertions that he does not actually live in Westmeath, saying people likely just don't see him because he arrives later in the evenings, and leaves early in the morning. Behm further said that his own aunt and uncle (Linda and Peter Crosbie) live across from Harb, and were quoted in the media as saying that Harb does not live there, but again defended Harb saying his aunt and uncle cannot actually see Harb's house, don't know him, and are not Liberal Party supporters.³⁴
38. Investigators interviewed Paula Ghaffar, an office assistant of Harb since 2003. One of her roles is to prepare Harb's expense and per diem claims. She completes the claims based on Harb's schedule and receipts of travel provided by Harb. Upon completion, she submits the claims to Harb for signature, then forwards them for processing. She does not recall Harb ever disputing or amending any of the claims she prepared. She knows that Harb acquired his Cobden house after being appointed to the Senate, and that it was meant to be a 'get away' place away from the city. She knows that he now has a house in Westmeath, and one in Ottawa. She does not know at which house he spends his time.³⁵
39. Investigators also interviewed another office assistant, Alison Deakin, who advised that she has known Harb for many years, and was once married to his now deceased brother, but never really had a personal relationship with him beyond working together. She recalls that Harb was residing in Ottawa when appointed to the Senate, and later purchased a property in Cobden. She has never been to the property but believes he held

³² Police report of Sgt. Robineau dated June 14, 2013 at 1228 hours.

³³ Police report of Sgt. Robineau dated June 14, 2013 at 1353 hours.

³⁴ Police report of Cst. Rysanek dated June 21, 2013 at 1214 hours.

³⁵ Police report of Cst. Rysanek dated July 18, 2013 at 1242 hours.

a family Christmas even there around 2003, and had described the residence as a family home.³⁶

-The Deloitte Report

40. On February 8, 2013 the Senate announced that the residency declarations and related expenses of Senators Brazeau, Harb, and Duffy were referred to external auditors at Deloitte for review and report.³⁷ On May 9, 2013 those audits had been completed and the Deloitte Reports were made public by the Senate. I have read the report pertaining to Senator Harb, and the following is a summary of the report and their findings: (The complete report is attached as Exhibit I)
- a. Deloitte was retained by the Senate in order to undertake an examination of Senator Harb's living allowance expense claims, including an assessment of his primary and secondary residency status;
 - b. Deloitte was not engaged to, and did not perform a financial statement audit, review or compilation for the purpose of expressing an opinion on historical financial statements. They did perform a forensic examination which utilizes accounting and investigative techniques to provide an analysis related to issues identified to them;
 - c. Findings were based on rules and guidelines of the Senate, which include *Senate Administrative Rules*, *Senators' Travel Guidelines*, and *Senator's Living expenses in the NCR Guidelines*;
 - d. Some of the documentation that they reviewed included declarations of Harb pertaining to his residences, financial travel calendar, living and travel claims and supporting documentation, mobile phone records, corporate credit card statements, Senate attendance records, bank account statements, personal credit card statements, and property tax and mortgage records;
 - e. The period of time under examination was an 18 month period, between April 1, 2011 and September 30, 2012;
 - f. Deloitte requested an interview with Harb, as well as certain financial documents from him to assist in their examination, and he cooperated fully;
 - g. Senators, whose "primary residence" is located more than 100 kilometres from the NCR, are entitled to a reimbursement of travel expenses, and a reimbursement of living expenses, while in the NCR for Senate business;

³⁶ Police report of Cst. Rysanek dated July 17, 2013.

³⁷ I learned this by reading a Senate news release dated February 8, 2013.

