

Commission of Inquiry into Certain Allegations
Respecting Business and Financial Dealings
Between Karlheinz Schreiber and
the Right Honourable Brian Mulroney



Commission d'enquête concernant les allégations
au sujet des transactions financières et
commerciales entre Karlheinz Schreiber et
le très honorable Brian Mulroney

Public Hearing

Audience publique

Commissioner

L=Honorable juge /
The Honourable Justice
Jeffrey James Oliphant

Commissaire

Held at:

Bytown Pavillion
Victoria Hall
111 Sussex Drive
Ottawa, Ontario

Thursday, April 23, 2009

Tenue à :

pavillion Bytown
salle Victoria
111, promenade Sussex
Ottawa (Ontario)

le jeudi 23 avril 2009

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1 Ottawa, Ontario / Ottawa (Ontario)
2 --- Upon commencing on Thursday, April 23, 2009
3 at 9:50 a.m. / L'audience débute le jeudi
4 23 avril 2009 à 9 h 50

5 18198 COMMISSIONER OLIPHANT: Good morning,
6 counsel. Be seated, please.

7 18199 Before you commence, Mr. Wolson, I
8 apologize to those here for the delay in commencing
9 this morning. Apparently we have a problem again with
10 Mr. Brisson, the registrar, who did not appear and
11 hasn't called. I am a little concerned about what is
12 happening in light of the state of his health.

13 18200 As counsel know, when the start time
14 is 9:30, I expect to start at 930 unless there is a
15 good reason for not doing so.

16 18201 Before Mr. Kaplan is affirmed, I
17 would like to provide those gathered here with the
18 schedule of witnesses for next week.

19 18202 Monday, the 27th of April it is
20 anticipated that Fred Doucet will be testifying, as
21 will be the case on Tuesday, April 28th.

22 18203 On Wednesday we anticipate hearing
23 from a former Prime Minister, Kim Campbell, and from
24 Perrin Beatty.

25 18204 On Thursday, the 30th of April, it is

1 expected that the inquiry will be calling Lowell Murray
2 and Norman Spector to testify.

3 18205 As is the case, Fridays we will not
4 be sitting unless there is a reason why we have to sit.

5 18206 So that is the witness list for next
6 week.

7 18207 Mr. Kaplan, I understand, sir, that
8 you wish to be affirmed?

9 18208 MR. KAPLAN: Yes.

10 18209 COMMISSIONER OLIPHANT: Could I just
11 ask you to stand, please, Mr. Kaplan.

12 AFFIRMED: WILLIAM KAPLAN

13 DÉCLARATION SOLENNELLE : WILLIAM KAPLAN

14 18210 COMMISSIONER OLIPHANT: Thank you
15 very much.

16 18211 Yes, Mr. Yarosky...?

17 18212 MR. YAROSKY: Mr. Commissioner,
18 before you begin may I just -- and I have spoken to
19 Mr. Wolson.

20 18213 I believe I speak for all of us and
21 probably all counsel in the room. I just want to
22 mention how delighted we all are to have learned that
23 the release of Mr. Robert Fowler and Louis Guay.

24 18214 Since Fowler is a name that has been
25 mentioned here throughout, I just thought it

1 appropriate to express this sentiment.

2 18215 COMMISSIONER OLIPHANT: Well,

3 certainly. I would join with you in the expression of

4 that sentiment, as I am sure do all Canadians.

5 18216 Thank you very much, Mr. Yarosky.

6 18217 Mr. Wolson...?

7 EXAMINATION: WILLIAM KAPLAN BY MR. WOLSON /

8 INTERROGATOIRE : WILLIAM KAPLAN PAR Me WOLSON

9 18218 MR. WOLSON: Good morning,

10 Mr. Commissioner.

11 18219 Good morning, Mr. Kaplan. Thank you

12 for being here today.

13 18220 You are a lawyer.

14 18221 MR. KAPLAN: That's correct.

15 18222 MR. WOLSON: And you are a Member of

16 the Law Society of Upper Canada?

17 18223 MR. KAPLAN: Correct.

18 18224 MR. WOLSON: You were called to the

19 Bar in 19 -- was it '85?

20 18225 MR. KAPLAN: That's correct.

21 18226 MR. WOLSON: And you practise law in

22 the Province of Ontario?

23 18227 MR. KAPLAN: Yes, sir.

24 18228 MR. WOLSON: And you practise in the

25 area of labour arbitration, employment and mediation?

1 18229 MR. KAPLAN: That's correct.

2 18230 MR. WOLSON: You are an historian
3 with a Masters degree in history?

4 18231 MR. KAPLAN: Yes.

5 18232 MR. WOLSON: And you have a law
6 doctorate in legal history?

7 18233 MR. KAPLAN: That's correct.

8 18234 MR. WOLSON: You are the author of a
9 number of books, but two in particular in part
10 regarding Mr. Mulroney?

11 18235 MR. KAPLAN: Yes, sir.

12 18236 MR. WOLSON: The first book, a book
13 of 1998 --

14 18237 MR. KAPLAN: That's right.

15 18238 MR. WOLSON: -- called "Presumed
16 Guilty"--

17 18239 MR. KAPLAN: That's right.

18 18240 MR. WOLSON: -- "The Airbus Affair"?
19 18241 Yes, sir.

20 18242 MR. WOLSON: And a second book, the
21 book that I am most interested here this morning, a
22 book entitled "The Secret Trial: Brian Mulroney and the
23 Public Trust".

24 18243 MR. KAPLAN: That's right.

25 18244 MR. WOLSON: In the first book,

1 despite stories by other journalists, you defended
2 Mr. Mulroney and found him to be innocent of
3 allegations contained in the Letter of Request?

4 18245 MR. KAPLAN: That's correct.

5 18246 MR. WOLSON: In the Forward of the
6 second book "A Secret Trial", it indicates that you won
7 the cooperation of the former Prime Minister,
8 Mr. Mulroney.

9 18247 MR. KAPLAN: Yes, sir.

10 18248 MR. WOLSON: And you had, it says,
11 unprecedented and unlimited access to his files.

12 18249 MR. KAPLAN: That's right.

13 18250 MR. WOLSON: I take it you spent a
14 lot of time talking to Mr. Mulroney?

15 18251 MR. KAPLAN: That's correct.

16 18252 MR. WOLSON: In preparation for the
17 second book, "A Secret Trial", I understand that you
18 interviewed Mr. Mulroney on a number of occasions.

19 18253 MR. KAPLAN: Yes, sir.

20 18254 MR. WOLSON: You also relied on some
21 of the earlier interviews of him?

22 18255 MR. KAPLAN: That's correct.

23 18256 MR. WOLSON: You interviewed
24 Mr. Schreiber on a number of occasions?

25 18257 MR. KAPLAN: Yes, sir.

