

February 9, 2017

William C. McDowell
Direct line: 416-865-2949
Direct fax: 416-865-2850
Email: wmcowell@litigate.com

**VIA EMAIL: ombudsman@cbc.ca
AND VIA COURIER**

Ms Esther Enkin
Ombudsman
CBC
P.O. Box 500 Station A
Toronto, Ontario M5W 1E6

Dear Ms Enkin:

RE: J.D. Irving, Limited

We are counsel to J.D. Irving, Limited (“JDI”). I write to you concerning the publication on Twitter by one of CBC’s journalists, Jacques Poitras. You will recall that I wrote to you on April 19, 2016 on this subject. You asked the News Division to respond. On May 17, 2015 Mr. Nagler wrote a comprehensive response which rejected the concerns of our client.

Our client remains concerned about these issues; Mr. Poitras continues his tweeting on two accounts. Given the information disclosed in our further research, our client wishes to have you review this matter. Mr. Poitras is a relentless critic of JDI and other Irving interests (for example Brunswick News (“BNI”). He occasionally uses offensive language. As we expect you will conclude having reviewed this matter, it is difficult for our client to imagine how it can expect fair treatment from Mr. Poitras in his role as a news journalist.

Background

You will be aware that Mr. Poitras is an avid participant on Twitter. He is also a successful author of a number of books, most recently “Irving vs Irving” (“the Book”) which was published in 2014. In order to promote the Book and his other work, Mr. Poitras maintains a Twitter account entitled @PoitrasBook. Mr. Poitras’ Twitter frontispiece describes him as the “author of four books including national bestseller Irving vs Irving: Canada’s Feuding Billionaires and the Stories They Won’t Tell, published by Penguin Canada.”

Much of Mr. Poitras’ writing concerns JDI and Irving Oil in his role as Provincial Affairs Reporter. While much of the Book concerns Brunswick News’ newspapers, a good deal of it also covers his views on the story of the relationship between JDI and provincial governments. Chapter 12 is devoted to this subject. [Since our April letter, Mr. Poitras has indicated that he is writing a new book about the Energy East pipeline, which once again will involve Irving interests]

Mr. Poitras tweets and re-tweets about the Irvings and their companies from both @PoitrasBook and his CBC Twitter account. As we will outline below, Mr. Poitras' Twitter accounts, speeches, interviews and the Book, demonstrate that he has a particular point of view concerning JDI and the Irvings in general: their newspaper ownership is a problem, the newspapers are a problem, their influence on government is a problem, and all of these issues are connected. He has said that BNI "should be telling the story of New Brunswick, and a huge part of that story is this family in these companies. But, over the years, they have had a spotty record of doing that well." (Interview with McLeans Magazine, September 29, 2014). Again, in an October 4, 2014 Toronto Star story, in his continuing book tour, Mr. Poitras is quoted, "the question you get into is, 'is that level of reliance on one family or one set of companies healthy for the province'".

Mr. Poitras uses not only his personal promotional Twitter account but also his CBC account to post both news and commentary on both of these subjects: BNI, and the relationship between JDI and the provincial government. Mr. Poitras uses his personal promotional account to tweet of Irving-related matters he is covering for CBC, and his CBC account to tweet about topics he has covered in his book. We will set out a number of examples in this letter, not only those captured in our April letter, but later ones. Two clear instances demonstrate the issue:

March 13 from book account: "A recent radio documentary I did on a decade of Irving lobbying on timber harvesting". Links to a February 10, 2014 Information Morning session.

<http://www.cbc.ca/informationmorningmoncton/2014/02/10/future-of-forestry/>

May 21 from CBC account: "As the debate continues my look back at a decade of Irving forestry lobbying, ICYMI". Links to the same Information Morning session.

From CBC account April 30/14: I wrote about the Irving newspapers for the @canadaCJFE 2014 Review of Free Expression

From book account May 12: ICYMI, @jsource , I wrote about Irving-owned Brunswick News for this year's @canadaCJFE review: <http://cjfe.org/sites/default/>

Relevant CBC Policies

The Standards set out over-arching values:

Fairness

In our information gathering and reporting, we treat individuals and organizations with openness and respect. We are mindful of their rights. We treat them even-handedly.

Impartiality

We provide professional judgment based on facts and expertise. We do not promote any particular point of view on matters of public debate.

Integrity

The trust of the public is our most valued asset. We avoid putting ourselves in real or potential conflict of interest. This is essential to our credibility.

