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Chair

The Honourable Judi Longfield

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● (0940)

[English]

The Chair (Hon. Judi Longfield (Whitby—Oshawa, Lib.)): Good morning. I'd like to call to order the fifth meeting of the subcommittee on disclosure statements and conflict of interest code for members of the House of Commons of the Standing Committee on Procedure and House Affairs.

Having said all that, I would welcome Dr. Shapiro. It's so good to have you back. I see you've brought Diane Champagne-Paul with you; we're pleased to see you, Madame. It's always good to have you here.

Dr. Shapiro, I think you responded very quickly to the letter we sent, asking you for an update, so we anticipate the words you have for us today.

Mr. Bernard Shapiro (Ethics Commissioner, Office of the Ethics Commissioner): Thank you very much.

I'd like to begin, actually, by thanking the members of the subcommittee for their continuing interest in the work of the Office of the Ethics Commissioner. This is much appreciated. We know many other things are on your mind, and everyone else's, in the current context.

This morning I would like to make a brief statement concerning four particular issues. The first of these is an update on the disclosure summaries in the public registry. The second is the preliminary results of a survey of members of the House of Commons with respect to their experience with our office. The third is the treatment of sponsored travel. Finally, there is an update on the review of the confidential disclosure statement. I'm going to say something relatively brief on each of those topics, and I would of course be glad to respond to questions after I am through.

I will begin with the disclosure statements and disclosure summaries. As of April 8, 306 confidential disclosure statements have been received, almost all of which were received within the time limits given in the first place. This means two statements have not been filed with my office—that is, there are two members of Parliament who have not filed statements with the office. They have both been contacted numerous times; I have ceased to make the further effort. They will just appear in my annual report as not in compliance, simply because they haven't submitted the material in the first place.

The review of the received files is ongoing, but 135 of them have been completed, and the associated disclosure summaries have been filed in the public registry. Aside from a particular reporter in the Ottawa area who has consulted the registry on more than one occasion, there has been very limited interest in the public registry, with only one request for a fax copy of the disclosure summaries of members of the House from a particular province—that is, the request in that case was to fax the disclosure summaries for all the members from that province.

It is clear our review of the remaining files has not been completed in a timely way—that is, it has taken far too long; we should have been through all 308 by now. This unfortunate delay has been caused by the loss of a large part of our staff and expertise, who chose to remain in the public service rather than move to become part of the parliamentary organization. According to legislation, each member of our staff had to decide whether to stay with the public service and leave our office, or join the parliamentary service. The advisors—most of the people who dealt with the files—almost uniformly chose to remain with the public service, where they felt their chances for mobility were greater. They would have more access to future opportunities, they felt.

However, we do now have sufficient resources for their replacement and we have completed the recruitment process, which should enable us to return to an appropriate level of service in the coming weeks.

On the survey of members, some weeks ago my office circulated a questionnaire to all members of the House of Commons with a view to initiating what I hope will become a systematic attempt to elicit feedback from members with regard to the work of our office, as we intend to repeat the survey on a not-less-than-annual basis.

As of April 5, 2005, we have received 62 responses to the questionnaire. It focused on the services of our office, the confidential disclosure statements, and the public summaries of these statements. Of course, not all respondents responded to all questions, and we cannot be sure those who did respond—approximately 20% of the members—are a representative sample of all 308 members.

Nevertheless, I believe the responses we did receive have some value in considering our performance thus far and in planning for future changes; certainly, future changes will be required.

Overall, with respect to the services of the office, it is clear we have not yet reached a high enough level, although, as can be seen on the charts available to you—I'm referring to the coloured pie chart you have with your material—few members find our services poor or unacceptable. Up to 10% do so. The percentage of members finding our services very satisfactory, which is somewhere between 12% and 30% depending on a particular item, is nowhere near high enough to be acceptable for the future. I regard something like 70% or 75% as a standard for an office delivering services in an appropriate way.

With respect to particular comments, there were many helpful suggestions. Without listing each individually in this initial summary, some general statements can be made. Thus, it would appear there is no desire at this time to post members' disclosure statements on the Internet, as is done for those of public office-holders.

There is some sentiment in favour of loosening the requirements of the members' code while, in some cases, increasing those for the public office-holders. There was some sense that MPs responding felt we ought to be stricter with the public office holders, who have, of course, a code different from, and less strict than, that of the MPs.

● (0945)

This is a matter, of course, for this committee itself to discuss and plan for the future.

There is some disquiet about the need to provide information about spouses and/or dependent children.

There remains some concern about confidentiality. Although no one could point to an actual occasion where confidentiality was breached, there's some concern about having these disclosure summaries on the public registry. Some people feel it is just too much information. People consulting the public registry constantly say it's too little. So somewhere in there is a place that would be comfortable for both parties.

It's clear that the office has not been able to respond to members in as timely a way as would be appropriate.

Finally, there is the question of the confidential disclosure form itself. At least for some people it's either too long, too detailed, not well enough worded, or not closely enough aligned with the legislation and the associated code. So we have to work on the form.

