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Standing Committee on Government Operations and Estimates

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EVIDENCE

Thursday, May 27, 2010

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Chair

Ms. Yasmin Ratansi

Standing Committee on Government Operations and Estimates

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• (1200)

[English]

The Chair (Ms. Yasmin Ratansi (Don Valley East, Lib.)): Committee members, the clock says 12:01 p.m. Today we have an extra meeting from a motion that was presented.

Before us we have Mr. Derek Lee, MP for Scarborough—Rouge River.

Mr. Lee, I understand you have some opening remarks to make.

Mr. Derek Lee (Scarborough—Rouge River, Lib.): Thank you, Madam Chair.

I guess I have the consent of the committee to lead off here. I note, Madam Chair, that you did not read the order of reference for today, but that's okay, as the members have had a chance to read it.

As most of you know, I'm a House procedures guy. There might be 10, 20, or 30 of us in the House. Arising out of that predisposition of mine, I have to say that while I have a natural desire to respond to committees in the House and to help out colleagues, my appearance here today as a witness has to be conditional on the committee establishing its authority to undertake this study. It is a study cobbled together during a committee debate about me and, as I understand it, on claims made on an Internet website.

I should also say that the issues apparently raised and discussed have also been raised by other members at another committee and in the House itself. I don't have any document to show this, but I am advised that the government had undertaken a complete search of my 22 years as a member of the House of Commons, for whatever purposes, in preparing for today. You will understand my response when I say that all of this seemed to occur the very week that I and some other members of the House achieved some measure of success in the House on the issue of the House's subpoena powers. I just couldn't help but think it was payback, as members around the table will understand. There are some political equations always extant in the House and at its committees.

I am going to ask the chair and clerk to describe the committee's authority to proceed on this particular issue today. You can take a minute or two, because I have a couple of other remarks to make first, but I am inviting the chair, with the assistance of the clerk, to read to me the provisions of the Standing Orders providing a mandate or authority to this committee to my satisfaction.

In the meantime, for the committee, I will say that I am sitting before you as a member and colleague and as a lawyer. I confirm that. I've been a lawyer my entire career.

Under section 7 of the Conflict of Interest Code contained in the appendix of our Standing Orders, there are the explicit words that a member is not prevented from:

engaging in employment or in the practice of a profession.

Also, section 27 of the same set of rules provides that:

A Member who has reasonable grounds to believe that another Member has not complied with...[the] Code may...set out the reasonable grounds for that belief—

—and send those to the commissioner for an inquiry.

The House has set up a complete code of procedures to deal with these kinds of issues. This committee, of course, isn't involved in those procedures, but I just wanted to refer you to sections 7 and 27 of the code.

You should also know that I released a statement on May 6 as a result of statements made in the House by one of the government ministers, and I said then and I am repeating it now that I am a lawyer. I am not a lobbyist, and I have never been paid in any way to lobby the federal government.

I'll just check with the chair. Do you have the statement of the committee's authority there? If you're not quite ready, I have one closing piece that I'll just add.

• (1205)

The Chair: Sure.

Mr. Derek Lee: I want to suggest to the committee the following procedural point, that if it insists or wishes on operating knowingly outside its committee mandate, outside of the House's authority that's been given to the committee, there are the following three implications.

First, it might, depending on how the thing goes, bring the committee's procedures and the House's procedures into some disrepute.

Second, the committee will lose its ability to report to the House. The Speaker has very clearly identified this as a direct implication, saying that he will not receive reports from committees that act outside of their mandate.

Third, the committee will lose its own ability to pursue an inquiry publicly, and it would likely lose some or all of the privileges that attach to our work in the committee, including the privilege of immunity—especially where there is knowledge and malice. In a political context, you can get scenarios like that.

In my view, and I am not offering you a big legal opinion here, I think those are pretty evident implications of our rules and procedures.

I'm going to put my situation in the hands of the chair now and ask if the chair and clerk have managed to identify the mandate from the House of Commons authorizing this committee to take up this inquiry today.

The Chair: Monsieur Nadeau.

[*Translation*]

Mr. Richard Nadeau (Gatineau, BQ): A point of order, Madam Chair.

The Chair: All right. One moment, please.

Yes, Mr. Nadeau?

Mr. Richard Nadeau: This morning, we were provided with a document that was in English only. Could we have the French version, please?

[*English*]

The Chair: Monsieur Nadeau, this motion was passed by the committee and we had it in both official languages. If you don't have it on your file today with you, we are ensuring that a copy will be made available to you. People wanted copies, and we will ensure that it is translated and will be given to you.

Everyone received a copy of the motion that was presented by Mr. Bruinooge.

[*Translation*]

Mr. Richard Nadeau: I understand, but the rule is quite clear, and...

[*English*]

The Chair: The French version does exist, and it's being photocopied.

[*Translation*]

Mr. Richard Nadeau: Okay. So we will receive it before the end of the meeting, I hope, or in the next few minutes.

The Chair: Yes.

Ms. Jennings.

Hon. Marlene Jennings (Notre-Dame-de-Grâce—Lachine, Lib.): On that point of order, will all the minutes of proceedings be translated?

