



**MANITOBA LEGISLATIVE ASSEMBLY
OFFICE OF THE ETHICS COMMISSIONER**

**REPORT OF
JEFFREY SCHNOOR, K.C.
ETHICS COMMISSIONER**

**Re: The Honourable Wab Kinew, Premier and Minister of Intergovernmental
Affairs and International Relations and Minister responsible for Indigenous
Reconciliation and Member of the Legislative Assembly for Fort Rouge**

February 19, 2025

I. Introduction and Background

1. On December 2, 2024, I received an email from Mark Wasyliw, the member of the Legislative Assembly for Fort Garry, in which he requested that I conduct an inquiry into alleged breaches of *The Conflict of Interest (Members and Ministers) Act* (“the Act”) by the Honourable Wab Kinew, the member for Fort Rouge and the Premier of Manitoba, Minister of Intergovernmental Affairs and International Relations and Minister responsible for Indigenous Reconciliation.

2. I will describe the allegations shortly. However, I will first provide some background so the allegations are better understood.

3. The Act came into force on October 4, 2023 and Premier Kinew was sworn into office on October 18, 2023.

4. Sections 11 and 12 of the Act contain restrictions on the activities that Cabinet Ministers can engage in. The restrictions also apply to the leaders of recognized Opposition parties but do not apply to other members.

5. Section 11(1)(a) provides that a “minister must not hold . . . securities or stocks that are not listed on a recognized stock exchange”. In other words, they cannot hold shares in a private corporation. This prohibition applies whether or not a conflict of interest might exist.

6. Subject to some exceptions, section 12(1) restricts outside activities such as having employment, carrying on a business or being an officer or a director. These restrictions apply if the activity might conflict or be seen to conflict with the minister’s official duties.

Limits on outside activities

12(1) A minister must not do any of the following if doing so is likely to conflict, or be seen to conflict, with the minister's official powers, duties or functions:

- (a) engage in employment or in the practice of a profession;
- (b) engage in the management of a business carried on by a corporation or carry on business through a partnership or sole proprietorship;
- (c) hold an office or directorship unless
 - (i) holding the office or directorship is one of the minister's duties as a member of the Executive Council, or
 - (ii) the office or directorship held is in a social club, religious organization or political party.

7. The Act also provides in section 13 that the Ethics Commissioner can allow activities that would otherwise be prohibited by sections 11 and 12:

Commissioner may approve exceptions

13(1) A minister may engage in an activity prohibited by section 11 or 12 if the following conditions are met:

1. The minister has disclosed all material facts to the commissioner.
2. The commissioner is satisfied that the activity, if carried on in the specified manner, will not create a conflict between the minister's private interests and their official powers, duties or functions.
3. The commissioner has approved the minister being engaged in the activity and has specified the manner in which the activity is to be carried out.
4. The minister carries out the activity in the specified manner.

8. Premier Kinew is an author and has carried on that activity through Grey Cloud Media Inc. He is the sole shareholder, officer and director of that private corporation. In the absence of my approval, Premier Kinew would not be permitted to keep his shares in his corporation (s. 11). He

also would not be permitted to carry on his activities as an author if they were likely to conflict or be seen to conflict with his official duties (s. 12).

9. After the election, Premier Kinew and I met to discuss his ownership of Grey Cloud Media Inc. and his work as an author. Upon consideration, I determined that it was appropriate to allow these activities, subject to conditions. On November 2, 2023, I wrote to Premier Kinew, and the relevant text of the letter is set out below (to avoid repetition, I have omitted the portion of the letter in which I describe the applicable parts of the Act):

I am writing to you in respect of your ownership of Grey Cloud Media Inc. and your activities within it as an author.

You have advised me of the following facts:

1. You are a member of the Executive Council (Cabinet).
2. You are the sole shareholder, director and officer of Grey Cloud Media Inc.
3. Grey Cloud Media Inc. is a private corporation; that is, its shares are not traded on a recognized stock exchange.
4. Grey Cloud Media Inc. is the vehicle through which you carry on your activities as an author.
5. Before becoming Premier of Manitoba, you, through Grey Cloud Media Inc., submitted to your publisher three books, as well as contributions to two anthologies. At some point in the future, your publisher will publish them and make them available to the public for purchase. The decision on when this takes place is the publisher's; you will play no role in this decision.
6. You will not be engaging in any activities intended to promote the sale of your books.
7. During your term as Premier, the only activity of Grey Cloud Media Inc. will be to receive royalties from the sale of your books. Your only role within Grey Cloud Media Inc. will be to monitor the receipt of those royalties and to carry on normal management functions such as distributing the income of Grey Cloud Media Inc., as appropriate, and filing tax returns.

