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Chair: Mr. John Williamson



Standing Committee on Public Accounts

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• (1010)

[*Translation*]

The Chair (Mr. John Williamson (New Brunswick South-west, CPC)): I call this meeting to order.

Welcome to meeting number 135 of the House of Commons Standing Committee on Public Accounts.

[*English*]

Today's meeting is taking place in a hybrid format pursuant to the Standing Orders. Members are attending in person in the room and remotely using the Zoom application.

I would like to ask all members and other in-person participants to consult the cards on the table for guidelines to prevent any audio feedback.

[*Translation*]

Please keep in mind the preventive measures in place to protect the health and safety of all participants, including interpreters.

[*English*]

Use only a black approved earpiece. Please keep your earpiece away from the microphones at all times. When you're not using your earpiece, please place it face down on the sticker on your desk. Just as a reminder, all comments should be addressed through the chair.

[*Translation*]

Pursuant to Standing Order 108(3)(g), the committee is resuming consideration of the Auditor General's report 1, 2024, entitled "ArriveCAN", which was referred to the committee on Monday, February 12, 2024.

[*English*]

I would now like to welcome our two witnesses from the Office of the Conflict of Interest and Ethics Commissioner.

Konrad von Finckenstein, commissioner, it's good to see you here today, sir.

Michael Aquilino, legal counsel, it's good to see you here as well.

Commissioner, you have a maximum of five minutes for your opening remarks, after which we will turn to our round of questions.

It's over to you, please.

Mr. Konrad von Finckenstein (Commissioner, Office of the Conflict of Interest and Ethics Commissioner): Thank you for inviting me to discuss the Auditor General's report on ArriveCAN. As you mentioned, with me is my colleague Michael Aquilino, legal counsel at our office.

[*Translation*]

As Conflict of Interest and Ethics Commissioner, my role is to help elected and appointed public officials manage conflicts of interest. We administer the Conflict of Interest Act for appointed officials like ministers, their staff, heads of Crown corporations, deputy ministers and members of various boards and tribunals. As you know, we also administer the Conflict of Interest Code for Members of the House of Commons.

[*English*]

Under the act, when reporting public office holders are first appointed, we gather information about what they own, what they owe and what they do. This helps us to see whether they have conflicts of interest and to advise them on how to manage or avoid them. This could include setting up conflict of interest screens or putting assets in a blind trust.

[*Translation*]

Throughout their time as public office holders, we receive updates from them and review their information. We give them ongoing confidential advice and guidance on questions like accepting gifts, when to step back or recuse themselves from discussions and the rules that will follow them after they leave office. Under the code, we go through a similar process with members. It is something you are all familiar with.

All publicly shareable information about reporting public office holders and members is available on our website's public registry.

[*English*]

Under both the act and the code, we focus on private interests that might affect financial or business decisions for personal gain. Essentially, the main purposes of our work are, first, to help elected and appointed officials recognize and manage conflicts of interest, and second, to facilitate the movement of qualified people in and out of the public service without issue.

Regarding the current issue of ArriveCAN, I understand that there are ongoing investigations by other organizations. To our knowledge, no persons subject to the act or the code were involved in this matter. Hence, we have no jurisdiction and I have no comments to make on that.

[Translation]

I am happy to answer your questions.

The Chair: Thank you very much.

[English]

I'll turn now to Mr. Genuis.

You have the floor for six minutes, please.

Mr. Garnett Genuis (Sherwood Park—Fort Saskatchewan, CPC): Thank you, Chair.

I want to thank the commissioner for being here. I look forward to asking him some questions very shortly.

As members know, we do have some unfinished business on the ArriveCAN issue from yesterday that I'd like to propose we quickly wrap up. I have sent a revised motion to the chair that builds on our work yesterday but incorporates feedback from other parties, which I hope will be able to facilitate us moving forward quickly.

If the clerk can distribute that motion now, I will read it as I move it.

The Chair: Mr. Genuis, you sent that to the clerk, not to the chair. I just wanted to correct that for the record.

Mr. Garnett Genuis: Yes.

The Chair: Now that you're speaking to it, the clerk will send that out.

Mr. Garnett Genuis: Mr. Clerk, it was labelled "V3" in the email, because I know I had some further thoughts after I initially...

The motion is that—

The Chair: Just one second, Mr. Genuis.

Mr. von Finckenstein, we're going to debate a motion for a few minutes here. If you could stand down during this, we'll get back to you very, very soon, I hope. We had a discussion on this yesterday. There is some agreement but not universal agreement, so we might have a debate around this. I'll try to wrap it up as quickly as possible and come back to you. In the meantime, if you do want to stand up and walk around, that's fine. You're not required to remain in your seat by any means. It's at your discretion. We will come back to you, and I'll give you plenty of notice on that.

Mr. Genuis, you have the floor, please.

• (1015)

Mr. Garnett Genuis: Thank you.

I spoke to the motion yesterday, but I'll just read it out and articulate some of the differences with the new motion. The new motion is as follows:

In light of testimony and evidence provided by Diane Daly, the committee order the production from the government of the recording which Ms. Daly referenced in her testimony of her 3.5 hour interview with CBSA, and call the following people to appear before the committee on ArriveCan and particularly to respond

to the new information Ms. Daly has presented: Lysane Bolduc, Tom von Schoenberg, Arianne Reza, Erin O'Gorman, and additional officials and experts with knowledge of TBIPS; further, that the committee write to Kristian Firth and ask him to provide information and evidence supporting his claims at the bar of the House regarding Diane Daly, including the time, location, and names of other participants at the alleged meetings with her, and that he respond to the committee's request for information by Labour Day.

With regard to the changes that were made, I think one Liberal member raised a concern earlier about it not being clear which recording was being referred to. I thought it was clear from the testimony, but I added a bit more information to clarify which recording we're seeking.

Mr. Desjarlais made a very good suggestion about having officials who can speak to TBIPS. I thought that was a good suggestion, so I added that in.

Ms. Sinclair-Desgagné suggested that we not invite Kristian Firth. I have proposed instead that we simply ask Mr. Firth to send us follow-up information as evidence. We would not be calling Mr. Firth. We would just be sending a request to him to respond in writing to the committee, responding to Ms. Daly's testimony and his comments on April 17, and inviting him to provide some additional evidence to support his version of events.

Rather than having a flurry of amendments—I mean, people are welcome to propose amendments, of course—I thought I would try to speed up the process a little bit by incorporating the feedback we have received from various parties. The principle of following up on Ms. Daly's really groundbreaking testimony yesterday, to be able to more effectively assess her claims and put questions to others about that testimony, I think is clearly important.

I got the sense that there was majority support for the principles of my motion. Hopefully, with these modifications we'll be able to get it done quickly and get back to speaking with the Ethics Commissioner.

The Chair: Thank you, Mr. Genuis.

I have a speaking list already.

Yes, Ms. Shanahan.

Mrs. Brenda Shanahan (Châteauguay—Lacolle, Lib.): I have a point of order.

The Chair: Go ahead.

Mrs. Brenda Shanahan: We're dealing with substantially an entirely new motion. Can we suspend so that we can look at this?

The Chair: Sure. I think we all heard Mr. Genuis speak to his proposed new wording. What are you thinking—five minutes, 10 minutes?

Mrs. Brenda Shanahan: Ten minutes is good.

The Chair: I'll tell you what, let's start with five. We'll make it five to 10 minutes, but I'll look to you for a nod. If we seem to be coming to some agreement and resolution, we'll come back.

Mrs. Brenda Shanahan: Very good.

The Chair: Obviously, If there's a deadlock, we'll have to deal with that as well.

I'll suspend for five to 10 minutes.

Mrs. Brenda Shanahan: Thank you very much.

• (1015) _____ (Pause) _____

• (1025) **The Chair:** I call the committee meeting back to order for the purposes of discussing this motion. It means that our witnesses can still stand down.

Mr. Desjarlais, you are first on my speaking list. I have Ms. Khalid after that and then Nathalie Sinclair-Desgagné.

Mr. Desjarlais, you have the floor.

Mr. Blake Desjarlais (Edmonton Griesbach, NDP): Thank you very much, Mr. Chair.

I'm happy to see that there have been amendments to the motion to include an amendment that I had sent to the clerk in relation to strengthening the original motion to include the officials of the TBIPS program. As members of our committee know, Ms. Daly did provide good testimony and recommendations as to the source of some of these issues. TBIPS in particular is something that we haven't necessarily looked at in terms of how qualifying consultants like GC Strategies could have ended up on a list that would have preferred them for certain contracts. I think that's a pretty serious issue that requires investigation. It's the reason I'm glad to see that we were able to include that.

I want to thank Mr. Genuis for including that. I will happily withdraw the amendment that I submitted to the clerk, as I see that the requirement has been satisfied here.

Thank you very much.

The Chair: Thank you.

Ms. Khalid, would you like the floor? No? Okay.

[*Translation*]

Ms. Sinclair-Desgagné, you have the floor.

Ms. Nathalie Sinclair-Desgagné (Terrebonne, BQ): It will be very brief.

I thank Mr. Genuis for making the changes we suggested to him yesterday and including Mr. Desjarlais' amendment, which I think is very important. Basically, our real concern is not to engage in a witch hunt, but rather to improve the federal government as much as possible, while waiting for Quebec to be removed from it, of course. In the meantime, we need to improve and overhaul the procurement system for task-based informatics professional services, or TBIPS, because there are glaring issues there. Next, if we send a letter to Mr. Firth, I feel we stand a better chance of getting answers regarding Ms. Daly's testimony, which contradicts Mr. Firth's.

So we will be supporting this motion as it stands.

The Chair: Thank you very much.

[*English*]

Go ahead, Ms. Shanahan.

Mrs. Brenda Shanahan: Thank you very much, Chair.

We appreciate that we had a chance to look over the revisions that were done to the motion, but the essential problem with the motion is still there, which is that listening to a recording that was recorded unknowingly to other third parties and is part of a private investigation being duly undertaken by the proper authorities risks potentially sabotaging and compromising that investigation. I know that we have experienced members on this committee who are very, very much aware of this.

Again, Chair, this is public accounts, where we pride ourselves on being objective, on doing that oversight and on making sure that other people are doing their jobs. I do question why we are going after this. It's a three and a half hour recording, if I'm correct. I'm also wondering just how that recording will be shared with the committee, whether we'll sit and listen to it for three and a half hours or we'll have a transcript or however it will be.

I just want it on the record that, unfortunately, once again we have members of Parliament seeking to duplicate and possibly compromise work that is being done by other duly authorized investigators.

The Chair: Thank you very much.

Clerk, could you please call the vote on this.

(Motion agreed to [*See Minutes of Proceedings*])

The Chair: Thank you all very much.

I'll now return to our witnesses, who both appear to be ready. I thank them both for their patience.

I'm looking at the time on the clock. I believe we go to Mr. Barrett.

• (1030)

Mr. Michael Barrett (Leeds—Grenville—Thousand Islands and Rideau Lakes, CPC): I think it's Mr. Genuis.

The Chair: Mr. Genuis, is it back to you, or is it over to your colleague?

Mr. Garnett Genuis: Yes, it's back to me.

The Chair: Pardon me.

We'll go back to Mr. Genuis.

Ms. Khalid, is this a point of order?

Ms. Iqra Khalid (Mississauga—Erin Mills, Lib.): Mr. Chair, this is just a point of clarification. My understanding is that, according to the Standing Orders, once somebody moves a motion, it passes to the next speaker in line. I just wanted to confirm that. I'm not 100% sure.

The Chair: I'll check on that. It has not been the practice of the committee, but I'll check with the clerk on that one.

I'm informed that it's not in the Standing Orders. It is at the chair's discretion, and my practice has been, for all members from all parties, to suspend the clock when we move into a debate and then return to that once the debate has concluded.

Mr. Genuis, you do have five minutes and 30 seconds now. The floor is yours.

Mr. Garnett Genuis: Thank you, Chair.