•(1210)

Mr. Richard Nadeau: Thank you, Madam Chair.

[*English*]

The Chair: Mr. Warkentin, did you raise your hand?

Mr. Chris Warkentin (Peace River, CPC): Not on that point of order, but to ask you to read out what Mr. Lee is looking for. I guess he's asking for some information. Of course, we have a rationale as to why this committee unanimously decided to move forward with this motion and these hearings. So I think it would be timely for us to get on with this. Certainly we have indicated that Mr. Lee will be the witness today on the orders of the day, so I'd like to proceed.

The Chair: I was responding to Mr. Lee. I have the Standing Orders in front of me. It's page 83, if anybody has the Standing Orders with them. The clerk is informing me that since the motion was moved and there were no procedural issues raised at that time, and since the committee accepted the motion and we were ordered to proceed, we are proceeding.

But as Mr. Lee has been a procedural expert, I would ask him to take a moment to tell us specifically, if he can, what in his opinion has been a violation of this committee's mandate.

Mr. Lee, I know you have raised points of privilege that have resulted in Speaker's rulings. You're an expert on these, and we don't claim to be experts, so could you take a minute or so to give us some idea, and then we can proceed?

Mr. Chris Warkentin: We have experts here, Madam Chair.

The Chair: The expert rules—

Mr. Chris Warkentin: Maybe you can make a ruling, Madam Chair, and then we can proceed, because we only have one hour. I don't want this to turn into a filibuster.

The Chair: It's not a filibuster. If you would give Mr. Lee the courtesy and go to page 83 of the rules and procedures, we are actually not within our mandate. That's why I want everybody to have a look at page 83.

Mr. Chris Warkentin: Madam Chair, why don't you read out what your interpretation of that is so we can have a discussion about that, please?

The Chair: Fair enough. I will read:

Government Operations and Estimates shall include, among other matters:

- (i) the review of and report on the effectiveness, management and operation, together with operational and expenditure plans of the central departments and agencies;
- (ii) the review of and report on the effectiveness, management and operation—

Mr. Pat Martin (Winnipeg Centre, NDP): On a point of order, Madam Chair, I hope you don't intend to read the entire section 108. We all have it.

The Chair: I've been asked to read it.

Mr. Chris Warkentin: No. I want to know what it specifically is. Quite frankly, we have listed on the website of Sun & Partners a description of the work that Mr. Lee was attempting to sell. So it affects every area, or several different departments.

Clearly it's within our mandate to review whether or not these activities actually took place and what the relationship is to the government operations.

The Chair: Therefore, Mr. Warkentin, I gave a ruling based on what the clerk told me, that when the motion was passed—

Mr. Chris Warkentin: Unanimously.

The Chair: —there were no procedural issues raised.

Mr. Chris Warkentin: And there were no procedural issues raised, because everybody felt that what was described on the website clearly defined and was in line with our mandate as a committee to review.

The Chair: The clerk is telling me that was actively lobbying the Government of Canada, and the lobbying issue comes under Procedure and House Affairs.

Mr. Chris Warkentin: We have an entire study currently being undertaken on the green fund on exactly the same premise as this one: that lobbying is taking place that's affecting the operations of government, and it may or may not have an impact.

We want to know if Mr. Lee was undertaking what was described on this website, which would have a clear impact on government and government operations. If he wasn't, then today is his opportunity to clear his name, and we will work with him to do that. But I believe that what was defined on the website was in direct violation of the ethics of a member of Parliament.

The Chair: Mr. Warkentin, I keep saying we have to proceed, but you keep interrupting.

Mr. McKay has the floor.

• (1215)

Hon. John McKay (Scarborough—Guildwood, Lib.): I want to add, Madam Chair, that whether this committee passed something unanimously or whether it didn't pass something unanimously is entirely irrelevant. It has to pass something within its mandate. Its mandate for government operations is set out clearly on page 83, and you were trying to read into the record what constitutes the mandate of this government.

I realize that members opposite may feel something, but feeling something and being something are two different ideas entirely. This committee could pass a unanimous resolution that the sky is blue, but it's not within its mandate to say whether the sky is blue or not.

So to go through, as I hoped Mr. Warkentin would let you do...you will note that (c)(i) says a review and report of the effectiveness, management, and expenditure plans of the central departments and agencies. Clearly that doesn't fall within even the most generous interpretation of the allegation here. It doesn't fall within that issue.

The second point is within the jurisdiction of this committee. It is "the review of and report on the effectiveness, management and operation, together with operational and expenditure plans relating to the use of new and emerging information and communications technologies by the government". Again, that's not within the most generous interpretation of the unanimously passed resolution of this committee. It doesn't fit within that.

Then you go to the third one, which is "the review of and report on the effectiveness, management and operation of specific operational and expenditure items across all departments and agencies". Again, the allegations have nothing to do with committee.

There may be allegations that people want to make against Mr. Lee, for reasons best known to them—from my side of the fence they are largely driven by politics, but we'll leave that aside—but your committee is limited to the standing rules. You might wish to carry on all kinds of inquiries, but your inquiries are limited to your standing rules.

This is an important committee; you have a lot of things you can do. But out of the first three items you're able to do, certainly this allegation doesn't fall within any one of them.