1 18258 MR. WOLSON: As well as Luc Lavoie?
2 18259 MR. KAPLAN: Yes, sir.
3 18260 MR. WOLSON: You also talked to a
4 Mr. MacAdam?
5 18261 MR. KAPLAN: That's right.
6 18262 MR. WOLSON: The interviews that you
7 conducted, the ones that I have just talked about, you
8 would make notes of those interviews?
9 18263 MR. KAPLAN: That's correct.
10 18264 MR. WOLSON: The notes are here
11 today.
12 18265 This would be a convenient time to
13 file as the next exhibit the documents in support of
14 Mr. Kaplan's testimony. They can be filed I believe
15 with the consent of all parties, and I would like them
16 to be the next exhibit, please.
17 18266 COMMISSIONER OLIPHANT: All right,
18 then. By consent, the notes made by Mr. Kaplan will be
19 received and marked as Exhibit P-25.
20 EXHIBIT NO. P-25: Binder
21 entitled "Documents in support
22 of Mr. William Kaplan's
23 testimony"
24 18267 MR. WOLSON: I would also like to
25 file, as an exhibit for identification only, a summary

1 of the gist of the interview that I conducted with
2 Ms Brooks, my colleague, with Mr. Kaplan on 3 March
3 2009 in Toronto.

4 18268 COMMISSIONER OLIPHANT: What is the
5 exhibit for identification, please? It will be a
6 letter.

7 18269 Exhibit "E" for identification, then,
8 will be the summary of the interview.

9 EXHIBIT "E" For Identification:
10 Summary of notes of interview of
11 William Kaplan, conducted on
12 March 3, 2009 by Mr. Wolson and
13 Ms Brooks

14 18270 COMMISSIONER OLIPHANT: Perhaps just
15 before you commence, I should acknowledge the presence
16 of Peter Jacobsen, who is counsel --

17 18271 MR. WOLSON: I was just going to do
18 that.

19 18272 COMMISSIONER OLIPHANT: I know
20 Mr. Jacobsen from work that I did on the Judicial
21 Council on Media in the Courts. Welcome, Mr. Jacobsen.

22 18273 MR. JACOBSEN: Thank you.

23 18274 MR. WOLSON: You took the words out
24 of my mouth.

25 18275 COMMISSIONER OLIPHANT: Sorry.

1 18276 MR. WOLSON: I was going to then ask
2 you about your notes, that now are the next exhibit in
3 the cause in this proceeding.

4 18277 These are notes that you made after
5 the various interviews of parties?

6 18278 MR. KAPLAN: In some cases they were
7 made during the interviews, in some cases afterwards.

8 18279 MR. WOLSON: And I understand that if
9 they were made afterwards, you would either dictate
10 them and your assistant would type them -- that was one
11 form.

12 18280 MR. KAPLAN: Yes, sir.

13 18281 MR. WOLSON: Or that you would type
14 them yourself?

15 18282 MR. KAPLAN: I would do that as well.
16 On one or two occasions I would leave my assistant a
17 voicemail message with the interview and she would type
18 it from the message, if I didn't have my Dictaphone
19 available.

20 18283 MR. WOLSON: And I want to ask you
21 about accuracy.

22 18284 What can you tell Commissioner
23 Oliphant about the accuracy of your notes?

24 18285 MR. KAPLAN: Well, I believe them to
25 be generally accurate.

1 18286 MR. WOLSON: You took interest in
2 ensuring that they were accurate?

3 18287 MR. KAPLAN: I was aware of the
4 importance of the matters that I was investigating to
5 everybody. I was also aware of the possibility of
6 subsequent litigation, and I made my best efforts to
7 ensure the notes were accurate.

8 18288 MR. WOLSON: In your interview that
9 we had of you, which is reduced to Exhibit "E" for
10 identification which you have seen, in the third
11 paragraph on the first page -- I would just like you to
12 confirm this -- you state that:

13 "... the notes contained in the
14 Brief are an accurate account of
15 his conversations with Brian
16 Mulroney."

17 18289 MR. KAPLAN: I'm sorry, sir, where is
18 that?

19 18290 MR. WOLSON: It's Exhibit "E". I
20 wonder if --

21 18291 MR. KAPLAN: I don't believe I have
22 that, sir.

23 18292 MR. WOLSON: All right. Let me read
24 this to you then and you can ensure that I'm reading it
25 to you accurately:

1 Mr. Kaplan stated that:
2 "... the notes contained in the
3 Brief are an accurate account of
4 his conversations with Brian
5 Mulroney."
6 18293 That's a true statement?
7 18294 MR. KAPLAN: Yes, sir.
8 18295 MR. WOLSON: And I would add,
9 although it is not in your summary, you would say the
10 same about your conversations with Mr. Schreiber and
11 with Mr. Lavoie?
12 18296 MR. KAPLAN: Yes, sir.
13 18297 MR. WOLSON: You say, and I will read
14 this to you again, that you were:
15 "... sensitive to the importance
16 of having his notes reflect the
17 discussions accurately."
18 18298 MR. KAPLAN: Yes, sir.
19 18299 MR. WOLSON: I am interested in,
20 then, Tab 1 of the exhibit.
21 18300 This was an interview that you had
22 with Mr. Mulroney, I am advised, December 2, 1997.
23 18301 MR. KAPLAN: Yes, sir.
24 18302 MR. WOLSON: At that time you were
25 not contemplating writing a second book about

1 Mr. Mulroney?

2 18303 MR. KAPLAN: I was working on my
3 first book.

4 18304 MR. WOLSON: So these are notes of an
5 interview that you had with Mr. Mulroney in preparation
6 for the first book that you wrote, "Presumed Guilty"?

7 18305 MR. KAPLAN: That's correct.

8 18306 MR. WOLSON: The interview generally
9 was about Mr. Mulroney becoming aware of the letter of
10 request?

11 18307 MR. KAPLAN: Well, that is how the
12 interview started off.

13 18308 MR. WOLSON: Yes.

14 18309 MR. KAPLAN: It was a wide-ranging
15 interview extending over many hours.

16 18310 MR. WOLSON: All right. And this was
17 an interview at his house?

18 18311 MR. KAPLAN: That's correct.

19 18312 MR. WOLSON: I take it, before we go
20 much further, you had -- you liked the man?

21 18313 MR. KAPLAN: Absolutely.

22 18314 MR. WOLSON: You had met him on many
23 occasions in preparation for your first book?

24 18315 MR. KAPLAN: I spoke to him more
25 often than actually met him.

1 18316 MR. WOLSON: And you found him to be
2 a very engaging and very decent man?
3 18317 MR. KAPLAN: I found him likable,
4 courteous, intelligent, friendly.
5 18318 MR. WOLSON: And you had with him a
6 very good rapport?
7 18319 MR. KAPLAN: I think so.
8 18320 MR. WOLSON: Yes.
9 18321 MR. KAPLAN: In this first interview
10 he talks briefly about Mr. Schreiber.
11 18322 MR. KAPLAN: Yes, sir.
12 18323 MR. WOLSON: You will see that at the
13 first page of the interview in the second line.
14 18324 MR. KAPLAN: Yes, sir.
15 18325 MR. WOLSON: He says:
16 "I knew Schreiber in a
17 peripheral way."
18 18326 MR. KAPLAN: Correct.
19 18327 MR. WOLSON:
20 "He was associated in my mind
21 with the Alberta Progressive
22 Conservatives. That was the
23 limited extent to which I knew
24 anything about him, I knew who
25 he was, and that he'd been

1 peripheral way."

2 18339 You found that to be consistent with
3 what he had told the examiner at the discovery?

4 18340 MR. WOLSON: Yes, sir. But there was
5 more to it than that.

