

Public Service Staff  
Relations Act



Before the Public Service  
Staff Relations Board

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BETWEEN

**PIERRE CHAMPOUX**

Grievor

and

**TREASURY BOARD  
(Transport Canada)**

Employer

***Before:*** Marguerite-Marie Galipeau, Board Member

***For the Grievor:*** Luc Quesnel, counsel

***For the Employer:*** Richard Turgeon, counsel

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Case heard at Montreal, Quebec  
March 6, 1996

## DECISION

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This decision follows referral of a grievance to adjudication by grievor Pierre Champoux [EN-ENG-05] who is employed at the Transport Canada Motor Vehicle Test Centre (MVTC) in Blainville, Quebec. The grievance involves a disciplinary measure, a one-day suspension.

The disciplinary measures was imposed by letter (Exhibit E-1) dated March 27, 1995, which reads as follows:

(Translation)

*Subject: Disciplinary Measure*

*We wish to respond to the confidential report concerning conflicts of interest that you recently submitted, and to your meeting with Departmental authorities on March 6, 1995 regarding this same matter.*

*In submitting this statement, you indicated that you hold shares in 2841070 Inc. and knowingly failed to indicate that the company which you own with an associate was incorporated under the name "CEVA". This is the name the Department has given in French to its automobile testing centre in Blainville, as well as the title used by the Department to promote its test centre. Furthermore, you never informed your employer in advance of incorporation of this name.*

*This neglect on your part is totally incompatible with your activities as a senior engineer at the test centre and with your duties as head of the marketing program for the test centre.*

*In the charges against you, you lacked judgment, violated the policy on conflicts of interest in the Public Service and placed your employer in an embarrassing situation with regard to private sector competitors.*

*Consequently, we have decided to impose a disciplinary measure that will consist of a one-day suspension to be served on a later date. Moreover, we expect different behaviour from you in future and more openness in your personal actions that might be related to your work and place you in a potential or real conflict of interest. It is also understood that any repeat offence on your part will result in harsher disciplinary measures that may include dismissal.*

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*Finally, we wish to inform you that you may file a grievance if you disagree with this disciplinary measure.*

At the start of the hearing, counsel for the Employer acknowledged that the grievance procedure had been observed and that the instant Adjudicator has jurisdiction to dispose of the grievance.

Each party produced one witness.

The evidence may be summarized as follows.

The Transport Canada MVTC (Motor Vehicle Test Centre) [CEVA in French] in Blainville, Quebec checks motor vehicle compliance with Canadian and foreign safety standards, conducts test programs in research and development in the field of motor vehicles, and provides a variety of test services to the motor vehicle and general transportation industry (Exhibit E-9). The Centre has about 50 employees. The MVTC opened in 1979. The vast majority of its business is provided by Transport Canada, but the MVTC's clients (Exhibit A-1) include other departments and levels of government as well as the private sector.

On June 14, 1993, the government officially announced its intention to privatize the MVTC (Exhibit A-1). In August 1993, the government instituted action to hire a sales agent whose role would be to manage the sale of the MVTC (Exhibit A-3).

The incident that led to the disciplinary measure occurred in the context of privatization of the MVTC. (At time the grievance was heard, the privatization still had not been completed.) As is evident from the wording of the letter of suspension, Pierre Champoux is charged with failing to inform his employer that a corporation he owned had the same name as the French name of the MVTC in which Pierre Champoux is Assistant Director, Testing and Marketing. This company was incorporated by Pierre Champoux and his associate with a view to purchasing the MVTC once it ultimately was privatized, and this company bears the name Centre d'Essais Véhicules Automobiles (CEVA) inc.

Nicole Pageot, Regional Director: Surface, Quebec Region, for five years (1990-1995) held the position of Director, Transport Canada Motor Vehicle Test Centre (MVTC) in Blainville. Her testimony is summarized below.

She has known Pierre Champoux since 1990. He had held the position of Chief, Operations at the MVTC since 1982. In 1992, he became Assistant Director, Testing and Marketing.