There were also positive statements made. Some people said, "Excellent", "I'm satisfied with the form and the process", "The staff is very professional", and things of that sort. I was glad to be able to read them. It gives you hope that you haven't gone totally astray. On the other hand, it's by focusing on the problem areas that we're likely to make the most helpful changes in the future. It's all very well to know this or that is going well, but it's by focusing on the other areas that you make the appropriate changes.

[Translation]

I will now talk about sponsored travel. I am required to table an annual report on sponsored travel in the House, and my first such report was forwarded to the Speaker and tabled in the House on January 31 of this year. In addition to the listing of sponsored travel over the relevant period, the report outlined, for the information and

benefit of members, the approach of my office to certain administrative matters such as: supporting document for transportation and accommodation; value of benefits received, requirement of the member's signature; time of filing in the Public Registry; and inclusion of supporting document in the Public Registry.

My intention would be to include these administrative matters in an interpretation bulletin to be sent to all members, but if the subcommittee has other recommendations to make, I would be glad to discuss them with you.

Finally, I will discuss the revision of the confidential disclosure statement. My office only recently started to discuss options for the revision of the confidential disclosure statement on the basis of the October 26 interpretation bulletin, the very recent feedback obtained from the members' survey as well as other comments from members, for example the guidelines for reporting "material" changes.

This work is very preliminary, so I am not prepared to bring forward, at this time, any revised form. I would, however, like to propose to enlarge our own internal working group to include a member of the subcommittee's research staff or anyone the subcommittee will deem appropriate. I believe that this would ensure a constant liaison with your subcommittee at the working level. I hope that the subcommittee will agree to such a proposal.

Whether this request is granted or not, we would be pleased to meet with you again, in mid-May, to discuss the progress of our revision work.

Thank you.

[English]

The Chair: Thank you, Dr. Shapiro.

I'll now turn it over to members of the committee. Who would like to begin?

Mr. Laframboise.

● (0950)

[Translation]

Mr. Mario Laframboise (Argenteuil—Papineau—Mirabel, BQ): Thank you, Madam Chair.

I would like to start with a few brief questions. Do you have a procedure for informing the party leader in the case of the two members who have not submitted their confidential disclosure statement? How is that being done?

Mr. Bernard Shapiro: Yes, that was done months ago now, but I have not received a reply.

Mr. Mario Laframboise: You did not contact the party leader's office again?

Mr. Bernard Shapiro: I have made a number of efforts with the members, the leaders, and so on, but I have received no reply. That is enough.

Mr. Mario Laframboise: I am going to ensure that there are no members from my party in this category.

You say that there are delays because of the staff turnover. How many people have left?

Mr. Bernard Shapiro: About twelve people have left.

Mr. Mario Laframboise: And how many people were there on staff in all?

Mr. Bernard Shapiro: Almost half the staff has left. The problem is that these individuals were experienced professionals. Things are all right now. We have hired some new people.

Mr. Mario Laframboise: Do you have a program that will tell you when all these files have been processed, or is it too soon for that?

Mr. Bernard Shapiro: It is too soon. I hope they will all be done in the next two or three months. I am not sure, because we have a great deal to do, including training our new staff. It is quite difficult, but it is important that we finish this task. At the moment, things are terrible; it is a nightmare for me.

Mr. Mario Laframboise: I do not doubt that. I think the survey was a good idea. Members were appreciative. I have already communicated our party's position. I got in touch with a representative in your office, particularly regarding the summary.

Of course, we have to ensure that we cannot trace members' property in the summary, because when a party takes a stand against organized crime, as our party has done... It is fine if they know the address of our riding offices. However, if we deal with a Caisse populaire when we buy a cottage, for example, the address of the Caisse populaire should not appear on the summary. If the name of "Petite-Nation Caisse populaire" is shown, people will know that I have a cottage in the Petite-Nation region. This should not happen.

I know that you are in the process of revising all of this. We must ensure that the information available does not make it possible to identify the individual. People should not be able to find us.

Your suggestion that the committee researcher take part in your discussion on revising the confidential report seems appropriate to me. That is fine.

Mr. Bernard Shapiro: Thank you.

[English]

The Chair: Thank you.

Mr. Godin.

[Translation]

Mr. Yvon Godin (Acadie—Bathurst, NDP): First of all, thank you very much.

I am thinking about all the work that has been done. It was definitely not easy, because this was something new. But I do think it is a step in the right direction. In addition, you have lost twelve people. With everything that is going on in Ottawa, they may want to come back. They may see that as an opportunity for a promotion.

With respect to the survey, we cannot expect a response of 100 per cent. If you got about 60 replies, I think this could be very helpful. Often people respond to surveys after discussing them with other colleagues. So that would mean that one's answer could reflect the views of several people. I am quite sure of that. One individual replies to the survey, but it reflects the opinion of others as well.

So 306 people have submitted their statements and two have not. What happens next? We have done our report since then, but there are people who travel. You referred to sponsored travel. Do you think they are providing information freely? It is one thing to provide all the information initially, but there must be a follow-up as well.

One member told me that he had attended a game in Calgary and that he had been singled out in the newspapers. The journalists mentioned him, because he had reported his trip himself and had shown his ticket for the game. He had had a group rate that was not public. I honestly think that it is sometimes better not to think about such things. We must remind people regularly not to forget to report their trips.

