

**IN THE MATTER OF THE COMMISSION OF INQUIRY INTO CERTAIN
ALLEGATIONS RESPECTING BUSINESS AND FINANCIAL DEALINGS BETWEEN
KARLHEINZ SCHREIBER AND THE RIGHT HONOURABLE BRIAN MULRONEY**

AMENDED FINAL ARGUMENT OF KARLHEINZ SCHREIBER

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OVERVIEW

1. On the issues before this Commission, Mr. Schreiber respectfully submits that the evidence establishes the following:
 - a) Mr. Schreiber had a longstanding relationship with Mr. Mulroney which predated Mr. Mulroney's entry into politics;
 - b) Once Mr. Mulroney became Prime Minister, Mr. Schreiber had frequent, easy access to Mr. Mulroney in person and by telephone;
 - c) Among other things, Mr. Schreiber's and Mr. Mulroney's meetings were about the Bear Head project;
 - d) In a meeting at Harrington Lake, while Mr. Mulroney was still Prime Minister, Mr. Schreiber and Mr. Mulroney reached an agreement in principle that Mr. Mulroney would work with Mr. Schreiber on the Bear Head project. This meeting was a follow-up meeting to other similar meetings between them;

e) Following the meeting at Harrington Lake, Mr. Schreiber made banking arrangements to obtain the initial installment of \$100,000 cash for Mr. Mulroney;

f) On August 27, 1993, Mr. Schreiber gave Mr. Mulroney \$100,000 cash. Mr. Mulroney was still a Member of Parliament. Two subsequent payments of \$100,000 each were made on December 17 or 18, 1993 at the Queen Elizabeth Hotel in Montreal and December 8, 1994 at the Pierre Hotel in New York;

g) At no time did Mr. Schreiber provide this money to Mr. Mulroney for international work. Mr. Mulroney's assignment was to work on the Bear Head project in Montreal;

h) There is no credible evidence to support Mr. Mulroney's position that he "worked" for Mr. Schreiber promoting Thyssen vehicles in France, China and Russia;

i) Mr. Schreiber's evidence that Mr. Mulroney was paid \$300,000, not \$225,000 is corroborated by other independent evidence including, forensic accounting evidence; and

j) It was publically stated repeatedly from 2003 onwards that Mr. Mulroney received \$300,000 cash from Mr. Schreiber. Mr. Mulroney never once denied this fact publicly until the December 2007 when he appeared before the Ethics Committee.

I. The Relationship between Mr. Schreiber and Mr. Mulroney

2. In order to understand the business and financial dealings between Mr. Schreiber and Mr. Mulroney, it is useful to understand the nature and extent of their relationship.

a) Early Contact

3. Mr. Schreiber testified that he met with Mr. Mulroney both before and during the time Mr. Mulroney was leader of the opposition (263, 273). Mr. Schreiber's testimony is corroborated by one of Mr. Mulroney's close friends, Patrick MacAdam who told the CBC that Mr. Mulroney knew Mr. Schreiber before Mr. Mulroney became an MP and leader of the opposition (P7(3), Tab 3).
4. Mr. Schreiber testified that he had meetings with Mr. Mulroney at the Ritz-Carlton before Mr. Mulroney became Leader of the Opposition (854). Mr. Mulroney did not deny that meetings occurred with Mr. Schreiber at the Ritz Carlton (3887).

b) Contact while Mr. Mulroney was Prime Minister

5. Mr. Schreiber testified about numerous meetings and the exchange of correspondence with Mr. Mulroney between 1985 and 2000 (277). Mr. Schreiber would write to Mr. Mulroney thanking him for past meetings (278). Mr. Schreiber's evidence in this regard was corroborated by numerous letters and diary entries (P50, 4018). Mr. Schreiber sometimes recorded the date and place of meetings in his letters (278, book 4).
6. Mr. Mulroney initially attempted to minimize the level of access that Mr. Schreiber had to him while he was in office. Initially, Mr. Mulroney testified that Mr. Schreiber had no access to him at all personally and that all access was through Elmer McKay or Fred Doucet (3906-3907). However, later in cross-examination, after being confronted with documents evidencing significant contact, Mr. Mulroney agreed that Mr. Schreiber had good access to him, the Privy Council Office, Mr. Fowler and the PMO Chief of Staff (3961-3962).
7. Ultimately, Mr. Mulroney agreed with the suggestion that Mr. Schreiber had access to him either because he was a friend, or through Mr. Mulroney's friends (4047).
8. Mr. Mulroney agreed that when he was Prime Minister, the meetings he had with Mr. Schreiber, Mr. MacKay and/or Mr. Doucet were business meetings about Bear Head (4017).

9. This Commission received documentary and oral evidence that Mr. Mulroney and Mr. Schreiber met on at least 8 to 10 occasions between 1988 and 1993 (P50, P51, 4204). This evidence contradicts the testimony that Mr. Mulroney gave at his examination before plea in April 1996 in his Montreal defamation case where he testified that he met Mr. Schreiber on "infrequent occasions" when he "would see him on business", when Mr. Schreiber was promoting the Thyseen project (4207, April 17, 1996 examination before plea transcript). Similarly, Mr. Mulroney told Mr. Kaplan on December 2, 1997 that he only "knew Schreiber in a peripheral way".
10. A Compendium of Telephone contacts showed 44 telephone contacts between Mr. Mulroney and Mr. Schreiber (P51). Mr. Mulroney was shown the Compendium and did not dispute the number of telephone contacts between them (4338).
11. Between 1988 and 1994, Mr. Schreiber spent only 8 to 10 weeks per year in Canada for business (3298, 3938-3939). However, when Mr. Schreiber was visiting Canada, he had the ability to meet with Mr. Mulroney (3939). For example, Mr. Schreiber arrived in Canada from Germany on November 23, 1992. Documents filed suggest that Mr. Schreiber met Mr. Mulroney at the Centre Block on November 24, 1992 (P50, Tab 9). Mr. Schreiber then had breakfast at 24 Sussex with Mr. Mulroney on November 25, 1992 (4037-4040). These meetings are corroborated by diary entries and letters (P50, Tab 9). When confronted with these documents which show meetings with

Mr. Schreiber on November 24 and 25, 1992, Mr. Mulroney denied that the November 24, 1992 meeting with Mr. Schreiber occurred (4046-4047).

II. The Significance of the Harrington Lake Meeting

12. One issue before this Commission is whether there was any agreement between Mr. Mulroney and Mr. Schreiber while Mr. Mulroney was still a sitting Prime Minister. This Commission's conclusions on this issue will stem primarily from the view of what constitutes an "agreement" in this context. It is clear from Mr. Schreiber's evidence that there was an agreement to work with Mr. Mulroney while Mr. Mulroney was still in office.
13. Mr. Schreiber agreed that it was after Mr. Mulroney stepped down as Prime Minister (*i.e.*, at Mirabel) that the "agreement" between them was "made" and "finalized" (920-923), However, he testified that at Harrington Lake, while Mr. Mulroney was still Prime Minister, they discussed that they were "going to do business together" (922).
14. Mr. Schreiber referred to the discussions at Harrington Lake as an "agreement in principle" (283).
15. Mr. Schreiber testified as follows about what was discussed at Harrington Lake: "we entered the agreement to agree to work together when we work. These are two agreements: first this agreement to work together when he's out office; the second is what are the details now" (925).