You will also be aware that within its Journalistic Standards and Practices (“the Standards”) CBC has taken care to warn journalists against placing themselves in conflict of interest.

In addition, CBC has set out overarching values for its reporters. Specifically, CBC in the Standards says the following:

Opinion

Our value of impartiality precludes our news and current affairs staff from expressing their personal opinions of matters of controversy on all our platforms.

Personal Use of Social Media

In our personal social media activity, we are mindful of our professional association with CBC, and ensure what we do conform [*sic*] to CBC’s social media and conflict of interest policies.

We maintain professional decorum and do nothing that can bring the corporation into disrepute. The expression of personal opinion on controversial subjects or politics can undermine the credibility of CBC journalism and erode the trust of our audience.

CBC also addresses the conflict issue within its Code of Conduct (“the Code”). The Code contains the following:

Integrity

CBC/Radio-Canada employees shall serve the public interest by:

3.1 Acting at all times with integrity and in a manner that will bear the closest possible scrutiny, an obligation that may not be fully satisfied by simply acting within the law.

[...]

3.3 Taking all possible steps to prevent and resolve any real, apparent or potential conflicts of interest between their official responsibilities and their private affairs in favour of the public interest.

Use of @PoitrasBook as a News Platform

Mr. Poitras reports or re-tweets news on a weekly, if not frequent, basis.

It appears from a fair reading of the @PoitrasBook Twitter feed that Mr. Poitras tweeted news concerning JDI or Irving interests on the following dates (our list may not be exhaustive):

- April 24, 2014
- April 30, 2014
- May 19, 2014 (concerning Irving news from August 25, 1994)
- May 22, 2014
- May 29, 2014
- June 4, 2014
- June 18, 2014
- July 10, 2014
- August 6, 2014
- August 20, 2014
- August 29, 2014
- September 2, 2014 (concerning Irving news from July 2, 1998)
- September 5, 2014
- September 8, 2014
- October 6, 2014
- October 21, 2014
- October 27, 2014

- October 28, 2014
- November 2, 2014
- January 17, 2015
- March 20, 2015
- May 4, 2015
- May 13, 2015
- June 2, 2015
- June 4, 2015
- June 5, 2015
- June 18, 2015
- July 17, 2015
- July 28, 2015
- August 9, 2015
- August 21, 2015
- September 5, 2015
- September 9, 2015
- September 16, 2015
- September 20, 2015
- October 1, 2015
- November 7, 2015
- November 9, 2015
- November 18, 2015
- November 23, 2015
- November 26, 2015
- December 6, 2015
- February 11, 2016
- February 12, 2016

As might be expected, many of Mr. Poitras' tweets seek to promote Mr. Poitras' most recent book, and other books which he has written. However, Mr. Poitras continues to report news items which are then placed in tweets in the midst of the promotional efforts. So, for example,

- (a) on August 9, 2015, Mr. Poitras tweeted: More on the many Irving-related issues facing the Premier in the new afterward for Irving vs Irving, coming in paperback September 1;
- (b) also on August 9, 2015, he tweeted: Four days after Brian Gallant said he'd respect Irving Wood numbers PC forestry plan, Jim Irving wrote him a letter;

- (c) on September 12, 2015, Mr. Poitras tweeted: Last spotting: the paperback of Irving vs Irving is now available at my local independent book store, @westminsterbks;
- (d) shortly thereafter on September 16, 2015, Mr. Poitras tweeted: Irving loses mining battle, but is unlikely to give up: thorough examination of company's presence in Maine. Sunjournal.com/news/business;
- (e) on October 25, 2015 Mr. Poitras tweeted: Irving vs Irving is back on the bestseller list thanks to the paperback edition;
- (f) shortly thereafter on October 29, 2015 he tweeted: Information about oil by rail in Maine now sealed from public view bangordailynews.com/2015/10/28.

More Recent Tweets

More recently, Mr. Poitras has tweeted the following stories on @PoitrasBook:

On February 24, 2016 he tweeted:

Revealed: cabinet committee that will wade into federal shipbuilding battle.
embassynews.ca/news/2016/02/24

On February 26, 2016 he tweeted:

Big feature on the Irvings in Globe's ROB today, online for subscribers only.
theglobeandmail.com/report-on-business

On February 29, 2016 he tweeted:

The record will show JDI is perfectly capable of getting meetings with officials without using lobbyists.