This is just to say, first of all, I'm very glad to see that motion passed. I will say Ms. Shanahan's comments are totally incorrect, and I think they ignore Ms. Daly's testimony. She made very serious allegations about intimidation of her as part of an internal government process, a process that clearly is compromised and subject to criticism. After hearing those two hours of testimony, for Ms. Shanahan to say that we should just trust the internal process doesn't make much sense to me.

We're parliamentarians. Our job is to hold government accountable, and that's what the passage of this motion, which clearly had the support of the opposition and, in the end, passed unanimously, allows us to do: get to the bottom of what happened.

To the Ethics Commissioner, thank you very much again for being here.

Clearly, there are major ethical issues involved in the arrive scam scandal. You've talked about your jurisdiction and that it is applying to certain people and not others. I just want to dig into that.

Some of the facts we have heard at this committee, as well as at the government operations committee, are serious allegations about Minh Doan deleting emails, as well as a conflict of interest issue involving Mr. David Yeo, who was a contractor while he was working for the government. He was essentially double dipping.

We have dug further into that. We have looked for further information about this practice of people double dipping as government employees and as contractors. We put forward a motion calling for the end of this double dipping and it passed with the support of all opposition parties, although Liberals opposed that.

Could you help us understand whether or not these issues involving David Yeo and the double-dipping questions, as well as the deletion of emails allegations involving Minh Doan, would fall under your jurisdiction to deal with, and why or why not?

Mr. Konrad von Finckenstein: No, they do not fall under my jurisdiction.

Basically, my jurisdiction is to deal with issues of conflict of interest by elected officials like yourself or by people who are what the act calls reporting public office holders, who are basically people appointed by Governor in Council and have senior positions.

In this case, none of the people you mentioned fall under either category.

There are obviously other institutions that deal with this, primarily the Commissioner of Public Sector Integrity, and there are provisions under the Public Service Employment Act, etc.

These activities, like double dipping, etc., are clearly not ethical and should be pursued, but they're not part of my mandate.

Mr. Garnett Genuis: Thank you.

On the double-dipping front, you said it is "clearly not ethical", but it only triggers your involvement depending on what level.

If we had a case where a member of Parliament or a very senior public servant was involved in this double dipping and they owned a company that was bidding on government contracts at their own department even, perhaps, while they were also holding this position, that would trigger your involvement. However, it's not a question of the activity itself. It's a question of the level of the person who is doing that activity. Is that correct?

• (1035)

Mr. Konrad von Finckenstein: I can only deal with issues that involve senior public servants appointed by order in council or elected members of the House of Commons.

Mr. Garnett Genuis: Thank you.

I guess a way of getting at this issue would be to ask a hypothetical. If you had a senior public servant or a member of Parliament who owned a company that was bidding on government contracts, presumably you would have concerns about that. Is that right, or would you? I don't want to put words in your mouth. How would you respond to that?

Mr. Konrad von Finckenstein: First of all, that senior public servant in your hypothetical would have to disclose all of this in his report when he's appointed or, if it happens during his tenure, when he acquires it. We would deal with, then, whether this creates a conflict or not, and what the remedies are. Do you have to get rid of the company? Do you have to put it in a public trust, in a blind trust or whatever? Second, a member of the House of Commons can ask me to investigate.

In either case, I would look at it. If I find out there are reasonable grounds for there being a breach of the act, then I will launch an investigation. If I come across something that is criminal or potentially criminal, I have to refer it to the RCMP and cease my activity so that the criminal aspect, if there is any, can be resolved.

Mr. Garnett Genuis: In the last 10 seconds I have, sir, in comparing your description of what would be appropriate to what happened with, for instance, David Yeo, it's clear that, based on your expertise, there are serious ethical problems because there was a lack of disclosure in the case of David Yeo. Again, it's not within your jurisdiction to investigate him specifically, but I think the information you're providing about what would be considered ethical or not in the case of people you would investigate is very helpful in the area of double dipping.

Thank you for that testimony.

The Chair: Mr. von Finckenstein, could you either move your microphone forward or stand back a little bit? Your proximity is creating a little bit of feedback, which is difficult for the interpreters. Maybe say a few words so that we can double-check it.

Mr. Konrad von Finckenstein: Is this better? Can you hear me clearly now?

The Chair: I'm getting a thumbs-up.

Thank you very much, Commissioner.

Mr. Garnett Genuis: I have 10 minutes left. Is that right?

The Chair: No, you don't.

Mr. von Finckenstein, do you have any comments for Mr. Genuis?

Mr. Konrad von Finckenstein: No. I answered his question, I believe.

The Chair: I didn't think there was a question there as well. I just wanted to double-check with you.

Ms. Yip, you have the floor for six minutes, please.

Ms. Jean Yip (Scarborough—Agincourt, Lib.): Thank you, Chair.

I'd like to thank the witnesses for coming today and for their patience while we dealt with the motion.

For Canadians at home, Commissioner, what is the role of an ethics commissioner?

Mr. Konrad von Finckenstein: As I mentioned, the title is Conflict of Interest and Ethics Commissioner. It really is primarily to deal with conflicts of interest. Obviously, when you do that, you look at ethical considerations.

The main thing is to make the act quite clearly provides that people who are in an elected position in the House of Commons, or people under the code or under the act, if you're an appointed official to a senior public service commission, you have to behave ethically. You can't further your own interests, the interests of your friends or of your family, etc., or you can't use your job in a way to favour somebody. That's what I concentrate on.

The way this system works is that, in effect, at the beginning of your appointment, you make a report. We look at it and say that there is a problem here or there is a problem there, and we suggest ways it can be remedied. Then, throughout the tenure, the person annually makes an update of that report.

Our job, as I mentioned many times before, is to ensure that the best talent can come into the public service and can go out. If you are talented, you will have conflicts. There's no doubt about it. The question is how to manage this. My job there is to manage it and to try to avoid conflicts.

In instances where there is behaviour that seems to be suspicious and that gives reasonable grounds for an investigation, I can either do it on my own initiative or do it if requested by a member of Parliament.

• (1040)

Ms. Jean Yip: Is your office part of the House of Commons or of the government?

Mr. Konrad von Finckenstein: Yes. I report to the Speaker of the House. My office is part of the House of Commons and is subject to the rules of the House of Commons.

Ms. Jean Yip: Are you an independent officer of the House of Commons?

Mr. Konrad von Finckenstein: Yes.

Ms. Jean Yip: Perhaps you could elaborate on that.

Mr. Konrad von Finckenstein: When you look at the act and the code, basically they give a huge amount of discretion to the commissioner to decide what a conflict is, what the behaviour is that can be permitted or what the remedies are that should be applied. If the person to whom I give these directions refuses to do it or thinks they have an issue with it and I am wrong, then they can go to the Federal Court and ask for a judicial review of the decision. Other than that, nobody has the ability to tell me how to decide or to criticize or to ask me to take back a decision or anything. I'm completely independent, but I report, publicly, everything I do to the Speaker of the House of Commons. Of course, I publish an annual report.

Ms. Jean Yip: Thanks for making that clear.

Have you opened an investigation into the ArriveCAN procurement?

Mr. Konrad von Finckenstein: No, I have not, because as I have just told your colleague, I have no jurisdiction.

My jurisdiction is over people who have been appointed by an order in council and are what the act calls reporting public office holders. None of the people involved so far who have been mentioned in either the AG's report or the public proceedings before you qualify as reporting public office holders. I have no jurisdiction to look into it and investigate.

Ms. Jean Yip: You do not have any reason to believe that any member of Parliament, minister or their staff has violated the Conflict of Interest Act or code through this procurement.

Mr. Konrad von Finckenstein: Indeed, that's exactly it. Nobody has furnished any evidence or pointed out anything that would seem to involve what the act calls a reporting public office holder.

Ms. Jean Yip: Do you believe that any member of the Liberal government has personally benefited from the selection of any ArriveCAN contractor?

Mr. Konrad von Finckenstein: It's not a question of what I believe or don't believe. I deal with evidence. I have to look at a situation and find on the basis of evidence whether there has been a violation of the act or not.

As I say, so far, I don't have any jurisdiction. If I had jurisdiction, then I would have to look at the facts presented and decide whether there are reasonable grounds to make an investigation. If so, I would do an investigation. But that's very far away from where we are right now.

Ms. Jean Yip: Just to be clear, there's no investigation into this because you don't believe anyone has violated the act or the code.

Mr. Konrad von Finckenstein: There's no investigation because I don't have jurisdiction. My jurisdiction depends on people who are reporting public office holders. There's no evidence, no referral, to any public office holder who has been involved in this. Hence, I cannot investigate. I have no jurisdiction to do anything. If and when such evidence emerges, then I have to decide whether it warrants an investigation or not.

Ms. Jean Yip: Is that the threshold that needs to be met for your office to open an investigation?

Mr. Konrad von Finckenstein: First of all, I have to have jurisdiction. That's number one. Then the act says there must be reasonable grounds for me to believe that an investigation is required.

[*Translation*]

The Chair: Thank you very much.

Ms. Sinclair-Desgagné, you have the floor for six minutes.

Ms. Nathalie Sinclair-Desgagné: Good morning, Commissioner. Thank you for being with us today. I will begin my questions by reminding everyone that you play a key role.

It's not necessarily illegal to show a lack of ethics. The most important part of your role is determining what's ethical and what's not. Conflict of interest is particularly fascinating, because while some behaviour might not necessarily be illegal, it's clearly ethically questionable.

My first question for you is: The most common conflict of interest [*Technical difficulty—Editor*]

• (1045)

The Chair: Just a moment, Ms. Sinclair-Desgagné. We lost the signal for a few seconds. Could you repeat your question, please?

Ms. Nathalie Sinclair-Desgagné: Yes, of course.

When we talk about conflicts of interest, we often think of financial ones. For example, there may be a conflict of interest when someone owns a business and is elected or appointed by the government at the same time. However, are all conflicts of interest necessarily financial in nature?

For example, if a senior official appointed by the government covets a position and their appointment to that position depends on the office running smoothly, there could be a conflict of interest that's not necessarily financial in nature, isn't that right?

Mr. Konrad von Finckenstein: Conflict of interest can be non-financial in nature. Conflict of interest is defined as follows:

For the purposes of this Act, a public office holder is in a conflict of interest when he or she exercises an official power, duty or function that provides an opportunity to further his or her private interests or those of his or her relatives or friends or to improperly further another person's private interests.

So it's a very tightly phrased definition. We're not talking about ethics in general. It specifically refers to actions taken by a public office holder to further their private interests or those of a relative, friend or other person.

Ms. Nathalie Sinclair-Desgagné: Okay.

You mentioned at the outset that you look at appointed officials. Does that include heads of agencies and deputy ministers who are appointed by the government?

Mr. Konrad von Finckenstein: Yes, they're included.

Ms. Nathalie Sinclair-Desgagné: So hypothetically speaking, there could be a conflict of interest when a deputy minister, for example, could be relieved of their duties if they don't make sure that something like the ArriveCAN affair isn't resolved or shelved. Would that be a form of conflict of interest?

Mr. Konrad von Finckenstein: It would depend on the facts, on the intent behind the deputy minister's actions and how they benefited from them. Generally, in such situations, we're talking about pressure, retaliation or other types of behaviour in the public service. That doesn't fall under my jurisdiction, that would go to the public sector integrity commissioner. She handles those things. If you could draw a connection between the actions you're describing and how they have furthered the deputy minister's private interests, then I would be involved.

Ms. Nathalie Sinclair-Desgagné: We heard some pretty disturbing testimony yesterday. I really don't want to side with the witnesses, but they named a deputy minister who would have been better off if only one version of the ArriveCAN story had been told and if the whole thing had blown over. Perhaps the public sector integrity commissioner should be looking into this, but is it a conflict of interest or a lack of professional integrity? It might fall somewhere in between the two.

Who deals with ethics or conflict of interest among public servants who are not appointed or elected?

• (1050)

Mr. Konrad von Finckenstein: I believe it's the public sector integrity commissioner, but it would depend on the facts. The public service can also play a role. If there's no conflict of interest, it's not under my jurisdiction.