- h. The regulations and guidelines applicable during the period of examination do not include criteria for determining "primary residence". As such, Deloitte was not able to assess the status of Harb's Cobden/Westmeath residence as his primary residence;
- i. When assessing Harb's location, Deloitte used the measurement of where he slept or spent the night, rather than where he was throughout the day;
- j. Based on the analysis of documents by Deloitte, they were able to confirm Harb's location for 72% of the time of the audit (395 days) and identified his likely location for another 22% (123 days). Only 6% of the days (31 days) was Harb's location unconfirmed;
- k. It appears that Harb spent approximately 62% of his time in Ottawa, for Senate business or otherwise, and 21% of his time in Cobden/Westmeath, the location of his declared primary residence. The majority of the time spent in Cobden/Westmeath during the summer months when the Senate was not sitting;
- l. The claimed travel by Harb between Ottawa and Cobden/Westmeath did take place, or could have taken place;
- m. Two travel periods where a potential issue regarding \$625.68 in claimed travel expenses were identified as being subject to interpretation and determination by the Senate sub-committee. The identified issue relates to consecutive travel claims for travel from Ottawa to Harb's declared primary residence, but for which there was no documented Senate business while Senator Harb was in Ottawa;
- n. Harb submitted yearly declarations that his primary residence is located in Cobden or Westmeath, during the 18 month period under examination;
- o. Senator Harb's travel expense claims related to living allowances in the NCR consist of claims for private accommodation in the NCR (for having the Ottawa property he owns available for Senate business), plus per diem amounts related to meals and incidentals, and mileage between Cobden/Westmeath and Ottawa. His claims during the 18 month period totaled \$43,056;
- p. With regard to the 4 criteria that Senators were required to submit to prove their primary residency (driver's license, provincial health card, relevant information on their income tax return, and a signed statement of where they vote), Harb did not meet any;

[The Ontario health card does not contain an address, so I do not know how this was to assist the Senate in determining primary residency]

- q. The majority of Senator Harb's travel claims are for travel from Ottawa to Cobden/Westmeath. In other words, the travel claims are for trips to go to the declared primary residence, as opposed to claims for travel from the declared primary residence to Ottawa in order to attend Senate business;
- r. It appears that Senator Harb visited his declared primary residence regularly, with a minimum of three (3) days and a maximum of nineteen (19) days per month spent at the property during the period of examination;
- s. Senator Harb indicated that he would technically be entitled to per diem amounts on the travel days but due to the relatively short travel distance to his declared primary residence, he has not claimed per diem related to this travel, rather he only claimed per diems on days when he was in Ottawa on Senate business;
- t. Senator Harb indicated that he would only claim for a "reasonable" number of trips from Ottawa to the declared primary residence, typically four (4) per month. In other words, Senator Harb indicated that some trips to declared primary residence were not claimed. Senator Harb's claim is supported by the documentation reviewed as Deloitte identified eighteen (18) confirmed trips to his declared primary residence which were not specifically claimed;
- u. Deloitte was not able to confirm that Senator Harb was located in the Cobden/Westmeath area for fifteen (15) of the seventy-two (72) trips claimed between Ottawa and Cobden/Westmeath, due to the short distance between the two locations and lack of documents to prove or disprove the travel.

-The Senate Report

41. As previously mentioned, The Senate Standing Committee released its own report (The Senate Report) on May 9, 2013 which summarizes the Deloitte Report, and the final findings of the Senate committee. The Senate Report acknowledged that Deloitte could not assess the status of Harb's primary residence based on the Senate regulations and guidelines. It further found that:³⁸
- a. *Your Committee acknowledges Deloitte's observation regarding the absence of criteria for determining primary residence. It is nonetheless our conclusion that the Primary and Secondary Residence Declaration form in force during the scope of these investigations and signed by Senator Harb is amply clear, as is the purpose and intent of the guidelines (as of June 2012, policy) to reimburse living expenses. In summary, the Declaration requires Senators to affirm whether their primary residence is "within 100 kilometres from Parliament Hill" or is "more than 100 kilometres from Parliament Hill." The purpose and intent of the policy instrument is to allow Senators, who do not have their home within 100 kilometres of Parliament Hill and would not be in Ottawa if it were not for the fact that they*

³⁸ I learned this by reading the Senate report dated May 9, 2013.

are Senators who must attend Senate business, to not incur additional costs for accommodations while in Ottawa to attend Senate business. To claim living expenses in the NCR, any residence owned or rented by a Senator must be a secondary residence, not the place where he or she ordinarily lives, for use by the Senator while in the NCR for Senate business. Your Subcommittee considers this language to be unambiguous and, plainly, if a Senator resides primarily in the NCR, he or she should not be claiming living expenses for the NCR.