6 18341 MR. WOLSON: I'm going to go there in
7 a short while, because I am going to ask you some
8 questions shortly about discussions you had with
9 Mr. Mulrone y and questions that you didn't ask for a
10 particular reason.

11 18342 But would I be correct in stating
12 that in 1997 when he told you that he knew
13 Mr. Schreiber in a peripheral way, that was consistent
14 with what you had read at the discovery?

15 18343 MR. KAPLAN: Yes, sir. And I believe
16 either later in this interview or in another interview
17 Mr. Mulrone y advised me that he had cancelled the Bear
18 Head Project and it hadn't proceeded.

19 18344 MR. WOLSON: All right.

20 18345 MR. KAPLAN: That was another
21 consistent fact.

22 18346 MR. WOLSON: Okay. At page 4 of the
23 interview, just about four pages in -- they are not
24 numbered but it starts with:
25 "Schreiber was involved in Bear

1 Head."
2 18347 MR. KAPLAN: Yes, sir.
3 18348 MR. WOLSON: Do you have that?
4 18349 MR. KAPLAN: Yes, sir.
5 18350 MR. WOLSON:
6 "I knew that because I had
7 correspondence with him and I
8 met him. I knew that he was
9 trying to do the deal. But I
10 have no knowledge that he was
11 involved in any way with
12 Airbus."
13 18351 That's what it says.
14 18352 MR. KAPLAN: Correct.
15 18353 MR. WOLSON: All right.
16 18354 Your understanding of the discovery
17 was that Mr. Mulroney had said to the questioner that
18 he didn't have much of a relationship with
19 Mr. Schreiber?
20 18355 MR. KAPLAN: That was actually not
21 just my understanding, it was a fact. He testified
22 that he knew him, met him for coffee once or twice but
23 had never had had any dealings with him.
24 18356 MR. WOLSON: All right. Never had
25 had any dealings with him?

1 18357 MR. KAPLAN: Right.

2 18358 MR. WOLSON: So that when he told you
3 in 1997, December 2, that he knew him in a peripheral
4 way, all that was consistent --

5 18359 MR. KAPLAN: Yes, sir.

6 18360 MR. WOLSON: -- in your mind with
7 what you knew from the discovery and whatever else that
8 you knew?

9 18361 MR. KAPLAN: Yes, sir.

10 18362 MR. WOLSON: And at that time, then,
11 that statement was just a fact that didn't cause you
12 any consternation at all?

13 18363 MR. KAPLAN: None whatsoever and we
14 spent very little time on that afterwards.

15 18364 MR. WOLSON: All right.

16 18365 Before I go on with other interviews
17 that you had with Mr. Mulroney, I want to refer you to
18 Tab 17, if you will, please.

19 18366 Tab 17 is a conversation you had with
20 Philip Mathias.

21 18367 MR. KAPLAN: Correct.

22 18368 MR. WOLSON: Who is Philip Mathias?

23 18369 MR. KAPLAN: He was -- I'm not sure
24 if he was still a reporter with the National Post on
25 March 15, 2001, but he was a journalist and reported

1 for the National Post up until around that time.

2 18370 MR. WOLSON: All right. And
3 apparently, according to your interview, it starts off
4 with there was a:

5 "General discussion re last
6 night's fifth estate story."

7 18371 MR. KAPLAN: Right.

8 18372 MR. WOLSON: This is 15th of March of
9 2001 and I can tell you that there was a Fifth Estate
10 story on the 14th of March 2001, largely about MBB, the
11 helicopter sales.

12 18373 MR. KAPLAN: Okay.

13 18374 MR. WOLSON: You then had a
14 discussion about information that Mr. Mathias had
15 learned from some source.

16 18375 MR. KAPLAN: That's correct.

17 18376 MR. WOLSON: Generally speaking he
18 told you that Mr. Schreiber had given Mr. Mulroney some
19 money.

20 18377 MR. KAPLAN: That's right.

21 18378 MR. WOLSON: You talked to him about
22 the examination for discovery of Mr. Mulroney and the
23 answers that he gave at that discovery.

24 18379 MR. KAPLAN: Correct.

25 18380 MR. WOLSON: And I am assuming that

1 you talked about Mr. Mulroney saying that he had had no
2 dealings with Mr. Schreiber?

3 18381 MR. KAPLAN: I cannot recall the
4 exact details of our conversation.

5 18382 MR. WOLSON: All right. You do note
6 in your notes, about six lines down, that you talked to
7 Mulroney about the examination for discovery "... and
8 said that he had no business relationship with
9 schreiber..."

10 18383 MR. KAPLAN: Yes, sir.

11 18384 MR. WOLSON: So you did talk about
12 the answer that he had given at his discovery?

13 18385 MR. KAPLAN: I just can't remember if
14 we spoke about the specific answer I had had -- I never
15 had had -- I'm sorry, I'm getting a bit confused
16 here -- I had had -- what is the line?

17 18386 I never had had any dealings with
18 Mr. Schreiber.

19 18387 MR. WOLSON: Okay.

20 18388 MR. KAPLAN: I don't know if we
21 referenced the exact sentence.

22 18389 MR. WOLSON: All right.

23 18390 MR. KAPLAN: We certainly discussed
24 the evidence that he gave at his discovery about his
25 relationship with Mr. Schreiber.

1 18391 MR. WOLSON: And what you have noted
2 down here, about six lines in, is about Mulroney
3 testifying at the discovery.

4 18392 MR. KAPLAN: That's correct.

5 18393 MR. WOLSON: All right. You learned
6 that Mr. Mathias had written a story about Mr. Mulroney
7 receiving cash from Mr. Schreiber and that it was
8 not -- it wasn't printed by the Post paper that he was
9 working for.

10 18394 MR. KAPLAN: That's correct.

11 18395 MR. WOLSON: I am assuming that after
12 you have had that discussion with him, you started some
13 of your own investigations at some point to find out
14 more about this?

15 18396 MR. KAPLAN: Yes, sir.

16 18397 MR. WOLSON: And in that regard you
17 talked -- and I'm going to refer you to the tab. You
18 talked to a Mr. Luc Lavoie.

19 18398 MR. KAPLAN: Yes, sir.

20 18399 MR. WOLSON: Tab 15, if you will,
21 please, if you could turn it up.

22 18400 You talked to Mr. Lavoie on the 4th
23 of January of 2002.

24 18401 MR. KAPLAN: Yes, sir.

25 18402 MR. WOLSON: Now, after you have had

1 this conversation with Mr. Mathias about Mr. Schreiber
2 paying Mr. Mulroney some money, I take it at first you
3 were sceptical of that?

4 18403 MR. KAPLAN: Yes, sir.

5 18404 MR. WOLSON: You had, after all,
6 written a book defending Mr. Mulroney.

7 18405 MR. KAPLAN: That's correct.

8 18406 MR. WOLSON: So when you heard of the
9 allegation that he had received money from
10 Mr. Schreiber, that was contrary to your belief.

11 18407 MR. KAPLAN: I was quite surprised.

12 18408 MR. WOLSON: And you, as I have
13 indicated, started speaking to people and doing your
14 own investigation.

15 18409 MR. KAPLAN: That's --

16 18410 MR. WOLSON: Doing your own due
17 diligence.

18 18411 MR. KAPLAN: That's correct, sir.