The fourth one is "the review of and report on the Estimates of programs delivered by more than one department or agency". Well,

this has nothing to do with estimates, so again, it's well outside of your purview.

I can go through item (v), item (vi), item (vii). Item (viii) is "the review of and report on the effectiveness, management and operation, together with operational and expenditure plans arising from supplementary estimates". Again, it's nothing to do with that.

"The form and content of all estimates documents"...again, nothing to do with that.

"Crown Corporations and agencies"...again, nothing to do with that.

"In cooperation with other committees, the review of and report on the effectiveness, management and operation"...the majority of the funding from the Government of Canada. Again, it's nothing to do with that.

So if you take paragraph 108(c) and you go (i) through (x), you're *functus*; this is not your thing.

Mr. Lee has quite generously, in my view, directed the committee that if a member wishes to raise allegations, there is a procedure available. It's not available before this committee; it's available before another committee.

Keep in mind, Madam Chair, that we are dealing with a member of Parliament who's been here for 22 years. I've had the privilege of knowing Mr. Lee for way longer than Mr. Lee and I actually care to admit. It goes back to college days, when he was the brains of the class and I held up the other end.

An hon. member: Relevance, Madam Chair?

Hon. John McKay: The relevance actually is...and it should be a caution to all members of Parliament that what goes around comes around. You are dealing with the reputation of a senior member of this House who's been a superb member of Parliament for 22 years. In fact a few weeks ago the ruling by the Speaker was largely generated by the diligence of this member and his willingness to assert the supremacy of Parliament.

• (1220)

I say to the honourable members opposite, regardless of your political enthusiasm for trying to embarrass or question Mr. Lee, if in fact you wish to do that, you should at least do him the courtesy, as we would all expect, of doing it in the appropriate forum.

Mr. Chris Warkentin: It's a filibuster. This is an absolute farce.

The Chair: I have five people on the list, and I would like to hear from at least Mr. Bruinooge as soon as Mr. McKay is finished. You were the mover of the motion. Let's listen to you.

I have three more people, and then we need to decide what we're going to do. According to the clerk's advice, if we prepare a report, it will go before the House, the Speaker will rule it out of order, and we will have wasted time. It's the committee's prerogative, and we can do what we want.

Mr. McKay, are you done?

Hon. John McKay: I am not entirely, Madam Chair. I was trying to draw the members' attention to the limitations of this committee's authority. It doesn't matter what resolution this committee has passed. You could pass a resolution about anybody and anything at this committee, either members here or out in the audience, but there are limitations to what you can do—proper limitations.

Mr. Lee has forgotten more parliamentary procedure than most members will ever know. Given that this issue is important as concerns his reputation, surely to goodness other members of Parliament, colleagues, both long-standing and otherwise, should at least give him the courtesy of defending himself in a proper forum where the committee is seized of its mandate, and not in some place where we can just play politics with a good man's reputation.

I will end there, Madam Chair. This is not a filibuster, but it is a plea to members opposite to do what they do within their jurisdictional limitations and to do it only then. Otherwise they slander and they smear. For certain, people outside of this room have a low enough opinion of politicians already. They don't need to be assisted in further slandering and smearing a good man's reputation.

The Chair: Thank you, Mr. McKay.

Mr. Bruinooge.

Mr. Rod Bruinooge (Winnipeg South, CPC): Madam Chair, I just want to extend my regard to the position of the member, which he has put on the table. I think with this motion we have actually given Mr. Lee the opportunity to talk about some of the allegations that were made. I think that's really the premise of what it was suggested this committee do, which is to offer a member in good standing in this House the opportunity to talk about the allegations that were made.

The suggestion Mr. McKay made, which Mr. Lee made previous to that, was that this isn't the proper forum within which to do that. However, since the chair allowed that motion to proceed, here we are in this forum.

I think this is a good forum for Mr. Lee to refute everything that's been alleged in relation to this website. However, if he doesn't feel that is the case, and Mr. McKay doesn't either, the chair has to make a ruling as to how this current round of debate is going to end.

It's up to you, Madam Chair, whether or not you're going to decide that.

The Chair: I will allow three more speakers. I think Mr. Brown is the last speaker. Then the committee will make a decision.

Madam Jennings.

Hon. Marlene Jennings: Thank you, Madam Chair.

Thank you, Mr. Lee, for extending the courtesy to this committee of appearing before it, a courtesy that unfortunately Mr. Vellacott did not deem fit to extend to the procedure and House affairs committee when it was specifically charged by the House of Commons, through a vote, to look into the issue of a question of privilege regarding the ten percenters that were sent into Mr. Peter Stoffer's riding and into

Mr. Chris Warkentin: This is a filibuster.

Hon. Marlene Jennings: It's not a filibuster. I'm making several important points. I've been a witness on other committees—

• (1225)

Mr. Chris Warkentin: Let's move on. Half the meeting is over.

Hon. Marlene Jennings: —as members opposite who belong to the government side have done in other committees, making points they felt were necessary.

One thing is clear under procedures and House affairs: even when the House of Commons specifically charges a standing committee to review an issue that relates to the conduct of a member of Parliament, that member of Parliament can decide if he or she will appear.