16. Mr. Schreiber testified that "it was not agreed at Harrington Lake in details what he would do, or what he would get paid. That happened in August in Mirabel" (283).
17. Mr. Schreiber was cross-examined extensively about the issue of when the "agreement" with Mr. Mulroney commenced. Mr. Schreiber's November 7, 2007 affidavit refers to an "agreement" (1158). However, Mr. Schreiber's affidavit does not define which "agreement". Mr. Schreiber testified this was because there had been ongoing discussions with Mr. Mulroney about Bear Head since June 3, 1993 (1159-1160). The arrangements were a work in progress, with dialogue that included many components such as setting up a bank account, withdrawing funds, meeting at Mirabel and making the first payment at Mirabel (1160, 1164). Mr. Schreiber testified that his use of the word "agreement", refers to all of the various components that were discussed since June 3, 1993 (1168). Mr. Schreiber testified that when he gave money to Mr. Mulroney at Mirabel, he was "finalizing" the agreement (1166).
18. Mr. Schreiber testified that he and Mr. Mulroney had "discussions" and ongoing "dialogue" about working on the Bear Head project from June 3, 1993 forward (1157). Mr. Schreiber testified that the purpose of the June 3, 1993 meeting was to update Mr. Mulroney on the progress of Bear Head (413-414). If these discussions and dialogue about Bear Head occurred on June 3, 1993, it is likely that the discussion would continue at Harrington

Lake, only 20 days later. Moreover, given the overwhelming evidence about Mr. Schreiber's persistence, drive and determination for the project (362-363), it is extremely unlikely that Mr. Schreiber would not have raised the subject at Harrington Lake on June 23, 1993. It is unlikely (and would have been unnatural) for Mr. Mulroney to refuse to discuss the subject at Harrington Lake when he had willingly discussed it 20 days earlier.

a) The timing of Mr. Schreiber's arrangements for funding

19. Mr. Schreiber testified that on July 12, 1993, he instructed his bank in Zurich to establish an account with \$500,000 for the project (1167). Mr. Schreiber confirmed that as a result of the agreement with Mr. Mulroney reached at Harrington Lake, he withdrew funds to bring to Mirabel to give to Mr. Mulroney (3296).
20. Mr. Schreiber's testimony about the banking arrangements is corroborated by documentation filed with the Commission (P7(2), Tab 142). Mr. Schreiber would not set up a bank account and financing on July 12, 1993 to pay Mr. Mulroney, if he had not previously agreed to retain Mr. Mulroney on June 23, 1993. As a matter of common sense, Mr. Schreiber would not have arrived at Mirabel with \$100,000 in cash for a retainer for Mr. Mulroney if there had not been a previous agreement to hire Mr. Mulroney. This is particularly true given that Mr. Schreiber and Mr. Mulroney had no other meetings between

the Harrington Lake meeting and the Mirabel meeting. Mr. Schreiber had been away in Europe. (444-445)

21. Mr. Mulroney agreed that at Mirabel, he did not see Mr. Schreiber put the cash into the envelope. Mr. Mulroney confirmed that the cash was already in the envelope when it was given to Mr. Mulroney. It is unlikely that the cash would be previously organized in an envelope if Mr. Schreiber had not previously agreed to retain Mr. Mulroney (4082).
22. Mr. Schreiber testified consistently that he and Mr. Mulroney did not discuss money at Harrington Lake (3288). They only discussed in general terms working together to establish Bear Head in Montreal. If Mr. Schreiber fabricated his testimony about discussing Bear Head at Harrington Lake (as Mr. Mulroney alleges), Mr. Schreiber could have gone further and fabricated a discussion about funding and money. In other words, it would have been easy to "add to the story" about Harrington Lake by alleging that payment was discussed. Mr. Schreiber did not do so and he adamantly denied discussing money at Harrington Lake. It is submitted that this is another badge of Mr. Schreiber's credibility and his unwillingness to fabricate information in order to bolster his own version of the events.

b) The only topic that Mr. Mulroney denies discussing at Harrington Lake is working on Bear Head

23. Mr. Mulroney admits that the following topics were discussed with Mr. Schreiber at Harrington Lake: Kim Campbell winning the next election, German reunification (4069), Mr. Mulroney's plans for the future, Mr. Schreiber wanting to be in touch given Mr. Mulroney's international contacts and Mr. Mulroney being sorry that the Bear Head project did not succeed (4068-4070). Given that all of these subjects were discussed, it is unlikely that Mr. Mulroney refused to discuss assisting Mr. Schreiber with Bear Head in the future.

c) Mr. Schreiber is driven to Harrington Lake by a sitting Prime Minister's Staffer

24. Paul Smith and Mr. Mulroney both testified that Mr. Schreiber was driven to Harrington Lake in Mr. Smith's (Mr. Mulroney's staffer's) vehicle. Mr. Mulroney and Mr. Smith agreed that it was unprecedented for Mr. Smith to drive someone to Harrington Lake to meet with Mr. Mulroney (4072-4073). This evidence at the very least shows that Mr. Mulroney wanted to ensure that Mr. Schreiber arrived at Harrington Lake without delay, albeit at the taxpayer's expense. This is also evidence consistent with the access that Mr. Schreiber had to Mr. Mulroney.

d) Harrington Lake was not merely a “courtesy call” to “say goodbye”

25. Mr. Mulroney’s characterization of the Harrington Lake meeting as a “courtesy call” to “say goodbye” (3825, 4056-4057, 4162) is an illustration of Mr. Mulroney’s attempts to mischaracterize his interactions and relationship with Mr. Schreiber. Referring to the Harrington Lake meeting as a farewell courtesy call contradicts Mr. Mulroney’s own evidence about the chronology of events and his previous contact Mr. Schreiber. Taking into account the following evidence, it is submitted that Mr. Schreiber’s testimony that an agreement to retain Mr. Mulroney for Bear Head was discussed at Harrington Lake is a more credible version, than Mr. Mulroney’s version that the meeting was just a “courtesy call”.
26. First, Mr. Mulroney and Mr. Schreiber had just met on June 3, 1993 and even had a photograph taken. There was no need to “say goodbye” in person at the Prime Minister’s summer residence on June 23, 1993. As Mr. Schreiber testified “it was not a farewell courtesy visit, I had just met with him on June 3 and could have met with him through Doucet whenever I wanted” (422).
27. Second, a review of Mr. Mulroney’s calendar for June 1993 shows that he was busy meeting with very prominent world leaders and personalities, including President Bill Clinton, Larry King, MacNeil-Lehrer, Kay Graham at the Washington Post, Premier Bourassa, the Governor General and Senator Lebreton (4060-4065, P50, Tab 10).