Ms. Nathalie Sinclair-Desgagné: Mr. Chair, how much time do I have left?

The Chair: Your time is up.

[*English*]

Mr. Desjarlais, you have the floor for six minutes, please.

Mr. Blake Desjarlais: Thank you very much, Mr. Chair.

I want to thank the commissioner and the legal counsel representative for being with us today.

You've already answered many of the questions that were posed in relation to ArriveCAN. They've been, largely, comments about it being out of your jurisdiction.

Is that a fair summation?

Mr. Konrad von Finckenstein: Yes.

What happens there, I in no way condone it or think it's minimal or anything like that; it's just not part of my jurisdiction.

Mr. Blake Desjarlais: I understand that.

For those purposes, I want to turn to a particular ethical issue in Canada at the moment and which I think was also highlighted in the ArriveCAN issue. It's indigenous procurement. Adjacent to indigenous procurement are the serious issues of quote-unquote pretendianism, where officials and even members of Parliament and other elected officials across the country are claiming to be indigenous for the purposes of trying to benefit in some way, shape or form from doing that. As an indigenous member of Parliament myself, I'm troubled by what has been a consistent and ongoing effort to use indigenous identity as a tool. It is deeply troubling for indigenous nations across the country, including my own and many others that we work with. It's really troubling to know that this is happening.

It seems to me as though it could fall within your mandate in the future for us to have a way for us to combat pretendianism. It is being used by public officials and it is being used by members of Parliament at times in order to deflect or to even protect themselves from claims of very legitimate racism. It's a concern to me and I think it's a concern to the public.

We've seen it in the last few years, for example, with very high-ranking or high-profile persons in Canada and across the United States. We had to get giant news agencies to investigate whether or not they were truly indigenous. They found out that they weren't, after decades and decades of benefiting from identity fraud. In Canada there was even a severe case of two students attempting to identify themselves as indigenous for the purposes of getting benefits there. It's a growing concern.

I hope you can understand, Commissioner, indigenous people's very legitimate fear of identity fraud. This is something that I think requires more thought, more investigation and more understanding. It also requires co-operation with indigenous nations towards a way or a program or process to verify when officials are in fact using identity as a weapon or as a tool of fraud in order to advance themselves.

Is this something that concerns you at all, particularly within the ethics and conflict of interest laws?

Mr. Konrad von Finckenstein: Yes, of course it's of great concern. It's something that needs to be addressed and dealt with. Unfortunately, it does not fall under my jurisdiction.

You used the term "identity fraud". If it truly is fraud, then it becomes a criminal offence. If it's just misrepresentation of something, it may not amount to criminal, but it still should not be allowed. To my knowledge, no specific program addresses it as such. It is part of the general ethics of procurement and trying to make sure that people play by the rules. I'm not a procurement expert. I don't know to what extent the verification process needs to be tightened or needs to be improved or not.

Mr. Blake Desjarlais: I heard you respond to one of my colleagues about a framework of understanding that you come to in identifying a conflict of interest. I think you attributed it to, if I'm saying this fairly, a claim and an action that could in fact put them into a position where they would unduly benefit.

Could you please describe again what is a conflict of interest, in particular with the angle of seeing it as using indigenous identity in

even the act of fraud, which is a criminal offence, but also in the act of conflict of interest? Could that be something within your purview or within the framework that you understand as a conflict of interest?

• (1055)

Mr. Konrad von Finckenstein: You know, it all depends on the definition of "conflict of interest". As I pointed out to your colleague, it has to be an action where they exercise "an official power, duty or function that provides an opportunity to further his or her private interests or those of his or her relatives or friends or to improperly further another person's private interests".

Given the situation you posit, involving somebody impersonating being indigenous when he is not and therefore getting the contract, it is the action of that person. It's not necessarily the action of the person who gives them the contract. Therefore, I don't quite see how conflict of interest applies. It is clearly an action that should not be allowed and that should be prevented or prosecuted, but it doesn't really fit into the whole concept of conflict of interest.

Mr. Blake Desjarlais: Beyond the concept of conflict of interest, your office deals with issues of ethics. As far as your understanding of the process of identifying an ethical issue is concerned, I believe this to be an ethical issue. Falsely identifying as indigenous for the political, personal and private benefit of attempting to displace one's own racist actions, for example, or one's own perceived racist actions in order to deflect or even to benefit from what could be a very racist claim but is negated because of a claim of being indigenous is something that exists in the political world.

In terms of your standards of ethics and understanding of ethics, does that breach or broach any kind of responsibility or effort that your office can undertake to better prevent that from happening?

Mr. Konrad von Finckenstein: Let's start with the beginning of your question. You said that we administer ethics. We do not. We administer conflicts of interest. In doing so, we follow ethical principles.

Although the title of the office is Conflict of Interest and Ethics Commissioner, there's not a single provision that uses the word "ethics" or deals with ethics. It is sort of the subtext through all that we do.

Why are we doing this? It's to make sure people have confidence in the Canadian government and that it's done ethically. However, we don't have any specific activity mandated to look at ethics itself.

There are all sorts of other government institutions...it really isn't part of our job.

Mr. Blake Desjarlais: What institution would you recommend—

The Chair: Mr. Desjarlais, I'm afraid that we've exceeded the time. We'll come back to you, certainly.

Mr. Blake Desjarlais: Thank you.

The Chair: We're coming to the start of the second round.

Mr. Barrett, you have the floor for five minutes.

Mr. Michael Barrett: Commissioner, I want to clear this up for Liberal members who, unsurprisingly, don't seem to know what it is that you do here.

Can you please confirm that you do not have jurisdiction or mandate over the arrive scam scandal?

Mr. Konrad von Finckenstein: I do not, as I mentioned in my opening remarks.

My jurisdiction only extends to reporting public office holders. Those are senior public servants who have been appointed by order in council, to put it in common language.

Mr. Michael Barrett: For the people who do fall under your mandate, lavish dinners and whiskey tastings being given to those individuals by suppliers or involved parties would fall under your mandate and trigger an investigation.

Mr. Konrad von Finckenstein: If it triggers an investigation or not depends on the specific facts.

Clearly, the conduct of reporting public office holders with suppliers, customers or something like this, etc., depending on what the situation is and what happens, would be subject to the act and could lead to an investigation.

Mr. Michael Barrett: Of course.

It seems like there was an attempt, with you having been suggested as a witness, for this to be an opportunity for the government to exonerate itself from the wrongdoing that's occurred in this \$60-million scandal, but of course they summoned the wrong officer of Parliament to offer that exoneration—if it were available.

I have a question for you, Commissioner, about Ms. Annette Verschuren, who was the Liberal-appointed chair of Sustainable Development Technology Canada. That's the billion-dollar green slush fund.

Why was she subject to the Conflict of Interest Act?

• (1100)

Mr. Konrad von Finckenstein: She was the chairman of the SDTC. As such, she was appointed by the Governor in Council, so she was subject to the Conflict of Interest Act. She declared her conflicts and she went through the rules when she was appointed, letting us know what her interests are. We appointed a counsellor, as we call them, to her to make sure that her affairs would all be in such a way that there wouldn't be a conflict of interest.

Mr. Michael Barrett: Who was the head of government at the time that she was appointed?

Mr. Konrad von Finckenstein: Do you know, Michael?

Mr. Michael Aquilino (Legal Counsel, Office of the Conflict of Interest and Ethics Commissioner): She was appointed in 2019, so it would be the current government.

Mr. Michael Barrett: The head of government was Justin Trudeau.

Mr. Michael Aquilino: Yes.

Mr. Michael Barrett: What sections of the Conflict of Interest Act did Ms. Verschuren violate while she was chair of the board at

the Prime Minister's slush fund, having been appointed by his government?

Mr. Konrad von Finckenstein: Well, you read my report. I did an extensive investigation into her activities. I found out, first of all, that she was not only head of the SDTC, but she was also head of two not-for-profit organizations. One was called the Verschuren Centre and one was MaRS. These are basically incubator organizations.

Certain companies came forward. They were created by these incubators. She declared her conflict of interest, but then there was an actual vote. What's it called—

Mr. Michael Barrett: I apologize for the interruption, but I'm quite tight for time.

I'm just looking for the number of the sections she violated. Are you able to reference those offhand or just to enumerate the number of sections she was found to have violated?

Mr. Konrad von Finckenstein: Yes.

Michael, give him the details, please.

Mr. Michael Aquilino: There were two provisions, which were subsection 6(1) and section 21 of the act.

Mr. Michael Barrett: Sir, are you able to tell us how many [*Inaudible—Editor*] thousands of dollars she is deemed to have been the beneficiary of as a result of the conflict?

Mr. Michael Aquilino: As part of the report, we didn't do the calculation based on the votes and the dollar amounts associated with those votes.

Mr. Michael Barrett: We have the Prime Minister's hand-picked chair of his billion-dollar green slush fund who was found guilty of breaking Canada's ethics laws. This is, of course, the latest in a long list of Liberals who have been found to have contravened this act.

In your investigation, did you find that former Liberal innovation minister Navdeep Bains was aware of Ms. Verschuren's conflict of interest with NRStor at the time that she was appointed? Give me just a quick yes or no, if you could.

Mr. Konrad von Finckenstein: We did not look at her appointment. That's not our job. Our job is to look at her, not the steps that led to her appointment. Once she is appointed, does she have a conflict, and how can it be resolved?

By the way, what we did find is, and let's make it quite clear, that she received incorrect legal advice, and that was the real problem. Her advice was because COVID was an emergency, conflict of interest issues did not apply. That was absolutely wrong. She followed that advice and voted on the subsidies that were given to all companies, injections in order to help them survive the COVID crisis.

I found that she shouldn't have done that. She should have recused herself and should have walked out of the room, because the vote affected a company in which she had an interest. She didn't do that. The record clearly shows that she was told no conflict of interest was there.

I spoke to her counsel. I cross-examined and said, "On what basis?" He said, "On my knowledge of basic corporate law."

There's no corporate law that I know of that says that, because there's an emergency, conflict of interest does not apply. It was just incorrect advice that she followed.

The Chair: Thank you very much. That is the time.

We're moving now to Ms. Bradford.

Ms. Bradford, you have the floor for five minutes, please.

Ms. Valerie Bradford (Kitchener South—Hespeler, Lib.): Thank you, Mr. Chair.

Thank you, Commissioner, for attending this meeting today.

Again, the meeting was called and the subject was to be Arrive-CAN, but I see that MP Barrett has now shifted it to focus on Sustainable Development Technology Canada.

Along that line, since he has chosen to steer this discussion in that direction, do you think that.... The Conservatives are continuing to cry wolf, despite the fact that the government has taken responsibility for the lapses in the governance by implementing swift changes to address the situation. Since your report has come out, the SDTC funding has been transferred to the National Research Council, which should ensure more stringent oversight.

Given your findings, how do you take the news of the structural changes, and how will they lead to better accountability and oversight, in your view?

• (1105)

Mr. Konrad von Finckenstein: Really, the whole issue of conflict of interest in an organization like SDTC is key, because you have to know something about the industry in order to know what kind of support they need and what form that support should take. On the other hand, you can't have conflict, etc., or you have to recuse yourself. It is ever-present.

SDTC has a very elaborate code of dealing with conflict of interest, which mirrors the provision of the Conflict of Interest Act. All they had to do was follow their [*Inaudible—Editor*]. Unfortunately, because it was an emergency situation, they thought it didn't apply and they were advised of that.

I expect that now, in light of my report, there will be heightened attention to their own internal code and our act in an attempt to ensure this doesn't happen again.

Ms. Valerie Bradford: Thank you, Commissioner.

In looking at your interpretation of subsection 6(1), would it be fair to say that that the mere existence of a conflict of interest wouldn't amount to violating the act, but, rather, once active participation and the making of a decision in instances where the individual knows there could be a conflict of interest...is my understanding correct?

Mr. Konrad von Finckenstein: Yes. If there's a conflict of interest, there are remedies. One of them is, as I said, to recuse yourself. Get out of the room and let the others make the decision, etc. Then you're perfectly fine. If you stay and you vote or you participate in the discussion, then you get yourself into problems.

