



Kathy Sinnott MEP
ASP 08H349
European Parliament
1047 Brussels

10 November 2006

Dear Mrs Sinnott,

Subject: Complaint to EPACA.

I am writing to inform you of the EPACA response to your complaint letter of 25 October

1. The complaint is that David Earnshaw
 - a. *'neglected to mention his position with Burson Marsteller and the fact that his company has business associations with companies interested in the subject matter of the briefing note...'*

And that he thereby infringed the requirements of the EPACA Code of Conduct that all EPACA members and their staff will:

- b. *'Identify themselves by name and by company'*
 - c. *'Declare the interest represented'*
 - d. *'Neither intentionally misrepresent their status nor the nature of their inquiries to officials of the EU institutions nor create any false impression in relation thereto'*
 - e. *'Neither directly nor indirectly misrepresent links with the EU institutions'*
 - f. *'Honour confidential information given to them'*
2. The Management Committee of EPACA has considered the complaint, and a response to it from Burson Marsteller and David Earnshaw. At a special meeting on 8 November, with 10 members present, and with the company complained against excluded from the discussions (as required by our rules), the Management Committee unanimously concluded that there is no case to be addressed, for the following reasons:
 - a. The complaint relates to work for the European Parliament conducted by David Earnshaw in his own time and in his own personal capacity (under the name of his company David Earnshaw SPRL, not an EPACA member), and not while working for or under the authority of or in the interest of Burson

Marsteller, with whom his company has an agreement to provide services on a part-time basis (3 days a week). The complaint therefore does not concern an EPACA member and EPACA does not have jurisdiction to consider the complaint.

b. However, as the complaint does explicitly refer to an EPACA member, Burson-Marsteller, the Management Committee agreed that the following reasons were also relevant:

1. The act criticized – the circulation of a report without information about the background and connections of the author – was not an act carried out by David Earnshaw. The report by Mr. Earnshaw was commissioned, issued and circulated by the services of the European Parliament. Mr. Earnshaw did not have any opportunity to influence the manner in which this was done, as it represented a standard practice of Parliament on which his opinion was not sought. We note that all reports prepared for Parliament by outside experts are circulated by Parliament with similar or less information about the authors, and that on this specific issue two reports were prepared for the environment committee by different experts, and circulated by its secretariat in the same format.
2. David Earnshaw set out his background and business associations in full in his tender document to Parliament, including his pharmaceutical and healthcare work for Burson Marsteller, and the names of clients with whom he worked. Although not circulated by Parliament with the report, this information was fully available to MEPs from the secretariat. Even if the complaint concerned a member of EPACA, there is no evidence that our code's requirements on transparency have been breached.
3. Whilst the complaint did not allege breach of the EPACA code on conflicts of interest, the Management Committee considered whether there was any evidence of this associated with the complaint. Both Burson Marsteller and David Earnshaw emphatically state that neither has lobbied or worked for clients of Burson Marsteller on the subject of the report to Parliament. The Management Committee found these assurances, which will be made public and are therefore verifiable, to be credible, and has no evidence to the contrary.

3. The Management Committee also noted that tenderers for the role of independent expert for European Parliament are required to sign a 'Declaration of Impartiality and Availability'. In this they commit to execute their responsibilities under the contract in full independence of other professional and academic commitments. That Parliament selected the tender of David Earnshaw SPRL, while having full knowledge of his business associations and detailed CV, demonstrates that Parliament took the view his wide range of experience in business, NGOs, and elsewhere would enrich the range of expertise available to the Parliament in reaching its decisions, and would be contributed in good faith consistent with this declaration. We have no reason to challenge that decision by Parliament.
4. The Management Committee also noted that Parliament may wish to reflect on whether MEPs would prefer that fuller details of the background of authors are circulated with the reports of outside experts, to further limit scope for any complaint, whether genuine or frivolous, that not enough was known about them. This is also however a decision for Parliament.

The Management Committee concluded that there was no basis for convening a Disciplinary Panel to review the complaint, as no case that an EPACA member breached the EPACA Code has been presented, and the complaint should therefore be rejected immediately.

We are communicating this finding to you as complainant, to our Professional Practices Panel, to all our Members, and to the President of Parliament, the Chair and Vice-Chairs of the Environment Committee, the Secretary General of Parliament, the Head of Secretariat of the Environment Committee, and the European Commission.

We will shortly also place it on our website.

Yours sincerely,



John Houston
Chairman