28. Mr. Mulroney testified that while he was Prime Minister he “found time to see hundreds of Schreibers” (3959). A review of Mr. Mulroney’s calendar shows that at least in June 1993, he did not meet with any other “Schreibers”. It is simply not credible that Mr. Mulroney would meet Mr. Schreiber to only “say goodbye”.
29. Third, throughout his own testimony, Mr. Mulroney minimized his previous relationship with Mr. Schreiber. Mr. Mulroney even maintained that he would not have received Mr. Schreiber’s numerous letters because they were “lobbyist letters” (3958, 3964, 3990, 4020). It is difficult to reconcile that testimony with Mr. Mulroney’s testimony about his willingness or interest in meeting Mr. Schreiber on June 23 to “say goodbye”. Although Mr. Mulroney testified that Mr. Schreiber was a man with whom he had a “peripheral” relationship and with whom he had “two cups of coffee” in Montreal, he had time to meet him at Harrington Lake, having just met him only 20 days earlier (4065).
30. Fourth, Mr. Mulroney’s own calendar for June 1993 records the 11:00 am meeting with Mr. Schreiber as a “private meeting”, not a “courtesy call”. Mr. Mulroney’s June, 1993 calendar shows another unidentified meeting (not with Mr. Schreiber) on June 16 at 3:45 as a “courtesy call”. (4058-4059, P20, P50, tab 10). It is submitted that the meeting with Mr. Schreiber was intentionally recorded as “private” and that Mr. Mulroney, or someone on his behalf, did

not want a record of Mr. Schreiber attending Harrington Lake on June 23, 1993.

III. Mr. Mulroneys "work" for Mr. Schreiber

31. This Commission will consider what services, if any, were rendered in return for payments Mr. Mulroneys received from Mr. Schreiber. Mr. Schreibers evidence about the scope of Mr. Mulroneys retainer will be instructive as this question is answered.

a) Mr. Schreiber hired Mr. Mulroneys to assist with the Bear Head project in Montreal and not to perform work in China, Russia or France

32. Mr. Schreiber was consistent in his evidence that he hired Mr. Mulroneys to assist with the establishment of the Bear Head project in Montreal (450). Mr. Schreiber testified that Mr. Mulroneys was never given an "international assignment" (724). Mr. Schreiber denied that Mr. Mulroneys discussed with him any international matters at the Pierre Hotel meeting (727). Mr. Schreiber testified that "nothing was discussed on international business. It dealt all with the white paper and Montreal" (727).
33. Mr. Schreibers unequivocal testimony that he did not retain Mr. Mulroneys to make representations about Thyssen equipment in China, Russia or France is supported by the following independent evidence heard by this

Commission. Mr. Mulroney's testimony is contradicted by the following independent evidence.

b) Fred Bild corroborates Mr. Schreiber's testimony and contradicts Mr. Mulroney

i) Mr. Bild's background and credibility

34. Mr. Bild had a long and distinguished career in various foreign services dating back to a posting in China in 1963 (4769). In 1987, he was Assistant Deputy Minister in Foreign Affairs and was involved in dealings with the peacekeeping efforts of the United Nations (4774-75). Mr. Bild was involved in organizing a campaign to secure Canada's seat on the United Nations Security Council (4775). From 1990 to 1994, he was Ambassador to China.
35. Mr. Bild displayed no bias (nor was any bias suggested to him in cross-examination) in favour of, or against, any party. Indeed, unlike almost every other witness, Mr. Bild had no self-interest with respect to any of the subject matters of his testimony or the issues before this Commission.
36. Mr. Bild was present for many of the meetings and functions which Mr. Mulroney relied upon in his testimony (4778). Mr. Bild spoke to Mr. Mulroney before Mr. Mulroney attended the meetings in China (4779). In these discussions, Mr. Mulroney did not mention to Mr. Bild in anyway that he was going to be discussing UN peacekeeping or armoured vehicles in relation to

peacekeeping or anything of that sort (4783). Mr. Bild testified that any discussion of UN peacekeeping or armoured vehicles would have sent up a "whole lot of flags in our embassy and the whole visit would have taken a different turn" (4783).

ii) Mr. Bild recalls no discussions about Mr. Mulroney's "concept"

37. Mr. Bild was present during Mr. Mulroney's meeting with Liu Huaqiu and Shi Dazheng (4785-86). Mr. Bild also attended the banquet given by Zhu Ronji at the Great Hall of the People (4786). Contrary to Mr. Mulroney's testimony, Mr. Bild recalled no discussions at the October 5, 1993 meetings with Mr. Huaqui or Mr. Ronji about light armoured vehicles, the UN or peacekeeping concerns (4798).
38. On October 5 and 6, 1993, Mr. Bild interacted with Mr. Mulroney and the group. Mr. Bild did not recall Mr. Mulroney advising about an interest in the subject of peacekeeping, UN involvement or light armoured vehicles (4792).
39. In addition to Mr. Bild's own recollection of events, Mr. Bild's expertise and explanations about the impact discussions about sensitive military topics would have had in China at that time undermine the credibility of Mr. Mulroney's testimony. Mr. Bild testified as follows about what would have happened if Mr. Mulroney raised the topic of peacekeeping in China:

"...I would have had to get my political section to put one officer on it from then on, for a matter of weeks, and we would have had to

rearrange all of the duties. It's something that none of us would have forgotten...it is essentially a government-to-government topic. The governments are going to have to get involved, no matter how private it is, no matter how commercial you keep it...it would have meant a whole new phase opening up in our relations with China. For us, China was still persona non grata on the level of anything to do with military or military equipment. We did not talk to them about it...Anything that approached military cooperation, in whatever way, even in the context of the UN, we would have had to start sending reports back to Ottawa, comparing analyses with the desk here in Ottawa. It would have set a whole new procedure in train. None of that happened" (4793-94).

40. Notably, Mr. Bild's evidence about the fact this subject could only be a "government to government" corroborates Mr. Schreiber's evidence. Mr. Schreiber made the same point in his testimony as follows:

"...As I explained to the Commission, business like this is politically. This has nothing to do, not the normal person can run around and sell equipment like this. It's impossible. It's government to government" (1207-1208).

41. Mr. Bild was firmly of the view that Mr. Mulroney would have had to discuss his project with Foreign Affairs in Ottawa in order to know how to approach it in China. "There are a number of agencies that need to be involved, it is not

- done through one person" (4795). Mr. Bild testified: "The Chinese would have reacted immediately by talking to us at the embassy" (4796)
42. Mr. Mulroney testified that he discussed Bear Head with Zhu Ronji at the banquet dinner in China on October 5, 1993. Mr. Bild was present at this dinner and did not recall any discussions about peacekeeping equipment. This does not definitely exclude the possibility that Mr. Mulroney raised the topic in the absence of Mr. Bild. However, Mr. Bild's evidence about the cultural difference between China and Canada during such banquets is important. Mr. Bild testified that the banquet was much more formal than the "jovial dinner" we have in Canada. Guests sit down in two rows in a semicircle. If business is discussed, it is heard by everybody present. (4803). There were 30-40 people present (4800).
43. Mr. Bild confirmed in cross-examination that the discussions Mr. Mulroney said he had with Zhu Ronji would not be kept private. Mr. Bild testified that "there is no such thing as private when you are talking to a Vice-Premier, especially if it is an issue which is going to affect the Chinese economy or China's relationship with the UN. It is not a private matter." (4808).
44. In cross-examination, Mr. Bild confirmed that he could not see a recently retired Prime Minister who had imposed sanctions on China, going to China to make representations to break those very sanctions which were still in effect (4813).