Ms. Valerie Bradford: You found that Ms. Verschuren did not sufficiently remove herself from decision-making in certain in-

stances, given that she abstained rather than recused herself. In so doing, she was deemed to have participated in decisions and contravened subsection 6(1) and section 21.

If she had properly recused herself in every single instance, would you have found her in breach of both sections?

Mr. Konrad von Finckenstein: No. If she had recused herself, there would have been no breach or contravention of the act.

Ms. Valerie Bradford: In order to respect the act, and even SDTC's own conflict of interest policies, individuals should have recused themselves. The AG found that there were 90 cases where the foundation's conflict of interest policies were not followed, linked to \$76 million in funding.

Commissioner, given the lack of recusals, it is in these instances that SDTC leadership would have contravened the act. Is that correct?

Mr. Konrad von Finckenstein: That's not quite correct. I am only asked to look at people who fall under my act. Those are the people who have been appointed by order in council. There are lots of members on the board of SDTC who are not appointed by order in council, and their conflict is not part of my remit.

I find it shocking to see what the Auditor General has reported in terms of conflict of interest, etc., but it was not conflict of interest by reporting public office holders, and that's all I can look at: conflict of interest by reporting public office holders.

In this case, I was asked specifically to look at two reporting public office holders, and I looked at them, at their activities.

Ms. Valerie Bradford: Can you tell me how many current investigations your office has under way where they did meet the threshold of conflict of interest?

Mr. Konrad von Finckenstein: Right now?

Ms. Valerie Bradford: Yes.

Mr. Konrad von Finckenstein: I have none. The last two were Ms. Verschuren and Mr. Ouimet.

At the present time, I am not investigating anybody. There are no facts that have been pointed out to me or no requests received from [*Inaudible—Editor*] that give me sufficient facts so that I have reasonable grounds to believe that the act has been contravened and so that I can start an investigation.

Ms. Valerie Bradford: Thank you for that.

The Chair: Thank you very much. That is the time.

[*Translation*]

Ms. Sinclair-Desgagné, you have the floor for two and a half minutes.

• (1110)

Ms. Nathalie Sinclair-Desgagné: Thank you, Mr. Chair.

Commissioner, I'm going to circle back to my previous questions about employees. We agree that they're not appointed by the government, but I'd like to ask you a question about ethics, even though a conflict of interest may not be involved as such.

In one case, a Canada Border Services Agency employee came before the committee and admitted that he had been invited to a number of activities, including a whisky tasting, by a company the government was doing business with. Not only does this employee not appear to have suffered any retaliation or even been subjected to an internal investigation, but on the contrary, he was promoted. Does that seem ethical to you?

Mr. Konrad von Finckenstein: As I said to your colleague, I don't deal with general ethics issues. Obviously, people who conduct themselves as you described shouldn't be promoted, but it's not up to me to decide. My opinion is worthless here, because it's not under my jurisdiction. There are other agencies that handle that.

Ms. Nathalie Sinclair-Desgagné: Yes, you're right. However, I wouldn't say your opinion is worthless. You are, after all, the Ethics Commissioner and an officer of Parliament responsible for administering the Conflict of Interest Code for Members of the House of Commons.

From my point of view and that of those who follow our work, the fact that you agree that it really doesn't seem ethical shows that there's clearly an operational issue at the Canada Border Services Agency related to this employee's presence and how he was treated, even though he admitted he shouldn't have behaved that way with suppliers. So we agree that this is quite problematic.

I have another question about this kind of conflict of interest. In the ArriveCAN case, we also heard that thousands of emails had been deleted. It's not necessarily ethical to delete compromising emails, but is it illegal? Could you enlighten me on that, or is it really outside your area of expertise?

Mr. Konrad von Finckenstein: I find it highly suspicious that those emails were deleted. I don't know what the rules are there, but they may have been broken. As to whether it could be a criminal offence, I don't know. Like you, I find it extraordinary that something like that was done, especially since you and the Auditor General are looking into this situation. They should have provided all the documents and emails to you rather than deleting them.

The Chair: Thank you very much.

[English]

Up next is Mr. Desjarlais for two and a half minutes.

Mr. Blake Desjarlais: Thank you very much, Mr. Chair.

I do want to comment quickly on the situation at Sustainable Development Technology Canada, which was brought up earlier.

A question I had during some of our original testimony in hearing from SDTC was regarding the condition of protection for the whistle-blowers. I'm certain that over the course of time—I know you're relatively new—within the Office of the Conflict of Interest and Ethics Commissioner there have been instances where whistle-blowers have maybe come to other departments, including this department.

How do you deal with ensuring the protection of whistle-blowers when you conduct your work?

Mr. Konrad von Finckenstein: If people come forward to us with evidence that amounts to a conflict of interest and we think there's reason to believe an investigation is required, we will investigate.

If it involves a whistle-blower and that whistle-blower says that they do not want to be mentioned and that they want to remain anonymous because they're afraid for their job, then it causes us an issue, like everybody else. How do we deal with this? How can we protect them? On the other hand, how can we assure ourselves that what he or she divulges to us is correct or not?

You're asking me to speculate here. We would probably deal with the situation or the facts that he or she has presented and try to verify them without bringing him or her into the picture. If it's not possible, then we really have the unfortunate choice, if he or she doesn't want to testify, of do we have enough facts or evidence to proceed or know that it may be true? If he or she is not willing to testify and that's essential, then we have to close it down.

These are very difficult issues when you're not dealing with criminal [*Inaudible—Editor*]. We have no whistle-blower protection or anything like this.

I might very well tell the person to go to the Public Sector Integrity Commissioner and talk to her because she has a specific mandate to protect people against retaliation in case there is whistle-blowing.

To my knowledge, we have not had any situations like that. If it arrives, it will require very delicate handling. That's all I can say at this point.

• (1115)

The Chair: Thank you very much.

That is your time, Mr. Desjarlais.

Mr. Perkins is joining us online.

You have the floor for five minutes.

Mr. Rick Perkins (South Shore—St. Margarets, CPC): Thank you, Mr. Chair.

Commissioner, I'd like to ask you about the Verschuren report that you issued on the Liberal green slush fund, SDTC.

In the report you acknowledge that you were aware of the parliamentary hearings, as well as the Auditor General's work in this area. Is that correct?

Mr. Konrad von Finckenstein: Yes.

Mr. Rick Perkins: You were aware that the Auditor General, as part of a report, identified nine order in council appointments to the board who had voted in conflict of interest—not just the one in Mr. Barrett's letter.

Earlier, you said that you only deal with order in council appointments. Will you look at the other eight? Those eight voted 186 times out of 400 times—400 votes, 400 transactions, 186 conflicted and 44% of those nine directors. That's not bad legal advice; that's a culture of conflict of interest.

Mr. Konrad von Finckenstein: Would you please repeat your question exactly? I want to make sure that I don't misunderstand you.

Mr. Rick Perkins: The Auditor General identified nine order in council directors who, 186 times, voted in conflict of interest out of 400 transactions. That's 44% of order in council appointments and almost half of the money—\$330 million—that they voted companies they had a conflict of interest in. That's not bad legal advice, as you suggested in your report, is it? That's a culture on the board of conflict of interest and of self-dealing.

Would you look at all nine directors and those instances of conflict of interest?

Mr. Konrad von Finckenstein: Let's get the facts straight. I was asked to look at two order in council appointments, and I looked at them and their activities—

Mr. Rick Perkins: I know that. I'm sorry, Commissioner. That was from Mr. Barrett's letter—

Mr. Konrad von Finckenstein: Yes.

Mr. Rick Perkins: You have the ability to investigate beyond being asked, I would assume.

In that, Ms. Verschuren also voted herself—and you didn't cover this—or the board gave her companies \$10.4 million from companies she had an interest in: Hydrostor, Cascadia Seaweed, Mangrove Lithium and Resonant.

Those are outside of the COVID payments. Did you look at those?

Mr. Konrad von Finckenstein: Are you suggesting that she did not recuse herself? Are you suggesting that she voted—

Mr. Rick Perkins: I'm suggesting she created a culture of conflict of interest with nine directors all voting themselves half of the money from the green slush fund, and you haven't looked at it. I want to know why you're not looking at probably the largest scandal in terms of dollars in conflict of interest not only in this government, but in decades.

• (1120)

Mr. Konrad von Finckenstein: Michael, why don't you—

Mr. Michael Aquilino: Yes, I'll jump in here.

The report makes clear that the commissioner did examine every vote of every meeting in which Ms. Verschuren was the chair. We didn't name specific companies that were the ultimate beneficiaries. The focus of the examination in large part was the involvement of accelerators in which Ms. Verschuren was associated, the Verschuren Centre and MaRS Discovery District, who were nominating other companies for funding. In that regard, we have a breakdown of—

Mr. Rick Perkins: I understand that, but that's only one aspect. I'm sorry, but I have limited time. That's only one aspect, and I'm curious as to why you're not looking into the broader issue of

the \$400-million scandal. The Auditor General identified \$330 million of conflict.

One director who sat on the board, named Andrée-Lise Méthot, who is from Quebec, in her time on the board had \$97 million go to companies she has venture capital interests in. That has all been identified. Nine directors in the Auditor General's report are all order in council appointees.

Why are you not investigating those conflicts?

Mr. Konrad von Finckenstein: Order in council appointees come in two varieties. You have reporting public office holders and you have public office holders. Public office holders are those who have to comply with the act, but they do not have to, at the beginning of the appointment, come to us, show what they owe and follow the rules.

Mr. Rick Perkins: That wasn't my question.

Mr. Konrad von Finckenstein: I hear you, but I'm trying to give you the context. You're asking me a question, and you're doing so on the basis of the fact that you think there has been a lot of misbehaviour and we're not investigating.

I am looking at—

Mr. Rick Perkins: The Auditor General—

Mr. Konrad von Finckenstein: —the people who are reporting public office holders, and while we were doing the investigation of Madam Verschuren and Mr. Ouimet, the Auditor General did her report. Her report came out long after we had finished investigating these—

Mr. Rick Perkins: Why aren't you investigating—

The Chair: Mr. Perkins, I'm afraid that is the time. You will, I'm sure, have another opportunity later in this meeting.

We're turning now to Ms. Khalid.

You have the floor for five minutes, please.

Ms. Iqra Khalid: Thank you very much, Chair.

Thank you, Commissioner, for being here today.

Commissioner, have you heard of the Conservative opposition motion that was passed on June 10? It was presented on June 6, 2024, in the House.

Mr. Konrad von Finckenstein: I'm sorry, but I'm not aware of the motion you're referring to.

Ms. Iqra Khalid: This motion required the production of documents from the government, the Auditor General and SDTC, to be presented to the Law Clerk and Parliamentary Counsel with the intention of providing these documents to the RCMP. In a recent letter to this committee, the RCMP commissioner sounded the alarm saying that this House order, which is this motion I'm referring to, is interfering in operational and police independence. This is happening in a free and fair society like Canada.

Commissioner, have you ever seen instances where the legislative branch tried to interfere or direct police as to how to do their jobs?

Mr. Konrad von Finckenstein: No. I'm not aware of any such instance.

Ms. Iqra Khalid: How do you feel about that interference?

Mr. Konrad von Finckenstein: You're asking me to comment on the behaviour of Parliament. I'm a servant of Parliament. I do what you direct me to do. It's a bit hard to ask me to say whether a motion passed by Parliament was appropriate or not. Obviously, the commissioner of the RCMP feels it's not proper under the circumstances. He will have good reasons in explaining that, presumably. You should ask him rather than me about this.

Ms. Iqra Khalid: Commissioner, respectfully, I do believe that even though you're an employee of Parliament, you have a very, very important responsibility to be hands-off and to be independent of the actions of Parliament. In fact, you oversee a very important aspect of what parliamentarians do.