You know that members of Parliament, between their activities in their riding and activities in Parliament, sometimes are a little distracted. If that went on in that case... We can forget things without being dishonest. That is a fact of life. That is just how things go. I would perhaps suggest that you issue a reminder, if you do not have too much work otherwise.

● (0955)

Mr. Bernard Shapiro: That is a good idea. We can do that, with the technological means available at the moment. It is not very difficult to remind members that certain things are required of them.

Mr. Yvon Godin: As you know, Madam Chair, our employees know where we are going, but sometimes we do not even have time to think about that ourselves. However, if one of my employees got a reminder at the office, that person could tell me that I am supposed to file a report if I go to Taiwan, for example. The employee could also complete the form, and all I would have to do is sign it. I think that might be helpful.

Mr. Bernard Shapiro: That is a good suggestion. Thank you very much.

Mr. Yvon Godin: I certainly agree that someone should assist you in your work.

Mr. Bernard Shapiro: If possible.

[English]

The Chair: I'm going to wait to have someone volunteer, because I'm loath to suggest to a member of staff that we want them to do it. I suspect there's someone who will want to, but I'm certainly not going to put that burden on someone without having talked to them.

Mr. Bernard Shapiro: We will proceed in any case, and we'll certainly be ready by mid-May with a revised form. It would just be helpful for us to have someone, if possible, given the other priorities.

[Translation]

Mr. Yvon Godin: We would be asking for a member of research staff, not a member of Parliament or a member of his or her staff.

[English]

The Chair: I would have less trouble asking an MP to do it than a member of the research staff, Mr. Godin.

Some hon. members: Oh, oh.

The Chair: They're busy and they multi-task, so I think we'll find someone who will do it.

Just on that, Mr. Shapiro, I hope that before you send it out, no matter how we get to that, this committee will have an opportunity to review it.

Mr. Bernard Shapiro: You can be absolutely assured that I'm not going to prepare any form until we've had the chance to discuss it here and make sure you're comfortable with the revisions; otherwise, we won't send it out.

The Chair: Okay, that would be helpful. I think we felt before that if parliamentarians had seen it we might have pointed to some of the—

Mr. Bernard Shapiro: I think that's true, and I should recall what the context was at the time. We knew in advance that we should have had a discussion first, but as you remember there was the election call, and we had to have it ready as soon as the election was over. There was no one with whom we could interact. But we absolutely agree, in principle.

The Chair: I know that Mr. Reid has some questions, but he's also sort of reviewing, so I'm just going to take a little time while he's doing that.

Given the political climate, we could be going into an election. A large number of submissions haven't been reviewed, and two have failed to comply with the act and are in violation. I'm a little concerned we'll go merrily along and that will never be known. We certainly have to resolve this very quickly.

Is there a provision in the act where those two can actually be named?

Mr. Bernard Shapiro: I intend to name them in my annual report, which will be out July 1.

The Chair: Dr. Shapiro, with all due respect, we could be—

Mr. Bernard Shapiro: I understand, but that's not something my office can easily respond to. It's in the hands of the electoral process. I've tried over and over again to remind both of the individuals involved, their party leaders and everybody else, and the Speaker of the House, to please submit.

About two months ago I told my office, "Forget it. We've made every effort. We've sent out all kinds of letters of consent. We've had no response, so it's over to them."

• (1000)

Mr. Yvon Godin: Send a letter to the whip.

Mr. Bernard Shapiro: I'll send another one. We haven't sent only one. I understand who you're asking about. I'm glad to send another one and try to follow it up, but there's a limit to how often you can remind people who do not respond. There's a lot to do, and that seems like a waste of time, but I will certainly do it.

The Chair: I'm also concerned we have such a large number that haven't been filed yet.

Just on sponsored travel, you indicate you have a number of items that you want to look at—supporting documentation and travel for accommodation, and so on. The second one surprises me. On listing the sponsored travel and all the documentation, is it provided in the act that your office would make some judgment about the value of benefits received?

Mr. Bernard Shapiro: It's sort of necessary because people are asked to give the value, so I have to interpret what that means.

The Chair: Okay. I'm sorry. So you're not asking whether they received benefit or value for what they spent; you're asking for the amount.

Mr. Bernard Shapiro: I'm asking just what the amount of the benefit is, that's all.

The Chair: All right. Sorry. Then I misunderstood on that one.

How often is the public registry updated with respect to sponsored travel? Is it just annually, or is it a continual kind of thing?

Mr. Bernard Shapiro: The report is annual, but it's updated continually. When we get the material we add it to the public registry.

The Chair: And that can be accessed at any time, like the other.

Just refresh my memory. How long does someone have between the time of travel and...?

Mr. Bernard Shapiro: It's thirty days.

The Chair: And what are the sanctions, or what is the procedure if one does not file within thirty days?

Mr. Bernard Shapiro: We don't have available to us any sanctions, and we have no way of knowing if someone has gone on a trip. We only know when we get the report.

The Chair: So there are no penalties for not filing?

Mr. Bernard Shapiro: That's right. We just don't know they've not filed. We don't have an independent system of knowing who goes where, when. We rely on the honesty and on the commitment of the members. The same is true, I should point out, about the confidential disclosure form. We don't audit these forms; we review them. And there's a big difference. The assumption is that people tell it the way things are, and so far they have, as far as we can tell.