- b. *Deloitte's reports have been very helpful to our determination of the appropriateness of the living expense claims filed. Senator Harb was found to have spent approximately 21 percent of 549 days at his declared primary residence of Westmeath, with two additional identified day trips. Additionally, Senator Harb was found to use his Ottawa address for several official purposes, and his travel patterns were consistently Ottawa-Westmeath-Ottawa, denoting that Ottawa was his default or primary location.*
- c. *It is therefore the conclusion of this Committee that, based on the evidence presented in the examination report, Senator Harb's level of presence at his declared primary residence does not support such a declaration. It is contrary to the meaning of the word "primary" and to the purpose and intent of the provision of living allowance in the NCR.*
- d. *Your Committee therefore recommends:*
 - i. *That Senator Harb be ordered to reimburse the Receiver General for Canada for any living and related mileage expenses reimbursed to him by the Senate of Canada for the period from April 1, 2011 to date with interest at prime rate plus one percent;*
 - ii. *That an internal investigation of Senator Harb's travel patterns and living expense claims be extended to the period prior to April 1, 2011; and*
 - iii. *That expense claims submitted for reimbursement by Senator Harb be overseen by the Subcommittee on Agenda and Procedure of the Standing Committee on Internal Economy, Budgets and Administration, from the date of the adoption of this report for a period not less than one year.*

42. According to several news agencies, the Senate sent Harb a letter dated June 3, 2013 ordering him to repay approximately \$51,000 within 30 days. The letter also gave him the option of repaying \$231,649 in order to avoid an extended and detailed audit of his expenses as far back as 2005.³⁹ Harb also references having received this letter in his June 14, 2013 Affidavit.

43. On June 14, 2013 Mac Harb swore a 23 page Affidavit which was filed with the Ontario Superior Court of Justice. I have read the Affidavit, which is an application for judicial

³⁹ CBC News article dated June 13, 2013 at 1826 hours.

review of the Senate's order of Harb to repay.⁴⁰ In it, Harb describes a timeline of events, a summary of Senate rules and guidelines, and explanations as to why he believes he was entitled to file expense claims relating to his secondary residence in Ottawa. I am not going to provide written arguments in this Information to dispute of Harb's views and sworn beliefs, however I will address two points:

- a. In paragraph 10 of Harb's Affidavit he stated that on November 18, 2003 he consulted then Clerk of the Senate, Paul Belisle, who told him that based on the circumstances, he could designate his new home in Cobden as his primary residence. During subsequent inquiries with Mr. Belisle by investigators on my team, Mr. Belisle stated that he has no recollection of such a conversation, and would refer Senators to Senate legal counsel for such questions. It was not in his purview to provide such direction⁴¹.
- b. Harb provided a timeline stating that he purchased the Cobden house as his primary residence in 2003, and then moved to the Westmeath house in 2011 making it his primary residence. At no time in the Affidavit did he disclose that he actually sold the Cobden house to Magdeline Teo in 2007, maintaining only .01% ownership of the residence, while still claiming it as his primary residence almost 4 more years.