Commissioner, the Auditor General was recently in the news saying that this specific Conservative House motion would compromise her independence. What's your reaction to hearing a fellow officer of Parliament sound the alarm that parliamentarians are putting her work and her office in jeopardy?

• (1125)

Mr. Konrad von Finckenstein: Obviously, it's of concern. I mean, the whole way we set up these various offices is that they're to be independent of any politics and to come up with the facts, present them to the public, inform the public of what's going on, and, if there are any misdeeds or things that shouldn't have been done, expose them. Anything that's done to interfere with the independence of this and to put in question any report that's issued by one of these offices defeats the whole purpose.

I mean, you are independent. That's why you are trustworthy. You're not influenced by outside influences. What you have to do is find the facts and expose them. That should be done without any interference from Parliament.

Ms. Iqra Khalid: Is it the usual practice for an officer of Parliament to raise alarm bells like this, in your experience?

Mr. Konrad von Finckenstein: I personally am not aware of what has been done before. It may have been. I haven't researched the issue.

Ms. Iqra Khalid: It is, as you said, Commissioner, quite alarming that parliamentarians would interfere with the work of independent office holders who are there to provide scrutiny. It is quite troubling, in my point of view.

The government has addressed the situation that we're talking about today, which is what I think Canadians expect of our government, but that doesn't quite suffice for the Cons. What matters most for them is to create chaos. Mr. Poilievre and his Cons, they thrive in chaos. They need to create it everywhere they go. In turn, they look to hurt trust in our institutions, including your office, Commissioner. When they use the House to direct or to seek to influence police in this country and compromise officers of Parliament,

they're looking to hurt the trust in the institutions that they one day will seek to govern.

Commissioner, in your view, what is the long-term damage that is being done to Parliament and to institutions based on this conduct?

Mr. Konrad von Finckenstein: You're asking me to make a political judgment. I'm sorry, I cannot do that. You're basically suggesting that the action of your opponents is undermining the system and will cause damage in the long term and are asking me if I agree. That's for people, that's for you, to judge, not me.

Ms. Iqra Khalid: Respectfully, Commissioner—

The Chair: I'm afraid that is the time all around.

We'll begin our third round with Mr. Brock, I believe.

You have the floor for five minutes.

Mr. Larry Brock (Brantford—Brant, CPC): Thank you, Chair.

Commissioner and counsel, welcome. It's always good to see you..

The first concern that I have is I'm quite astonished by the commentary from my colleague Ms. Khalid in terms of her interpretation of a demand for documents as seen fit by a majority of members of Parliament. As I'm sure you will agree with me, Mr. Commissioner, Parliament is supreme, and Committees are supreme. We can order just about anything we want, unfettered.

• (1130)

In fact, the House of Commons' top lawyer basically affirmed that position, that documentation needed to be produced to get to the bottom of yet another scandal by this corrupted Liberal government under Justin Trudeau.

Perhaps Ms. Khalid needs to be informed that simply obtaining documents and forwarding those documents to the RCMP are not and never would be seen to be interference. It aids in their investigation. She is somehow suggesting—wrongly, and deliberately wrongly—that by asking for documents and by furnishing documents to the RCMP, we are directing an outcome, which you know, Commissioner, is completely ridiculous. The RCMP are completely independent and are unfettered in their decision to lay charges or not. Would you agree with that?

Mr. Konrad von Finckenstein: Yes.

Mr. Larry Brock: Regardless of what Parliament said and regardless of what Justin Trudeau may have said, they have that final discretion. Therefore, Ms. Khalid needs to be educated on the powers that the RCMP actually have.

A broader concern I have is this: Really, why are you here, Commissioner? As much as I enjoy listening to you and listening to your counsel, you were chosen to come here by the Liberal Party. Right out of the gate, they asked you questions about your mandate, as if they didn't even know why you were here.

As we well know, and you can confirm, Commissioner, there are at least a dozen other investigations into this arrive scam scandal, including the Auditor General's and the RCMP's, and numerous colleagues at your level. Various commissioners are actually examining this scandal. Why weren't they here today? They chose you. You made it clear to this committee earlier this year that you have no mandate with respect to the arrive scam. Do you?

Mr. Konrad von Finckenstein: I don't.

Mr. Larry Brock: You don't.

Mr. Konrad von Finckenstein: My opening statement today made that absolutely clear.

Mr. Larry Brock: You made it abundantly clear. This is now twice you've made it clear that you have no mandate, yet the Liberals wasted this committee's time and wasted your time, sir, from doing the good work that you are obviously doing throughout the year.

How much time do I have?

The Chair: Mr. Brock, I want to push you back in your lane. The witness is here at the invitation of the full committee. You're welcome to raise his relevance, but he is a committee witness. Nudge back in, if you could, on that. There are no—

Mr. Larry Brock: Certainly.

The Chair: I appreciate it.

You have a minute and 45 seconds left.

Mr. Larry Brock: Let's get to your report, the "Verschuren Report".

We've heard from my colleague Mr. Perkins that she somehow benefited from the decision-making, which she either made or abstained voting on but didn't recuse herself, by upwards of \$10 million. You found her guilty of breaching two aspects of the act.

I want to know, and I'm sure Canadians watching this want to know, what is the penalty for her?

Mr. Konrad von Finckenstein: The penalty for her is, as the act provides right now, basically exposure.

Mr. Larry Brock: I'm sorry?

Mr. Konrad von Finckenstein: Exposure.

Mr. Larry Brock: Exposure.

Mr. Konrad von Finckenstein: Yes.

If you have a conflict of interest, we expose it. If you get it certified, it does damage to your reputation. That's how the act works. The act does not have any penalties, except for minor penalties on reporting things.

The consequences are to.... Obviously, the person who appointed her has resigned, but if not, for instance, one option would have been for the government to ask her to resign, etc., if they felt that the breach we pointed out was severe enough, etc.

As my colleague pointed out, we went through every single vote of hers. These allegations here that she supposedly voted on issues of up to \$200 million to benefit herself.... As I said, we looked at

every vote she did. She recused herself when required. At least that's the evidence.

Michael, do you want to elaborate on that?

Mr. Michael Aquilino: That's correct.

Mr. Konrad von Finckenstein: The whole focus was the emergency votes. That's what Mr. Barrett's letter asked me to look at, and we looked at it.

In the process, we also looked at votes that she did with regard to incubators and we found that she violated.... She should have recused herself—not abstained because there's no provision for abstaining in the act, except if you're a member of Parliament or a minister voting on something.

The whole process is essentially.... If you want to put it bluntly, we investigate, we expose and to some extent we do damage to your reputation. That's all we can do. The person who appointed them—we're talking about a reporting public office holder—can decide if they want to take other actions.

Mr. Larry Brock: Meanwhile, the taxpayers are out \$10 million.

The Chair: Thank you. I'm afraid that is your time, Mr. Brock.

We'll turn to Ms. Shanahan, who has the floor for five minutes, please.

Mrs. Brenda Shanahan: Thank you very much, Chair

I thank you for correcting the record earlier when Mr. Brock was claiming that we had called the witness, that we were wasting time and that we were having these meetings that are wasting members' time.

Thank you for correcting the record because as a member of Parliament and as someone who takes this committee very seriously, to see it being used time and time again to push the Conservative narrative—a false narrative and a narrative that is going down rabbit holes, witch hunts and God knows what else is going on—and not allowing the duly appointed independent officers of Parliament to do the jobs they have to do....

If it was the case that those officers of Parliament—I'm very glad to see the Conflict of Interest and Ethics Commissioner here—were not doing their jobs, then indeed parliamentarians would be called into action. However, when they are doing their jobs—the RCMP, the Auditor General or anyone else who is doing their investigation—we must let them do their work.

I want to read now, for the record, from the letter from the commissioner of the RCMP. This is the letter we were sent on July 25. It's a letter that is directed to the law clerk, Michel Bédard. It says:

The RCMP has also reviewed the implications of the Motion—

This is the motion of June 6.

—in a potential criminal investigation. Before taking any investigative steps to access documents that may give rise to a reasonable expectation of privacy, the RCMP must comply with applicable legal standards to preserve the viability of any potential criminal investigation or prosecution. The Parliamentary production order does not set aside these legal requirements.

I'll repeat, "The Parliamentary production order does not set aside these legal requirements."

It continues:

For the reasons set out above, the RCMP's ability to receive and use information obtained through this production order and under the compulsory powers afforded by the Auditor General Act in the course of a criminal investigation could give rise to concerns under the Canadian Charter of Rights and Freedoms. It is therefore highly unlikely that any information obtained by the RCMP under the Motion where privacy interests exists could be used to support a criminal prosecution or further a criminal investigation.

How much time do I have, Chair?

• (1135)

The Chair: You have two minutes and 20 seconds.

Mrs. Brenda Shanahan: Excellent.

I'll continue:

Given the risks associated with receiving information under the Motion or other compulsory authorities, practices need to be put in place to identify the nature and the source of the information, with a view to determining whether it contains Charter-protected information—

I'll repeat: "Charter-protected information".

It continues:

Any information obtained through the Motion or other compulsory authorities would need to be segregated from an RCMP investigation. There is significant risk that the Motion could be interpreted as a circumvention of normal investigative processes and Charter protections.

I'm going to repeat that, Chair: "There is significant risk that the motion could be interpreted as a circumvention of normal investigative processes and Charter protections."

I'll continue: "The RCMP will continue its review of available information" and so on and so forth.

I'd like to hear the commissioner's views on what I just read out.

Mr. Konrad von Finckenstein: The commissioner states the law. He points out that there could be possible challenges based on the charter, which is a fact. Whether there will be or not and without anything more, I think nobody can argue with him that the charter comes first and we have to protect it.

If you have information that you gathered in an investigation and furnished here, you have to be very careful about how, when and where you use it. As far as I can tell from the letter you just read, it seems to me he's just pointing out normal legal concerns.

Mrs. Brenda Shanahan: Thank you for that, Commissioner.

Indeed, the government has taken corrective steps in order to ensure better oversight and accountability to the personnel and finances of SDTC, because, yes, stuff happens. Stuff happens, and we need to have the processes in place in order to investigate and to make corrective action, which has been done in this case by transitioning this program to the National Research Council.

• (1140)

The Chair: Thank you, Ms. Shanahan.

Mrs. Brenda Shanahan: But we're not looking for solutions here, are we? We're just looking to muckrake.

The Chair: We will certainly come back to this, I expect.

[*Translation*]

Ms. Sinclair-Desgagné, you have the floor for two and a half minutes.

Ms. Nathalie Sinclair-Desgagné: Thank you, Mr. Chair.

Commissioner, all my colleagues have brought up Sustainable Development Technology Canada, since that matter—

The Chair: Hold on one second.

[*English*]

Voices: [*Inaudible—Editor*]

The Chair: Order. Order in this chamber, please.

[*Translation*]

Ms. Sinclair-Desgagné, could you start over, please? You have the floor for two and a half minutes.

Ms. Nathalie Sinclair-Desgagné: Okay, I'll start again. I got thrown off by the disorderly conduct—

The Chair: I understand. I'll reset the clock, and when you're ready, you will have the floor for two and a half minutes.

Ms. Nathalie Sinclair-Desgagné: Okay. Thank you, Mr. Chair.

Commissioner, a number of my colleagues have talked about Sustainable Development Technology Canada.

You released the Verschuren report, and a question comes to mind: In one part of the report, you mention that Ms. Verschuren probably acted the way she thought she should act to avoid a conflict of interest, that is to say that she abstained from voting rather than recusing herself. Is that correct?

Mr. Konrad von Finckenstein: Yes, your summary is correct.

Ms. Nathalie Sinclair-Desgagné: Okay, thank you.

One thing I'm curious about is, don't board appointees receive training on conflict of interest and how to deal with potential conflicts of interest?

Mr. Konrad von Finckenstein: It depends on the organization. Generally, organizations have legal counsel who explain the rules. Companies have a code governing things like conduct and conflict of interest. If an organization asks us to do a presentation on conflict of interest, we do it.

Ms. Nathalie Sinclair-Desgagné: In the very specific case of Ms. Verschuren, when she took up her duties, did she not receive training on what to do when faced with a potential conflict of interest?