Mr. Chris Warkentin: He's here.

Hon. Marlene Jennings: He had the courtesy to come. He is not a witness. He is here as a member of Parliament. That's the first issue.

The second issue is the one raised by Mr. Lee, which Mr. McKay has already spoken to. Regardless of whether the motion was adopted unanimously by this committee, it does not in any way demonstrate a link between the allegations being made against Mr. Lee and the mandate of this committee. This is not an issue or subject matter that the House itself has specifically charged this committee to deal with. There is another committee that has a mandate to look into those kinds of allegations, and if the members of the government are interested, they can do so.

Madam Chair, I would like to move a motion that this committee set aside the motion that was unanimously adopted and hear from Mr. Lee, because it's clear the motion doesn't meet the mandate of this committee. If Mr. Lee were to appear here under orders from the House of Commons, what kinds of questions would be asked of him?

First, is he a lobbyist for Sun & Partners? No. Mr. Lee has made it clear that he was counsel for Sun & Partners and that he engaged in no lobbying at all. Mr. Lee has also stated that he was unaware of how his role was portrayed on the Sun & Partners website, and he is concerned that it is not sufficiently clear in its description of the nature of his work. As such, he has asked that his profile, including any reference to lobbying, be removed from the Sun & Partners website, which has happened. And he has apologized for any confusion this may have caused.

Another question might be: did Mr. Lee disclose his employment to Sun & Partners to the conflict of interest and ethics commissioner? What would be the answer? He has already made it public. Yes, Mr. Lee did disclose his employment with Sun & Partners to the conflict of interest and ethics commissioner, and he has been in full compliance, according to the ethics commissioner.

There are other issues. He's being accused of lobbying. The Lobbying Act defines activities that are considered to be lobbying when carried out for compensation. Generally speaking, they include communicating with public office holders with respect to changing federal laws, regulations, policies, or programs; obtaining a financial benefit such as a grant or contribution; in certain cases, obtaining a government grant; and in the case of consultant lobbyists, arranging a meeting between a public office holder and another person.

If this committee had been given the mandate by the House of Commons under procedure and House affairs to look into this matter, a question would have been whether Mr. Lee had engaged in those types of activities. Once these allegations came up against him, Mr. Lee made public statements in which he made it clear that he did not engage in these types of activities and has not received any compensation for the types of activities he was alleged to have carried out, and he denies doing them.

The Lobbying Act also requires lobbyists or registrants to register types of communications with public office holders. This committee—had it the mandate given to it by the House of Commons to look into the allegations that have been made against Mr. Lee—might have asked whether Mr. Lee ever registered these types of communications. Mr. Lee, in his public statements since the allegations were made against him, has made it clear that he has never undertaken any type of lobbying and thus has never been in a position to need to register with the Commissioner of Lobbying.

●(1230)

But there are other allegations that have been labelled against him. The Lobbying Act bans any payment or receipt of any benefit that is contingent on the outcome of a consultant lobbyist's activity. Had this committee, or if another committee that has the mandate to look into such allegations of misconduct and violation of the conflict of interest code for members of the House of Commons... Should another committee take up the flag, one question that the committee might have asked Mr. Lee, and might yet ask Mr. Lee, is: has Mr. Lee ever received payment or any benefit that was contingent on the outcome of lobbying activities? There again, Mr. Lee, in his public statement, has made it clear that the answer is no. First, he did not engage in any type of lobbying, and second, he has never been paid to lobby the federal government.

I could go on. With the indulgence of the chair, I will go on. If we look at the conflict of interest code for members of the House of Commons—

Mr. Ed Holder (London West, CPC): Madam Chair, I have a point of order. I'd like to ask you a question in terms of the relevance of this particular commentary, which presupposes questions the committee might ask. This person, who is not currently sitting as a member of the committee, is presuming those questions. I'd like to ask you to rule on relevance so that we can get on with this meeting, please.

Hon. Marlene Jennings: May I speak to it, Madam Chair?

Mr. Chris Warkentin: It's now officially a filibuster.

The Chair: Mr. Holder, the clerk says it is relevant. Therefore, she is allowed to continue.

Hon. Marlene Jennings: Thank you.

Madam Chair, when I am asking these rhetorical, hypothetical questions and providing answers that have already been put into the public domain by Mr. Lee, it is in support of my motion that this committee set aside the motion that it adopted unanimously to call Mr. Lee before us here and to look into the allegations of lobbying activities on his part and violations of the conflict of interest code for members of the House of Commons. It's to provide material support for my motion.

Mr. Rod Bruinooge: Madam Chair, I have a point of order. Perhaps Madam Jennings would like to call the question on that.

The Chair: She is presenting a motion to put aside the motion. As she's doing it, she is allowed to debate. I cannot call the question unless she finishes her debate, her presentation of arguments.

Hon. Marlene Jennings: Thank you, Madam Chair. I take note of Mr. Bruinooge's suggestion. I will make one further point and then I will move the question.

With regard to the conflict of interest code for members of the House of Commons, Mr. Lee has made it very clear publicly that at no time has he violated any dispositions of the conflict of interest code for members of the House of Commons.