19 18412 MR. WOLSON: You spoke to Mr. Lavoie
20 on the 4th of January of 2002 and you question
21 Mr. Lavoie about what you have heard?

22 18413 MR. KAPLAN: That's correct.

23 18414 MR. WOLSON: You questioned him about
24 Mr. Mulroney receiving money from Mr. Schreiber?

25 18415 MR. KAPLAN: Yes, sir.

1 18416 MR. WOLSON: He told you, Mr. Lavoie
2 did -- and who is Mr. Lavoie, to your knowledge?
3 18417 MR. KAPLAN: Well, Mr. Lavoie was
4 Mr. Mulroney's spokesperson during the litigation in
5 1995, 1996 and 1997.
6 18418 MR. WOLSON: Yes...?
7 18419 MR. KAPLAN: He was a long-standing
8 associate of Mr. Mulroney and served in that capacity
9 when Mr. Mulroney was prime minister and worked with
10 Mr. Mulroney at Québecor.
11 18420 MR. WOLSON: All right. You note the
12 following:
13 "He told me..."
14 18421 That is Lavoie told you:
15 "... that he did not think that
16 I ever asked Mulroney directly
17 the question as to whether he
18 received any money from Karl
19 Heinz Schreiber."
20 18422 MR. KAPLAN: That's what he told me.
21 18423 COMMISSIONER OLIPHANT: I'm sorry,
22 where is that?
23 18424 MR. WOLSON: It is the first line of
24 Tab 15.
25 "He suggested that I check my

1 notes on that."

2 18425 MR. KAPLAN: Yes, sir.

3 18426 MR. WOLSON: Had you, to your
4 knowledge, asked Mr. Mulroney if he had received money
5 from Mr. Schreiber in your preparations for the first
6 book?

7 18427 MR. KAPLAN: No, sir.

8 18428 MR. WOLSON: Why not?

9 18429 MR. KAPLAN: You know, Mr. Wolson,
10 that is something I have thought about for a long time
11 and there is a reason, and it's a bit of a complicated
12 reason so I hope you will bear with me for a moment.

13 18430 MR. WOLSON: Please...?

14 18431 MR. KAPLAN: The Letter of Request,
15 which was sent to Switzerland in 1995, accused Mr.
16 Mulroney, Mr. Schreiber and Mr. Moores of having
17 engaged in a criminal conspiracy designed to defraud
18 the people of Canada of millions of dollars.

19 18432 It particularized that conspiracy by
20 referring to three separate transactions, two of which
21 are not within the mandate, I understand, of this
22 Commission, but one was, Bear Head.

23 18433 The Letter of Request stated
24 unequivocally that Mr. Mulroney had -- the letter cited
25 a secret informant -- received payments with respect to

1 the Bear Head translation.

2 18434 That is what the Letter of Request
3 said. That was the Letter of Request that Mr. Mulroney
4 responded to by suing the people of Canada for \$50
5 million.

6 18435 If you look at his Statement of Claim
7 in that transaction -- and I have brought a copy here
8 to share with you, if you haven't already introduced
9 it. In the Statement of Claim, Mr. Mulroney says that
10 he never received any of the alleged payments,
11 including the Bear Head payments -- and I am quoting
12 from Mr. Mulroney -- "in any form, from any person".

13 18436 MR. WOLSON: And you are quoting from
14 his Statement of Claim?

15 18437 MR. KAPLAN: That's right, the one in
16 which he was suing the people of Canada for \$50
17 million.

18 18438 MR. WOLSON: And where are you
19 reading from in the Statement of Claim?

20 18439 MR. KAPLAN: I am reading from page 5
21 of the translation that Mr. Mulroney provided when he
22 launched the civil suit.

23 18440 So there was that reason. Mr.
24 Mulroney said in his Statement of Claim with respect to
25 the Bear Head transaction that he had never received a

1 dime from "no one", as they say. But it wasn't just
2 that, Mr. Wolson. Around the same time as Mr. Mulroney
3 filed the Statement of Claim saying that he had never
4 received any money from anyone, Mr. Yarosky, who is Mr.
5 Mulroney's criminal lawyer, and who is sitting here
6 today, told the Globe and Mail on November 18th, 1995,
7 that Mr. Mulroney never received a cent from anyone.

8 18441 So we have the Statement of Claim in
9 which he says that he never received a cent from
10 anyone, and we have Mr. Yarosky, his criminal lawyer,
11 saying that he never received a cent from anyone.

12 18442 At the same time, Mr. Wakim, another
13 one of his lawyers who is sitting here today, told the
14 CBC -- and I am quoting --

15 18443 MR. WOLSON: Where are you quoting
16 from?

17 18444 MR. KAPLAN: From my book, on page
18 13.

19 18445 MR. WOLSON: "A Secret Trial"?

20 18446 MR. KAPLAN: Yes, sir.

21 "Mulroney never met this
22 Schreiber guy. Mulroney doesn't
23 even know Schreiber. Moores may
24 have brought Schreiber to a
25 party, but that's all."

1 18447 That's what Mr. Wakim, Mr. Mulroney's
2 long-time friend and lawyer who is here today, said.

3 18448 Mr. Wakim also told me around this
4 time that Mulroney didn't even know Schreiber, he was a
5 face in the crowd.

6 18449 So there was a Statement of Claim
7 that said he never got a dime. There was Mr. Yarosky
8 who said he never got a dime. There was Mr. Wakim, who
9 said he didn't even know the guy.

10 18450 And then there was his Examination on
11 Discovery in April 1996, in which he said that he knew
12 him very casually, that he had met him for coffee once
13 or twice, and that was it.

14 18451 Those were his words, "that was it".

15 18452 And then there was my interview, that
16 you referred to a moment ago, and the first question I
17 asked Mr. Mulroney was to tell me about his
18 relationship with Mr. Schreiber.

19 18453 MR. WOLSON: You are talking about
20 the first tab, the December 2, `97 interview.

21 18454 MR. KAPLAN: That's right.

22 18455 So Mr. Mulroney told me then, sir,
23 that he knew him in a peripheral sort of way, and
24 didn't mention any of the other details which
25 subsequently came to light.

1 18456 So in all of these circumstances, it
2 was inconceivable to me that Mr. Mulroney was at the
3 time, in 1993 and 1994, meeting Mr. Schreiber in motels
4 and taking cash payments from him.

5 18457 MR. WOLSON: All right. I want to go
6 on, then, with your interview with Luc Lavoie on the
7 4th of January 2002, Tab 15.

8 18458 MR. KAPLAN: Yes, sir.

9 18459 MR. WOLSON: After Mr. Lavoie -- and
10 I am looking now at the second and third lines --
11 suggested that you check your notes on whether you
12 asked Mr. Mulroney if he had ever received money from
13 Mr. Schreiber -- and you have now indicated why you
14 didn't do that -- you say that Mr. Lavoie strongly
15 objected to any suggestion that Mulroney engaged in any
16 improper activity, and pointed that there were nine
17 lawyers -- obviously, talking about the discovery --

18 18460 MR. KAPLAN: Yes, sir.

19 18461 MR. WOLSON: -- and none of them ever
20 asked Mulroney if he received any cash from Schreiber
21 or anybody else.

22 18462 MR. KAPLAN: Yes, sir.