....

Determination

Based on the facts you have provided to me, I am satisfied that the activities described above, including your holding of shares in Grey Cloud Media Inc., will not create a conflict between your private interests and your official powers, duties or functions. I am further satisfied that a reasonable person would not see these activities as creating such a conflict. This determination is subject to you carrying on these activities in the following manner:

1. You must not make a decision or participate in making a decision that would materially and specifically affect the book publishing industry (including print and other modes or media of publication). You must not use your position to seek to influence such a decision.
2. You must advise the appropriate staff, including the Clerk of the Executive Council and Secretary of Cabinet, of the foregoing condition and instruct them to ensure that such matters are not brought forward to you for decision or consideration.
3. You must not engage in any activities intended to promote the sales of your books and must advise your publisher accordingly.
4. You must ask your publisher to refrain from identifying you as Premier on any of your books and on any promotional materials.
5. You must not submit anything further for publication while you are Premier, unless it is related to your official powers, duties or functions.

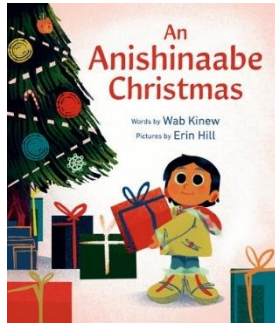
Please note that your Member's disclosure statement must indicate that you have received approval from the Ethics Commissioner to carry on an activity that would otherwise be prohibited [s.19(3)]. My approval does not affect any other obligations under the Act, such as the obligation to declare at a meeting the existence of a conflict of interest, if and when one arises [s. 16].

II. The Request for an Inquiry

10. With that background, I now set out in full MLA Wasyliv's request for an inquiry submitted on December 2, 2024:

Its recently come to my attention that Premier Wab Kinew has published a new book that was released on October 8, 2024 called An Anishinaabe Christmas published by Penguin Random House.

[An Anishinaabe Christmas by Wab Kinew: 9781774883570 | PenguinRandomHouse.com: Books](https://www.penguinrandomhouse.com/books/9781774883570/an-anishinaabe-christmas-by-wab-kinew/)



[An Anishinaabe Christmas by Wab Kinew:
9781774883570 |](#)

[PenguinRandomHouse.com: Books](#)

A CBC Bestseller! A festive, joyful Indigenous picture book that explores both Christmas traditions and Anishinaabe culture, for fans of Santa in the City and Go Show the World. One winter solstice,...

www.penguinrandomhouse.com

You had previously released a direction to Wab Kinew on November 2, 2023 advising him not to submit new works or to promote existing ones while in office.

I am concerned that Wab Kinew has violated your direction.

You had also advised the Premier to ensure that his publisher does not identify him as Premier of Manitoba in any promotional activities.

The web page from Penguin Random House promoting this book refers to Wab Kinew as a "provincial politician in Manitoba" but goes on to provide hyperlinks to his political website that clearly identifies him as the Premier. It further provides links to his twitter and facebook accounts that also identify him as Premier.

In addition, promotional articles relating to this new book clearly identify him as the Premier of Manitoba including a Montreal Gazette article dated November 28, 2024 and Kirkus Reviews article which is cited by the publisher.

[Books for Kids: Easy to wrap, delightful to read for the holidays | Montreal Gazette](#)

[AN ANISHINAABE CHRISTMAS | Kirkus Reviews](#)

I have concerns that Wab Kinew has published new work since becoming Premier and has clearly engaged in new promotional work of his books.

Any promotion of his work would inevitably include references to him being Premier of Manitoba. By publishing any work while Premier of Manitoba, Wab Kinew will inevitably trade his public profile and status that will directly benefit him in a pecuniary manner.

This is unavoidable. The only ethical recourse would be a prohibition on any publications while he is Premier.

Please take this letter as a formal complaint and request for investigation into this matter whether the Premier's conduct has broken conflict of interest rules.