I now move my motion. Call the vote.

The Chair: Once Ms. Jennings has moved her motion to set aside the motion, my list of speakers will only have to deal with that motion.

Mr. Martin, you're the next speaker. The motion on the floor presented by Ms. Jennings is to set aside the current motion of Mr. Bruinooge because it is not within the mandate of this committee, and the appropriate committee would be the procedure and House affairs committee.

Is that correct, Ms. Jennings?

Hon. Marlene Jennings: And/or the Standing Committee on Access to Information, Privacy and Ethics.

The Chair: Okay. Mr. Martin will be continuing the debate on this motion.

Mr. Ed Holder: Madam Chair, I have a point of order. I want to clarify the motion; that's what I'm trying to understand. I understand a motion that would impact on this committee. Is this motion suggesting that it impacts on a separate committee as well that is outside of our mandate?

●(1235)

The Chair: Ms. Jennings is suggesting that we set this motion aside because according to the mandate of the government operations committee it does not belong to this committee. It can belong to the procedure and House affairs committee or the access to information committee. Those are the two committees it could go to. That is the motion.

Mr. Martin has the floor.

Hon. Marlene Jennings: May I just make a point, Madam Chair?

To clarify to Mr. Holder, I am not suggesting that this committee again extend beyond its mandate and refer the matter to another committee. I am simply making an affirmative declaration in my motion that should any member wish to pursue the matter, they should properly do so before one of these other two committees, who in their power and authority can determine whether or not they wish to deal with it. It would be up to them.

The Chair: Fair enough.

Mr. Martin.

Mr. Pat Martin: I'm sitting here getting more angry by the moment. They parachute in two of their most senior lawyers to baffle the work of our committee. Neither of these Liberal members is a member of this committee. They were both sent here because they're experienced MPs, both lawyers, and one with an exceptional gift of the gab—

Some hon. members: Oh, oh!

Hon. John McKay: I don't think he's referring to me.

Mr. Pat Martin: —and she's already in the process of concluding, after debating and summarizing the issue, that Mr. Lee has never done anything wrong to anything or anybody at any time in his life or in his 22-year career.

Mr. Lee's intervention at the beginning, if we ever give him another chance to talk, was really quite helpful, because, first of all, he asked you for a ruling—which we're still awaiting, Madam Chair. He opened his remarks by saying that if it were determined that this committee doesn't actually have the jurisdiction to deal with the issue, the downside is that the Speaker might not accept the report when we table it in Parliament. His other two speculations, including the point that other witnesses before committee might then not be protected by privilege, we don't know to be the case. It's something that he put forward as a possibility.

I think we have every right to investigate this matter in the context of the administration of programs and departments of the Government of Canada and to determine if there was ever undue influence by lobbyists associated with the application and administration of those programs. We started in the context of the green infrastructure fund. That has opened doors and led us to an awareness of what could be a serious violation of the Lobbyists Registration Act. I was a founding member of this committee, the government operations committee, in this room, with Reg Alcock as the chair. At that time, the Lobbyists Registration Act was one of the things that was put under the Standing Committee on Government Operations and Estimates, in the absence of any other place for it to be plunked. So we were the catch-all committee in a lot of these areas.

Now we have a document right here from Mr. Lee's biography on the website of Sun & Partners that says that one of his jobs is lobbying government on policy issues as well as facilitating intergovernmental relations, advising government bodies on international issues regarding cross-border tax collection, anti-dumping issues, etc., reviewing policies and conduct of the Canadian Security Intelligence Services, and securing regulatory and government approvals for mergers and acquisitions. It just so happens by coincidence that Mr. Lee sits on the scrutiny of regulations committee.

We can't ignore this, and as a committee we'd be irresponsible to ignore this. I suggest that we take this as far as we can, and if it so happens that the report of the committee, as put together by all four political parties in the House of Commons, is tabled in the House of Commons and the Speaker can't accept it, we will still have done a public service by investigating this matter. As a courtesy to Mr. Lee, who I've known and respected for years, we should give him the opportunity to answer these allegations and answer the questions of the committee members without any further delay.

The Chair: Mr. Brown.

Mr. Patrick Brown (Barrie, CPC): Thank you, Madam Chair.

I wholeheartedly agree with the comments of Mr. Martin. I too had the same surprise today, coming in to see brand new members of the Liberals and to see their most verbose and eloquent filibusterers joining us today. I think it's obviously a very intentional move by the Liberals to make sure this isn't going to see the light of day. I think it's unfortunate. It's also a little bit disingenuous, to tell you the truth. A few weeks ago, we had Ms. Coady in here talking about how important and pertinent it was to the government operations committee to study lobbying. Now to have the same party arguing the exact opposite position is really tough to rationalize.

I also find it surprising that when committee meetings have gone on before, the Liberals have argued that we couldn't waste time with these types of filibusters, and now they're undertaking the same process themselves. I think it's unfortunate, because we've scheduled this extra time, and we've wasted an opportunity and wasted some good time with the government operations committee.