on this issue because of his failure to assist this Commission by identifying these two relevant witnesses.

c) Mr. Mulroney produced no documentary evidence to support his foreign discussions about Thyssen “concept”

49. Mr. Mulroney confirmed in cross-examination that he did not have any documents, such as letters or memos that were exchanged as a follow-up to his proposals to China, Russia or France. There were no courtesy thank you notes whatsoever in relation to Mr. Mulroney's foreign prospects.
50. In contrast to Mr. Mulroney's lack of evidentiary support for his account of events, Mr. Schreiber's testimony that he hired Mr. Mulroney to assist with Bear Head in Montreal is corroborated. There had been previous formal discussions and correspondence about developing the project in Montreal. Mr. Schreiber testified that in 1992 Mr. Mulroney had suggested that the project be developed in Montreal (360-361). Mr. Schreiber's testimony is supported by letters. On May 6 and 13, 1992, Mr. Schreiber wrote to Mr. Mulroney referring to meetings and discussions between them about moving the project to Montreal (361-364). Mr. Mulroney agreed in his testimony that he knew that part of the reconfiguration of the project included moving it to Montreal (4021).
51. When pressed in cross-examination, Mr. Mulroney admitted that he did not know where the vehicles would come from if one of his alleged foreign

contacts were interested in the equipment (4165). Mr. Mulroney admitted he never even asked Mr. Schreiber where the vehicles would come from. It is difficult to accept that a former Prime Minister while making representations to international world leaders about equipment, would not have been in a position to represent where the equipment would come from (4598-4599). Common sense suggests that such a basic question would have been anticipated from any of the foreign officials with whom Mr. Mulroney says he met.

d) Mr. Mulroney had no knowledge or background in military equipment

52. Mr. Mulroney testified that when he met with Mr. Schreiber at Mirabel he promptly told Mr. Schreiber: "I think this is something I can usefully do. It is quite up my alley. I think it is something that I can do". (3559). However, it is unclear what it is that Mr. Mulroney thought that he could do. He admitted in cross-examination that he never developed his "concept" until days later (4598). Mr. Mulroney also admitted in cross-examination that he never asked Mr. Schreiber any basic questions about the equipment, where it would come from or whether there was a plant being built (4598-4599). It is difficult to reconcile Mr. Mulroney's professed confidence in his ability to deliver with his admitted lack of information or knowledge about the equipment.
53. Mr. Mulroney testified that he received documents about the equipment from Mr. Schreiber at the Mirabel Airport. No support for Mr. Mulroney's assertion

that he was on an international assignment can be drawn from these documents. As the Commissioner correctly observed during Mr. Mulroney's evidence, one of the documents Mr. Mulroney received was entitled "Thyssen Project in Canada" (3554, P47c). This document would support Mr. Schreiber's testimony that he hired Mr. Mulroney for a domestic assignment.

e) Mr. Mulroney did not advise Mr. Schreiber about his "concept" or his "trips" until after he travelled abroad

54. Mr. Mulroney testified that he did not even discuss the concept of standardized equipment or present his "concept" to Mr. Schreiber, until after his trips to China (3556, 3578, 3591, 3594). Mr. Schreiber did not even know that Mr. Mulroney had supposedly done this work in China until months after his return. Mr. Mulroney claimed that he told Mr. Schreiber about the trip to China at the Queen Elizabeth Hotel in December 1993 (3596, 3600). Mr. Schreiber denies that he received such a report from Mr. Mulroney at either the Queen Elizabeth (1220) or the Pierre Hotel (587-588). Mr. Mulroney testified that although Mr. Schreiber was not more enthusiastic (3600), Mr. Mulroney accepted more cash without confirming or clarifying instructions to proceed.

f) Mr. Mulroney's testimony about working in China, Russia and France is contradicted by his own spokesperson, Luc Lavoie

55. Luc Lavoie was authorized by Mr. Mulroney to make representations to the public about Mr. Mulroney (4603).
56. On November 5, 2007, Luc Lavoie confirmed in an email to Mr. Champion-Smith of the *Toronto Star* that: "the money was to get Mr. Mulroney's help in building a Light Armoured Troop Carrier factory for Thyssen, a major German Corporation, in the region of Montreal and to launch a chain of pasta restaurants in North America". Mr. Lavoie went on to confirm in writing that "I know all these facts to be totally true". Mr. Lavoie's email makes no mention whatsoever of any trips made by Mr. Mulroney to China, Russia or France. Indeed, this Commission heard much evidence about Mr. Lavoie's public statements, none of which referred to Mr. Mulroney working in China, Russia or France. It is important to note that Mr. Lavoie's email to Mr. Champion-Smith was forwarded to Mr. Mulroney's assistant Francine Collins on the same day it was sent to Mr. Champion-Smith.
57. Mr. Lavoie told the media on November 22, 2007 that Mr. Mulroney was retained "as a consultant on projects with an 'international dimension' – including a military vehicle plant in Montreal and a pasta business".

g) Mr. Mulroney never mentioned China, Russia or France to Mr. Kaplan

58. Mr. Kaplan confirmed in cross-examination that although he had at least nine interviews with Mr. Mulroney between December 1997 and October 2003, Mr. Mulroney never mentioned work for Mr. Schreiber in China, Russia or France (1956). A review of Mr. Kaplan's interview notes filed with the Commission confirms that Mr. Kaplan made no note about China, Russia or France. Indeed, Mr. Kaplan wrote two books relating to Mr. Mulroney and there is no mention in either book about Mr. Mulroney working for Mr. Schreiber in China, Russia or France.
59. Even when confronted by Mr. Kaplan about not disclosing the cash payments, Mr. Mulroney did not mention his work in China, Russia or France. Rather than provide Mr. Kaplan with the simple explanation of legitimate work in China, Mr. Mulroney opted to tell Mr. Kaplan that he was "sorry to inconvenience" him, in response to Mr. Kaplan's disappointment about feeling "duped" (1831, P25, Tab 22, page 137).

h) Mr. Mulroney never mentioned China, Russia or France to Patrick

MacAdam

60. Mr. MacAdam had been Mr. Mulroney's close friend since 1955. Mr. Mulroney never told Mr. MacAdam anything about travelling to China, Russia or France on behalf of Mr. Schreiber (1259, 1263).

i) Mr. Mulronev never mentioned China, Russia or France to Fred Doucet until the Pierre Hotel meeting

61. Mr. Mulronev equivocated on whether or not he told Mr. Doucet about China, Russia or France. On one hand, Mr. Mulronev testified that he did not know if he called Mr. Doucet after returning from China (3595). On the other hand, Mr. Mulronev testified that he did tell Mr. Doucet about the China trip before the Pierre Hotel meeting (4121). Mr. Doucet testified that Mr. Mulronev never mentioned anything about China, Russia or France until the Pierre Hotel meeting in December 1994 (2397).
62. It is curious that given the relationship between Mr. Mulronev and Mr. Doucet that there was no mention of China, Russia or France until more than one year after the first trip to China. In other words, Mr. Mulronev testified that he travelled to China on behalf of Mr. Schreiber in October 1993 and Mr. Doucet testified that the first he heard of such travel was in December 1994. This is particularly curious given Mr. Mulronev's own testimony that: a) there was nothing wrong or improper with the work in China, Russia or France and b) the potential success of Mr. Mulronev's "concept" for standardizing equipment.