11. The following day, MLA Wasyliw sent me a further email in which he expanded on his complaint:

I would add the following submissions.

I have not been apprised of your November 2, 2023 Opinion Letter to the Premier. I do not know if the Premier had disclosed the three titles that were already submitted to the publisher. If not, he should be required as a matter of transparency and accountability to do so, so your office can monitor if new books being published were within those three titles.

That being said, the Opinion of November 2, 2023 is stale and no longer relevant to the facts.

It appears the Commissioner made several findings which would not have changed in the past year.

1. The Premier publishing books while in office is a clear conflict of interest.
2. He was required to make efforts to ensure his Publisher did not use his status as Premier in its marketing.
3. He was directed to submit no new books

It appears to me that your concern on November 2, 2023 was based on some sense of fairness. The Act had just come into affect. (although the Premier had led in the polls for the previous two years and it was always probable for his election and elevation. There was nothing stopping him of seeking an Opinion prior to being elected)

Premier had only been in office several weeks before an issue arose where he was critical of myself maintaining my legal practice. (something that the Law Society has opined is not a conflict of interest). In response to criticizing me the Premier was now being scrutinized for his book publishing business. In response to the criticism he sought an opinion from you.

Despite his imminent election as Premier he chose to submit three more publications.

Again, it appears that Commissioner made assumptions that he was now no longer in control of the process and did not want to penalize him for books that may be published imminently . I'm not sure what evidence this was based on or if it was the uncorroborated representations of the Premier.

The reality is, the Premier controls his intellectual property and would have been at all times able to cancel the contract and instruct the publisher not to publish those titles.

The books were not published immediately, in fact it took another year before the first of the three was in fact published. The Premier would have been in control of the process and had the ability to prevent the publication of the book on October 8, 2024. Just like he is in control and can cancel or delay the publication of the other two books during his Premiership. he has chosen not to and i suspect he will use your November 2, 2023 Opinion letter as a loophole to get around what you have already ruled as a conflict of interest.

He is in a position to produce the contract with the publishing house with any cancellation or delay clauses. He is in a position to tell you what good faith steps he took after November 2, 2023 to inquire about delaying or cancelling the publication of the books. I suspect he took no steps or efforts to mitigate this situation.

A year later, the Premier had the ability to prevent the publication of the books and therefore avoid a conflict of interest. I suspect and allege that he took no steps to do so. Given your direction not to publish any new books - the spirit of your opinion - was that if there were book imminent that the Commissioner would overlook those breaches.

However after a year the publication is no longer imminent and it is deliberate. He was in a position to prevent the publication. He did not comply with the spirit of the November 2, 2023 Opinion letter and had in fact published a new book.

It would be an absurd result if the Premier was able to publish the remaining two books over the next 3 years. it would render the Act meaningless and it would be effectively a paper tiger.

It would send a signal to MLA's that they can front load their conflicts prior to an election and be allowed to profit from them during their time in office.

I know that was not the intent but if the November 2, 2023 Opinion letter is allowed to be used as a blanket exemption from the Act that would be the result.

The November 2, 2023 Opinion letter would have placed an onus on the Premier to govern his affairs to mitigate the situation and to prevent an on-going conflict. He has clearly not done so and taken advantage of the grace that was provided in that letter. This cannot be allowed to stand.

It is clear, that he had not taken steps with his Publisher to ensure his status as a Premier was not used in the promotion of his books. His page advertising his work with his publisher has direct links to his political website and social media pages that clearly identify him as Premier.

The Publisher has quotes of reviews that directly refer to him as Premier.

These are very clear violations of your direction.

The issue of timeliness was not addressed in November 2, 2023 Opinion letter and what duties he had to mitigate his conflict in light of the exceptions you were prepared to make.

At this stage, over a year has passed and the circumstances have changed so materially ,that the Opinion letter of November 2, 2023 you are no longer bound by it.

III. The Inquiry Process

12. As I mentioned at the beginning, MLA Wasyliw submitted his request by way of an email to me on December 2, 2024. I then advised him that requests for an inquiry must be submitted “in the form and manner specified by the commissioner”: s.44(2). I require that members use the Request for Inquiry form found in the Members Portal of the Ethics Commissioner’s website. He then resubmitted his request to me in that form. Unfortunately, as a result of technical difficulties, I didn’t receive that form until December 4. To avoid inconvenience, I allowed MLA Wasyliw to table his request for an inquiry in the Legislative Assembly, as required by the Act, in the form of his email and he did so on December 3.