I actually think you're doing your colleague Mr. Lee a great disservice. I actually thought we would come here today and give Mr. Lee an opportunity to tell us what actions he took against Sun & Partners; whether he authorized the website, and if he didn't authorize it, how he had gone about having Sun & Partners address that if they had done this; whether it had served them well in the law firm; and what compensation he sought from Sun & Partners to make up for this claim they had on the website to buttress their own reputation.

I thought this would be an excellent opportunity for Mr. Lee to clear the air. I think by not giving Mr. Lee an opportunity to answer questions, unfortunately you leave a cloud of suspicion. By not giving him an opportunity to respond to any questions, you leave us with an impression that there's something to hide. I think it's very unfortunate that you engage in these political games of filibustering to remove any opportunity for the government operations committee to do its job. So I certainly will not support the motion put forward by the temporary member of this government operations committee.

I really hope we don't see further meetings of the government operations committee wasted, because I would like to actually clear the air and do our job and get to the bottom of this. As I said, it's highly disingenuous for one to change one's exact same position regarding whether it's the responsibility of the government operations committee to look at lobbying and alleged influence peddling. It's unfortunate to see these games afoot. I really hope we can quickly dismiss this motion, and hopefully we're not going to see another one of this committee's meetings wasted on this.

● (1240)

The Chair: Mr. Warkentin.

Mr. Chris Warkentin: Madam Chair, we do know that Mr. Lee has confirmed that he did see a copy of the biography prior to it being up on the website of Sun & Partners. The biography reads, and I'm quoting:

...include acting for foreign and offshore organizations in obtaining operating licenses, securing regulatory and governmental approvals for mergers and acquisitions...advising government bodies on international issues regarding cross-border tax collection, anti-dumping issues, and lobbying government...

Let's remember what it says here:

...and lobbying government on policy issues as well as facilitating inter-governmental relationships.

We had Mr. Jaffer and his partners before the committee because of a statement that was made on a website. These websites are intended to solicit business. They solicit business either for Mr. Lee directly or through his partnership with the law firm on whose website this biography appeared. So to state that Mr. Lee didn't benefit financially from having this on the website doesn't mean that his partners didn't financially benefit from this being included on their website. We need to have Mr. Lee clear the air. We need to understand why, when he saw what his biography on the website would include, he didn't raise some type of condition, or why, if he didn't think it was correct, he didn't correct it before it went on. It's been on there for years. Why in that duration of time did he take no action to correct it, especially when we saw that there was suspicion being brought forward about other people undertaking this type of conduct?

Clearly we need to have these questions answered. We need to have them answered by this committee, because it's the same committee that brought forward the same allegations in order to investigate the green fund. Now we want to specifically undertake a review of whether in fact Mr. Lee has had an impact on the specific areas he claims, on the website of Sun & Partners, he'd have an influence on. Those are government operations business areas. Clearly, talking about acquisitions of foreign companies and making regulatory changes to assist certain companies would be within this committee's mandate, so I think it's important that we now set aside the next meeting to undertake this study.

• (1245)

The Chair: Thank you, Mr. Warkentin.

Mr. Lee.

Mr. Derek Lee: Do colleagues mind if I intervene here?

The Chair: That's why I was giving you the floor, until I was interrupted. Now you can have the floor, because you've practically heard everybody's opinion.

Mr. Derek Lee: It's not that I agree with everybody's opinion either.

The Chair: Mr. Lee, the floor is yours.

Mr. Derek Lee: It was my hope that this meeting today would dispose of these issues, either permanently or on an interim basis. As the debate goes on, different things get said. Everybody starts making notes about A, B, and C, and then suddenly the debate goes on and on.

I had some discussion with Mr. Bruinooge and Mr. Warkentin here off the record. Apparently the government members and all members are seeking some clarity on these website inclusions. I can provide that. It's easy.

My opening remarks here dealt with the issue of the committee's jurisdiction. I'm convinced beyond any doubt that the committee is on very thin ice or none at all, and I was hoping you would make a ruling. I never should invite her to, but I understand why a ruling on this particular issue might impair other work the committee is doing. I don't know; I'll leave that to committee members.

Mr. Warkentin described me as a partner of this particular law firm. I'm not a partner. I do not have a financial interest in the law firm. I am a counsel to the law firm.

There's another thing that may help a little. The committee had corresponded with Mr. Jimmy Sun of that law firm and asked some questions. He has authorized me to deliver a letter. He sent a notice to the clerk that I would bring a letter. Mr. Sun has addressed one of the questions that's been asked in that letter. I'll leave it with the clerk. It's unfortunately not translated, but I will read you the portion of the letter.

He says:

Factually to our knowledge, Mr. Lee has never undertaken any assignment to lobby the Government of Canada since his association with this law firm in 2007. Further, Mr. Lee is counsel to this law firm and not an employee, consequently there is no employment agreement between the law firm and Mr. Lee.

The committee had asked for an employment agreement, but there is none. So that is from the law firm's perspective, and I'm reading what he says. I can verify what he says because he's talking about me.

In my own remarks I stated very clearly, and I might as well read them again: "I am not a lobbyist, and I have never been paid in any way to lobby the federal government." That's a slightly different version.