j) Mr. Mulronev never mentioned China, Russia or France to Mr. Schreiber until months after the trips occurred

63. Mr. Mulronev testified that although his concept was well-received in Russia in August 1994, even by his own account, he never reported those events to Mr. Schreiber until over three months later at the Pierre Hotel in December 1994.

k) The Mandate Sheet does not support Mr. Mulronev's testimony

64. The Mandate Sheet with which Mr. Mulronev agreed, makes no reference to Thyssen, Bear Head or even Mr. Schreiber for that matter.
65. The language used in the Mandate Sheet does not exclude domestic work. The document states that the Mandate was "including" international travel. Mr. Mulronev acknowledged that as a senior business lawyer, the use of the term "including" could refer to other work and went to say that "something would have to be done domestically" (4564-4565).

l) Export controls would have prevented the sale or export of Thyssen equipment to China, Russia or France

66. Mr. Schreiber testified that China and Russia could not buy Thyssen equipment because they would never get COCOM (Coordinating Committee on Multilateral Export Controls) approval and communist countries would never be allowed to buy NATO equipment (588-589, 1153-1154). Bear Head

insisted that COCOM be complied with (1155). Mr. Schreiber confirmed in a letter dated December 11, 1990 to Peter Smith that Thyssen would "market these vehicles in North America and to other NATO countries. Export markets will be considered only where they are permitted within Canada's policy on export controls". (1151). Mr. Schreiber testified that export controls were a priority to Thyssen (1153).

67. Mr. Schreiber's testimony about export control issues is supported by Mr. Doucet's testimony. Mr. Doucet testified that as he eventually understood the project, Thyssen would build a plant in Canada and the equipment could be sold worldwide with limitations as a function of not being able to export to communist countries (2143). Mr. Doucet agreed that one could not sell Thyssen equipment in Russia or China (2165).

m) Mr. Mulroney equivocated about whether his concept included "selling" Thyssen equipment

68. Mr. Mulroney was unclear on whether or not his "concept" included "selling" Thyssen equipment. Initially, Mr. Mulroney testified that if one of his foreign contacts showed an interest in purchasing equipment immediately, Mr. Mulroney would have telephoned Mr. Schreiber in a "New York minute" about the prospect (3590-3591). Then later when confronted with the suggestion that there was an arms embargo with China, Mr. Mulroney testified that "if this had come to fruition, there wouldn't have been a sale to China, there would

have been a sale to the United Nations" (4326, 4328). Mr. Mulroney also testified that he told President Yeltsin that he was not selling equipment.

IV. The Mandate Sheet

69. Mr. Schreiber denied putting any of the handwriting on the Mandate Sheet (3351). This testimony is consistent with Mr. Schreiber's testimony that he never discussed with Mr. Doucet the language in the Mandate Sheet which referred to a "watching brief" and "travelling abroad" (738). Mr. Schreiber explained that it was not his "habit to go to the doorman when [he] can have an agreement with the boss" (738). Mr. Schreiber's evidence on this point is logical and consistent with the evidence that Mr. Schreiber had direct access to Mr. Mulroney before, during and after he was Prime Minister. Mr. Schreiber's testimony about not making agreements through Mr. Doucet is also consistent with all of the evidence about Mr. Schreiber's unrelenting drive and determination to deal directly with (and enter agreements with) the decision makers.

V. The amount of cash that Mr. Schreiber gave to Mr. Mulroney was \$300,000

70. This Commission will consider what payments were made by Mr. Schreiber to Mr. Mulroney, when, how and why.
71. Mr. Schreiber produced documents in the form of bank records which corroborate his testimony that he gave Mr. Mulroney \$100,000 on three separate occasions, for a total of \$300,000. Navigant Consulting reviewed Mr. Schreiber's bank records and produced a report confirming that cash withdrawals were made in close proximity to the dates that Mr. Schreiber testified he gave the cash to Mr. Mulroney (Navigant Report, P40).
72. Mr. Mulroney's testimony that he received \$225,000 (and not \$300,000) in cash from Mr. Schreiber is contradicted by numerous pieces of independent evidence.
73. The evidence relating to the "Mandate Sheet" states that Mr. Mulroney received \$25,000 more than Mr. Mulroney admits. Mr. Doucet testified that he read this document, including the amount of \$250,000, to Mr. Mulroney before and after his meeting with Mr. Schreiber (2309, 2384, 2385-86). Mr. Mulroney did not dispute the content of the Mandate and did not suggest changes (2344). Mr. Mulroney testified that he told Mr. Doucet he "thought the whole document was fine" (4406, 4409-4410).

74. Mr. Mulroney agreed that if Mr. Doucet testified that he read the Mandate document to Mr. Mulroney before the meeting with Mr. Schreiber he would accept that happened (4542).
75. Mr. Mulroney produced no documents or other independent evidence to corroborate that the amount he received was only \$225,000. This Commission is simply left with Mr. Mulroney's word about the amount he received.
76. On February 20, 2007, Mr. Schreiber wrote to Mr. Mulroney demanding the return of the \$300,000, plus interest. It is remarkable that Mr. Mulroney never himself, or through counsel, advised Mr. Schreiber that a) the amount was \$225,000, not \$300,000 or b) he worked for the money during his trips to China, Russia or France (4575, 4579).
77. Although Mr. Schreiber demanded the return of his \$300,000 on February 20, 2007 and although William Kaplan's article about the \$300,000 cash payments was published in 2003, Mr. Mulroney waited until the hearing before the Ethics Committee in December 2007 to announce that the amount he got from Mr. Schreiber was \$225,000 and that he earned the money travelling to China, Russia and France (4585). Such late disclosure by Mr. Mulroney is particularly remarkable because Mr. Mulroney maintained throughout his testimony that he had a legal legitimate commercial relationship with Mr. Schreiber (3792, 3795, 4246).

78. That Mr. Mulroney was not being forthright about the amount he received is also apparent from the instructions it seems he gave to his tax lawyer, Wilfred Lefebvre. In January 2000, Mr. Lefebvre wrote to the CCRA describing receipts of "between \$150,000 and \$225,000". However, by that time Mr. Mulroney had received all of the payments and was well aware of the quantum he had received.
79. Mr. Mulroney also testified that he was unaware that the amount he declared as income was only \$37,500 per year, rather than \$75,000 per year (4235). Yet, Mr. Mulroney admitted that he wrote the cheques to pay for the taxes he expected (4469). Surely he would have noticed that the amount of tax he was paying was only half of what he expected.
80. On November 22, 2007 (only days before the commencement of the Ethics Committee proceedings), Luc Lavoie told the media that Mr. Mulroney received "\$100,000 a year" (P35, Tab 18, 19, 20).
81. In an email dated November 5, 2007, Mr. Lavoie confirmed to Mr. Campion-Smith of the Toronto Star that the "\$300,000 retainer" was received by Mr. Mulroney. Mr. Lavoie stated in this same email that "I know all these facts to be totally true" (P35).