13. The form that I received from MLA Wasyliw on December 4 contained the same text as in the December 2 email set out above. As required, it also identified the sections of the Act that MLA Wasyliw alleged had been contravened by Premier Kinew. MLA Wasyliw identified sections 2, 4, 8 and 9(3). I will discuss these sections later in this report.

14. Section 46 of the Act provides:

Notice of inquiry

46 Before conducting an inquiry, the commissioner must give the member whose conduct is the subject of the inquiry reasonable notice.

15. I wrote to Premier Kinew on December 4 and provided him with the required notice. I asked that he provide me with copies of any relevant documents, whether in paper and electronic form, and that he provide me with contact information for his publisher. I also advised him that, if he wished, he could provide me with a written response to MLA Wasyliw’s allegations.

16. Premier Kinew provided me with the requested contact information for his publisher later the same day. On December 18, he provided me with the following written response. In fairness, I am reproducing it in full (I have redacted the name and contact information of the individual identified at the Premier's publishing house).

This is in response to your letter dated December 4, 2024 requesting my response to the complaint lodged by a member against myself.

In summary, the complaint is without merit and ought to be dismissed.

I have complied at all times with the advice and conditions set out in your letter providing guidance in respect of my "ownership of Grey Cloud Media Inc. and [my] activities within it as an author" dated November 2, 2023.

Specifically, I have complied with your advice regarding the publication of a book entitled *An Anishninaabe Christmas*. The book does not make reference to or identify me as Premier in the promotional materials or on the biography included on the book jacket.

The biography on the book jacket reads as follows for reference:

"WAB KINEW is the bestselling, award-winning author of *Walking in Two Worlds*, *The Everlasting Road*, *Go Show the World*, and *The Reason you Walk*. A practitioner of Anishnaabe spirituality and an Honorary Witness for the Truth and Reconciliation Commission of Canada, he is a former journalist, hip-hop artist and television host who was named by Postmedia News as one of the '9 Aboriginal movers and shakers you should know'. Kinew lives in Winnipeg, Manitoba with his family".

Further in keeping with the direction of the advice provided by you in your letter, the publisher made the sole decision when to publish the book. I played no role in that decision.

To be clear, the book *An Anishninaabe Christmas* was submitted to my publisher prior to my becoming Premier and I have never promoted it nor have I engaged in any activities intended to promote the sale of the book.

You may speak with . . . from Penguin Random House to confirm these facts. He can be contacted at . . .

I have limited my activities within the corporation to the routine banking, tax filing and receipt of royalties you authorized me to carry on.

Based on the facts above, the complaint made by Mr. Wasyliv is incorrect in that he asserts I have violated your direction.

A website cited by Mr. Wasyliw that identifies me as a 'provincial politician in Manitoba' is an old webpage created when I was an MLA and prior to the creation and passage of *The Conflict of Interest (Members and Ministers) Act*. Evidence of the age of the webpage is that it shows a photo of me having short hair which has not been the case for approximately 7 years.

Mr. Wasyliw also refers to links to a political website and social media accounts not operated by my publisher. This is permissible under your direction which states "you must ask your publisher to refrain from identifying you as Premier on any of your books or promotional materials".

After receiving your opinion, I emailed my publisher on November 3, 2023. I wrote: "I ask with humility not to refer to my political roles in any publicity material with PRH (Penguin Random House)". I am happy to provide you with a copy of this email should you wish.

In asking my publisher not to identify me as Premier I complied with the advice you provided. Arguably I went a step further and asked there be no reference to any of my political roles at all.

While in keeping with your advice, as an act of good faith I have now asked my publisher to remove any information identifying me as a politician from their older or archived web sites and to remove any links to my website or social media.

Given the above it is evident the complaint made is not reasonable. Section 48 of the Act reads:

If no reasonable grounds for making request

48(1)

If the commissioner is of the opinion that the member making a request did not have reasonable grounds for doing so, the commissioner must report that opinion to the Speaker.