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According to Nicole Pageot, the position obtained by Pierre Champoux in 1992 was created in the wake of the 1992 budget and the announcement of ultimate privatization of the MVTC, for which the budget was cut 35 percent. To increase the MVTC's revenue, a decision was made to seek outside clients. Marketing became a necessity, and this responsibility was assigned to Pierre Champoux. He coordinated testing internally and handled clients from Transport Canada. In addition, all marketing activities were under his direction. He had to promote the MVTC's facilities and find clients interested in conducting tests there (Exhibit E-7, second page, paragraph 3). Beginning in 1992, there was talk of closing the MVTC.

However, privatization of the MVTC was officially announced in 1993. Pierre Champoux informed Nicole Pageot of his interest in buying the MVTC. He told her he wanted to form a company and, at the proper time, submit an offer to buy the MVTC. Nicole Pageot instructed him to make his intentions known to senior management, the Deputy Minister and the Executive Director, which he did at a meeting. Nicole Pageot also told him to inform the Minister and Deputy Minister in writing of his intentions to form a company for the purpose of buying the MVTC. However, Pierre Champoux did not fill out any statement to this effect.

The process to privatize the MVTC proved lengthy. Between 1992 and 1995, Pierre Champoux informed Nicole Pageot of the steps he was taking to be able to submit a bid at the proper time.

On or about February 12 or 13, 1995, Nicole Pageot was informed by her immediate superior, the Assistant Deputy Minister, that one Alain Bussières, President of Technitest Inc., had written (Exhibit E-2) to the Deputy Minister to complain that the present Assistant Director of the MVTC, Pierre Champoux, was also the owner of a company bearing the name Centre d'Essais Véhicules Automobiles (CEVA) Inc., which in his opinion constituted an undue advantage as part of the call for tenders process.

Although Nicole Pageot had been aware of Pierre Champoux's intention to buy the MVTC, she was unaware, until informed of Alain Bussières' letter (Exhibit E-2), that Pierre Champoux's company was incorporated under the name Centre d'Essais Véhicules Automobiles (CEVA) Inc.

In response to Alain Bussières' letter (Exhibit E-2), S.C. Wilson, Executive Director, Road Safety and Motor Vehicle Regulation Directorate, wrote to Pierre Champoux as follows:

(Translation)

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*It has been drawn to our attention that you may be engaged in activities that do not comply with the provisions of the Conflict of Interest Code for Holders of Public Office with regard to conflicts of interest. You may therefore be in a situation of conflict of interest.*

*If you have not recently filled out a statement of conflict of interest, we urge you to do so by February 20, 1995.*

In response, on February 20, 1995, Pierre Champoux made a statement (Exhibit E-8) required by the Conflict of Interest Code.

In the item "Description of Assets", he wrote:

(Translation)

*I hold shares in 2841070 Canada Inc., which currently is inactive and was created for the purpose of bidding for any ultimate sale or outsourcing of management of the Transport Canada Motor Vehicle Test Centre.*

In the item "Description of Outside Activities", he wrote:

*I am Vice-President of 2841070 Canada Inc. described above.*

At no point did he mention that his company, incorporated as 2841070 Canada Inc. on July 30, 1992 (Exhibit A-6 and his own notes, Exhibit A-8) underwent a name change on May 10, 1994, and has since borne the name "Centre d'Essais Véhicules automobiles (CEVA) Inc."

According to Nicole Pageot, this omission was significant. Pierre Champoux was responsible for marketing at Transport Canada's MVTC, and both the Department and the MVTC were using the name CEVA to seek clients outside the Department. On the brochures (Exhibits E-9 and E-10) used to promote the MVTC, the name CEVA was used. In brief, CEVA was the distinctive acronym for operations of the Test Centre in Blainville.

On March 6, 1995, a meeting was held which Pierre Champoux and Nicole Pageot attended.