VI. The events surrounding the Savoy Hotel Meeting

82. Although Mr. Mulroney testified that he “never initiated a meeting with Mr. Schreiber in his life” (3522), he later agreed that he “initiated” the Savoy Hotel meeting (4590). He asked his assistant to make arrangements to meet Mr. Schreiber at the Savoy Hotel in 1998 (3723, 3726-3727).
83. The setting, timing and circumstances of this meeting suggest that it was a meeting of great importance to Mr. Mulroney. The meeting was held in a private suite, with a private lunch that cost \$2100. Mr. Mulroney never explained in his testimony why he was having lunch in the room of a hotel as opposed to in the restaurant. This question was asked at page 3726. Mr. Mulroney’s lengthy reply was not responsive to this simple question.
84. The luncheon meeting occurred after the settlement in Mr. Mulroney’s civil defamation case, but before the RCMP had concluded their criminal investigation relating to Airbus.
85. Although Mr. Mulroney agreed that he initiated the Savoy meeting, he denied that there was any subject matter that he wanted to discuss (4590). Mr. Mulroney agreed in cross-examination that the only two subjects discussed at the Savoy meeting were “Airbus” and “Pasta” (3727, 3729, 4589). Mr. Mulroney and Mr. Schreiber did not discuss Bear Head or Thyssen (4589). Mr. Mulroney testified that Mr. Schreiber was preoccupied with the subject of pasta. Mr. Mulroney did not introduce the subject of pasta. The only logical

conclusion to be drawn is that Mr. Mulroney wanted to meet Mr. Schreiber in order to discuss Airbus privately. Mr. Schreiber testified and swore in his November 7, 2007 affidavit that Mr. Mulroney was concerned about whether there was any evidence that he received the payment of money (paragraph 27, November 7, 2007 affidavit, Tab 21, P7(3)).

86. Notwithstanding all of the suspicious circumstances in relation to the Savoy Hotel meeting, Mr. Mulroney simply characterized the meeting as a "courtesy call".

VII. Overall weight and credibility of Mr. Mulroney's testimony

87. In assessing all of the questions put to this Commission, findings of credibility will be required. It is submitted that there is significant reason to doubt Mr. Mulroney's evidence on key points.

a) Weight of Mr. Mulroney's evidence

88. Mr. Mulroney had the benefit of hearing all witnesses testify before committing to his position on any of the issues or subject matter of this Commission. Mr. Mulroney committed to his position for the first time when he appeared in person for his testimony on May 12, 2009. He did not attend for an interview with Commission counsel and did not furnish Commission counsel or counsel for the parties with a willsay in advance of his testimony.

It is fully acknowledged that there was no strict legal requirement to do so under the Rules of this Commission.

89. Mr. Doucet confirmed that he and Mr. Mulroney discussed their evidence prior to the Ethics Committee proceedings and prior to Mr. Doucet being interviewed by Commission counsel for this proceeding.
90. Indeed, Mr. Doucet admitted that he and Mr. Mulroney discussed Mr. Doucet's testimony only one week before Mr. Doucet testified at this Commission (2018-2019). Mr. Mulroney and Mr. Doucet discussed Mr. Schreiber's evidence and together "compared" Mr. Schreiber's version to Mr. Mulroney's version and Mr. Doucet's version (2020). While such discussions were not prohibited, the real risk of collusion and/or evidence tailoring must be considered. This should also be a consideration having regard to Mr. Doucet's admissions about discussing with Mr. Schreiber the evidence he would give under oath in his discoveries (2278, 2284, 2285, 2287).

b) The manner in which Mr. Mulroney answered questions

91. When cross-examined, Mr. Mulroney was often non-responsive, despite giving lengthy answers. Mr. Wolson is a very experienced cross-examiner. All of Mr. Wolson's questions to Mr. Mulroney were specific and focused. Nevertheless, Mr. Wolson was forced to remind Mr. Mulroney continually that his question was "specific". Mr. Wolson often had to ask Mr. Mulroney to "focus on the question" (4239, 4438).

92. As well, Mr. Mulroney often repeated answers that he had already given about other subject matters. On May 19, 2009, the Commissioner even intervened to remind Mr. Mulroney that he previously “clarified” his answer, he had already “made the point” and “it need not be made again” (4293-4294).
93. Given Mr. Mulroney’s high level of sophistication, his frequent refusal to answer a question directly had to have been intentional.
94. The difference between the manner in which Mr. Mulroney answered questions before this Commission as compared to how he said he answered questions in his 1996 civil examination before plea is striking. As discussed in the next section, Mr. Mulroney testified that in his 1996 examination he only answered the narrow and specific question asked. He testified that he was told to not volunteer information and that he did not volunteer information. This contrasts remarkably with many lengthy answers that Mr. Mulroney provided to this Commission which never responded to directly to the questions asked.

c) Mr. Mulroney's credibility

i) Mr. Mulroney's 1996 examination before plea in Montreal

95. Mr. Mulroney told the Commission that at his examination before plea in 1996 Mr. Sheppard asked him "clear, open-ended" questions about his relationship with Mr. Schreiber such as "Can you describe your relationship with him? (3808, 3810), "Can you describe your relationship with him after" (referring to after 1984) (3812). The fact that Mr. Mulroney did not reveal the "legal legitimate commercial relationship" he now asserts when asked such clear open-ended questions demonstrates Mr. Mulroney's willingness to omit significant evidence. Mr. Mulroney agreed that he knew he had obligation to provide complete truthful answers when under oath (3801).
96. Mr. Mulroney explained to the Commission that he did not want his relationship with Mr. Schreiber to become public because of the damage he already suffered from the "Airbus hoax". Mr. Mulroney agreed that he did not "doubt" that disclosing his relationship with Mr. Schreiber during his discoveries would have "fuelled the already raging fire of suspicion that was out there" (3793). Mr. Mulroney's reason for wanting to keep his relationship with Mr. Schreiber private did not justify not telling the complete truth under oath. In fact, all private litigants are obliged to divulge private or personal information in lawsuits. If Mr. Mulroney's approach were acceptable, the litigation system would have no value.