The complaint made lacks any factual basis and none has been provided. What's more it incorrectly asserts your direction has not been followed. Rather, the facts show I sought your opinion proactively in order to properly comply with my obligations under the Act.

Given Mr. Wasyliw's legal background, the clear facts which demonstrate my following of your advice and direction, as well as the complete absence of any facts submitted by Mr. Wasyliw to indicate otherwise, I believe there are no reasonable grounds for the member to have made this request.

Instead, given the abundance of specific public personal attacks made by Mr. Wasyliw against me I would submit for your consideration that this complaint be considered frivolous and be dismissed as such.

I'm happy to discuss any aspect of this response with you.

IV. Analysis of the Allegations

17. In this section, I will summarize each of MLA Wasyliw's allegations and provide my analysis.

1. MLA Wasyliw alleges that Premier Kinew published a new book, *An Anishinaabe Christmas*, contrary to the direction in my November 2, 2023 letter.

Presumably, MLA Wasyliw means to say that Premier Kinew submitted a new book to Penguin Random House after November 2, 2023, contrary to the direction in my letter of that date (Penguin Random House is the publisher, not Premier Kinew). However, Premier Kinew advises that this book, *An Anishinaabe Christmas*, was submitted to his publisher prior to November 2, 2023 (in fact, prior to the 2023 election). Premier Kinew's publisher has confirmed this.

This allegation is therefore unfounded. Premier Kinew has acted in accordance with the conditions set out in my letter of November 2, 2023 and has therefore not contravened section 11 or 12 of the Act.

2. MLA Wasyliw alleges that Premier Kinew failed to ensure that his publisher did not identify him as Premier of Manitoba and that Premier Kinew breached the direction in the November 2023 letter to not engage in any promotion of his books.

However, my letter did not require that Premier Kinew "ensure" that his publisher did not identify him as Premier of Manitoba. In preparing the letter, I decided that such a requirement would be unfair and unrealistic. Instead, I directed him to "ask your publisher to refrain from identifying you as Premier on any of your books and on any promotional materials [emphasis added]." Premier Kinew advises that he made that request and his publisher has confirmed that.

In support of this allegation, MLA Wasyliw says that hyperlinks on the website of Penguin Random House lead to pages that identify Premier Kinew as Premier of Manitoba. He cites two book reviews that do the same. However, he cites no actions taken by Premier Kinew. Premier Kinew did not create Penguin Random House's website and certainly did not write the book reviews. MLA Wasyliw provides no evidence of any other promotional activities by Premier Kinew.

This allegation is therefore unfounded. Again, Premier Kinew has acted in accordance with the conditions set out in my letter of November 2, 2023 and has therefore not contravened section 11 or 12 of the Act.

3. MLA Wasyliw states that Premier Kinew could have and should have cancelled his publishing contract. He says that the publication of his book places Premier Kinew in a conflict of interest.

Section 2 of the Act defines "conflict of interest":

Conflict of interest

2 For the purpose of this Act, a member is in a conflict of interest when the member exercises an official power, duty or function that provides an opportunity to further their private interests or those of their family or to improperly further another person's private interests.

A conflict of interest does not exist in the abstract. As the Act indicates, it exists in the context of the exercise of an official power, duty or function. MLA Wasyliw has not identified any such exercise. While MLA Wasyliw is entitled to disagree with the directions that I gave in my letter of November 2, 2023, I did not require Premier Kinew to cancel his publishing contract and he was under no obligation to do so.

I therefore find that this allegation is unfounded.

4. MLA Wasyliw states that circumstances have changed and I should not feel bound by the letter of November 2, 2023.

I accept that a change in circumstances may justify the Ethics Commissioner to revisit an opinion given to a member. However, that should be done with great caution. Once given, a member should be able to rely on an opinion from the Ethics Commissioner.

In this case, it is not clear what circumstances MLA Wasyliw believes have changed since I issued my letter of November 2, 2023. Even so, this is an expression of opinion by MLA Wasyliw that does not amount to an allegation of a breach of any section of the Act. He is entitled to make that argument but a request for an inquiry is not the proper vehicle for doing so.

18. As I indicated previously, MLA Wasyliw identified four sections of the Act in the form requesting an inquiry that he said Premier Kinew had breached: sections 2, 4, 8 and 9(3). I have addressed section 2 above. Section 4 relates to the use of insider information:

Insider information

4 A member must not use or communicate information that is obtained in their position as a member and that is not available to the public to further or seek to further the member's private interests or those of their family or to improperly further or seek to further another person's private interests.