23 18463 MR. WOLSON: You say, from Mr.

24 Lavoie, the following:

25 "Moreover, had anyone made that

1 request they would have been
2 answered with the fact that the
3 relationship was privileged."
4 18464 MR. KAPLAN: That's what Mr. Lavoie
5 told me.
6 18465 MR. WOLSON: He said:
7 "Moreover, the figure I used the
8 other day..."
9 18466 -- and you have in brackets that you
10 had discussed this matter earlier in the week with
11 Lavoie -- the figure that you used the other day,
12 having heard, you say, that you were planning on
13 writing a book -- a new book, the figure was wrong and
14 that it was much less than \$300,000.
15 18467 MR. KAPLAN: Yes, sir.
16 18468 MR. WOLSON: So I am assuming, then,
17 based on that, that you had this conversation earlier
18 than the 4th of January of '02 with Mr. Lavoie, on the
19 telephone --
20 18469 MR. KAPLAN: Yes, sir.
21 18470 MR. WOLSON: -- and that you had
22 asked Mr. Lavoie about a \$300,000 payment that Mr.
23 Mulroney allegedly received from Mr. Schreiber.
24 18471 MR. KAPLAN: Yes, sir.
25 18472 MR. WOLSON: And he told you, Mr.

1 Lavoie did, that the amount was much less than
2 \$300,000.

3 18473 MR. KAPLAN: That's correct.

4 18474 MR. WOLSON: Did he offer an amount?

5 18475 MR. KAPLAN: I can only confirm what
6 is in my notes.

7 18476 MR. WOLSON: I am assuming, if he had
8 said that the amount was 225 or 250, or whatever amount
9 he would have provided, you would have made a note of
10 that.

11 18477 MR. KAPLAN: I would have recorded
12 it.

13 18478 MR. WOLSON: Yes.

14 18479 You then indicate that you asked him,
15 Mr. Lavoie, what the money was used for, and he said
16 that it was used for several services which were
17 provided, including organizing meetings with senior
18 international executives, such as Archer Midland, in
19 connection with Schreiber's pasta business.

20 18480 MR. KAPLAN: That's what he told me.

21 18481 MR. WOLSON: And, also, for advising
22 Schreiber on international business transactions.

23 18482 MR. KAPLAN: Yes, sir.

24 18483 MR. WOLSON: You say, "Essentially,
25 that was it. Anything else Lavoie said was covered by

1 client/attorney privilege."

2 18484 MR. KAPLAN: Yes, sir.

3 18485 MR. WOLSON: He told you that Mr.

4 Mulroney never lobbied for Schreiber, and so he never

5 had to register as a lobbyist.

6 18486 MR. KAPLAN: Correct.

7 18487 MR. WOLSON: He also told you, Lavoie

8 did, that Mr. Schreiber had many other people on

9 retainer, including Ian Scott, a lawyer --

10 18488 MR. KAPLAN: Yes, sir.

11 18489 MR. WOLSON: -- and Alan McEachern

12 and others.

13 18490 MR. KAPLAN: That's correct.

14 18491 MR. WOLSON: He denied that Mulroney

15 was close to Schreiber, Lavoie did, and he said as much

16 when he discussed Schreiber in connection with the

17 Examination on Discovery. He truthfully responded that

18 they were not close.

19 18492 MR. KAPLAN: Correct.

20 18493 I am not saying it's correct that it

21 was truthful, but it's correct that he said this.

22 18494 MR. WOLSON: "I asked him" -- that

23 is, you asked Mr. Lavoie -- "why Schreiber would pay

24 Mulroney in cash."

25 18495 MR. KAPLAN: Correct.

1 18496 MR. WOLSON: Lavoie's answer was,
2 "You should ask Schreiber that question."
3 18497 MR. KAPLAN: Correct.
4 18498 MR. WOLSON: He said to you that all
5 taxes were paid, and the income was fully reported to
6 Revenue Canada.
7 18499 MR. KAPLAN: That's what he told me.
8 18500 MR. WOLSON: "Why Schreiber would pay
9 in cash," Lavoie says, "...entirely a matter up to him,
10 and for which he alone has knowledge."
11 18501 That is, up to Mr. Schreiber, I am
12 assuming.
13 18502 MR. KAPLAN: That's what he said.
14 18503 MR. WOLSON: Lavoie said that he had
15 no idea.
16 18504 MR. KAPLAN: That's what he said.
17 18505 MR. WOLSON: He said that the point
18 of all this is that Mulroney never got a penny from
19 Schreiber for anything he did while he was in office,
20 and he did receive some limited funds, again, less than
21 \$300,000, after he left office.
22 18506 MR. KAPLAN: That's what he told me.
23 18507 MR. WOLSON: It was Schreiber who
24 approached Mulroney, and who wanted to have him as an
25 advisor on international business transactions.

1 18508 MR. KAPLAN: That's what he said.

2 18509 MR. WOLSON: That is all that
3 happened.

4 18510 MR. KAPLAN: That's what he said.

5 18511 MR. WOLSON: If you would turn the
6 page, please. Lavoie, at the top of page 2 --
7 "Lavoie insisted that I was
8 barking up the wrong tree and
9 that I was never misled by
10 Mulroney."

11 18512 MR. KAPLAN: That's what he said.

12 18513 MR. WOLSON: "Being hired as an
13 international advisor after he left office" -- looking
14 again at the first paragraph, last line of the second
15 page --
16 "Being hired as an international
17 advisor after he left office was
18 entirely consistent with the
19 practice he was setting out to
20 establish."

21 18514 MR. KAPLAN: That's what he said.

22 18515 MR. WOLSON: You then indicate in
23 paragraph 2 that you expressed some dismay about
24 hearing this, and you referred him to your interview in
25 which you asked Mulroney some questions about

1 Schreiber.

2 18516 MR. KAPLAN: Correct.

3 18517 MR. WOLSON:

4 "He insisted that Mulroney

5 answered all my questions

6 truthfully, and again

7 recommended that I refer to my

8 questions and answers on that

9 point."

10 18518 MR. KAPLAN: Yes, sir.

11 18519 MR. WOLSON: Mr. Lavoie said that,

12 "Everything I wrote in the book" -- we are talking now

13 of the first book, "Presumed Guilty", right?

14 18520 MR. KAPLAN: Yes, sir.

15 18521 MR. WOLSON: "Everything that I wrote

16 in the book was true and that when I suggested that the

17 news startled me..."

18 18522 You are talking now, I take it, of

19 the news of the \$300,000 that you were putting to Mr.

20 Lavoie.

21 18523 MR. KAPLAN: Yes, sir.

22 18524 MR. WOLSON:

23 "...the news startled me and

24 left me feeling as if I had been

25 manipulated in a cynical way he

1 insisted that it was not the
2 case and Mulroney had the
3 highest regard for me."
4 18525 MR. KAPLAN: Yes, sir, that's what he
5 said.
6 18526 MR. WOLSON: And that's what you
7 recorded.
8 18527 MR. KAPLAN: Yes, sir.
9 18528 MR. WOLSON: That conversation you
10 have noted as January the 4th, 2002 --
11 18529 MR. KAPLAN: Yes, sir.
12 18530 MR. WOLSON: -- several months after
13 that conversation that you had with Mr. Mathias from
14 The Post --
15 18531 MR. KAPLAN: Yes, sir.
16 18532 MR. WOLSON: -- and what you were
17 doing then was following up on what you had learned
18 from Mathias, doing your own investigations.
19 18533 MR. KAPLAN: Yes, sir.
20 18534 MR. WOLSON: I would like to take you
21 back to Tab 2, please, of the exhibit. I take you back
22 here, at Tab 2, to the first page, which is the
23 interview with Mr. Mulroney on the 9th of January 2002.
24 18535 MR. KAPLAN: Yes, sir.
25 18536 MR. WOLSON: So that's about five

1 days after you spoke to Luc Lavoie.