97. Mr. Mulroney, now with hindsight, seeks to justify his answers to Mr. Sheppard by explaining that he was advised to not “volunteer” information at his discovery (3845, 3851, 3855). Mr. Mulroney asserted that he did not “volunteer” information that he was not asked about directly by Mr. Sheppard. A careful review of the following answers that were actually “volunteered” by Mr. Mulroney contradicts his own justification.
98. First, although Mr. Mulroney volunteered to Mr. Sheppard that Mr. Schreiber “had a project which called for the building of vehicles that would be either sold to the NATO armies....or eventually, as time went on, a new vehicle that would be sold to the United Nations Peacekeepers” (3814), Mr. Mulroney made no mention of his own commercial relationship with Mr. Schreiber or involvement in that very project.
99. Second, Mr. Mulroney also volunteered to Mr. Sheppard that the Thyssen Project was morphing into a UN project (4078, 4085). Mr. Mulroney did not disclose his involvement with Mr. Schreiber and the Thyssen project at this point either.
100. Mr. Mulroney sought to justify his omissions about Mr. Schreiber stating that he was only answering questions strictly confined to the issues in the Statement of Claim (i.e., the Letter of Request) (3818). The flaw in Mr. Mulroney’s reasoning is that his decision to disclose information about Mr. Schreiber’s project for NATO or UN Peacekeepers itself has nothing to do with Airbus or the Letter of Request. Indeed, Mr. Mulroney eventually had to

- concede to Mr. Wolson in cross-examination that his answers about NATO and the UN were not within the Statement of Claim (3818).
101. Third, although specifically asked by Mr. Sheppard about meetings with Mr. Schreiber and where the two men met, Mr. Mulrone y did not disclose the Harrington Lake meeting (3824-3825).
 102. Fourth, although Mr. Mulrone y “volunteered” in his discovery answers that Mr. Schreiber retained Marc Lalonde for Bear Head, he omitted to state that he too was retained by Mr. Schreiber for Bear Head (3846).
 103. Fifth, Mr. Mulrone y also volunteered to Mr. Sheppard that at the Mirabel meeting Mr. Schreiber gave him a copy of a proposed lawsuit in relation to the cancellation of Bear Head (4077). That answer was not strictly relevant to Mr. Mulrone y’s defamation lawsuit.

ii) Mr. Mulrone y’s ongoing efforts to keep the “legitimate legal transaction” private

104. Mr. Mulrone y told the Commissioner that the Airbus allegations against him explain and justify his “conduct in trying to keep private the private commercial transaction [he] entered into with Mr. Schreiber after [he] left office” (3386). However, the Airbus allegations arose in 1995 with the Letter of Request. Mr. Mulrone y’s reasoning for keeping his “legitimate legal commercial transaction with Mr. Schreiber” private does not apply to the period before the 1995 Letter of Request.

105. This Commission has been provided with no explanation from Mr. Mulroney as to why his commercial relationship with Mr. Schreiber was a secret and not disclosed to Revenue Canada between the date of the first payment on August 27, 1993 to the date of the publication of the Letter of Request in 1995.
106. Mr. Mulroney also apparently never told his close friends or associates about the cash he received from Mr. Schreiber. Mr. Mulroney never told Fred Doucet (2145, 2342) or Mr. MacAdam (1274). He initially never told his accountant (3562). Apparently, Luc Lavoie did not know for some period of time.

iii) Mr. Mulroney misled Mr. Kaplan

107. Mr. Kaplan testified at length about his view that he was misled and “duped” by Mr. Mulroney about Mr. Mulroney’s relationship with Mr. Schreiber.
108. Although Mr. Mulroney told Mr. Kaplan that “cash would have been reflected in the books of his company” (1791, P25, tab 3), he told this Commission that the cash was not reflected or recorded in the books of his company (3563, 4236). In cross-examination, Mr. Mulroney explained that his statement to Mr. Kaplan was an “inadvertently inaccurate statement” on his part. (4237). However, given that Mr. Mulroney testified he never used his Cansult company for business with Mr. Schreiber (4631), it is unlikely that it was

through "inadvertence" that Mr. Mulroney told Mr. Kaplan that the cash would be recorded on the Cansult books.

iv) Mr. Mulroney minimized the importance of documents that contradicted his evidence

109. Mr. Mulroney attempted to minimize the Mandate Sheet and its content. Although Mr. Mulroney agreed that creating the Mandate Sheet was a good idea, the Mandate Sheet was read to him and he did not ask for changes to it (4560), he testified that it was not "meaningful" to him because he had already undertaken to sever his relationship with Mr. Schreiber (4549). Severing his relationship with Mr. Schreiber has nothing to do with whether or not the mandate document was accurate or meaningful.

v) Mr. Mulroney never really explained his "mistake or error"

110. Mr. Mulroney testified that his transaction with Mr. Schreiber was a mistake and an error on his part (4493). When pressed in cross-examination, he agreed that he realized before 1999 that the transaction was a mistake and an error (4494). If Mr. Mulroney realized that the transaction was a mistake before 1999 why did he wait until February 2, 2000 to enter a Voluntary Disclosure agreement with CCRA to finally declare the income tax? Mr. Mulroney admitted that although he declared the income in 1999, this was not when he realized that the transaction was an error (4493-4493).

111. Mr. Mulroney suggested that he declared the income in 1999 because Mr. Schreiber was arrested in 1999 (4494). Mr. Mulroney also testified that in the fall of 1999 he had an "impression" that Mr. Schreiber was musing that Mr. Mulroney had an income tax problem (3743). Whether or not Mr. Schreiber mused about a possible tax problem, on Mr. Mulroney's own admission that he realized before 1999 that the transaction was an error and a mistake, he had to at some point before 1999 consider the fact that income ought to be reported.

VIII. Overall weight and credibility of Mr. Schreiber's testimony

112. Mr. Schreiber followed the media in 2003. He knew that William Kaplan's story about the \$300,000 in cash given to Mr. Mulroney was public in 2003 (1188-1189). Mr. Schreiber confirmed this knowledge in his 2003 Eurocopter testimony when he stated to the prosecutor:

"I wonder why you don't simply say whether Brian Mulroney was engaged and hired by me after he was Prime Minister of Canada. The whole world knows it. Why do you go around? Just simply ask straightforward questions and I'll give it to you...I have no problems with that. The whole world knows that" (1190-1191).

113. Mr. Schreiber confirmed to this Commission that he knew full well that the story about his relationship with Mr. Mulroney and the cash payments was

public in 2003 (1192). Mr. Schreiber testified that he was therefore not trying to hide his relationship with Mr. Mulroney from the court in Eurocopter (1193). He maintained this position even upon cross-examination by Mr. Wolson.

114. Mr. Schreiber's answers are also consistent with his answer later on in his testimony before this Commission. Mr. Schreiber responded to Mr. Wolson's allegation of not being forthright with the prosecutor in Eurocopter as follows: "But I don't recall why I would not have told him. Everybody knew. It was all over the place, common knowledge that I met with him all the time" (294).
115. Mr. Wolson suggested during his cross-examination of Mr. Schreiber that in his testimony in Eurocopter he was not forthright about his answers in relation to the history of his meetings with Mr. Mulroney (290-291). In fact, Mr. Schreiber did not deny his long history of meetings and contact with Mr. Mulroney. Mr. Schreiber confirmed that he was not hiding his meetings or relationship with Mr. Mulroney when he testified in Eurocopter. Mr. Schreiber answered in the affirmative to the prosecutor in Eurocopter, when asked about "other contact" with Mr. Mulroney (1196-1197). Mr. Schreiber then attempted to complete his answer to the prosecutor in Eurocopter by listing additional contact. The prosecutor then immediately changed the subject of the questioning (1197-1198).