At that meeting, Pierre Champoux stated that he had incorporated his company under the name Centre d'Essais Véhicules Automobiles (CEVA) Inc. because he wanted to protect the CEVA name and be its custodian. He was asked what would have happened had another company won the bidding process and had it wanted to use the CEVA name. He replied that his company could have sold the name to this other company. When he

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was asked why he had failed to mention that the name of his company was Centre d'Essais Véhicules Automobiles (CEVA) Inc., he replied that he did not consider this an important detail.

Nicole Pageot testified that the Employer's complaint with Pierre Champoux was first, that he had placed himself in a real or apparent conflict because he was Assistant Director, Testing and Marketing with the MVTC and because he owned a company bearing the name Centre d'Essais Véhicules Automobiles (CEVA) Inc. Its second complaint was that he had failed to inform his employer that the name of his company was Centre d'Essais Véhicules Automobiles (CEVA) Inc.

In the choice of disciplinary measure, consideration was given to the fact that Pierre Champoux had placed himself in a real or apparent conflict of interest and had failed to mention the name of his company. These facts could have prejudiced the credibility of the marketing process. The publication of these facts in the newspapers (Exhibit E-11) had caused embarrassment. Consideration was also given to the fact that this was a good employee with no disciplinary record.

Under cross-examination, Nicole Pageot stated that Alain Bussièrès, expert consultant with Technitest Inc., did business with the MVTC and had held a contract with Transport Canada for four years. She was informed of the content of the letter (Exhibit E-2) from Alain Bussièrès by S.C. Wilson in a telephone conversation on or about February 12 or 13, 1995. She did not read the letter until March 6, 1995.

The discrepancy between Pierre Champoux's statement (Exhibit E-8) mentioning a numbered company and Alain Bussièrès' letter revealing the name CEVA Inc. (Exhibit E-2) was the reason why the Employer saw fit to meet with Pierre Champoux on March 6, 1995.

At the time the Employer learned of the facts set out in the letter from Alain Bussièrès (Exhibit E-2), Nicole Pageot no longer held her assigned position, which she had left in January 1995. Robert Malo was Pierre Champoux's immediate supervisor in February 1995. However, she believed it was appropriate to ask Pierre Champoux to make a statement under the Conflict of Interest Code.

Pierre Champoux's testimony is summarized below.

When the government announced its intention in 1992 to divest itself of the MVTC, Pierre Champoux decided to associate with one Michel Gou with a view to buying the MVTC. They met with the Minister of Transport's Chief of Staff and informed him of their

interest in buying the MVTC. They then retained legal counsel. Elections were held and in June 1993, the privatization (Exhibit A-1) of the MVTC was officially announced.

According to Pierre Champoux, it was in 1992 that he informed the following people of his intention to submit an offer to buy the MVTC if the opportunity arose: Nicole Pageot, Director, MVTC; S.C. Wilson, Director General, Road Safety; and Micheline Desjardins, Assistant Deputy Minister. He told them he would be forming a company, but he could not state whether he informed them of the establishment of his company in July 1992.

In January 1995, the marketing of the MVTC still had not been completed. An employee of the MVTC, Jean-Marie Brazeau, as representative of a group of employees, informed the Minister of these employees' desire to "take control" of the MVTC (Exhibit A-4).

On February 14, 1995, Pierre Champoux received the letter asking him to fill out a "conflict of interest statement" (Exhibit E-3, reprinted above). He found the request unclear. However, he did not request clarifications because he claimed he was preparing for a convention. He drafted the requested statement (Exhibit E-8, reprinted above). Before he made his statement, no one had asked him about the fact that his company bore the name Centre d'Essais Véhicules Automobiles (CEVA) Inc.

Pierre Champoux stated that he did not know his company was called Centre d'Essais Véhicules Automobiles (CEVA) Inc. He believed it was using the number it had originally been assigned. He stated that it was his associate, Michel Gou, who had requested the name change. Michel Gou's letter of April 12, 1994 to their lawyer (Exhibit A-6, p. 4) reads as follows:

(Translation)

*Re: Centre d'Essais Véhicules Automobiles (CEVA) Inc.*

*Your file: 3653,0003*

*Dear Sir:*

*Further to your correspondence of February 23 1994, Pierre Champoux and I wish to change the name of our company 2841070 Canada Inc. to:*

***Centre d'Essais Véhicules Automobiles (CEVA) Inc.***

*Yours truly,*

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*Michel Gou, P. Eng., M.A.Sc.*

Pierre Champoux stated that he was not involved in the proceedings to change the company's name.