The Chair: I can appreciate that you may not audit unless you are asked to. However, I guess I'm surprised that the code has no teeth in terms of having a mechanism if you don't file. You keep making the phone calls, and the same thing with the sponsored one.

Jamie is just pointing this out:

The Ethics Commissioner may, on his or her own initiative, and on giving the Member concerned reasonable written notice, conduct an inquiry to determine whether the Member has complied with his or her obligations under this Code.

Is that really nothing more than just calling them and asking, "why haven't you done it?"

Mr. Bernard Shapiro: Yes, but there's a difference here between filing the confidential disclosure statement and the sponsored travel. I would have no idea in advance who was going where for whatever reason, so I couldn't call them and ask them. What we do is remind them from time to time, which is the suggestion we just had. On the confidential disclosure, I of course know exactly who's filed and who hasn't; there are two people who haven't, and I could remind them again.

The Chair: You might, yes.

Mr. Bernard Shapiro: It's not something you have to inquire about, other than to ask for it. It's not that I have some suspicion that they're hiding something or anything like that.

The Chair: Regarding the sponsored travel form—and it's been a while, because I haven't taken sponsored travel under the new code—when I went on sponsored travel previously, I think I was asked to list those who accompanied me. I think there was a place where, if it was six members of Parliament, they would be listed. So I would make the assumption that if there was a trip to Taiwan—and I'll just use that as an example—and Mr. Godin had filed, as I know he would have if he had gone, and he would have filed within the required time limit, he would also have listed five other people who went with him. So you might be able to say Mr. Godin and Mr. Reid have done it, but the other three haven't. And would you then get on the phone and...?

● (1005)

Mr. Bernard Shapiro: We would, to remind people. That's correct. And it is provided for in the form.

The Chair: Right. Okay.

Go ahead, please, Mr. Godin, and then Mr. Reid.

Mr. Yvon Godin: I don't think we were responsible for saying who was with us on the trip.

Mr. Bernard Shapiro: You are responsible for that. The form does say, "who accompanied you, if anybody?", and you are asked that. People have interpreted that differently, in my experience. Some people will say, "my wife and two children were with me", or if it's another friend or some relationship, not another member, and other people will actually list the members they went with.

Mr. Yvon Godin: Okay. I think that's how I interpreted it.

Mr. Bernard Shapiro: And that's fine. When we get the form, our only concern is with the person who filed the form. If we happen to notice that there's another MP listed on it, then we'll call. But you're not obligated to do that.

Mr. Yvon Godin: Just for your information, Madam Longfield was kind of surprised there was no penalty if you did not report, but when it all came out about the minister who was taking the Irvings' plane to go salmon fishing in Restigouche, there was no penalty, and they did not report it. Everyone was aware that was going on, and nobody was getting punished over it.

I want to recommend—and I don't know if you'll agree with it—that when this happens, a letter be sent to not just the two persons involved, and not just the leader of the party, but also to the whip of the party. I'm serious about that, because it's the whip's job to look at the behaviour of the party members.

Mr. Bernard Shapiro: I got your message. *Je vais le faire.*

Mr. Yvon Godin: It's not that I'm scared my job is being taken away, but we are looking at all that stuff too, and I just wanted to suggest that. I think that should be for another discussion by the party.

Mr. Bernard Shapiro: Sure. Thank you.

The Chair: Dr. Shapiro, it's my understanding that you could report to the House at any time on issues of non-compliance. Are you intending to do that any time soon?

Mr. Bernard Shapiro: The answer is that I had not been intending to. I hadn't even thought about it in those terms, quite frankly. I had thought about it in terms of including the issue in my annual report, which will be at the end of June. What you're suggesting, I think, is whether I want to do it before that.

The Chair: I think that's what I'm suggesting.

Mr. Bernard Shapiro: I'll take it under advisement.

The Chair: Mr. Reid.

Mr. Scott Reid (Lanark—Frontenac—Lennox and Addington, CPC): I just have an observation. I suspect that if the two recalcitrant members of Parliament were aware that you were thinking of doing that prior to the election, it might focus their attention. The prospect of being hanged in the morning focuses the attention. That's not a recommendation or anything else. It's merely an observation about human nature.

I have my own disclosure form that you sent to me back on February 9, telling me what would be disclosed and what would not be disclosed of the items I submitted. Looking at it, and trying to look at it from the perspective of someone outside who is hunting for evidence of conflict of interest, which I assume is a legitimate activity for outside people, reporters, and so on—if it weren't, this document would be made public—I was trying to figure out whether or not this is a document that revealed, without going overboard and revealing things that are not relevant from that point of view, everything that ought to be revealed. And I was trying, unsuccessfully, to find the relevant part of the code that would govern what you are and what you are not permitted to deal with.

I'll come back to one specific thing. I'm just wondering if there's an alternative way of dealing with this. One of the things that is disclosed for me is that I'm the guarantor of a certain number of loans that are secured by a certain amount of money placed in a collateral securities account. The securities account number is given and the institution—CIBC—is given. It doesn't indicate for whom the loans are guaranteed, but presumably, if there were a conflict of interest, the problem wouldn't be that I have it at CIBC versus the Royal Bank; it would be who it is I happen to be guaranteeing the loan for.