116. Mr. Doucet admitted that he asked Mr. Schreiber about what he would say under oath at any upcoming discovery. Mr. Doucet admitted that Mr. Schreiber's evidence was of concern to Mr. Mulroney. Mr. Doucet admitted that he told Mr. Mulroney about asking Mr. Schreiber about what he would say under oath. Mr. Mulroney accepted in cross-examination that Mr. Doucet did describe his discussions with Mr. Schreiber about the upcoming discovery with him after Mr. Doucet met with Mr. Schreiber (4392-4393)
117. Mr. Schreiber testified that he told Mr. Doucet that despite a request that he do so, he was "not going to commit perjury" (684-685, 706-707).

a) Mr. Schreiber did not swear the November 7, 2007 affidavit or otherwise make statements about Mr. Mulroney in order to postpone extradition

118. Mr. Mulroney alleged before the Commission that Mr. Schreiber's November 7, 2007 affidavit was an attempt to delay the Minister's surrender of Mr. Schreiber. However, Mr. Schreiber had mounted court challenges to his extradition before, during and after his November 7, 2007 affidavit was sworn. The reality was that Mr. Schreiber's November 7, 2007 affidavit had to be filed in order to respond to Mr. Mulroney's motion to have Mr. Schreiber's lawsuit dismissed in Ontario.

119. Mr. Mulroney also suggested that because Mr. Schreiber is the subject of extradition proceedings, he is therefore now not the person that Mr. Mulroney knew when he took cash from him in 1993 and 1994 (3381, 3383).

120. Mr. Mulroney's hypothesis about Mr. Schreiber being a different person because of his extradition case is contradicted by Mr. Mulroney's own testimony:

a) Mr. Schreiber has been legitimately fighting extradition before the Courts since 1999. Indeed, Mr. Schreiber's case was before the Courts before, during and after this Commission was announced or commenced (4502-4505, P9);

b) Mr. Mulroney himself testified that he believed Mr. Schreiber should not be extradited to Germany, a belief that he told William Kaplan in 2003 (4489, P25, Tab 7);

c) Mr. Mulroney himself testified that he strongly believes that Mr. Schreiber is fully entitled to the presumption of innocence and should advance all legal arguments before the courts. Mr. Mulroney understands the presumption of innocence fully because he too was the victim of false criminal allegations in the "Airbus hoax" (4491-4492);

d) Mr. Mulroney was never told by Paul Tellier, Fred Doucet or Elmer McKay at anytime that Mr. Schreiber should be avoided (3996, 4026). Indeed, Mr. Doucet encouraged and organized meetings between Mr. Mulroney and Mr. Schreiber before and after Mr. Mulroney left office.

Accordingly, prior to Mr. Schreiber being the subject of extradition proceedings in 1999, Mr. Mulroney was left with his own assessment and judgment about Mr. Schreiber. Obviously, given all of the evidence, Mr. Mulroney did not, at the time, see any reason to not have dealings with Mr. Schreiber. Mr. Mulroney's own judgment was to continue a relationship and dealings with Mr. Schreiber.

121. A chronology of Mr. Schreiber's lengthy extradition proceedings before all levels of courts can be found in the court decisions reproduced in exhibit P9, Tab 35, 36, 38, 40, 41 and the chronology in the Notice of Application for Judicial Review dated June 2, 2009 and filed with this Commission on June 3, 2009.
122. Even if this Commission accepted Mr. Mulroney's assertion that Mr. Schreiber alleged in 1999 that Mr. Mulroney may have an "income tax problem", Mr. Schreiber may well have been right. Mr. Mulroney took advantage of the Voluntary Disclosure program at CCRA. The CCRA Voluntary Disclosure program was intended to be used by taxpayers "to come forward and correct deficiencies in their past tax affairs" (Revenue Canada Information Circular 85-1R2, P46, Tab 26).
123. Mr. Schreiber was completely co-operative with Commission counsel and supported the work of this Commission at all times. Mr. Schreiber attended all meetings and answered all questions requested by Commission counsel. Mr. Schreiber produced voluminous documents dating back to the 1980's.

Mr. Schreiber did not redact and delete any portion of any document. When asked about his documents, Mr. Schreiber testified that he "didn't want to raise any suspicion at all. [He] wanted to be absolutely open to the Commission....[He] wanted to support the work of the Commission." (3361-3362)

IX. Overall weight and credibility of Mr. Doucet's Testimony

124. The following sets out some of the reasons that great caution must be exercised before accepting any of Mr. Doucet's testimony before this Commission.
125. Mr. Doucet is clearly biased in favour of Mr. Mulroney. There was no dispute Mr. Doucet and Mr. Mulroney were best of friends for decades. Both essentially admitted that Mr. Doucet would do anything for Mr. Mulroney.
126. As discussed above, Mr. Doucet admitted that he and Mr. Mulroney discussed Mr. Schreiber's evidence before this Commission and "compared" their version of the events with each other (2020). Mr. Doucet's evidence must also be considered in light of the risk of collusion and/or evidence tailoring.
127. Mr. Doucet admitted to questioning Mr. Schreiber about what he might testify to while under oath in any discoveries he may be involved in (2278, 2284, 2285, 2287). In all of the circumstances at the time, one must consider the appropriateness of Mr. Doucet's activities and his motives.
128. Although Mr. Mulroney testified that Mr. Doucet always excelled in his position, Mr. Doucet had a selective memory before this Commission. It is remarkable that he failed to recall significant events and documents. Two examples of Mr. Doucet's professed lack of memory are striking and notable.

129. First, Mr. Schreiber testified that he paid Fred Doucet (and others) "success fees" in the amount of \$90,000 in November 1988 (three months after Mr. Doucet left government). The "success fee" was for obtaining Perrin Beatty's signature on the Understanding in Principle (316-317). Mr. Schreiber's testimony on this issue was corroborated by numerous invoices and cheques (Tab 36). It is submitted that Mr. Doucet's testimony that he did not "remember" the \$90,000 invoice and cheque defies common sense and must be disbelieved (2073, 2088). This \$90,000 payment likely exceeded any amount of Mr. Doucet's previous annual salaries in government and was apparently his first payment in private practice. Simply put, \$90,000 in 1988 dollars was a very large sum of money for an upstart one-person lobbying company and could not have been forgotten.
130. Second, Mr. Doucet insisted that he did not recall three letters that were sent to Mr. Schreiber relating to the delivery of 34 Airbus airplanes in 1993. This testimony cannot be believed. Mr. Doucet was a life-long friend of Mr. Mulroney's. They "stuck together through good times and bad". Mr. Mulroney testified repeatedly about the tremendous harm he suffered as a result of the Airbus scandal. It is acknowledged that there is no evidence to support any of the allegations involving Airbus and Mr. Mulroney. However, given the impact of the allegations on Mr. Mulroney (and presumably Mr. Doucet), it is not credible that Mr. Doucet did not remember anything about these letters. This is also remarkable given that the August 27, 1993 letter is

dated the same day that Mr. Schreiber gave Mulroney \$100,000 in cash at Mirabel. Although these three letters may not directly relate to the subject matter of this Commission, Mr. Doucet's plain deliberate choice to be forgetful and evasive about the letters means that caution must be exercised in assessing all of Mr. Doucet's testimony.

ALL OF WHICH IS RESPECTFULLY SUBMITTED

Dated this 16th day of June, 2009.

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