On March 2, 2016 he tweeted:

February 9, 2017

Page 7

J.K. Irving moves up the Forbes billionaires list while brother Arthur moves down: guidetravel.biz/world/jk-irving

On March 11, 2016 he re-tweeted:

A curious development. @NatObserver
Part one of a six-part series on the Irvings
This story has been removed

On April 11, 2016 he tweeted:

Custom legislation

Mr. Poitras then linked to a tweet about Saint John city council unanimously passing a heritage bylaw amendment relevant to construction of a new Irving Oil headquarters

On April 13, 2016 he tweeted:

Not sure what to say about this. Surely it's proper to scrutinize & analyze such a "charged" relationship?

Mr. Poitras then linked to a twitter post "Let's celebrate the Irvings, not criticize them – Huddle"

On May 23, 2016 he tweeted:

Irving Oil the "frontrunner" to buy

Mr. Poitras then re-tweeted a link to a story about the sale of a refinery in Ireland

On May 26, 2016 he tweeted:

Irving pitches \$300 million humanitarian ship to Ottawa

Links to a national Post story

On June 9, 2016 Mr. Poitras posted two tweets linking to an Arthur Irving interview with the Financial Post

On June 20, 2016 he tweeted:

Dominic LeBlanc consults ethics commissioner on **Irving** links with his new Fisheries role:

Mr. Poitras then included a link to a hilltimes.com story

On August 23, 2016, he tweeted:

Irving Oil buys refinery in Ireland, and included a link to a Globe and Mail story

On August 10 Mr. Poitras posted two tweets about J.D. Irving's appearance that day at the National Energy Board hearings on the Energy East pipeline. "Not exactly Irving vs. Irving" one of them said.

On Sept 8, 2016, he tweeted:

Includes Irving's response at bottom

Posted to a tweet claiming Irving having "significant challenges" building offshore arctic patrol ships

On September 24, 2016 he tweeted:

Controversy [sic] at Dartmouth College over **Irving** Oil's endowment

Mr. Poitras linked to a vnews.com story

It is noteworthy that Mr. Poitras did not link to a previous Globe and Mail story that was simply the news of the announcement, but only to a story about "controversy"

Mr. Poitras' Expression of Opinions

Since writing our April letter, we have conducted further analysis which makes it apparent that Mr. Poitras has used @PoitrasBooks as well as his CBC account to tweet actual news. Notwithstanding that Mr. Poitras continues to report for CBC News concerning JDI, other Irving interests and members of the Irving family, he expresses many negative views about them in @PoitrasBook. In his acceptance speech for his book "Raising Hell", Mr. Poitras said the following (he tweeted a link to his speech on @PoitrasBook on July 16, 2016):

The dramas of the Irving family affect the running of the most important private sector employers in New Brunswick – companies that have reshaped government policies, companies whose decisions can make or break an entire town, companies that have extended their influence to neighbouring provinces (and their City Halls) and one U.S. state – and that now are connecting themselves, by rail and pipeline, to the Alberta oil economy. They have done so with the participation of governments, and with massive subsidies from taxpayers. Their story is our story: a story about how power is accumulated and used in our society.

We note that in his May letter, Mr. Nagler characterized this language as factual, and “studiously neutral”. We respectfully disagree. The negative depiction of the Irving interests as a parasitic monolith is obviously an expression of opinion.

As should be apparent from the foregoing, Mr. Poitras also acts as an enthusiastic curator of negative views expressed by others concerning JDI and other Irving interests. His Twitter stream does contain an occasional positive entry concerning Irving interests or individuals, but overwhelmingly the opinions Mr. Poitras tweets and re-tweets are negative about our client.

For example, on July 9, 2015 Mr. Poitras engaged in a bizarre exchange with an occasional critic of BNI, Michael B. Murphy.

Mr. Murphy tweeted a picture of Saint John City Market “If you guess where I am correctly you could win pickled pigs feet from Murphy Piggery and Consulting Ltd”.

Mr. Poitras replied “Irvingville!”

Mr. Murphy in turn replied “Jamie [Irving] says no pigs’ feet for you”

Mr. Poitras tweeted “It’s Shawn’s [i.e. Shawn Graham] fault!”

Unfortunately, Mr. Poitras has used @PoitrasBook, his promotional Twitter account, to issue news reports on Irving matters, presumably to increase sales of the Book. Our research has found a great many examples of Mr. Poitras using the two accounts in this fashion. We include the following examples segregated by topic.