Have I ever done any of the activities listed in the website on behalf of a client of that law firm or any paying client? The answer is no. I have never had the need to register as a lobbyist. I am registered as a lawyer. I am fully compliant with the conflict of interest code. I have checked with the conflict of interest commissioner and she has verified that.

So I am fully compliant with all the House rules on notice and transparency. If there's any other way I can respond to or state this that would satisfy members' concerns about what was said on the website, I'm happy to do so, but I think I have said it. Mr. Sun has also corroborated that.

I can't think of any other words I can add. I have raised the procedural issue. I think it's a very significant one. I know that Ms. Jennings put forward a motion. I'll leave committee members to deal with the motion. But I would prefer them to dispose of this business today, because from my point of view, there's no substance to pursue, and it would be a waste of the committee's time to pursue it.

• (1250)

You can't make something out of nothing. I agree that the website certainly will catch the attention of a member opposite, but as I say, there isn't anything there, and I'm not aware of any specific allegation with particulars that someone has brought forward.

The members simply want to ask, did you lobby as described on the website, and my clear, unequivocal answer to that is no, I have not ever undertaken any of that on behalf of a client as I do my work around here on the Hill.

I won't go on. If I can make it any clearer using some other words, I'm happy to do it.

By the way, members should be aware that when we talk about lobbying here, this is what MPs do all the time. So if you said to Ms. Jennings, have you ever lobbied the federal government, of course she's done it all the time. The question here is not that; the question is on behalf of a paying client. When we use those words, let's be sure.

Lobbying is not illegal either. It's not prohibited. Lobbying is quite legitimate. It says so right in the statute that it's a legitimate activity, but if somebody lobbies, they have to register. So it's registration that seems to be the thing.

I'll stop there. In my view, I would prefer this to satisfy the members who have the concerns. I think I've done my very best to do that.

The Chair: I'll let Madam Jennings close off.

Could you keep it brief, please?

We're coming to the close of the meeting time, but with the will of the committee we will continue with a few questions; I have three people.

Madam Jennings, the floor is yours.

Hon. Marlene Jennings: Madam Chair, given the statement that our colleague, Derek Lee, has just made with regard both to the motion and also with regard to his desire that this be disposed of today, I will withdraw my motion.

The Chair: Thank you, Ms. Jennings.

Mr. McKay.

Hon. John McKay: I appreciate that one of the most significant things that Mr. Lee said had to do with a very serious procedural issue here. The serious procedural issue is when there's an ethics issue against any one of us, there is a procedure. That's where we go. We just don't run off to any other committee.

I'd almost like to quote Mr. Lee back to himself from his own book's terms of reference on what has to be the thinnest volume in the Library of Parliament with the longest title, *The Power of Parliamentary Houses to Send for Persons, Papers and Records: A Sourcebook on the Law of Precedent of Parliamentary Subpoena Powers for Canadian and other Houses*, written by none other than Mr. Lee.

At page 40, he sets out the argument—and I don't know how old this book is, but probably at least five years old—that: “A committee has no authority except that which the House has delegated. Accordingly, a committee is limited and restricted in its inquiries to the scope of the committee's terms of reference from the House.”

There we are. There are, as you can appreciate, many issues that this important committee needs to discuss—all kinds of issues. If there is an issue about the ethics of another member, whether it pertains to lobbying or anything else, members are treated differently from people who are not members of the House. That is that there is a disclosure procedure, there's a commissioner, there's a procedure to take you to the House procedures, and there's an ethics commissioner. That's where this matter should be discussed and that's where the air should be cleared. That's where time should be allocated.

This committee shouldn't be dealing with things that are not within its purview. It does have important things to talk about. Mr. Lee has made it about as clear as can be that not only is this improper procedure, but the issue itself is without substance.

I think, Madam Chair, that the only ruling you can make in the circumstances is that this committee doesn't have the authority to pursue the resolution that it made and that you should rule it out of order.

● (1255)

The Chair: Thank you, Mr. McKay.

Mr. Martin.

Mr. Pat Martin: Madam Chair, in my opinion, you haven't done your job as an independent chair of this committee. You've allowed two Liberal heavy hitters to be parachuted in here to hijack this committee. You've allowed our witness to sit at the table instead of as a witness, and you have not allowed us to ask him questions but to presuppose questions we may ask and then answer them in the way he sees fit. That's a far cry from a witness being interviewed by a parliamentary committee.

Hon. Marlene Jennings: He is not a witness.

Mr. Pat Martin: Madam Chair, this is the same...

He was invited here as a witness. You're the one who is the interloper here, Marlene. He was called here as a witness before our committee—

The Chair: Mr. Martin, continue with—

Hon. Marlene Jennings: No, I'm not.

On a point of order, Madam Chair—

Mr. Pat Martin: —and he's displaying the same kind of arrogance we see with the minister saying he's not going to answer your questions because he really has nothing to say. It's not up to the witness to decide if he has anything to contribute to the committee; it's up to committee members to ask certain questions.

The Chair: Ms. Jennings, what is your point of order?

Hon. Marlene Jennings: Under the duly adopted Standing Orders of this House of Commons, any member of Parliament may sit in on any hearing of any committee. That's one. Two, I have been duly signed in as a member of this committee and therefore enjoy all the rights of this committee—

Mr. Pat Martin: To sabotage and undermine the work of this committee is exactly why you are here, Marlene.