2 18537 MR. KAPLAN: Yes, sir.

3 18538 MR. WOLSON: And Mr. Lavoie told you

4 what we have just discussed.

5 18539 MR. KAPLAN: That's correct.

6 18540 MR. WOLSON: You start off on this

7 page, page 1, saying, "He called me...," talking of Mr.

8 Mulroney now, I take it --

9 18541 MR. KAPLAN: Yes, sir.

10 18542 MR. WOLSON: "...which did not

11 surprise after my discussion with Luc Lavoie."

12 18543 MR. KAPLAN: Yes, sir.

13 18544 MR. WOLSON: He said, Mr. Mulroney

14 did:

15 "To the best of my recollection,

16 during my entire life, I have

17 never done anything wrong,

18 unethical or illegal."

19 18545 MR. KAPLAN: That's what he said.

20 18546 MR. WOLSON:

21 "I don't want to involve you

22 needlessly, and I would be happy

23 to see you to discuss this when

24 I get to Toronto."

25 18547 MR. KAPLAN: Yes, sir.

1 18548 MR. WOLSON:
2 "What I can tell you now, is
3 that I have had poor judgment
4 from time to time as Prime
5 Minister. Being introduced to
6 KHS by Elmer MacKay and Fred
7 Doucet, is one of the biggest
8 mistakes that I regret the
9 most."
10 18549 That's all true?
11 18550 MR. KAPLAN: That's what he told me.
12 18551 MR. WOLSON: Yes.
13 "I know Schreiber peripherally."
14 18552 He says that again.
15 18553 MR. KAPLAN: Yes, sir.
16 18554 MR. WOLSON:
17 "If I had my druthers I would
18 never have seen a guy like
19 that."
20 18555 MR. KAPLAN: That's what he said.
21 18556 MR. WOLSON:
22 "I was told that he was a
23 prominent business person from
24 Alberta trying to sell a
25 legitimate and lawful piece of

1 equipment."

2 18557 Right?

3 18558 MR. KAPLAN: He said that, sir.

4 18559 MR. WOLSON:

5 "If you accumulated all the

6 sorrow over all my life, it does

7 not compare to the agony and

8 anguish that I have gone through

9 since I met Schreiber."

10 18560 MR. KAPLAN: That's what he said.

11 18561 MR. WOLSON: If you turn to page 2,

12 please, the middle paragraph is the one that I am

13 interested in.

14 "We had some discussions about

15 my views about being misled with

16 respect to certain issues and he

17 said he could understand where I

18 was coming from, that these were

19 matters of context and that he

20 wanted to discuss them further

21 when he came to Toronto and we

22 would arrange a lunch or a

23 dinner."

24 18562 MR. KAPLAN: He said that.

25 18563 MR. WOLSON: Did you take it that

1 these were matters of context?

2 18564 MR. KAPLAN: I was determined to find
3 out what happened, and I wanted to keep the lines of
4 communication open with Mr. Mulroney.

5 18565 MR. WOLSON: And at that point you
6 had a good rapport with him.

7 18566 MR. KAPLAN: I would say yes, but
8 it's hard to recall exactly. I think he knew, and his
9 people knew, that I was extremely upset to have learned
10 about the money.

11 18567 MR. WOLSON: All right. You go on to
12 say:

13 "He pointed out that these are
14 often matters of context and
15 nuance but that anytime anyone
16 asked a proper question they
17 would get a truthful answer."

18 18568 MR. KAPLAN: That's what he said.

19 18569 MR. WOLSON: Page 3, if you would,
20 please, the second paragraph. After you talking about
21 arranging -- or Mr. Mulroney talking about arranging a
22 meeting between the two of you --

23 "He also suggested too during
24 the course of our discussion
25 that this discussion would be

1 just between us and that he
2 hoped that when we met again..."

3 18570 MR. KAPLAN: He said that.

4 18571 MR. WOLSON: "...I would provide
5 him" -- he wanted you to provide him with further
6 information about what you had learned, and from whom
7 you had learned it.

8 18572 MR. KAPLAN: Yes, sir.

9 18573 MR. WOLSON: And you remained
10 completely uncommitted about that and refused several
11 direct questions to report on your sources.

12 18574 MR. KAPLAN: That's correct.

13 18575 MR. WOLSON: You met with him
14 again --

15 18576 If you would turn up Tab 3, please;
16 you have a meeting with him on December 4th, 2002.

17 18577 MR. KAPLAN: That's correct.

18 18578 MR. WOLSON: If you would turn to
19 page 2, please:

20 "...he told me the following:
21 when he joined Ogilvy Renault he
22 made it clear that he would have
23 an independent international
24 consulting practice."

25 18579 He told you that?

1 18580 MR. KAPLAN: Yes, sir.

2 18581 MR. WOLSON:

3 "He has had such a practice.

4 The names of his clients are

5 confidential and will not be

6 released without their

7 permission."

8 18582 MR. KAPLAN: He said that.

9 18583 MR. WOLSON:

10 He said, "If, and he emphasized

11 the word 'If',..."

12 18584 -- turning to page 3:

13 "...a client paid him in cash,

14 that would be reflected in the

15 books of the company and all

16 taxes have been paid, all income

17 declared."

18 18585 MR. KAPLAN: That's what he said.

19 18586 MR. WOLSON: You asked him what he

20 would have said if he had been asked whether he got any

21 money from Schreiber when he was under oath.

22 18587 You are talking about the Discovery.

23 18588 MR. KAPLAN: That's right, sir.

24 18589 MR. WOLSON: He said that he would

25 have told the truth.

1 18590 MR. KAPLAN: That's what he said.

2 18591 MR. WOLSON: At the second paragraph
3 of the third page:
4 "He went on, again, about how he
5 ever met Schreiber and how he
6 laments that day."
7 18592 MR. KAPLAN: He said that, sir.

8 18593 MR. WOLSON: And the last couple of
9 lines of the third page, "When he first" -- I take it
10 that should be "met Schreiber"?
11 18594 MR. KAPLAN: Yes, sir.

12 18595 MR. WOLSON:
13 "...he thought that he was a
14 reputable businessman from
15 Alberta. He told me he that
16 wishes Schreiber well."
17 18596 MR. KAPLAN: Yes, sir.

18 18597 MR. WOLSON: Now, I understand that
19 you were planning on writing something about this trial
20 that had been going on in Toronto, the Eurocopter
21 trial --
22 18598 MR. KAPLAN: Yes, sir.

23 18599 MR. WOLSON: -- and were you also
24 contemplating writing about these new revelations that
25 you were investigating?

1 18600 MR. KAPLAN: When I had completed my
2 research.

3 18601 MR. WOLSON: All right.