Use of Both CBC and @PoitrasBook Accounts to Publish News

Our further research uncovered numerous instances of Mr. Poitras tweeting news concerning the same subject matter (involving Irving interests) from both his CBC and @PoitrasBook accounts. These are set out below by subject matter.

J.D. IRVING IN MAINE

@PoitrasBook

June 5/15 “legislative setback for JDI’s mining plans in Maine” Links to a Portland Press Herald story, “Maine House delivers major blow to rewritten mining rules”

@poitrasCBC

June 17: Here's my story: subsidies to JD Irving, Port Hawkesbury Paper subject of U.S. trade investigation. Links to his CBC story of same date, “J.D. Irving, Port Hawkesbury Paper subsidies are in U.S. crosshairs”

June 17: Read the U.S. Int’l Trade Commission ruling here (with link)

June 17: Irving statement on U.S. subsidy investigation: "full and fair" probe would show need for no duties, or only negligible duties.

IRVING OIL

@poitrasCBC

Feb 27/14 Irving Oil announces it’s voluntarily converting its DOT-111 tanker cars to higher 2011 standards. Links to a CNW newswire story

Feb 17/14 Irving Oil is asking its suppliers to also adhere to the higher standard by December 2014. Same link.

April 22/14 ICYMI & given latest Keystone XL delay, a comprehensive Reuters story on Irving Oil & Energy East as Plan B: Links to Reuters story in FP, “Forget Keystone XL, one of Canada’s wealthiest business dynasties has a ‘Plan B’ for the oil sands”

Aug 29/14 Reuters: Irving oil-by-rail terminal dogged by air-quality problems.

February 9, 2017

Page 11

Sept 19/14 Interesting transparency gap on data between NB and Maine in this story: (here he links to a CBC story of same date; no byline: Irving Oil's rail shipments through Maine way down, data shows)

@PoitrasBook

Mar 28/14 Great reporting and great detail in this Reuters piece on Irving Oil and Energy East: note this is linked to same FP story he tweeted out about a month later from CBC account

Aug 29/14 Reuters: Irving oil-by-rail terminal dogged by air-quality problems

Mar 20/15 Irving Oil will contribute \$75 million to Lac-Megantic compensation fund. Links to CNW newswire item

Apr 22/15 Reuters story on Irving Oil's 19 "environmental emergencies" since 2012

Apr 22/15 Irving's TJ publishes that big Reuters piece on Irving Oil spills

June 4/15 As predicted in Irving vs. Irving, TJ reports Arthur Irving's daughter Sarah is moving into leadership role as Irving Oil executive VP

June 4/15 Here's the official Irving Oil statement that includes Sarah Irving's appointment as executive VP.

July 15/15 No more oil-by-rail through Maine, Irving Oil exec says in rare interview. Links to Sun Journal story.

Oct 10/15: Lac-Megantic settlement unblocked. Irving Oil kicked in \$75M. Links to a Globe and Mail story

Dec 9/15 Alberta judge: ex-CEO of Irving Oil threatened to breach confidentiality and embarrass Irving family

May 23/16 Irving Oil the frontrunner to buy: Links to Irish Times story about sale of Whitegate Refinery in Ireland

Aug 3/16 Irving Oil buys refinery in Ireland. Links to Globe and Mail story

Sept 1/16 (Note Mr. Poitras links, with a photo, to an unbylined CBC story of same date), Irving Oil, ex-CEO Mike Ashar settle breach of contract lawsuit

ENERGY EAST

February 9, 2017

Page 12

@PoitrasBook

Feb 24/15 File it under "Irving vs. Irving": JDI asked to intervene at Energy East hearings, citing "environmental effects."

June 18/15 Irving Oil: re-thinking LNG tax break would endanger Energy East. links to a newspaper ad

Mar 2/15 Radio-Canada examines NB's support of Energy East, including me on the Irving angle: links to a spot

May 9/15 I've signed a contract with Penguin Random House to write my next book about the Energy East pipeline & Canada's carbon future

@poitrascbc

Nov 18/14 A big-picture take here <http://www.cbc.ca/1.2838383> relating to my story <http://www.cbc.ca/1.2838686> this morning.