I think that was the only example that really struck me, looking at my own. I have not gone down and availed myself of the opportunity to put through other people's disclosures with the same sort of thought in mind. But given that someone like me, who has a fairly large amount of assets, is the sort of person one would be looking at most typically, I just wonder if there might not be merit to that particular kind of thing and changing—only of course, if the code allows you to do this—the method in which the disclosure occurs, bearing in mind its objective.

● (1010)

Mr. Bernard Shapiro: First of all, the code doesn't really specify exactly how that's to be done. So that isn't the constraint.

I think you are right that in this particular case, if someone were looking for a conflict of interest, it would be more interesting to know who you were guaranteeing loans for than which bank you were dealing with. This comment was made at least once in the response to the questionnaire itself. I remember reading through the questionnaires.

Mr. Scott Reid: That might have been my comment, actually.

Mr. Bernard Shapiro: It might have been. It was certainly a CIBC comment, I remember that.

I think, actually, it's a good suggestion. It raises interesting problems, and we'd have to think it through, because it raises the question of whose privacy we are protecting. I mean, that's the interesting question about that. That is, the people you're dealing with, who you're guaranteeing loans for in this particular case, have their own rights to be respected as well, and we'd have to be quite careful about how to figure that out. But it's an interesting idea, and I'm glad to think it through.

The code isn't the restriction in this case. What we're always trying to do is provide enough information to give the public some idea of what might be at hand, but not more than would be required, simply to protect the privacy of both the member and the member's family and other people who might be involved.

It is the case that it's a kind of conundrum, because the few people who come to look at the registry all walk away disgusted. Whatever it is they're looking for, it's not there. They're looking for something else. Yet there are lots of members who feel we're already telling too much. So it will be a case of trying to adjust the balance in there somehow, so that we say enough so as not to make a mockery of the public registry, so you don't invite people to literally no information just for the sake of seeing no information.

I'm open to suggestions. The one you gave is an interesting one, and we'll certainly think it through. But that's the conundrum in all this. The code doesn't specify, and we're trying to give some information while still remembering that this is a confidential disclosure statement on which this is based.

The other alternative, which is used in some jurisdictions—not in Canada, incidentally—is to just not worry about that, and disclose. Disclosures are not confidential; they are just out there. And whatever you decide is going to be in the form, you make the whole thing available. That's a dramatically, radically different approach. Some jurisdictions use it. It has its obvious disadvantages. So we're trying to rest somewhere in that uncomfortable middle.

Anyway, thank you for the suggestion.

Mr. Scott Reid: No, I take your point. That raises another question, which I haven't thought of until now. I gather you are still bound by the provisions of the Privacy Act, is that right?

Mr. Bernard Shapiro: No.

Mr. Scott Reid: You're not.

Mr. Bernard Shapiro: It doesn't mean we have no concern with people's privacy, incidentally.

Mr. Scott Reid: I hadn't thought of it, because this is not a loan to a family member, but I could imagine if one had guaranteed a loan for one's improvident sibling or something of that nature, they might have a reasonable—

Mr. Bernard Shapiro: It could just be a poor sibling.

Mr. Scott Reid: A poor sibling. That's a bit more appropriate, sure. They would have a legitimate fear that they might be perceived as being improvident. I take your point there; that's a good thought.

I just wanted to confirm that you do have discretion to disclose information at times other than in your annual report if you think there is a reason to do so.

Mr. Bernard Shapiro: That's correct.

Mr. Scott Reid: You update people's forms periodically.

Mr. Bernard Shapiro: Generally, that would be on an annual basis. Once we get through the first set, once we have all the initial ones done, so to speak, then they will be reviewed on an annual basis. You'll be sent what we have, and you will be asked to update it, see if there are any changes. We do that annually.

We haven't definitely decided, but we'll probably do it on some basis like your birth date or something of that sort, so it doesn't all come at once. There would be a reasonable number coming throughout the year so that the staff could manage it.

Mr. Scott Reid: Let me give you an example from myself, my disclosure form. I submitted it. After I submitted it, I submitted a letter to you informing you of a gift I had received in excess of the minimum amount. Does that mean if I were to go down to your office now and ask to see my disclosure form, I'd see that it had recorded that additional gift?

Mr. Bernard Shapiro: That's correct. We try to update them on an ongoing basis as possible. We don't often do it the following day, because there tends to be an overload in the office, but we try not to just wait for an annual basis. When we get new information, we put it in.

I'll give you a personal example, what we've been doing in my case. Because my wife died in November, my situation changed materially. So I've been bringing forward the documents, so to speak, and they're just being added to the file as I bring them forward.

•(1015)

Mr. Scott Reid: This is not a question, it's an observation. It's meant as much for my colleagues and their parties as it is for yourself, Dr. Shapiro.

You had made a request that the information be made available to be placed on a website and therefore available, as websites are, to everybody who has access to the Internet, 24 hours day. As things stand now, information in your office is available only during your office hours, and to those who turn up on site, or who request it by fax.