Pierre Champoux stated that before March 6, 1995, he was unaware that the Employer's complaint with him centred on forming his company under the name Centre d'Essais Véhicules Automobiles (CEVA) Inc.

At the meeting of March 6, 1995, he was asked whether he knew that his company was called Centre d'Essais Véhicules Automobiles (CEVA) Inc. He replied that he did. When Robert Malo, Regional Director, Surface, Quebec Region, asked him whether he had not considered asking whether Transport Canada wanted to protect the name CEVA, the Regional Director, Personnel, at Dorval, Normand Gauthier interjected that it was not Transport Canada policy to protect this type of name.

Following this meeting, Pierre Champoux was barred from participating in any marketing of the MVTC (Exhibit A-10).

Pierre Champoux testified that in his opinion, the failure to mention in his statement (Exhibit E-8) that his company bore the name Centre d'Essais Véhicules Automobiles (CEVA) Inc. was not a serious oversight since his company was not fully active and had only been formed under this name to protect the name CEVA.

Moreover, Pierre Champoux explained that in his opinion, if Allain Bussières had complained (Exhibit E-2) to the Department about the fact that Pierre Champoux's company bore the name "Centre d'Essais Véhicules Automobiles (CEVA) Inc.", it was because this prevented him from "registering" the name for his own benefit.

On the subject of Alain Bussières, Pierre Champoux testified that Alain Bussières had previously been an employee of Michel Gou (Pierre Champoux's associate) in the engineering consulting firm Les Entreprises Tracktest Inc. He subsequently formed his own engineering consulting firm, Technitest, and bid for and obtained a contract from the MVTC to supply technical staff to the MVTC. The contract had previously been held by Les Entreprises Tracktest Inc. Pierre Champoux stated that Alain Bussières was his competitor in the privatization of the MVTC.

Pierre Champoux also stated that when the MVTC could not provide certain services to its clients, it referred them to engineering consulting firms such as Tracktest and Technitest. He added that privatization of the MVTC threatened to deprive these



engineering consulting firms of major sales. The privatization would have a major impact on these firms, and in this context, Alain Bussières became a competitor.

Under cross-examination, Pierre Champoux stated that his work consisted of increasing the MVTC's sales. Moreover, the distribution of share capital in the company Centre d'Essais Véhicules Automobiles (CEVA) Inc. between himself and his associate, Michel Gou was 50/50.

Pierre Champoux also stated that he could not deny telling Nicole Pageot that he intended to sell the name CEVA if a competitor's bid were accepted and that competitor expressed interest in using that name. He added, "It's not obvious that a competitor would want this name; if so, we would be prepared to discuss the matter."

Pierre Champoux stated that his associate, Michel Gou, had changed the company's name without informing him. A short time later, he also stated that it was clear in his mind that the name had been "registered".

#### Arguments

The arguments presented by counsel for the Employer may be summarized as follows.

We must weigh the credibility of Pierre Champoux's testimony that he did not know his company had changed names. He was a senior employee, a well educated manager who had completed advanced studies and held a position of responsibility.

Admittedly, he had informed his employer that he was interested in the privatization process and planned to form a company for the purpose of participating in that process. Given this, between February and March 1994, the company he formed changed its name to Centre d'Essais Véhicules Automobiles (CEVA) Inc., a name identical to that used by Transport Canada. There was more than an apparent conflict of interest. There was a real conflict of interest when, while he held the position of Assistant Director, Testing and Marketing, Pierre Champoux decided to use the name CEVA for his own company. Moreover, when his employer gave him the opportunity to reveal this important fact, he chose to remain silent. He explained this by first stating that he believed this was only a detail, and then that he did not know his company had changed names. Was it believable that his associate did not inform him of this name change?