Nov 24/14 My story: Gallant promotes Energy East, as potentially divisive national debate takes shape. <http://www.cbc.ca/1.2847216> <http://t.co/qWeqXY9JBI>

Feb 24/15 JD Irving Ltd. has applied to intervene at National Energy Board hearings on Energy East. Posts photo of intervenor form

Feb 24/15 JD Irving tells NEB it's "vitaly concerned" with Energy East's "commercial impacts and environmental effects"

Feb 24/15 The entire JDI filing to the NEB on Energy East is here: includes link

Dec 1/15 My story this a.m.: new or existing pipeline rules for Energy East? A "transition strategy," says federal minister. <http://www.cbc.ca/1.3344323>

Apr 27/16 Here's part of Canaport LNG application to intervene at NEB hearings on Energy East, as per @adamhuras story:

LARRY'S GULCH

@poitrascbc

2015

February 9, 2017

Page 13

Feb 17 TJ reports the Daniel Allain-Murray Guy NBLC trip was July 17-19, 2013; this trip labeled “private” on list released to L’AN in 2014

Feb 18 TJ story quotes Moosehead’s Andrew Oland saying Murray Guy was “active participant” in gov’t-liquor industry meetings at Larry’s Gulch

Feb 18 Former premier David Alward confirms to CBC he was part of NB Liquor-organized fishing trip that included BNI editor Murray Guy

Feb 18 And this is from the 2013 Larry’s Gulch list. NB liquor booking that included BNI editor is “private”

Feb 18 Only possible conclusion: the NB Liquor booking for 2013, which included BNI editor Murray Guy, was treated differently/exceptionally.

Feb 18 in response to a tweet to him saying “seems government treated NBLiquor as a private Corp instead of a crown Corp. P says “Yes –in 2013 only, when a BNI editor was there

Feb 19 New column by BNI ombudswoman credits Canadaland with prompting Larry’s Gulch investigation but criticizes some “unfounded” allegations

Feb 20 Just spoke to Speaker Chris Collins about his 2010 Larry’s Gulch invitation, while a Liberal minister, to BNI editor Murray Guy

Feb 20 Collins says Al Hogan, fired by BNI over Murray Guy’s 2013 fishing trip, was in 2010 ed board meeting where Collins invited Guy to fish

Feb 23 Now un-paywalled MT @jsource: Brunswick News careers at end after ethics probe – ombudswoman @patriciagraham’s column

Feb 24: Reminder: Shawn Berry RTI request September 2013; internal Brunswick News discussions November 2013; NB Liquor exclusion April 2014

Feb 24: I agree with those who point out focus on gov’t actions in Gulch case shift discussion away from unanswered questions at Brunswick News

Feb 24 However, gov’t has clearer legal obligation to disclose; with BNI we rely on their internal process to fill in the gaps for us

Feb 24 And while BNI should be transparent to earn & hold trust of readers, citizens & journos have clear inarguable “right” to answers from gov’t

@PoitrasBook

February 9, 2017

Page 14

2015

Feb 15 Key part of @patriciagraham column just posted on Brunswick News site:

(Here Mr. Poitras reproduced in full four paragraphs of Graham column, thereby violating copyright including the part about Darrell Fowlie, which would be the subject of his further reports)

Feb 15: Relevant to this @CNLDND story <http://canadalandshow.com/article/top-editors-irving-papers-under-investigation-amid-questions-canadaland> ... is this, from 2009: Posts photo of a snippet from his book

Feb 15: Remarkable thing about @CNLDND story <http://canadalandshow.com/article/top-editors-irving-papers-under-investigation-amid-questions-canadaland> ...: Jamie Irving gave an on-the-record comment. First time since 2003, I believe.

Feb 15: Striking to contrast detailed & blunt (paywalled) @patriciagraham column on Larry's Gulch visit to near-total 2009 BNI silence on Wafergate.

Feb 16: How the Times-Transcript is playing the ombudsman investigation: page 1. Same play in TJ & Gleaner. (Includes photo of TT front page)

Feb 16: L'Acadie Nouvelle lends credence to scrubbing of BNI editor's name; wasn't on fish lodge list they obtained. @CNLDND (posts portion of AN story)

Feb 16: I lauded BNI's relative transparency, but this wouldn't have come out without @CNLDND digging. New media chip away at monopoly.

Feb 19: Mr. Poitras engaged in a series of questions with BNI ombudswoman, and when she declined to share details of BN's information gathering with a competitor, he tweeted: "Fair enough & thanks, but to be clear, these questions are not for CBC; they're posed with my author hat on." This was disingenuous – Mr. Poitras was writing CBC stories about the subject, and on that same date tweeted about the column from his CBC account. This topic had been the subject of numerous tweets.