4 18602 At Tab 4, you spoke to Mr. Mulroney
5 again on the 12th of September 2003.

6 18603 MR. KAPLAN: Yes, sir.

7 18604 MR. WOLSON: He told you, at the
8 second page, that he received a clean bill of health
9 from the RCMP, "as has Schreiber and Moores".

10 18605 MR. KAPLAN: That's what he said.

11 18606 MR. WOLSON: You ask a question --
12 going back to the first page, you say --

13 18607 Is that your question, "You were at
14 risk?"

15 18608 MR. KAPLAN: Yes, sir.

16 18609 MR. WOLSON: And the response:
17 "I am not at risk anymore.
18 Anyone who says anything about
19 that will be in on F*** of a
20 fight."

21 18610 MR. KAPLAN: Yes, sir.

22 18611 MR. WOLSON:
23 "They will be confronted by the
24 truth. I can tell you who is at
25 risk..."

1 18612 MR. KAPLAN: Yes, sir.

2 18613 MR. WOLSON: And he says, "...and it
3 is not me."

4 18614 MR. KAPLAN: Yes, sir.

5 18615 MR. WOLSON: Now, I am advised -- and
6 you will find it at Tab 23, the last tab in the book --
7 that you, in fact, wrote a series of stories, the last
8 story being the one at Tab 23.

9 18616 MR. KAPLAN: Yes, sir.

10 18617 MR. WOLSON: And you wrote this
11 account in the Globe and Mail?

12 18618 MR. KAPLAN: Yes, sir.

13 18619 MR. WOLSON: And it does talk about
14 the money being paid by Schreiber to Mr. Mulroney.

15 18620 MR. KAPLAN: Yes, sir.

16 18621 MR. WOLSON: And that is the 10th of
17 November of 2003.

18 18622 MR. KAPLAN: Yes, sir.

19 18623 MR. WOLSON: And, to your knowledge,
20 that is the first publication of these allegations.

21 18624 MR. KAPLAN: Yes, sir.

22 18625 MR. WOLSON: Now, you wrote two
23 stories prior to November 10th, but they dealt with the
24 secret trial of Eurocopter.

25 18626 MR. KAPLAN: That's correct, sir.

1 18627 MR. WOLSON: The third story, which
2 is the one you find at Tab 23 -- and I will come back
3 to it -- is the story that you wrote about, in part at
4 least, the Schreiber-Mulroney transactions.

5 18628 MR. KAPLAN: That's correct.

6 18629 MR. WOLSON: The point of my
7 referring you to that tab is that, at some point, you
8 told Mr. Mulroney that you were going to write an
9 article in a newspaper about this transaction.

10 18630 MR. KAPLAN: Yes, sir.

11 18631 MR. WOLSON: We will come to that,
12 but if you would turn now to Tab 5, please, the October
13 5, 2003 interview with Brian Mulroney.

14 18632 Have you turned up Tab 5, Mr. Kaplan?

15 18633 MR. KAPLAN: Yes, sir.

16 18634 MR. WOLSON: Thank you.

17 "Getting back to my other
18 point..."

19 18635 -- Mr. Mulroney is talking to you
20 now:

21 "...the principal reason that I
22 want this as clean as a whistle,
23 is following your series of
24 articles,..."

25 18636 So you have already told Mr. Mulroney

1 that you are going to write about the Eurocopter trial
2 and about his transactions with Mr. Schreiber.

3 18637 MR. KAPLAN: Yes, sir.

4 18638 MR. WOLSON: And he says to you,
5 basically, that he wants to approach Prime Minister
6 Paul Martin and ask for a new investigation and a royal
7 commission.

8 18639 MR. KAPLAN: That's what he told me,
9 sir.

10 18640 MR. WOLSON:
11 "I plan to tell Martin that this
12 is the only thing that will
13 clarify it all."

14 18641 The bottom of page 2.

15 18642 MR. KAPLAN: That's what he told me,
16 sir.

17 18643 MR. WOLSON: If you go to the top of
18 page 3, he says to you on the second line that he
19 decides to raise something with you.

20 18644 Do you see that on the second line?

21 18645 MR. KAPLAN: Yes, sir.

22 18646 MR. WOLSON: And he says, "It has to
23 do with the other matter that you know about."

24 18647 MR. KAPLAN: Yes, sir.

25 18648 MR. WOLSON: The other matter that

1 you know about is what, sir?

2 18649 MR. KAPLAN: The cash payments from
3 Mr. Schreiber.

4 18650 MR. WOLSON: "I want you to know that
5 it is not going anywhere," Mr. Mulroney says to you.

6 18651 MR. KAPLAN: He said that.

7 18652 MR. WOLSON:
8 "It has been thoroughly
9 investigated. The income has
10 been declared and I am clean as
11 a whistle."

12 18653 MR. KAPLAN: That's what he said.

13 18654 MR. WOLSON:
14 "This thing involving Schreiber,
15 someone told that to the RCMP
16 and they investigated that and
17 concluded that it was all clean
18 as a whistle."

19 18655 MR. KAPLAN: That's what he said.

20 18656 MR. WOLSON:
21 "That was the final thing they
22 were investigating prior to
23 giving me the apology letter in
24 April."

25 18657 MR. KAPLAN: He told me that.

1 18658 MR. WOLSON: Now, you ask a question
2 in the middle of the third page. Mr. Mulroney talks to
3 you about his lawyers, and then you ask a question:
4 "Q. I have never been entirely
5 satisfied with the explanation
6 you gave regarding your
7 relationship with Schreiber."
8 18659 MR. KAPLAN: I asked him that
9 question.
10 18660 MR. WOLSON: And I am assuming that
11 you asked that question based on his relating to you
12 that he knew Schreiber in a peripheral way.
13 18661 MR. KAPLAN: As well as for the other
14 reasons that I explained earlier in my evidence.
15 18662 MR. WOLSON: The Statement of Claim,
16 and lawyers' comments in newspapers, and so forth.
17 18663 MR. KAPLAN: Yes, sir.
18 18664 MR. WOLSON: Mr. Mulroney says to
19 you, "My response..." -- it should be plural, but:
20 "My response[s] were absolutely
21 accurate. I responded
22 specifically to their questions
23 during the examination on
24 discovery and I gave them a full
25 answer."

1 18665 He is talking about the questions of
2 the lawyer at the Examination for Discovery.

3 18666 MR. KAPLAN: Yes, sir.

4 18667 MR. WOLSON:
5 "Not one of them asked me, let's
6 move ahead a number of months,
7 you are out of office, you are
8 trying to get yourself
9 established, not one of them
10 explored my post
11 prime-ministerial life. Had
12 they done so, I would have given
13 them an absolutely truthful
14 answer."

15 18668 He told you that?

16 18669 MR. KAPLAN: Yes, sir.

17 18670 MR. WOLSON:
18 "Consider this: would I go into
19 a 2 day examination on discovery
20 that I had brought about,
21 through a civil suit that I
22 initiated with anything untoward
23 in my past? Christ, there were
24 21 of them sitting there, I
25 would have answered any question

1 put forward."

2 18671 Do you see that?

3 18672 MR. KAPLAN: Yes, sir.