44. On July 5, 2013 the Senate issued a press release which stated that Harb repaid \$51,482.90, without prejudice. The press release stated:⁴²

- a. *Senator Gerald A. Comeau, Chair of the Standing Senate Committee on Internal Economy, Budgets and Administration has received a cheque to the Receiver General for the amount of \$51,482.90. Senator Harb has advised the Chairman that he forwards this cheque under protest, which means that he vigorously denies any liability and he intends to pursue his Judicial Review Application in the Ontario Divisional Court.*

Conclusion

45. Based on the information and evidence gathered to date, I believe Senator Harb has committed Breach of Trust by filing inappropriate living and travel claims since 2003. Harb lived in Ottawa when he was appointed to the Senate, and it was only in December 2003 that he purchased a house in Cobden and claimed it as his primary residence. By all accounts, that house was largely uninhabitable for the first 3 years that he owned it due to demolition and reconstruction. Mr. Mulligan, who kept his cattle on the property, seldom saw Harb at the house, and often had to reset the electrical breaker in the basement so that his cattle could receive water from the well. If anyone was living in the residence, they

⁴⁰ I obtained body of Harb's Affidavit from the Globe and Mail website on June 18, 2013, along with some of the exhibits which accompanied it consisting of residency declarations for 2003, 2010, 2011, 2012 and 2013.

⁴¹ Police report of Cst. Rysanek dated July 8, 2013 at 1505 hours.

⁴² Senate Press release, obtained from the Senate website www.parl.gc.ca.

would likely have realized when there was no water, and reset the breaker. Also, it wasn't until May 2006 that a new well was installed, after Mulligan told Harb that the current one would not support a family living in the residence. If the well couldn't support a family, it is unlikely that Harb used it as a primary residence up to that time.

46. The Lanark Insurance company records reference Harb as living in Ottawa. He even notified the insurance company when he had an address change in Ottawa. The file also references an explanation of Harb staying in Ottawa during the week, while his wife stays at the residence full time. The investigation to date has not identified a wife of Harb. He does have children, and on at least one occasion a neighbor saw a woman and two children at the property, but there is no information to date that they actually lived at the residence. In addition, Harb sold the house in 2007 to Magdeline Teo, retained .01% interest in the house, and continued to claim it as his primary residence until 2011, while collecting an allowance for his home in Ottawa. Magdeline Teo has refused to speak to investigators about this situation, and states that Harb paid the mortgage for her as "rent" between 2007 and 2011. Without further details, this explanation lacks credibility.
47. Regarding the Westmeath house, there is some information that Harb went to the residence on a somewhat regular basis. This is also noted in the Deloitte Report. Some neighbors report that he was seldom seen in the area, and they do not believe he lived there, while another provided information that he is there on weekends. Based on the information to date, this home has the appearance of a secondary residence where Harb would go on weekends. My assessment, based on the Deloitte Report, is that Harb's frequency at the residence is not indicative of a primary residence.

PRODUCTION ORDER SOUGHT

48. I am seeking a Production Order for copies of the following documents or data, from the Senate of Canada:

- a. All declarations of primary and secondary residence submitted by Senator Mahmoud (Mac) Harb between September 8, 2003 and July 1, 2013.

[These documents will provide evidence that Harb did in fact file declarations of the locations of both his primary and secondary residence over the years]

- b. All Travel Expense Claim forms (for 64 points travel system and living expenses in the NCR) and supporting documentation and receipts submitted by Senator Mahmoud (Mac) Harb between September 8, 2003 and July 1, 2013.

[The expense claims will provide evidence of the breach of trust, and enable investigators to complete a full audit which will be further evidence of the offence]

- c. All billing statements of all American Express corporate travel cards issued to Senator Mahmoud (Mac) Harb by the Senate of Canada, dated between September 8, 2003 and July 1, 2013.

[These billing statements will allow investigators to examine Harb's expenses relating to Senate travel, and also provide evidence of a location of Harb on specific dates as purchases and charges were made. The location of Harb is relevant as I believe it will assist in demonstrating that Harb's primary residence is in Ottawa]

- d. All detailed billing statements pertaining to all mobile telephones issued by the Senate of Canada to Senator Mahmoud (Mac) Harb, dated between September 8, 2003 and July 1, 2013.