Mr. Konrad von Finckenstein: We didn't provide her with any training. I don't know what she did—

Ms. Nathalie Sinclair-Desgagné: I'm asking you the question in a general way, because it's pretty important. If no training was provided, that's a major issue, because we know that these individuals administer public funds.

However, if she did receive training, as many people must, how can we assume that she's acting in good faith? How could someone appointed to a position so important that it includes a spot on the board of directors of an organization that provides funding not understand their training? Are they worthy of that position?

Either way, this is a major issue.

Mr. Konrad von Finckenstein: Obviously, I'm not familiar with the standard practice at Sustainable Development Technology Canada in terms of training new board members. I assume that training was provided. If not, it should have been. I find it hard to believe that Ms. Verschuren did not receive any training, because it's common practice in all organizations.

I only know what happened at the various board meetings. On a few occasions, she declared her potential conflict of interest as a member of the board of directors of the incubators MaRS and the Verschuren Centre, but she did not recuse herself. That was the problem. It was a technical violation with no consequence, but the law required her to recuse herself and not vote. She declared her apparent conflict of interest, but she still voted.

• (1145)

The Chair: Thank you very much.

[*English*]

Up next is Mr. Desjarlais.

You have the floor for two and a half minutes, please.

Mr. Blake Desjarlais: Thank you very much, Mr. Chair.

Thank you again, Commissioner, for being present to answer questions related to SDTC.

I know that you were likely not given notice about these questions, so I do appreciate your comments on the topic.

It was earlier identified, and my colleague Ms. Sinclair-Desgagné mentioned an aspect of the question I wish to pose. It is related to Ms. Verschuren denying claims of conflict, saying that she got legal counsel or legal advice and that she did not have to recuse herself because her firm was a group of 100 companies that received the same level of additional funding. We obviously know now that is not the case and that it shouldn't have happened. Can you respond to her claims and tell the committee why her case is still relevant under the Conflict of Interest Act?

Mr. Konrad von Finckenstein: It's relevant, I think, as a lesson to other companies. Follow the rules that are set out for you in the act and in the company's own code of conduct. If you follow them, there's no problem.

If you have a situation like we had with COVID and you say that because it's an emergency now and because all the companies get it, not only the one company in which you have interest, therefore a conflict never applies, follow your own judgment. Look, you're going to benefit from it, so let's get out of here. Let's not vote on it. In

that case you're clear and free. That's really the message from all of this.

No matter what, you have the rules. Follow them, and you're clear and free. If anybody tells you it doesn't apply in this case, look at it with a great deal of caution.

Mr. Blake Desjarlais: Thank you very much for that, Commissioner. I think that's the most important lesson from this situation. It's that for the conflict of interest, regardless of whether one attempts to avoid accountability, the recusal portion of that admission is most critical in ensuring that the person, in this case, Ms. Verschuren, could understand directly that conflict. Isn't that correct? That recusal process, doing that, is the most important piece to understanding one's own conflict or perceived conflict. Is that correct?

Mr. Konrad von Finckenstein: Yes. That's correct.

Mr. Blake Desjarlais: I also know that there has been training and that there are ways this information gets to public servants or even to others. Is this something that you think your office could enhance its work in doing, ensuring that officials like Ms. Verschuren, and others in like positions in these boards of management, to understand these rules of recusal better?

Mr. Konrad von Finckenstein: You can always improve on what you do, obviously. What we do right now, for somebody like Ms. Verschuren, when she gets appointed, first thing, she gets a letter from us saying, "Welcome. Please fill out this very extensive questionnaire so that we can sit down with you, find out if you have a conflict and find out what has to be done." That happens, and there are certain steps taken, most usually either establishing screens or insisting on blind trusts, etc. Then, we say, "This is your adviser, and she is there for you. If you have any problem, call her, and she will tell you if it's okay." Then, if there is an issue and she calls them, we will help her resolve the issue. We do that.

Also, if the organization asks if we can do a briefing session on conflict of interest for their board members, we'll gladly do that. We'll send somebody over to walk them through it.

We're trying to do as much as possible, but the main thing is that you have to be aware of it. If you are in these positions, these are public trust positions. The rules apply, and they will be enforced. If you are in doubt about what it is, call us, or don't vote. If you think there's a possibility of a conflict of interest, there usually is.

The Chair: Thank you, Commissioner.

Mr. Desjarlais, that is your time.

I'm going to suspend for five minutes for a health break. We'll be right back.

• (1145)

(Pause)

• (1155)

The Chair: I call this meeting back to order.

Just so everyone is aware, we have two more questioners to finish the third round. Then I will do a fourth round and call it a day, unless there is UC to continue.

Mr. Barrett, you have the floor for five minutes, please.

Mr. Michael Barrett: Chair, I want to take a minute to quickly respond to Ms. Shanahan's very animated opinions on what Parliament can and can't do.

A majority of members of the House of Commons passed a motion. That's important. It was a majority of members of the House. The Liberals want to act like they have a majority, but certainly they don't. A majority of members saw the corruption of this Liberal government and passed this motion. The motion calls for documents to be sent to the RCMP.

Ms. Shanahan read a letter. I just want to share a quote from the parliamentary legal counsel in his letter to the Speaker of the House of Commons: "The power to send for documents is absolute and unfettered—period. It is a constitutional parliamentary privilege not limited by statute. As such, the House is not constrained by statutory obligations contained in legislation such as the Access to Information Act and the Privacy Act. I also note that the order did not contemplate that redactions be made to the document or that information be withheld."

It's without limit. It's absolute. They may not like it, and they certainly don't seem to understand it, but it's the law. A majority of members of the House, democratically elected, made that decision. We know that their Prime Minister, Justin Trudeau, favours a dictatorship, but that's not how our system works.

The commissioner of the Royal Canadian Mounted Police does report to a minister in Justin Trudeau's cabinet, as per section 5 of the RCMP Act, but the RCMP, of course, has full and final discretion on the investigations they launch. That's not going to stop Parliament from doing its job. We'll make the information available. The RCMP can choose to investigate or not.

Much to the chagrin of Mr. Trudeau and his Liberal members, this is a democracy, not a dictatorship. A majority of members of the House made a decision. They can call independent officers of Parliament here to get them to opine on it, but it doesn't change the fact that it's legal and it's the right thing to do, especially after nine years of the most corrupt government in history. That's what we have with these members and that Liberal government.

Commissioner, I want to move on to yet another Liberal scandal. Did you have an opportunity to review the testimony of Mr. Stephen Anderson, who's the business partner of Justin Trudeau's minister from Edmonton, Randy Boissonnault? He recently appeared at the ethics committee. Did you have an opportunity to review that testimony, sir?

• (1200)

Mr. Konrad von Finckenstein: I read about it in the paper. I did not watch it personally.

Mr. Michael Barrett: New evidence was presented of business-related text messages between Mr. Anderson and a client of Mr. Boissonnault's company. Now, in these messages, Mr. Anderson refers to Mr. Boissonnault nine times, saying that there's going to

be a partner call. He went on to admit that there was only one Randy at the company. We even saw in these text messages that Randy—Randy in the text messages—was in Vancouver at the same time that Justin Trudeau's minister Randy Boissonnault was in Vancouver at the cabinet retreat.

The evidence of Randy Boissonnault being involved is quite heavy. It's contained in the text messages that were presented at the ethics committee. Does this new information require a further look into the matter by you? Give a brief answer, if you could, sir.

Mr. Konrad von Finckenstein: I'm sorry. I can't give you a brief answer, but I'll give you an answer.

Mr. Michael Barrett: We're both limited by the time here.

Mr. Konrad von Finckenstein: You raised this issue with me before. I looked into it and saw whether there were reasonable grounds to start a... I became convinced that on September 8, which was the issue and day in question....

I'm waiting for you—I'm talking to you—because we have to make sure that we both understand each other, that it concerned September 8.

On September 8, there was no way.... Mr. Boissonnault offered to give me all the information on September 8—of his conversations, telephone conversations, emails, whatever. We looked at all of that. There was absolutely no way there was contact between him and Mr. Anderson.

Now this new stuff has come up, which I was unaware of. I wrote to Mr. Boissonnault again yesterday. I said, "I'm concerned about September 6 and 7. I know that there was no communication on September 8, because you were in a cabinet lock-in and I have all the documents. Mr. Anderson's email suggests that he was in contact with you. Would you please provide me the same information for September 6 and 7 as you've done for September 8?"

When I get that, I will determine whether Mr. Anderson was using the name in vain or whether there were actually conversations.

Mr. Michael Barrett: I have a very brief amount of time left.

I appreciate the answer that you're looking for more information from Mr. Boissonnault.

How can you be assured that you're receiving information from all of his text messages? We know that he used the app called Signal. We know he used other text messaging apps.

Are you certain that you have the messages from all of the messaging applications that he used, including Signal and any other instant messaging application?

Mr. Konrad von Finckenstein: We specified in the letter that we want any means of electronic communication between the two of them, whether it's, as you say, Signal, Skype, telephone calls or whatever you use.

Once I get that information, I will be able to exercise my judgment as to whether there are reasonable grounds to suspect that there was an involvement of Mr. Boissonnault and therefore launch an investigation or really that his name was being used in vain by Mr. Anderson in order to give extra credibility to his emails.

Mr. Michael Barrett: I appreciate your answer. Thanks.

The Chair: Thank you. That is the time.

Ms. Shanahan, you have the floor again for five minutes.

Mrs. Brenda Shanahan: Thank you, Chair.

Wow. This is very interesting.

If the Conservatives were not so obsessed by pursuing their own convoluted conspiracy theories and narratives and attacking members of Parliament, especially members on this committee, at every turn....

We see the partisan objective of the members who are making these accusations. We're all big boys and girls and we can all play in that arena, but when it involves independent officers of Parliament—and we just heard the commissioner saying that he is disturbed when he hears of fellow independent officers raising the alarm that their work is being interfered with or could be compromised—then I think we need to take heed.

Indeed, I want to finish with the letter I was reading earlier from the RCMP commissioner. It says:

The RCMP will continue its review of available information that does not give rise to concerns under the Charter to determine if sufficient evidence exists to launch a criminal investigation. I would like to emphasize as well that the RCMP is operationally independent and strictly adheres to the principle of police independence. In a free and democratic society, this ensures that the government cannot direct or influence the actions of law enforcement and that law enforcement decisions remain based on the information and evidence available to police.

Am I to infer by the comments of the members of the Conservative Party that they would interfere with police investigations? That is what I am hearing.

• (1205)

[Translation]

I want to continue in French, because I know that my fellow Canadians are very concerned about what's happening today.

I'm going to read excerpts from the letter the RCMP commissioner sent to law clerk and parliamentary counsel Michel Bédard.

The RCMP has also reviewed the implications of the Motion in a potential criminal investigation. Before taking any investigative steps to access documents that may give rise to a reasonable expectation of privacy, the RCMP must comply with applicable legal standards to preserve the viability of any potential criminal investigation or prosecution. The Parliamentary production order does not set aside these legal requirements. For the reasons set out above, the RCMP's ability to receive and use information obtained through this production order and under the compulsory powers afforded by the Auditor General Act in the course of a criminal investigation could give rise to concerns under the Canadian Charter of Rights and Freedoms. It is therefore highly unlikely that any information ob-

tained by the RCMP under the Motion where privacy interests exists could be used to support a criminal prosecution or further a criminal investigation.

... There is significant risk that the Motion could be interpreted as a circumvention of normal investigative processes and Charter protections.

The RCMP will continue its review of available information that does not give rise to concerns under the Charter to determine if sufficient evidence exists to launch a criminal investigation. I would like to emphasize as well that the RCMP is operationally independent and strictly adheres to the principle of police independence. In a free and democratic society, this ensures that the government cannot direct or influence the actions of law enforcement and that law enforcement decisions remain based on the information and evidence available to police.