For those of us who understand how the news cycle works, if a story comes out in the Saturday morning newspaper—it doesn't really matter whether it's correct or incorrect information, but let's imagine it's incorrect information on some member and the disclosure indicates they are doing something inappropriate, unusual, or worthy of negative commentary—they can't actually go back and direct any other reporter who does follow-up questioning with the information that sets the record straight for a full 48 hours, by which time, to some degree, the story has become entrenched.

I mention that because that problem occurred to me after I'd spoken to my caucus about your proposal and after it had received an unenthusiastic response. It is a concern that I have. Information that is available only to the person who is reporting it is by necessity, or by its nature, dangerous information.

Mr. Bernard Shapiro: By way of comment, I certainly have no intention of bringing that proposal back to the committee, because the response in the first place wasn't enthusiastic. The responses from the questionnaires were equally unenthusiastic. If people don't want it, people don't want it. It's not crucial, from my point of view.

If I were asked my druthers—and it's easy for me to say, as I'm not a member of Parliament, so I'm in a different situation from other people—my sense is that any time you make information difficult to get, you breed rumours far beyond what's in the actual information. People have all kinds of baroque notions about people, which are often quite crazy. So making the information available always seems to me a good idea. But I'm certainly not intending to bring the proposal forward unless someone else brings it up. No is no—get on with something else.

Mr. Scott Reid: Thank you.

The Chair: On that, Dr. Shapiro, before I go to Monsieur Laframboise, to your knowledge are any of the provincial disclosures on the Internet?

Mr. Bernard Shapiro: I don't know. I could easily find out, because I know all these people, but I don't really know. The only ones that I know about on the Internet are public office holders here. Those are all on the Internet. I'll check and let the committee know.

The Chair: Of the ones that are filed, has every public office holder disclosure form been filed in the public registry?

Mr. Bernard Shapiro: As far as I know, yes.

We have a different set of issues with the public office holders. First of all, the corpus changes on an almost daily basis. It doesn't tend to change on a large-scale basis, but almost daily the new GIC is being brought forward, old ones are being retired, etc.

We are not totally up to date. We have all the files and we don't have an indication of anyone who has not filed a form in an appropriate way. What we have is a backlog. There are 1,500 full-time public office holders. The current backlog is about 150 that are in the process of being reviewed and the compliance measures taken. Those tend to be more complex, not because the public office holders have problems that are in themselves more complex, but the rules are stricter, so there are more things you have to do.

The Chair: Let's narrow that further. Are any of those the elected officials?

Mr. Bernard Shapiro: I don't know. Not that I recall, but I don't want to promise. In general, people are very cooperative, both the public office holders and the MPs. I have no sense of people trying not to do this.

• (1020)

The Chair: Except for the two.

Mr. Bernard Shapiro: Some may not like the system and they blame the messenger, but that's just part of the deal. In general, people have been very cooperative. Sometimes you have to insist a

little that this might rise higher in the priority system on their desk, but we don't get any sense of non-compliance in that way.

The Chair: I have one other question, and then Monsieur Laframboise, Monsieur Godin, and Mr. Reid can carry on.

A number of people file very early. Their public disclosures are up, and they're on the public registry. I think about going into an election and there are always times when people become more interested in what's out there. It seems to me that if you drag your feet you're actually at an advantage, because even though you've filed, it's still sitting on that pile on someone's desk, and it's not available for public scrutiny. In some ways it seems to have.... I mean, I don't really care, and I don't think mine's up, but there would be some who would suggest they're facing a higher degree of scrutiny and perhaps they're subject to—

Mr. Bernard Shapiro: I understand that. It's just that with the work cycle in the office, we can't always respond to the immediate contingencies of the electoral system. It would be better if it were different; I don't disagree with you.

The Chair: But a year seems a long time.

Mr. Bernard Shapiro: It is much too long. As I said at the beginning, this is much too long. I apologize for it and I don't pretend that it's appropriate; it is not.

Our objective is something like 120 days; however, it requires not financial resources—we've had enough financial resources—but human resources, which haven't been available to us because of the decisions of previous employees to stay within the public service. Because of that, as I'm sure you recognize, recruitment is not a one-week process if we do it according to the appropriate policies. It takes approximately two months by the time you advertise the position, review the files, interview the people, and make a choice.

The Chair: Monsieur Laframboise.

[Translation]

Mr. Mario Laframboise: Thank you, Madam Chair.

I will start by commenting on what you were saying. That is precisely why, Mr. Shapiro, I think this would not be the right time for you to issue a preliminary report. If you were to do that now, you would say that because of your high staff turnover, you have not been able to deal with all the files. If you issue a preliminary report and members of Parliament know that some of your staff has left, and you were unable to do more, I think that could be more devastating than anything else for the entire system. That is why I would advise you to wait until you issue your annual report to make your comments.

In the meantime, if there is an election, you will probably be called upon and you will have to set the record straight at least about the way in which your office works. Of course, no one should benefit or be disadvantaged by that.

I confess that I do understand why many members do not want the information to be made public on the Internet immediately. I have given you our party's position. When we administer the Criminal Code—and only federal members of Parliament do that—that means we can have our books examined by people who are not happy about our political position on criminals in society. I know that I told your office that some members of Parliament did feel uncomfortable about this.