Feb 23: Here's the new Canadaland episode on the Irving papers, taped last Thursday in Fredericton: <http://canadalandshow.com/podcast/last-newspaper-barons-live-new-brunswick>

USE OF CBC ACCOUNT TO COMMENT ON BRUNSWICK NEWS

On August 23, 2014 Mr. Poitras tweeted from his CBC account, "Tongues wagging about the op ed today. As close as you can get to endorsing PCs without saying so". Mr. Poitras

included a link to a Facebook post by the then-mayor of Saint John, which included a photograph of an article on the Commentary page of the Telegraph-Journal, a Brunswick News newspaper based in Saint John. The commentary piece, written by the CEOs of Enterprise Saint John and the Saint John Region Chamber of Commerce spoke of the virtues of natural gas developments. It did not refer to the election of any party or candidate.

It is highly unfortunate that an experienced journalist like Mr. Poitras would characterize the commentary piece about resource extraction and an unfair expression of opinion did not in any way amount to a newspaper endorsing a party. The Telegraph Journal has not published electoral endorsements for some time. Mr. Poitras' suggestion to the CBC followers that the paper had effectively endorsed the Progressive Conservative Party was false, and an unfair expression of opinion.

We have produced some of the subsequent twitter conversations between Mr. Poitras and other Twitter users. These make it clear that he intended his suggestion that the Telegraph Journal was indeed endorsing the Progressive Conservative Party in the forthcoming New Brunswick provincial election. The timing of these communications is significant: they appeared about a month before the release of Mr. Poitras' book critical of the Irvings and Brunswick News. While Twitter is frequently used to engage in banter, some of Mr. Poitras' language concerning a Brunswick News publication was highly offensive.

@JoelBReed to @poitrasCBC: Not exactly news to anyone in SJ

Poitras to Reed: No, but the timing of saying it [i.e. the supposed "endorsement"] with such a big splash is hard to ignore.

@jackkeir1 to @poitrasCBC and @JoelBReed: no really, we've been ignoring editorial positions of the TU in Saint John for a while

Here Mr. Poitras reproduced Mr. Keir's tweet. He changed the reference line from TU to TJ. He added his own enthusiastic comment to what Mr. Keir had said: "Zing!"

Another user, @Realstirfryguy, then asked Mr. Poitras why he edited Mr. Keir's tweet to change TU to TJ: "He meant Telegraph Urinal" said @Realstirfryguy. Mr. Poitras responded, "Wanted to make sure my readers got the reference". This bit of scatological humour was highly offensive and unworthy of a CBC journalist.

On December 3, 2014, Mr. Poitras linked to a CBC commentary piece saying that the Book was mentioned in it. The linked piece said,

And when the print media in the province is so closely aligned with these same committed industrialists and their interests find a way into circulation (as Jacques Poitras' recent book Irving vs. Irving illustrates), then the hardening of vision is especially problematic, for the sheer repetition of its mantras acquires a status akin to truth.

On October 18, 2015, the day before the 2015 federal election, Mr. Poitras issued a series of tweets about the Telegraph Journal having endorsed the Progressive Conservatives in the 1997 federal election and the owner of the newspaper publishing a front-page letter which repudiated that endorsement. Mr. Poitras knew at the time of these tweets that the Telegraph Journal was not making any endorsement in the 2015 election.

On November 19, 2015, he tweeted, “How Irving’s 1998 “bluff” affected natural gas rates” – here he linked to a Robert Jones article in the Journal of New Brunswick Studies, “Murder or Suicide: What Killed Low-Cost Natural Gas Service in New Brunswick?”. Mr. Poitras commented, “Far more detailed account than in my book”. This endorsement of the Jones article amounted to a mischaracterization of the Jones article.

Mr. Poitras wrote a piece which he linked to his @PoitrasBook account – “Eight Reasons why an Irving Buyout of the Chronicle-Herald Makes Sense”: <https://medium.com/@PoitrasBook/eight-reasons-why-an-irving-buyout-of-the-chronicle-herald-makes-sense-ed8346c74809#.rr5kwyxi8>.