Pierre Champoux's actions had tarnished the image of the MVTC and Transport Canada and had cast doubt on the privatization process. Not only had Pierre Champoux

failed to take the opportunity extended to him to explain his actions, but he had also made a statement that omitted a significant fact. Finally, in his testimony, he had not admitted his fault. These were all aggravating circumstances.

The following case law was cited: *Steve Wong and Treasury Board* (PSSRB file-14777), *Richard Ian Cottingham and Treasury Board* (PSSRB file 166-2-15243), *Bruce F. Ennis and Treasury Board* (PSSRB file 166-2-8773), *A. Demers and Treasury Board* (PSSRB file 166-2-13980) and *C. Lté and Treasury Board* (PSSRB file 166-2-20866).

The arguments by counsel for Pierre Champoux can be summarized as follows.

Pierre Champoux made a statement at the request of his employer (Exhibit E-8) following a complaint by Alain Bussières who, according to Pierre Champoux, had been unable to register the name “CEVA” for himself. He was charged with failing to indicate the name of his company, and “knowingly” doing so, according to the letter of suspension (Exhibit E-1). This required proof of criminal intent. Yet the testimony indicated that it was not Pierre Champoux who looked after the company’s business. His testimony indicated that he was aware of the initiatives to acquire the name CEVA, but this was not important in his opinion because the company was not active.

When Pierre Champoux’s superiors asked him to make a statement, they knew, as a result of Alain Bussières’ letter (Exhibit E-2), that the name of Pierre Champoux’s company was Centre d’Essais Véhicules Automobiles (CEVA) Inc. By asking Pierre Champoux to make a statement without warning him that they knew the name of his company, there was reason to believe they wanted to see if Pierre Champoux would declare this fact. They had tried to entrap him. Pierre Champoux had an excessive workload and had not paid a lot of attention to the request for a statement. In that statement, he did provide sufficient details about his company. He did not conceal any interest. He had made a statement in good faith that was maliciously used against him.

It should be noted that there is no evidence the Department had registered or protected the name CEVA. According to Pierre Champoux, at the meeting of March 6, 1995, the Director, Personnel, Normand Gauthier, had even stated that it was not Transport Canada policy to protect this type of name. Finally, even if Pierre Champoux had declared to his employer that the name of his company was Centre d’Essais Véhicules Automobiles (CEVA) Inc., this would have changed little, because the company was not yet active.

It was a branch of government (the Office of the Superintendent of Financial Institutions) that had agreed to give the name CEVA to Pierre Champoux's company. One hand did not know what the other was doing.

There was no evidence of violation of the Conflict of Interest Code (Exhibit A-4) nor that Pierre Champoux's employer had been placed in an embarrassing situation. Counsel cited *Her Majesty in Right of Canada* and *John H. Spinks* and *Jack G. Threader* and *Public Service Staff Relations Board*, A-791-86 (Federal Court of Appeal), published in (1987) 79 NR 375.

In rebuttal, counsel for the Employer replied that the Employer did not entrap Pierre Champoux and was not required to warn him that it was aware of the name of his company. Under the Conflict of Interest Code (Exhibit E-4), the employee bears the obligation of disclosure, not the employer. The Employer is not claiming that Pierre Champoux committed an illegal act by incorporating his company under the name "CEVA". The fact that Pierre Champoux's company was not active made no change in the conflict of interest in which he had placed himself.

#### Reasons for Decision

In this case, the burden of proof rested with the Employer, and I find that the Employer has discharged that burden.

The evidence shows that Pierre Champoux and his associate launched their company on July 30, 1992 (Exhibit A-6, 5th page, Exhibit A-8). In the preceding months, Pierre Champoux had informed his superiors of his interest in buying the Motor Vehicle Test Centre, MVTC, by forming a company for this purpose. At the proper time, however, he did not officially inform his employer through a statement under the Conflict of Interest Code (Exhibit E-4) of the establishment of his company (bearing the name 2841070 Canada Inc. at the time of incorporation) for the purpose of buying the MVTC.