We have to convince members that the information available in the summary does not disclose information about all their property and assets. It is all very well to disclose debts and the value of one's assets, but some individuals do not feel like disclosing where they live or the fact that their cottage is in a remote location in the woods, for fear that someone might go and frighten them there some day. Do you understand that? Members must be assured that they and their families will be protected very well.

Once we have convinced members, we could move on to the next step. In the meantime, it is all very well to analyze what is going on in the provinces, but we are responsible for the Criminal Code. And my party, the Bloc Québécois, has taken some stands on organized crime. This is extremely disturbing to us, and I wanted to inform you of that.

In closing, I would like to come back to what Mr. Godin was suggesting. The whips are probably the people in the best positions to do this. They are responsible for party discipline. So if you have to send a letter, send it to the whips.

• (1025)

Mr. Bernard Shapiro: As I said, I will be sending them this afternoon.

[English]

The Chair: Are there any further questions?

Mr. Reid.

Mr. Scott Reid: Section 13 of the Conflict of Interest Code—this deals with rules of conduct—says “A Member shall not participate in debate on or vote on a question in which he or she has a private interest.” Is it part of your role, in your mind, to advise members as to when such an interest exists in relation to a vote?

Mr. Bernard Shapiro: This is primarily an issue between the member and the Clerk of the House, that relationship where the member is supposed to be active in raising an issue about whether there might be a conflict of interest. Many members do call, and when asked we will respond; we will give our advice. We don't issue orders; we just give our advice. But normally speaking, the members are supposed to keep that in mind and deal with the clerk and his staff if they believe that's an issue.

When the membership of House committees changes, we do review that to see whether there's anything in our files that suggests there's a particular, let's say, recusal problem for a particular member. If so, we will advise the member, etc., but we do not enforce those—

Mr. Scott Reid: Would you advise proactively—contact the member when, say, there's a committee change, as you've just suggested?

Mr. Bernard Shapiro: We would advise proactively. When we get a notification of a change, we'll look at the change, we'll look at the files, and we'll see if there's anything in there. We won't keep it to ourselves if we find anything. We will let them know right away.

But we do not, for example, examine the agendas of every meeting or anything like that to say, look, there's a problem here, there's a problem there. We won't do that. We just can't get down to that level of detail.

Mr. Scott Reid: Right.

I don't know if that's something you would contain in your report, the guidelines you set up for yourself as to how you go about doing this. But if you were to do that, I think all of us here would agree that it would actually be very helpful for us and for the public in understanding where to look for what one seeks, to see whether everybody is—

Mr. Bernard Shapiro: One of the things we're hoping to do—actually, the sponsored travel was the first one we did—once we get past the hump of these original files.... I mean, whenever there's an election, we're not going to have 308 new members. We'll have some new members, but not 308, so we should be past, in a sense, the really difficult sort of tsunami we had last summer.

We are hoping to issue a series of interpretation bulletins to give advice to deputies and their staff on various issues that come up on a continuing basis. Over time, the House can choose to include those in the code, if they wish to. They may prefer not to, so it depends on their response. But we hope to continue to do this, because in any code that's based on a set of general principles, as this one is—there are other kinds of codes—there's always a lot of ambiguity at the edges about how it's to be interpreted.

So we're hoping that this series of interpretation bulletins will keep people up to date on what we're doing, and then signify to them when they think it's time for a change: we don't like this; we think the code should be A, or B, or something else. This would help bring that to mind for them.

The Chair: And we would see those interpretation bulletins before they were sent out, as well?

• (1030)

Mr. Bernard Shapiro: For sure. We'll try to do that routinely. It's a much better system than worrying about it afterwards. I'd rather do it up front and then be satisfied.

Mr. Scott Reid: That would deal with the problem I raised with you when you first came before this committee, which is that paragraph 2(b) of the Conflict of Interest Code contains a provision that is very difficult to comply with. It says that members are expected

to fulfill their public duties with honesty

—that part's not so hard—

and uphold the highest standards so as to avoid real or apparent conflicts of interests

—harder but doable—

and maintain and enhance public confidence and trust in the integrity of each Member and in the House of Commons;

Paragraph 2(c) says that members are expected:

to perform their official duties and functions and arrange their private affairs in a manner that bears the closest public scrutiny, an obligation that may not be fully discharged by simply acting within the law;

Well, the real standard we're complying with is not what's written in the law, or even in this code, but a sort of free-floating form of public opinion. Or at least that's one interpretation we could give to it. I would be very happy to see us moving towards complying with a series of interpretation bulletins that are actually measurable, as opposed to some non-measurable standard of conduct.

Mr. Bernard Shapiro: I don't disagree with you, and not only on that particular phrase you just mentioned; the "apparent conflict of interests" phrase is also very difficult to manage. Any one of us could take any one item, and any one MP, and find a connection in half an hour. If you pushed this to its extreme, it could be quite silly.

You have to keep it in mind, because although we know that apparent conflicts make a big difference in public, it's not really possible to completely avoid them. There are connections. Six degrees of separation is not a popular phrase for nothing. It's because people find it to be true.