19. MLA Wasyliw provides no evidence to support an allegation that Premier Kinew has breached this section. There is no basis for this allegation.

20. Section 8 relates to private air travel and MLA Wasyliw provides no relevant information. Section 9 relates to complimentary event tickets; MLA Wasyliw again provides no relevant information and there is fact no section 9(3) in the Act. There is no basis for these allegations.

V. “Reasonable Grounds to Believe”

21. MLA Wasyliv’s request for an inquiry was made pursuant to section 44(1) of *The Conflict of Interest (Members and Ministers) Act*:

Member may request commissioner's opinion

44(1) A member who has reasonable grounds to believe that another member has contravened this Act may request the commissioner to give an opinion respecting the compliance of the other member with this Act. [emphasis added]

22. The Act requires that a member must have “reasonable grounds to believe” that the Act has been contravened. If I conclude that the member did not have “reasonable grounds to believe”, the Act requires that I report that opinion to the Speaker:

If no reasonable grounds for making request

48(1) If the commissioner is of the opinion that the member making a request did not have reasonable grounds for doing so, the commissioner must report that opinion to the Speaker.

23. Premier Kinew submits that MLA Wasyliv did not in fact have “reasonable grounds” for his allegations and he asks that I make such a finding.

24. A potential consequence of finding that MLA Wasyliv did not have “reasonable grounds” is that he could be found in contempt of the Legislative Assembly:

Action when no reasonable grounds for request

48(3) The Assembly may, on a resolution of the Assembly carried by a vote of 2/3 of the members voting in the Assembly, hold a member who makes a request without reasonable grounds in contempt of the Assembly.

25. The possibility of that consequence should not and does not affect my opinion. That is a decision for the Assembly to make.

26. In some Canadian jurisdictions, the Commissioner responsible for member ethics and integrity is given the discretion to refuse to conduct an inquiry. For example, under Ontario's *Members' Integrity Act, 1994*, the Commissioner has the discretion to not conduct an inquiry where "the Commissioner is of the opinion that the referral of a matter to him or her is frivolous, vexatious or not made in good faith, or that there are no grounds or insufficient grounds for an inquiry" [s. 31(5)].

27. Manitoba's Act does not have a comparable provision. It does not set out a preliminary threshold; instead, its provisions, taken together, imply that an investigation of some nature must take place in all cases. Having done so, the Commissioner is then permitted to conclude and advise the Speaker that a member did not have "reasonable grounds to believe" that the Act had been contravened.

28. Even so, in my view, the test is ultimately the same. A member does not have "reasonable grounds" if the request for an inquiry is frivolous or vexatious or not made in good faith. A member does not have "reasonable grounds" if they do not present some specific factual basis for the request for an inquiry. There must be something more than suspicion, speculation, hunch or conjecture. For example, the Ontario Integrity Commissioner, the Hon. J. David Wake, in [Re The Honourable Doug Ford and The Honourable Steve Clark - January 18, 2023](#), spoke of the need for "direct and credible evidence"; he also recognized that circumstantial evidence could be acceptable "provided it was 'compelling' and credible" (para. 22).

29. The alleged facts must also link a member's action (or failure to act) with a specific duty or obligation under the Act. As the Supreme Court of Canada has stated, "the reasonable and probable grounds standard requires 'a reasonable belief that an individual is connected to the offence'": *R. v. Beaver*, 2022 SCC 54 at para. 72.

30. In this case, MLA Wasyliv has provided no factual basis for most of his allegations; some, including the references to sections that are obviously inapplicable or non-existent, can be described as frivolous. However, he has provided a factual basis for one of his allegations that, if

proven, could have been linked to a duty or obligation under the Act: the publication of *Anishinaabe Christmas* after November 2, 2023. I am therefore not prepared to make a finding that MLA Wasyliv did not have reasonable grounds to request an inquiry.

VI. Conclusion

31. For the reasons given above, I conclude that Premier Kinew has not breached *The Conflict of Interest (Members and Ministers) Act* as alleged by MLA Wasyliv.

Jeffrey Schnoor, K.C.
Ethics Commissioner