I believe that as soon as this company was formed in 1992, Pierre Champoux should have informed his employer of its existence as well as his interests in this company, especially since his superior, Nicole Pageot, had asked him to do this. This statement was required even if the company had not yet commenced operations.

By failing to disclose his interests in a proprietorship or a private company (article 22(b) of the Conflict of Interest Code) ultimately likely to conduct business with the government, he deprived his employer of the possibility of deciding in light of the principles set out in the Conflict of Interest Code (article 6(a), (b), (c) and (d)) whether the

creation of this company did or did not constitute a real, potential or apparent conflict of interest. Having said this, I note from the wording of the letter of suspension (Exhibit E-1) that for reasons beyond my knowledge, the Employer did not reprimand Pierre Champoux for failing to declare the incorporation of his company in July 1992. I will therefore limit my remarks to the grounds for suspension set out in the said letter. These grounds are related to the content of the statement ultimately made by Pierre Champoux following a request by his employer.

These grounds are: knowingly failing to indicate in the statement required of him the fact that the company he owned had been incorporated under the name “CEVA” and never informing his employer of the “incorporation of this name.”

In his testimony, to explain why he had remained silent about the name of his company, Pierre Champoux claimed that he did not know his own company was called Centre d’Essais Véhicules Automobiles (CEVA) Inc., that he believed the name “CEVA” had simply been “reserved” and that he also believed his company was still “operating” under the numbered name 2841070 Canada Inc. He testified that his associate had not informed him of the change in their company’s name.

After having time to listen to his testimony, I was in a position to note his occasionally evasive and occasionally contradictory answers and ultimately conclude that I do not believe him. Here are my reasons.

First, when he was questioned by the Employer’s representatives on March 6, 1995, he stated that he had not mentioned that the company’s name was Centre d’Essais Véhicules Automobiles (CEVA) Inc., because he believed this was not an important fact. Yet in his testimony, he claimed it was because he did not know the company had changed its name to Centre d’Essais Véhicules Automobiles (CEVA) Inc. Furthermore, a little farther on, he repeated that he did not believe this was an important fact. In brief, his explanations were at times incompatible and at others, contradictory.

I find it unlikely that he did not know his own company bore the name Centre d’Essais Véhicules Automobiles (CEVA) Inc., a name identical (except for the “Inc.”) to that of the administrative unit where he worked.

Nor do I find it credible that his associate decided to change the name of their company (since both associates were held equal shares) without consulting him and obtaining his approval. I find it highly unlikely that this associate proceeded unilaterally with a change in the name of their company without informing Pierre Champoux that their company would now carry the name CEVA, the same name as the administrative

unit where Pierre Champoux worked, which was precisely the subject of the contract of sale that Pierre Champoux and his associate wanted to obtain through their company.

In addition, a letter (Exhibit A-6, 4th page) dated April 12, 1994 was entered into evidence that constitutes at the very least initial written evidence tending to show that Pierre Champoux was aware of the name of his own company. Although its author, Pierre Champoux's associate, did not testify and although this letter constitutes hearsay, I find that in his testimony, Pierre Champoux did not challenge its origin, but simply stated that his associate had not apprised him of this letter. In turn, I find that the content of this letter (Exhibit A-6, 4th page) tends to confirm the conviction I voiced in the preceding lines that Pierre Champoux was in fact well aware of the name of his company.

The letter (Exhibit A-6, 4th page) reads as follows:

(Translation)

*Dear Sir:*

*Further to your correspondence of February 23 1994, Pierre Champoux\* and I want the name of 2841070 Canada Inc. changed to the name:*

***Centre d'Essais Véhicules Automobiles (CEVA) Inc.***

*\* emphasis added*

To these considerations I would add that Pierre Champoux's claim that he was unaware of the change in his company's name is unlikely since it was not just any name that was chosen. This was a name on which a reputation had been built, a name with recognition (Exhibits E-9, E-10) around which the Department had built a business and everything that it implies, including a network of clients built up over the years, in which the Director of Marketing was in fact Pierre Champoux himself.