So we think about these things, and we're trying to focus our attention on obvious conflicts of interest. We're not looking for very arcane connections, because it tends to make the whole thing grind to a halt without any good effect.

The code itself, of course, is something we should think about changing from time to time. We don't have to just tie ourselves up in knots trying to deal with a code that may have some faults with it. One of the possibilities is to change the code itself in certain respects. The committee needs to keep that in mind. It's another option that's always available.

Mr. Scott Reid: Thank you.

The Chair: You've given a list of things that you find you might want to do better on, or where you're a little disappointed yourself. One is that the office has not been able to respond to members in as timely a way as would be appropriate.

That one causes me a fair amount of alarm. I think the reason we set up the office as an independent one is that you could get this kind of response very, very quickly. I guess it's not good enough to say, "Well, I called the commissioner, and I'm still waiting for the answer. In the meantime, I've got certain things that need to be done, and I may or may not be in a situation that's going to cause me some difficulty."

We move fairly quickly on certain things here, and we don't have the luxury of being able to put off that decision or that activity for a period of time. How do you prioritize which ones you have to get back to?

Mr. Bernard Shapiro: I can't say that I have a well-developed priority system; I don't.

When people call, there is something I sometimes complain about. People sometimes call at 9 o'clock when they need the advice by 10:30, and that is just not reasonable. No matter how much of a rush

you are in, you can't expect someone else to be available just because you called an hour and a half before you need a decision. That happens more often than I'd like to admit, but we try in any case: we don't just say goodbye, but try to see if we can be of some help.

When it's ordinary information that they want—should I do this, should I do that, can I do this, can I do that—I usually try to have the information back the following day, or earlier, if I can do it. Sometimes people call up and you know in an instant, and you just respond on the telephone, but it usually takes a little time to think through. Let me give you an example. I had someone this week who was being asked to move from a government agency within a ministry to the ministry itself to take up a new task, which would put him into quite a different category; for instance, a different code would apply to him, and he needed to know what the consequence of that would be and what would change in his situation. We talked about it for a half hour and I said I could have the answer tomorrow. I discussed all the different options and did get an answer for the next day. That is the standard we would like: you should get it the following day.

Sometimes that doesn't work out, but we try to keep as close to that standard as possible. Sometimes it is just more complicated. When someone has a complex portfolio of their own, and are trying to sort out whether there is a possible conflict, it does take a little bit of thought; it doesn't matter how much of a rush you are in, but it takes a little bit of thought to work through.

The major problem has not been that kind of ongoing advice, but relative to the confidential disclosure statements. As you point out, having filed it in December, this is April—what are those people doing? That's been the major issue; it's not been the individual asking for specific advice.

Once in a while, the specific advice takes a little longer, because we want to search our own records for the precedents we've used and the context in which they've been created, but we try to be responsive. We know these people can't wait in many cases; we understand that the issue that comes up is an issue now, and will be gone tomorrow, when it would be of no use getting it. We try our best. We can't always satisfy.

My criterion is the 75% level. That's the number of people I want to be very happy with what we're doing, and that's what I want to reach for.

The Chair: Okay.

Just on a personal note, I think I have the exact opposite opinion to Mr. Laframboise in terms of compliance and the quickness of compliance. I think the more reluctant you are to fill out the form or to comply, the more curious I am about what it is you're trying to do.

• (1035)

Mr. Bernard Shapiro: That's—

The Chair: If it's simple and easy, you get it up there right away. There are others that are more complicated, and I can appreciate that. There is a difference between being extremely complicated—and I think Mr. Reid's situation is complicated, as it's much broader than—

Mr. Scott Reid: Yes, but I met the deadline.

The Chair: Precisely.

I also think that there are others who are simply saying, “Well, I don't really like those rules, so I'm just going to drag my feet as long as possible.” I don't think we should be promoting a system that allows that to happen, quite frankly. Mr. Reid points out—and I would suspect that his is one of the most complicated—that irrespective of all that, he met the deadline and he worked through the problem—

Mr. Bernard Shapiro: As most people do; almost everybody did meet the deadline.

Mr. Scott Reid: Something that people may not be aware of, though, or that may not have occurred to people, is what I did: I didn't try to sort out all of these things, and I didn't work out the precise value of my car, for example, and household assets. I just said it was worth more than this amount—and if it turns out that my car actually has a resale value below what I declared, I don't think that's a big deal. I just overestimated a few things, and on some things, I don't know if they applied or not, but I just photocopied them and sent them off. You get to decide whether or not it's something to disclose.

The Chair: Exactly.

Mr. Scott Reid: It's not really all that onerous. People may assume that it's like your taxes, where you have to work it all out in advance.

The Chair: I think that's appropriate, and that's what needs to get on the record. Therefore, as I say, I am less sympathetic with those who somehow say “I just can't do it”, or “I don't want to do it”, or somehow, “This is a violation of my...” There are ways we can go around it, but I just wanted to put that on the record from my own personal perspective.

Are there any other questions, comments, or concerns?

Dr. Shapiro, do you have any final words for us?

Mr. Bernard Shapiro: No, I'm satisfied.

Thank you very much for this time.

The Chair: Okay, good. Thank you.

The meeting is adjourned.

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