It's very important that we as parliamentarians consider and respect what I just read out. Unfortunately, on other occasions we've seen that the opposition is searching for scandals in such a partisan manner that we risk turning away from all the good legal and investigative practices from our Parliament and all the institutions we've put in place.

The Chair: Thank you very much.

[English]

Beginning our fourth and final round is Mr. Brock.

I understand you might be sharing your time. Would you like me to let you know when you're halfway, or are you going to hand that off?

Mr. Larry Brock: Let me know when I'm halfway.

The Chair: Very good.

Mr. Larry Brock: On behalf of the Conservative Party, I am so sorry that we have offended Ms. Shanahan in our job in terms of holding this government to account in discovering and exposing corruption at the highest level. If that's offensive to her, so be it. That's our job.

Commissioner, on the issue regarding Randy Boissonnault, I appreciate you have only reviewed the actual newspaper story of the report. You didn't actually listen to the committee. You didn't read that transcript. Is that correct?

Mr. Konrad von Finckenstein: That's correct.

Mr. Larry Brock: Are you prepared to do that, given some of the concerns that have now been raised?

Mr. Konrad von Finckenstein: As I mentioned, the reports—

• (1210)

Mr. Larry Brock: Just give me a yes or no, sir.

Mr. Konrad von Finckenstein: I am concerned because he may have admitted he lied. There are emails that have emerged that accuse Randy seven times, etc.

Mr. Larry Brock: He was also supposed to provide the committee with additional emails, additional documentation and, actually, the identity of the person who he claimed was autocorrected nine times. He failed to comply with that order of committee.

Does that concern you?

Mr. Konrad von Finckenstein: Yes, of course. We hope it concerns you, too. We're talking about parliamentary process here, not my investigation.

Mr. Larry Brock: It would be naive for all of us to only conclude that what you received from Minister Randy Boissonnault were all the devices that he had access to. He could have accessed a burner phone that he never supplied to you. He could have used another communication app that he never supplied to you.

You agree with me, sir, that there are still ways of communicating that he did not supply to you. That is possible, is it not?

Mr. Konrad von Finckenstein: You are assuming here quasi-criminal behaviour. I want the evidence. Once I have the evidence—

Mr. Larry Brock: Do you believe that there are burner phones out there?

Mr. Konrad von Finckenstein: Of course there are burner phones.

Mr. Larry Brock: Do you believe there are communication apps other than Signal and WhatsApp?

Mr. Konrad von Finckenstein: I just answered the question from your colleague. I said that, for any kind of information, let me have the response from Mr. Boissonnault, and then I will decide whether it is credible and sufficient or whether I need any more evidence. Then, if—

Mr. Larry Brock: Hypothetically, assuming you conclude that Minister Randy Boissonnault has breached the act, what are the consequences to him, briefly?

Mr. Konrad von Finckenstein: First of all, I would have to begin an investigation. If the investigation came to that, I would make a public report and I would send it to the Prime Minister. It would be up to the Prime Minister to decide what to do.

The Chair: You're at halfway, Mr. Brock.

Mr. Larry Brock: Thank you.

The Chair: Mr. Genuis, you have two minutes and 15 seconds.

Mr. Garnett Genuis: Thank you, Chair.

Commissioner, you just confirmed that you are further investigating Randy Boissonnault in relation to the infamous other Randy affair. A partner at Randy Boissonnault's company sent many text messages claiming to be in communication with Randy Boissonnault and receiving direction from Randy about the work of the company. If he was given that direction, then that would clearly be a violation of the law. By his own admission, the partner lied by claiming that there was another Randy at the company. He also absurdly claimed that in every case Randy was mentioned, it was autocorrect.

You told us that your previous investigation looked at September 8. Now you're looking at other dates. I certainly welcome the further investigation you're doing in this regard.

I want to clarify something from Mr. Brock's testimony. It sounds like, in seeking information from Mr. Boissonnault and in seeking text messages across all apps and all possible phones, you're essentially using the honour system and that you're expecting honourable members to be honourable in handing over all of the in-

formation you've requested and not hiding anything. Is that correct? Is that the way you operate?

Mr. Konrad von Finckenstein: I will correct your terminology. We're not investigating. We were looking first to see if there was enough grounds and credible reasonable evidence to allow us to commence an investigation. We have come to the conclusion now that, no, there wasn't.

Now that the further emails have come out, we have asked for further proof of whether there was communication between Randy Boissonnault and Mr. Anderson.

Once that comes out, I will have to see the information and, on that basis, make a decision about whether there are reasonable grounds.

Mr. Garnett Genuis: I have a very specific question—

Mr. Konrad von Finckenstein: I can't answer your question now because I haven't got the evidence in front of me.

Mr. Garnett Genuis: Okay, but I just want to clarify one piece.

In your request for this information, you're using the honour system. You're asking Mr. Boissonnault for the information, and you're assuming that he's going to give you the information, and you're only using the information that he gives you. It's the honour system. Is that correct?

Mr. Konrad von Finckenstein: I wouldn't call it the honour system. I'm asking the person directly implicated to give me all the information that he has. On that basis, if I do launch an investigation, I can put him under oath, and I can put Mr. Anderson under oath. They would commit a criminal offence if they committed perjury. All of this is—

Mr. Garnett Genuis: In the initial stage—

The Chair: Thank you, Mr. Genuis. That is the the time. You'll be able to come back to this if there are further questions.

Ms. Yip, you have the floor for five minutes, please.

Ms. Jean Yip: Thank you, Chair.

I would like to return to the issue at hand. We are not questioning the powers of the House. The question is not about what parliamentarians can or cannot do. It is about what they should or shouldn't do.

I would like to go back to the letter and go back to the concerns shared by the RCMP.

The RCMP warns there are risks and implications of documents produced by the House motion in a potential criminal investigation. They warn that these materials will need to be set aside from an investigation and that there is significant risk that the House motion could be interpreted as circumvention of normal investigative processes and charter protections.

This should bring pause to all of us here. The RCMP and the Auditor General are warning parliamentarians—and I'm looking at the Conservatives here—of the risks and implications of a House order like this one. By clearly implying that there is criminality, the legislative branch led by Conservative manoeuvres is looking to direct or to influence the RCMP to investigate and to lay charges, infringing on operational and police independence. That is concerning in a democratic society.

Don't get me wrong. Our fact-finding work as parliamentarians is important, but when our work starts to enter law enforcement, institutions and parliamentary officers with the risk of jeopardizing the very values and trusts underpinning these institutions, then we have a big problem on our hands.

Besides the RCMP, the Auditor General has also raised concerns.

Commissioner, how many times have you sounded the alarm on parliamentary manoeuvres compromising your independence? Is this a normal occurrence since you took on the role?

• (1215)

Mr. Konrad von Finckenstein: No. I've never had any reason to make that kind of statement or to sound an alarm.

Ms. Jean Yip: In your view, what are the ramifications of a compromised independence for an officer of Parliament?

Mr. Konrad von Finckenstein: I think you have to look at it holistically.

There are three different principles at play here. One is the supremacy of Parliament. Nobody questions that. Another one is the independence of the RCMP to, at their discretion, decide whether there's evidence for criminal prosecution or not. Third, there's a Charter of Rights, which is overriding and protects Canadians. You have to make sure that those three, when you administer, don't interfere with each other and that they work together harmoniously.

What a letter to the RCMP says.... When you ask Parliament to use its rights to ask for information and to furnish it to us, etc., we have to be very careful how we use it so that it doesn't either violate the charter or impinge on our independence.

That's the problem that exists, and it's a perfectly valid reason to state that it's an issue. How they will resolve it, I have no idea. I'm not involved in that. It would be the same if it involved my office and our investigation. We would have had the same problem of trying to reconcile these three principles that govern our system.

Ms. Jean Yip: How would you use your office as an educational tool to educate the public in situations like this?

Mr. Konrad von Finckenstein: In situations like what?

Ms. Jean Yip: It would be with respect to the concerns that were just raised.

Mr. Konrad von Finckenstein: I'm not so sure that it's the function of my office to do that.

If we had a situation where we are investigating and where Parliament is ordering somebody to furnish it, etc., I would do the same. In my final decision, I would be very carefully walking through the various steps, saying here is this information and that

information, and there are these Charter of Rights concerns, etc. The way to come to a final and fair situation, respecting all three principles, would be A, B, C. That would be my approach. Without having the facts in a situation, I really can't elucidate any more than that.

Ms. Jean Yip: Do you think it's responsible of a member to pre-determine the outcome of an investigation and to publicly share this view?

Mr. Konrad von Finckenstein: It's freedom of speech. They can do what they want. I guess the electors, finally, will have to decide whether that was appropriate behaviour or not.

The Chair: Thank you, Ms. Yip.

That is the time, unless you have a short question.

Ms. Jean Yip: No. Thank you.

The Chair: Thank you very much. I appreciate it.

• (1220)

[*Translation*]

Ms. Sinclair-Desgagné, you have the floor for two and a half minutes.

Ms. Nathalie Sinclair-Desgagné: Thank you, Mr. Chair.

I'm going to say something. When it was my turn to speak in the last round, I was interrupted by two parliamentarians from two different parties—the Liberals and the Conservatives—who were muckraking. I find it ridiculous that the Conservatives are now accusing the Liberals of being undemocratic, when it's their members who heckle during question period under a leader whose every word is a lie pretty much. I think it's ridiculous. Nor will I defend the Liberal party, which has shown time and time again that it's incompetent and incapable of governing. I find it unfortunate that the Liberal Party and the Conservative Party are slinging mud at each other. Canadians deserve better. Quebecers certainly deserve better. It's really a shame. I wanted to point that out, because our committee is supposed to rise above the fray and not be partisan. Yet this committee is consistently dominated by two parties yelling at each other, and that's inappropriate.

Commissioner, I would like to come back to my last question. Based on your report, why did you assume that Ms. Verschuren was acting in good faith? After all, she was appointed chair of the board of directors, which implies a certain level of competence. It was clear that Ms. Verschuren had taken what she believed were the right steps to manage her conflicts of interest. However, she didn't meet the requirements of the act, which she should have known since she was the chair of the board of Sustainable Development Technology Canada and had received training. By not recusing herself, even by abstaining, she was able to influence a vote. That's absurd to me and I don't understand why we're acting in such good faith with her.

Mr. Konrad von Finckenstein: Your question is about the difference between “abstaining” and “recusing oneself”.

When people recuse themselves, they leave the room. If they aren't there, they can't influence the discussion. Other people are free to make comments without offending anyone or say that there's something inappropriate about the relationship between the chair and the company. For that reason, recusal allows the board to make a decision on the matter.

If someone says they are in a conflict of interest and simply abstains from voting, they remain in the room. However, their presence alone can influence the decision or affect the free flow of discussion. For that reason, the act requires that people recuse themselves.

For some reason that's unclear to me, Ms. Verschuren didn't do that. Sustainable Development Technology Canada allowed her to abstain from voting, but didn't insist that she recuse herself. The board held a general vote on resolutions as a whole, to settle everything, and that included Ms. Verschuren's companies. She voted for that. That's not possible: Someone can't say they are abstaining from voting on a specific thing due to a conflict of interest, and then vote on the resolutions as a whole, including the company presenting the conflict of interest. That was a technical breach of the act. I don't know, it may be the result of ignorance on some level or a lack of information, but the act is very clear: Ms. Verschuren was required to leave the room, but she didn't.

• (1225)

The Chair: Thank you very much.

[*English*]

Mr. Desjarlais, this is your last round. You have two and a half minutes, please.

Mr. Blake Desjarlais: Thank you very much, Mr. Chair.

I want to thank the witnesses again for being present.

I want to thank my colleagues for their good questions and to reiterate the comment made by my colleague Nathalie Sinclair-Desagné in calling for some order and decency in our work.

It has troubled me, Chair, in the last while that it seems as though truth and decency are oftentimes taking a back seat to partisanship. I think it's important, as we prepare to come back to session, that we try our best to unite on what is true. It's clear that there are problems in the government. It's clear that there are issues with procurement. It's clear that there should never have been or should not be conflicts of interest that misalign or damage our institutions.