By giving his company the name "Centre d'Essais Véhicules Automobiles (CEVA) Inc.", Pierre Champoux was securing for himself an undeniable advantage over his competitors. This name allowed his company to present an impression of continuity to its clients and to enjoy the favourable benefits of all types attached to the name CEVA.

By accusing his informer Alain Bussièrès (Exhibit E-2) of wanting to acquire the name for his own benefit, and by stating that he could have sold the name to the winning company in the event his own company did not win the desired contract, and finally by claiming that the name of his company had been changed to CEVA for the purpose of

“protecting the name”, Pierre Champoux convinced me that he was well aware of the benefits ensuing from use of the name CEVA.

Finally, I note that the date the company’s name was changed was May 10, 1994 (Exhibit A-6, 2nd page and Exhibit E-2, 2nd page). Alain Bussières’ letter was received by Transport Canada on February 10, 1995. Even if we accept that at the time his associate wrote to their lawyer about this matter (Exhibit A-6, 4th page), on April 12, 1994, Pierre Champoux did not know that his associate had requested this name change (and on this point, I have already explained that I do not believe Pierre Champoux), I find it unlikely that between May 10, 1994 and February 10, 1995, Pierre Champoux had not learned that his own company had changed names, especially since the privatization process was moving forward.

In brief, for all these reasons, I do not accept Pierre Champoux’s explanations and I am convinced that he knew the name of his own company on February 20, 1995 when, at the Employer’s request, he made a statement and thus knowingly, with full knowledge of his actions, failed to mention the name of his company. In light of this conclusion on the facts, what charges can be levelled against Pierre Champoux?

In addition to his failure to properly declare to his employer the existence of his company, he can be charged with making a false statement (Exhibit E-8) by stating that the name of his company was 2841070 Canada Inc. He can also be charged with an omission, that of not revealing the true name of his company: Centre d’Essais Véhicules Automobiles (CEVA) Inc. and he can be charged with failing to notify his employer of the change in his company’s name. The least we can say is that he lacked openness in more ways than one. This obligation of openness results from the obligation of loyalty that underlies the employer-employee relationship. It also emerges from the various provisions of the Conflict of Interest Code. The following provisions are especially relevant:

### ***Principles***

6. *Every employee shall conform to the following principles:*
  - (a) *employees shall perform their official duties and arrange their private affairs in such a manner that public confidence and trust in the integrity, objectivity and impartiality of government are conserved and enhanced;*
  - (b) *employees have an obligation to act in a manner that will bear the closest public scrutiny, an*

*obligation that is not fully discharged by simply acting within the law;*

- (c) employees shall not have private interests, other than those permitted pursuant to this Code, that would be affected particularly or significantly by government actions in which they participate;*
- (d) on appointment to office, and thereafter, employees shall arrange their private affairs in a manner that will prevent real, potential or apparent conflicts of interest from arising, but if such a conflict does arise between the private interests of an employee and the official duties and responsibilities of that employee, the conflict shall be resolved in favour of the public interest;*

### ***Methods of Compliance***

- 16. *An employee complies with the Code in the following ways:*
  - (b) Confidential Report: by providing a written statement to the designated official indicating ownership of an asset, receipt of a gift, hospitality, or other benefit, or participation in any outside employment or activity;*
- ...
- 18. *A confidential Report will usually be considered as compliance with the conflict of interest measures. However, there will be instances where “withdrawal from the activity” or “divestment” will be necessary. The designated official will make this decision and communicate it to the employee. Where there is doubt as to which method is appropriate in order that an employee may comply with the Code, the designated official will determine the appropriate method and, in doing so, will try to achieve mutual agreement with the employee taking into account:*
  - (a) the employee’s specific responsibilities;*
  - (b) The value and type of the assets and interests involved; and*
  - (c) The actual costs to be incurred by divesting the assets and interests, as opposed to the potential that the assets and interests represent for a conflict of interest.*

19. *Employees are required to make a Confidential Report to the designated official of all assets prescribed by the Code other than those assets and interests which are for their private use or that of their families and assets that are not of a commercial character. Examples of such “exempt assets” are described in the following section.*

...