Mr. Poitras acknowledged that much of his piece amounted to speculation. He didn’t know whether Irving interests were interested in the purchase of the Chronicle-Herald, and he took no position. Having stated his eight reasons, he wrote the following:

“There is also the age-old question of Irving control of news content...the Irving newspapers have not explored key stories, such as the break-up of the family empire and its Bermuda-based offshore trust. Irving is an increasingly big player in Halifax, given its shipyard contract, and the company has been sensitive to criticism there in the past.”

This amounts to a clear suggestion that the Irvings would be interested in a buyout of the Chronicle-Herald if only for the opportunity to control the news.

Conclusion

Mr. Poitras’ conduct does not meet the Standards given the rather obvious breach of the conflict of interest policy outlined in the Code. Insofar as Mr. Poitras acts as a reporter using @PoitrasBook as a platform for disseminating views while at the same time using the account for his promotional efforts, he has placed himself in a “real, apparent or potential conflict[] of interest between [his] official responsibilities and [his] private affairs ...”. A reasonable observer would regard Mr. Poitras’ news reporting as compromised by his desire and relentless efforts to promote sales of his books. CBC should enforce its Standards and Code and instruct Mr. Poitras to cease use of @PoitrasBook for news purposes.

Mr. Poitras’ deployment of @PoitrasBook also engages a separate concern, namely that his repeated expressions of personal opinion on “controversial subjects” relating to JDI and other Irving interests, and his curation of much negative opinion within

@PoitrasBook has compromised his impartiality as a news journalist reporting on Irving matters. This has not escaped public notice: a former CBC journalist Doug Harrison (@jernalist) has repeatedly tweeted concerning Mr. Poitras' ostensible conflict of interest. Readers cannot help but regard Mr. Poitras' reporting concerning JDI, for example, with suspicion given that he has so often commented negatively on the Irvings.

We do not accept Mr. Nadler's earlier characterization of Mr. Poitras' commentary. Mr. Nadler suggested that Mr. Poitras had simply been providing context for his news reporting with his commentary. (He relied upon a blog post by Jennifer McGuire from 2013 as support for the view that CBC's policies permit commentary by journalists, at least to this extent.) Mr. Poitras has become a professional full-time critic of Irving interests. There is no doubt that he has a great deal of knowledge about JDI, other Irving interests, and the economy of New Brunswick and the other Atlantic provinces.

Mr. Poitras' expressions of opinion go far beyond context. What context is served by his exchange with Mr. Murphy? How does his participation in the scatological banter about BNI newspaper assisting readers in understanding CBC's reporting about Irving interests? Why would he suggest that BNI made election endorsements when it did no such thing?

In addition, Mr. Poitras participated in a panel at St. Thomas University in February 2015 which was recorded as a Canadaland podcast. The panel was comprised solely of people who are Irving and Brunswick News critics. Mr. Poitras was introduced as a journalist with a "public broadcaster" and pointedly not as a CBC reporter. He recounted a number of negative anecdotes about the Irvings and Irving interests. He criticized the legal tactics of Irving companies in relation to a departing employee case. Mr. Poitras is of course entitled to his opinions but in this appearance he (once again) played the role of a commentator rather than a reporter.

Your predecessor as Ombudsman Kirk LaPointe described the principle of impartiality in the following way:

The principle of impartiality for CBC journalists is not lost when they provide analyses based on facts, particularly in this case involving facts gathered by the journalist highly familiar with Middle East issues [Neil Macdonald].

The policy creates a boundary of the expression of personal opinion but leaves open opportunity in some instances for journalists to synthesize and reflect upon facts in an issue. This boundary is sensible in light of the public's trust that CBC journalists do not inject personal views into their professional work. I doubt there is any more stringent boundary in Canadian media. (December 20, 2011)

February 9, 2017

Page 18

Mr. Poitras has leapt well beyond the boundary in his reporting about JD Irving and related Irving interests.

We note in passing that Neil Macdonald of the CBC recently (November 10, 2016) observed on social media:

“Nearly five years ago, I shut down my Twitter account. Reporters for CBC are not allowed to express opinions publicly, [...] But as of this week, I am no longer a CBC reporter. I am now encouraged to express opinions publicly. It is in fact my new job description. So, @neilcbc exists again, for what it’s worth.”

In all of the circumstances, we respectfully observe that CBC must re-assign Mr. Poitras to reporting on matters which do not involve Irving interests.

While we are hesitant to make this request, we do not understand how Mr. Poitras’ present activities can be consistent with current standards of responsible journalism, as reflected in the Standards and the Code.

Yours very truly,



William C. McDowell

WCM/esc