I just wanted to make the point very clear that I do certainly agree. I call my colleagues' attention to what I perceive to be an issue that is impacting our work here in a negative way. I hope we can continue to co-operate in finding truth and recommending real solutions to ending the systemic issues that are present.

I do want to turn, Commissioner, to the report of the OAG in relation to the SDTC. One of the issues we investigated when we received this report was roles. There was no clear definition of roles or terms of reference that would define roles, particularly when it came to an issue of the assistant deputy minister attending meetings of the board.

You may be familiar with this. It's section 6.74, as follows:

An assistant deputy minister of the department regularly attended meetings of the foundation's board and received all board materials. But neither the department nor the foundation documented what they expected from this role. We found that the directors' understanding of the assistant deputy minister's role did not align with his own. This ambiguity led the board to believe that the assistant deputy minister's presence at meetings provided an implicit agreement by the department for any decisions that the board made.

It's deeply disturbing.

Can you comment on how that could affect the perception of or even the very real conflict of interest that could be present when there isn't a clear definition of those board members' responsibilities—particularly when it came to even having a department member present, especially when the department member who was present had a different or conflicting understanding of their role there? The board perceived it as consent when in fact the ADM did not.

The Chair: Thank you, Mr. Desjarlais. Your time is up. I will allow the commissioner to respond. I would just ask that you not interrupt, because that will end it.

Commissioner, you have the floor for a response. Then I'll turn to our next member.

Mr. Konrad von Finckenstein: The assistant deputy minister is not a reporting public office holder. Any conflict he has doesn't fall under my regime, first of all. Why he was invited there, I don't know. That was up to the SDTC to decide. If they saw his presence being there as consent, etc., that is troublesome, because they are supposed to make their decisions on the basis of their best judgment, not because it suits the department.

As I say, that's an observation from the Auditor General. It really has nothing to do with us at conflict of interest. A good government requires that in a meeting of the board of directors, you have the people who make their decisions based on their best understanding and judgment and you have resource persons there. You do not have persons there whose influence or whose position or something could be seen as tacit approval or disapproval.

The Chair: Thank you.

Mr. Perkins, you have the floor for five minutes. You have the last Conservative spot.

Mr. Rick Perkins: Thank you, Mr. Chair.

Thank you, Commissioner. I would like to follow up briefly on Mr. Genuis's last question. In the mysterious Randy emails and documents and the request to access that you had, just so I'm clear, it's on the honour system, I think you said. He is not compelled legally under oath or anything to provide you with all the documents. It's just an honour system. Is that correct?

Mr. Konrad von Finckenstein: Actually, he came forward. When this thing first erupted, he wrote to me, "I'll do anything I can to clear my name. What do you need?" I said I needed regarding September 8 any kind of communications he had on that day with Anderson. He gave me that.

Now there's September 6 and 7, and I'm saying, "This is totally new information. Would you please provide me every kind of communication you had on those two days with Mr. Anderson? The issue, obviously, is whether you had dealings with him or whether your name was used in vain in order to enhance the position of Mr. Anderson."

• (1230)

Mr. Rick Perkins: He was supposed to provide everything. He didn't, and you went back to him.

You have no way of knowing whether or not you actually have every document.

Mr. Konrad von Finckenstein: My capacity to investigate him is based on me being able to have reasonable grounds to believe.

The mere fact that his name was mentioned in an email on September 8 and nothing else—it was "Randy"; it didn't even say Boissonnault—is not enough to launch an investigation to constitute reasonable grounds to believe that something is wrong.

Now we have two more days and suddenly seven times the name Randy was used. I want to know, first of all from him, what were his communications, if any, on those two days. Once I have that, I will have to decide whether I have reasonable grounds to believe that an investigation is warranted.

Mr. Rick Perkins: That's even though he was a 50% owner in the ultimate company that had very few employees.

Mr. Konrad von Finckenstein: He's entitled to be an owner of a company. That's as long as he's a silent one.

Mr. Rick Perkins: There were very few employees. There weren't many Randys there, unless you believe one of the Liberal MPs who may have said it was "Randeep".

I'll move on to SDTC. Part of your investigation was the MaRS accelerator fund. Ms. Verschuren chairs MaRS. Did you go further into that?

For the period the Auditor General audited, from 2017 to 2023, did you investigate the fact that MaRS received almost \$22 million from ISED? About a third of their funding comes from the federal government. Did you investigate at all the conflicts that she is in with regard to funding from MaRS to her companies, NRStor and others, as part of that?

Mr. Konrad von Finckenstein: How does it constitute a conflict of interest if MaRS receives funding from the government on a different program?

Mr. Rick Perkins: She chairs an organization that receives federal funding. She then has that organization vote for money for companies she has ownership interest in.

You didn't look at that. The answer is yes or no and you didn't look at that yet.

Mr. Konrad von Finckenstein: Michael.

Mr. Michael Aquilino: Again, I just want to make sure.

Is the allegation that MaRS directly receives funding from SDTC or is it that they facilitated the funding of other companies through their role as an accelerator?

Mr. Rick Perkins: Look, I thought it was pretty clear. They received money. She chairs it. That fund that has federal government money has given money to a company she owns, but since you haven't looked at it, I'll move on.

I think what's needed is a little more investigation, in my mind, by the Ethics Commissioner into this whole scenario. Every time we do an investigation there is more uncovered, so I'm going to move the following motion which has been given to the clerk, if the clerk could circulate it.

The motion is:

That, given the Auditor General's audit of Sustainable Development Technology Canada, and given that the government-appointed board members approved:

\$330 million towards 186 projects (44%) in which nine Order-in-Council board members had conflicts of interest in violation of the Canada Foundation for Sustainable Development Technology Act; and

\$58 million towards projects that were outside of SDTC's spending restrictions outlined in its contribution agreements with ISED;

the committee therefore express extreme concern with the blatant disregard of taxpayer funds, call on the Minister of Innovation, Science and Industry to recoup these funds for Canadian taxpayers within 60 days following the adoption of this motion, and request that the Ethics Commissioner investigate all 186 conflict of interest votes and the culture of conflict of interest at the SDTC Board.

I put that forward, Mr. Chair. I believe you have—

• (1235)

The Chair: Thank you, Mr. Perkins.

We are just going to make sure what you read is similar. It has been sent.

I'll turn the floor back to you in a moment, Mr. Perkins, and then I'll look for other speakers.

I am going to excuse our witnesses because I believe this is not going to be a quick discussion.

Commissioner, thank you very much for appearing. Of course you are welcome to sit and watch the debate unfold since it does touch on your office, but you can also check the notes afterwards.

Ms. Iqra Khalid: I have a point of order, Mr. Chair.

The Chair: Mr. Aquilino, thank you as well.

Ms. Khalid, you have the floor for a point of order.

Ms. Iqra Khalid: Thanks, Chair.

I don't think we need to excuse the witnesses until at least you've ruled that the motion is in order. I know we have one more round, for the Liberals at least, to be able to ask further questions of our witnesses.

The Chair: I view the motion as in order as a matter at hand motion, and I'm going to turn the floor back to Mr. Perkins.

Mr. Rick Perkins: Thank you, Mr. Chair.

As members know, this came to light a little over a year ago as a result of whistle-blowers providing hundreds and hundreds of pages of documentation to the Department of Industry. They then had a couple of months of private discussions with the CFO of the Department of Industry, who called the—

Mrs. Brenda Shanahan: Chair, I have a point of order.

The Chair: Mr. Perkins, I have a point of order from Ms. Shanahan.

Mrs. Brenda Shanahan: Before the witness leaves, I'd like to challenge that. I do challenge your decision.

The Chair: You're challenging the decision that this is in order.

Mrs. Brenda Shanahan: I'm challenging the decision that the motion is in order and that the witness be allowed to leave. We still have one more Liberal speaking spot.

Mr. Garnett Genuis: Chair, I have a point of order.

You cannot retrospectively challenge a decision that has already been implemented. If the chair makes a decision, you can challenge the chair in the moment when the decision is being made. I can't decide that I don't like a decision you made an hour ago in this meeting and try to undo the proceedings that have happened since. It was ruled in order. There was no challenge. Mr. Perkins began his comments, and then Ms. Shanahan maybe got a note from a staffer, or maybe she—

Ms. Iqra Khalid: I have a point of order on that same point.

The Chair: Hold on. I'm hearing Mr. Genuis. I'll hear your point of order after.

Mr. Blake Desjarlais: I have a point on that same point.

The Chair: Okay. I'm taking a list of points of order, just one at a time.

Mr. Genuis, you can wrap up, and then I will hear other points of order.

Mr. Garnett Genuis: I'm done, Chair.

The Chair: Thank you.

Ms. Khalid, you have the floor, and then I will hear Mr. Desjarlais on a point of order.

I see, Mr. Desjarlais, your hand is up to speak to the motion as well.

Ms. Khalid, you have the floor.

Ms. Iqra Khalid: Thank you, Chair.

To counter what Mr. Genuis said, the ruling was made and within a couple of seconds, you dismissed the witnesses and you gave the floor back to Mr. Perkins. This was not an hour beyond what the ruling was. This was right then, instantaneously.

I agree with Ms. Shanahan on challenging your ruling.

The Chair: Thank you.

Mr. Desjarlais, you had a point of order.

Just one second, Mr. Brock. Mr. Desjarlais is next.

Mr. Blake Desjarlais: Mr. Chair, I believe this is something we can overcome together as a committee. It's a very easy procedural issue that has obviously taken place here, and I respectfully ask that we get unanimous consent from everyone here to allow the five minutes of questioning that the members are entitled to. It's just a matter of equivalency.

I know if I was the member who was cut off from my questioning of a witness, just like if I was a Conservative member, a Bloc member or a Liberal member, that wouldn't be procedurally fair to disallow time for questions. I think it's very reasonable to suggest that if we can just allow the five minutes with the Ethics Commissioner, they can ask their questions, and then we can return to the debate on this motion.

I hope that it's fair and that members can understand that this isn't my attempt to try to delay this any longer. Maybe we can get unanimous consent to just do that. Chair, maybe you can seek unanimous consent, and maybe members could just calm down a little and allow the five minutes, and we could continue our meeting to get to the debate on the motion. I think that's the most reasonable and the most fair thing to do without descending into chaos.

The Chair: Thank you, Mr. Desjarlais.

I have one more point of order from Mr. Brock.

I see hands going up, but if those are points of order, just say so because I'm differentiating those from a speaking list.

Mr. Brock, you had a point of order.

• (1240)

Mr. Larry Brock: I'm withdrawing, Chair. Thank you.

The Chair: Ms. Shanahan, you had had a point of order.

Mrs. Brenda Shanahan: I appreciate Mr. Desjarlais' comments. I believe the commissioner has gone, but I want to point out that I was also challenging the decision that the motion was in order because indeed it's not the topic of the meeting. It's not on notice, and it's been....

The Chair: First of all, I'm going to address Mr. Desjarlais' point, because I think it's the most relevant and speaks to the good work of this committee.

Unfortunately, it's very difficult for me to do that because as motions come up, they have to be dealt with. Technically, you're right. I could seek UC on that, but that also opens up the possibility of other manoeuvres coming up as well. That is not how we've operated in the past. We deal with motions as they come up.

Ms. Shanahan is challenging the chair. That is non-debatable. I'm going to ask the clerk for a roll call on that to either sustain my ruling, which is a "yes" vote, or overturn it, which is a "no" vote. If you sustain it, we will turn the floor back over to Mr. Perkins to continue the debate on the motion he has put forward.

Clerk, it's over to you, please.

Mr. Blake Desjarlais: On a point of clarification, is the challenge on whether the motion is in order?

The Chair: Yes. That's correct.

Mr. Blake Desjarlais: It's not whether we're agreeing to the motion.

The Chair: Correct. It's just whether the motion is in order to be debated now.

Mr. Blake Desjarlais: I see.

(Ruling of the chair overturned: nays 6; yeas 4)

The Chair: It is defeated.

I have excused the witness.

This meeting is adjourned.

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