***Assets and Liabilities Subject to Confidential Report***

22. *Assets and liabilities which may be subject to a Confidential Report include:*

(b) *interests in partnerships, proprietorships, joint ventures, private companies and family businesses, in particular those that own or control shares of public companies or that do business with the government;*

...

(h) *any other assets or liabilities that could give rise to a real or potential conflict of interest due to the particular nature of the employee’s duties and responsibilities.*

It should be noted that the issue in this case is not ownership of the name “CEVA” but rather Pierre Champoux’s obligation to reveal use of the name to his employer.

By failing to disclose incorporation of the company in 1992, by failing to inform the Employer of the change in this company’s name in 1994 and by failing to indicate the name in his statement in 1995, Pierre Champoux was remiss in his obligation to provide his employer with all necessary relevant information to allow his employer to form an opinion on his status under the Conflict of Interest Code (Exhibit E-4). Furthermore, he misled his employer by indicating a number as the company’s name, although this had ceased to be the company’s name 9 months earlier.

Counsel for Pierre Champoux argued that by failing to reveal to Pierre Champoux that it knew the name of his company, the Employer had entrapped him. I disagree. Before Pierre Champoux made his statement (Exhibit E-8), the Employer at most had allegations only (Exhibit E-2) originating from one Alain Bussières. Moreover, in the letter of February 14, 1995 (Exhibit E-3), the Employer notified Pierre Champoux that there were doubts about him:



(Translation)

*It has been drawn to our attention that you may be engaged in activities that do not comply with the provisions of the Conflict of Interest Code for Holders of Public Office with regard to conflicts of interest. You may therefore be in a situation of conflict of interest.*

The warning was clear and it was incumbent on Pierre Champoux to reveal all relevant information to his employer. The precise name of his company formed part of the essential information he had to provide.

The choice of the name Centre d'Essais Véhicules Automobiles (CEVA) Inc. for Pierre Champoux's company was not without consequences: a competitor complained (Alain Bussi eres, Exhibit E-2) and the newspapers (Exhibit E-11) reported this, thereby creating doubts about the integrity of the privatization process. The Department found itself in the hot seat because its employee, the Director of Marketing for the MVTC, had failed to inform it that he had founded a company, that the purpose of this company was to (translation) "bid for any ultimate sale or outsourcing of management of the Transport Canada Motor Vehicle Test Centre" and finally, that this company bore the name CEVA. This was an embarrassing situation from which Pierre Champoux could have spared his Employer.

In closing, I believe the Employer has established the causes for the charges levelled in the letter of suspension. I have not been convinced that the quantum of the sanction (one-day suspension) was unreasonable. As both Director of Marketing of the MVTC and owner of the company CEVA Inc., dedicated to purchasing the MVTC, Pierre Champoux was firmly rooted in fertile ground for the emergence of a conflict of interest. It was incumbent on him to disclose his situation to his employer. I also wish to point out that I do not find that use of the name "CEVA" constitutes a conflict of interest. What I do find is that Pierre Champoux had an obligation to disclose to his employer that the name of his company was CEVA, specifically to allow his employer to decide whether the use of this name did constitute a real or apparent conflict of interest.

In conclusion, I find that in this era of privatization of government activities, all such initiatives must be open and visible. Not only do departments, in this instance, Transport Canada, have a duty to proceed with privatization of their services in an open manner, but the employees likely to be affected by or participate in this privatization also have an obligation of openness toward their employer. The openness of a department is at least partly dependent on that of its staff, and vice-versa. The two are not unrelated.

On these grounds, the grievance is dismissed.

**Marguerite-Marie Galipeau  
Board Member**

OTTAWA, May 15, 1996

Certified true translation

Serge Lareau