[Like the credit card statements, the mobile phone detailed billing records will enable investigators to identify the location of Harb on specific dates. Again, this is relevant evidence when demonstrating that Harb's primary residence is in Ottawa.]

- e. Senate attendance records of Senator Mahmoud (Mac) Harb for all days that the Senate was in session, between September 8, 2003 and July 1, 2013.

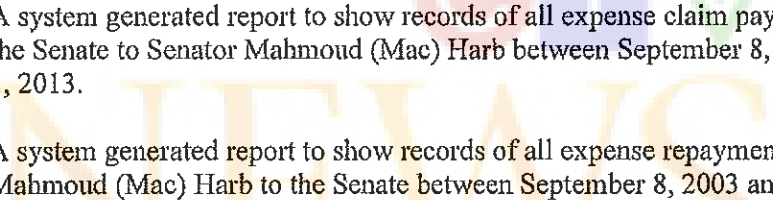
[These documents are relevant as they will assist investigators in building a timeline relating to Harb's time in Ottawa.]

- f. Copies of the four documents submitted to the Senate by Senator Mahmoud (Mac) Harb as supporting indicators of where his primary residence is located, consisting of: a driver's licence, provincial health card, information from personal income tax return providing provincial tax information, and a signed statement of where he voted.

[These four documents are relevant to the Breach of Trust offence as they are the 4 items that all Senators were to produce to the Senate in late 2012 in order to demonstrate that their primary residence was in the province they represent. Harb did not meet any of these requirements.]

- g. A copy of the electronic calendar maintained by Senate Finance documenting Senator Mahmoud (Mac) Harb's travel and expenses, and corresponding legend of codes used on the calendar.

[Senate finance uses this calendar to maintain a record of when a Senator is traveling or hosting an event. It assists in tracking a Senator's location and in identifying when claims overlap when submitted separately. It will provide evidence in this matter as it will assist investigators in building a timeline.]

- 
- h. A system generated report to show records of all expense claim payments from the Senate to Senator Mahmoud (Mac) Harb between September 8, 2003 and July 1, 2013.
 - i. A system generated report to show records of all expense repayments by Senator Mahmoud (Mac) Harb to the Senate between September 8, 2003 and July 1, 2013.

[sub-paragraphs h. and i. will provide a record of all expense claims that were paid out by the Senate to Harb, as well as all expenses paid out by Harb to the Senate. This will assist in the audit process to show exact amounts, and a record of such transactions]

- 49. I believe that the documents and data that I am seeking will provide evidence of the named offence by allowing investigators to build a timeline based on Mac Harb's years in the Senate. They will assist investigators in conducting a comprehensive audit to substantiate the findings of Deloitte and the Senate Finance to date. While Deloitte and the Senate only reviewed 18 months of expenses, I believe the relevant time period is the entire time that Harb has been in the Senate claiming an allowance and expenses relating to a secondary house in Ottawa. The documents in possession of the Senate that will provide evidence and assist in that regard.
- 50. On May 31, 2013, I participated in an interview with Nicole Proulx, Director of Finance and Procurement for the Senate. I have also had conversations with her on the phone since then. She advised me that she is in care or control of all of the documents and data that I am seeking, and that they can be produced by serving her a Production Order through Michel Patrice, the Senate law clerk. She further advised that they retain on file all documents relating to finance for 8 years, prior to destruction. Both Mr. Patrice and Ms. Proulx are aware that a Production Order will be served, and Michele Patrice will ensure that the process conforms to parliamentary privilege rules, and can assist Ms. Proulx in obtaining documents not in her direct possession.
- 51. Neither Nicole Proulx nor Michel Patrice is under investigation for any of the offences listed in this Information.

WHEREFORE I ask that a Production Order be granted for the said documents and data.

AFFIRMED BEFORE ME AT the city of
Ottawa, in the Province of Ontario this
25th day of July 2013.



NEW
NEWS

Balbir
INFORMANT

H. J. ...
A JUSTICE IN AND FOR THE PROVINCE
OF ONTARIO