Hon. Marlene Jennings: —and therefore, for a member, a colleague, I might add, to refer to me as an interloper is pejorative.

Mr. Chris Warkentin: That's not a point of order.

Hon. Marlene Jennings: I am not an interloper. I am a duly elected member of Parliament, with the rights and privileges that are accorded to me under the Standing Orders—

Mr. Pat Martin: You're burning up another minute with feigned indignation. Nice job. I've seen it before.

Hon. Marlene Jennings: —one of which is to sit here—

Mr. Pat Martin: It's Filibuster 101.

The Chair: Mr. Martin, continue.

Hon. Marlene Jennings: You're the expert on that, Mr. Martin. I take my lead from you.

The Chair: Ms. Jennings, let's keep it cool.

Mr. Pat Martin: It's a time-honoured tradition. I've seen it before, Marlene. I've seen it done better, in fact.

Hon. Marlene Jennings: That was by you. As I said, you're the expert. I cede to you on feigned indignation.

The Chair: Mr. Martin, continue.

Mr. Pat Martin: Just in summary, for the sake of my colleague, Mr. Lee, I do regret that we haven't conducted ourselves in the manner we thought we would when we came here. Mr. Lee, as a witness, would have had the opportunity to accept whatever questions we had and possibly to have knocked them out of the park, if they were easy to answer, but he hasn't answered all the concerns we have to my satisfaction, and I'm going to recommend that we do convene again on this subject, calling witnesses such as the principals of this law firm, because we don't know exactly what Mr. Lee is doing for this law firm.

He says he hasn't accepted any money to lobby government. That doesn't explain the list of things this law firm is claiming Mr. Lee is doing. And let me be clear: it's wrong to accept any kind of reward, inducement, or payment for any service an MP normally offers. Yes, it's absolutely fine if Marlene Jennings advocates on behalf of a business in her...anywhere she wants really, but as soon as you list yourself as doing that for pay for commercial reasons, or any kind of inducement or reward whatsoever, it crosses a line we all should be aware of, and I think it is perfectly appropriate for this committee to be dealing with it.

I am not accusing Mr. Lee of anything. We haven't had an opportunity to question him on this matter, but you can accept how it's an appropriate matter for discussion, and when we get our regular members of the committee back, the Liberal Party seems to agree as well.

• (1300)

The Chair: Thank you.

Mr. Warkentin.

Mr. Chris Warkentin: Thank you, Madam Chair.

I think what we know today is that there are more questions at this point in the meeting than there were at the beginning of the meeting. Unfortunately, Mr. Lee, you've been sabotaged by your own team, quite frankly, and that's unfortunate. Today, we've heard all kinds of things. We've had this discussion as to whether payments were made or not made.

Mr. Lee, if you were sitting before us today, I'd ask you if you knew that the website of Sun & Partners still listed you as a member of their legal team. You are still listed as a member of the legal team.

If you were sitting before us, we would ask you about that. You have stated that you have had no financial benefit from the firm or from lobbying government. You haven't stated exactly what financial interest you have had as a result of your partnership or serving as a member of the legal team of this law firm. We don't know if this law firm has ever made a donation to your political campaigns, or the amounts of those donations. I guess we could probably find that information out ourselves.

The unfortunate part, Mr. Lee, is that by being sabotaged by your own Liberal team today, you have allowed there to be more questions and more suspicions than there were when we showed up. So your two colleagues here have done you a great disservice, Mr. Lee. There is more confusion, there is more suspicion, and more frustration at this point of the meeting on both sides of this table, as well as on the part of anybody who would be witnessing the undertakings of this committee.

The rationale for bringing you forward to this committee was the exact same rationale used to bring forward the previous study. There was no objection at that point. As a matter of fact, it was a Liberal motion that brought forward the study of lobbying by Mr. Jaffer. Exactly the same rationale was used for this current study.

Hon. John McKay: It's not relevant.

Mr. Chris Warkentin: It's unfortunate that the Liberals have in fact replaced their team members. Unfortunately, they did a disservice to one of their team members today.

Mr. Lee, I apologize that you unfortunately have now been placed in a position of having more suspicion surrounding you as a result of this team. We will be working to have you back and to hear some of the testimony of your partners, as well as other people involved in this case, moving forward.

The Chair: Thank you, Mr. Warkentin.

The time is one o'clock. I had given my ruling, but you guys were not listening to my ruling. The bottom line was that when the motion was passed by the committee, there were no procedural issues raised and therefore we continued our study. When Mr. Lee came in, he came in as a member of Parliament and was exercising a courtesy to us. No, he doesn't have to come if he doesn't want to come; he doesn't have to speak if he doesn't want to speak.

The bottom line is that when we were studying the green infrastructure fund, there was \$1 billion involved in that fund. It dealt with access and waste management, etc. So the relevance is not there. However, the clerk advises me that despite the fact that this motion is out of order, because we didn't raise it on May 12, we can go on down this path and let the Speaker tell us that we're out of order.

So with that, I bang the gavel. The meeting is adjourned.

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