4 18673 MR. WOLSON: You say then -- you put
5 this question to him:

6 "The Mathias report indicates
7 that Karl Heinz Schreiber gave
8 you money, that is not
9 defamatory there is nothing for
10 him to worry about in a
11 courtroom."

12 18674 You say that.

13 18675 MR. KAPLAN: Yes, sir.

14 18676 MR. WOLSON: He says to you:
15 "What Mathias seems to know is
16 mostly false."

17 18677 Now, Mathias told you that it was
18 moneys passing between Schreiber to Mr. Mulroney.

19 18678 MR. KAPLAN: That's correct.

20 18679 MR. WOLSON: He gave you an amount of
21 money, which you later put to Mr. Lavoie, \$300,000.

22 18680 MR. KAPLAN: Yes, sir.

23 18681 MR. WOLSON:
24 "'What Mathias seems to know is
25 mostly false,' Mr. Mulroney

1 said. `It is a much larger
2 story. The money came to
3 Britan. This money was not for
4 me. I know who Britan was. Now
5 there is a big story for you.
6 For the moment it is not
7 relevant to my role, but I know
8 I wasn't Britan, and I know who
9 Britan was.'"

10 18682 MR. KAPLAN: That's what he said.

11 18683 MR. WOLSON: Page 4, at the bottom of
12 the page:

13 "I will tell you at an
14 appropriate time about Britan.
15 It is not immediately germane to
16 the thing we are talking about
17 but I can tell you that is mind
18 boggling..."

19 18684 MR. KAPLAN: Yes, sir.

20 18685 MR. WOLSON: "It is mind boggling. I
21 am just checking out one more fact."

22 18686 MR. KAPLAN: Yes, sir.

23 18687 MR. WOLSON: The "thing" that he
24 refers to that you were talking about at page 4, at the
25 bottom of the page, was the \$300,000 allegation.

1 18688 MR. KAPLAN: The cash payments.

2 18689 MR. WOLSON: Did Mr. Mulroney ever
3 say that it wasn't \$300,000?

4 18690 MR. KAPLAN: He disputed the number
5 from the get-go.

6 18691 MR. WOLSON: Okay. Did he give you a
7 number?

8 18692 MR. KAPLAN: No, sir.

9 18693 MR. WOLSON: If you would turn up Tab
10 6, please -- interview with Brian Mulroney on October
11 12th of 2003.

12 18694 MR. KAPLAN: Yes, sir.

13 18695 MR. JACOBSEN: Mr. Commissioner, I
14 don't mean to interrupt at this time, but there are a
15 number of times when my friend has read things into the
16 record that leave out expletives, and I understand that
17 he may be doing that as a matter of courtesy, but I am
18 trusting that the witness stands by the fact that those
19 expletives were, in fact, expressed to him.

20 18696 I don't know that anything will turn
21 on it, but it may show a degree of emphasis by Mr.
22 Mulroney that the witness will want to explore.

23 18697 COMMISSIONER OLIPHANT: Mr. Jacobsen,
24 Mr. Wolson can express his own views on that, but if he
25 is avoiding the expletives out of a concern for me, I

1 can assure everyone here that, in the course of 24
2 years on the bench, I think I have heard just about
3 every expletive that has ever been expressed.

4 18698 MR. WOLSON: Not too often from me,
5 though.

6 18699 COMMISSIONER OLIPHANT: No.
7 --- Laughter / Rires

8 18700 MR. WOLSON: But, quite frankly, the
9 book, which is an exhibit in the cause, has the full
10 transcript. I am not reading every word, because if I
11 were to read every single word, on every page, we would
12 be here needlessly much longer than we should.

13 18701 What I have done, just so you know --
14 and this is a public inquiry -- what I have read are
15 the matters that I think are of critical importance,
16 but I am also mindful that this book is an exhibit in
17 the cause and is available to you, when you write your
18 report, to have the entirety of the discussions as
19 between the witness and Mr. Mulroney, the witness and
20 Mr. Schreiber, the witness and Mr. Lavoie. So it's
21 there for you.

22 18702 COMMISSIONER OLIPHANT: I guess the
23 problem is, if I refer to the exhibit, and if I am not
24 as shy as you are about using the expletive, what I
25 would say would differ from what the transcript says.

1 I think that is Mr. Jacobsen's concern, and he is
2 nodding his head in --

3 18703 MR. WOLSON: My only point in that
4 regard is that I haven't read every word on every page,
5 and I don't plan to.

6 18704 But when you write your report, you
7 are entitled to, and should, have all of the exhibits
8 available to you, and take from the exhibits whatever
9 you wish.

10 18705 Therefore, unless you have any
11 comment, I will carry on.

12 18706 COMMISSIONER OLIPHANT: I will just
13 say this, that the word that was missed starts with "F"
14 and ends with "G" and there are a bunch of asterisks in
15 between. You can figure out for yourselves what that
16 means.

17 18707 MR. JACOBSEN: Yes. All I'm trying
18 to say, Mr. Commissioner, is that what the witness is
19 agreeing to has been said. When my friend leaves out a
20 part of it, I just wanted to make it very clear that
21 what the witness is saying, I think, I believe -- and
22 he can confirm this, -- that in fact everything there
23 is what Mr. Mulroney said, not just what was read to
24 him.

25 18708 COMMISSIONER OLIPHANT: That would be

1 my understanding certainly, Mr. Jacobsen, but I
2 understand the reason for your intervention. Okay?

3 18709 MR. WOLSON: And I can tell you as
4 well that I have tried to be consistent. While I asked
5 Mr. Schreiber one question about Mr. Lavoie and the
6 words he used -- and I did use the literal translation
7 from The Fifth Estate regarding Mr. Lavoie and
8 Mr. Schreiber. After I used it once, I desisted from
9 using it and did so because the point was made.

10 18710 I have made my point here, that it's
11 in the documents. But I will just clarify one thing.

12 18711 While I haven't read every word on
13 every page, Mr. Kaplan, you stand by what's in your
14 materials?

15 18712 MR. KAPLAN: Yes, sir.

16 18713 MR. WOLSON: All right. I am now
17 going to go to Tab 6, October 12, 2003.

18 18714 MR. KAPLAN: Yes, sir.

19 18715 MR. WOLSON: If you turn to page 2,
20 please, at the top of the page you are asked a question
21 from Brian Mulroney.

22 18716 It says:

23 "I got the impression that you
24 plan to write about Karl Heinz
25 Schreiber and me?"

1 18717 MR. KAPLAN: Yes, sir.

2 18718 MR. WOLSON: Your answer is:

3 "It's part of the story."

4 18719 Mr. Mulroney says:

5 "It is not part of the story at

6 all. It is a different story.

7 Don't forget that I have already

8 told you this, that I have never

9 done anything wrong or been

10 involved with anyone for any

11 improper purpose. Everything

12 has been fully legal and proper.

13 Don't forget that it has been

14 fully examined by the RCMP."

15 "Don't forget that it has been

16 fully examined by the RCMP."

17 18720 That's all what he said to you?

18 18721 MR. KAPLAN: Yes, sir.

19 18722 MR. WOLSON: You said -- or he said

20 to you:

21 "So if you write about this it

22 will be a big red herring that

23 will please Stevie Cameron and

24 distress myself because it is a

25 false accusation because there

1 is nothing there, you can be
2 certain of that."
3 18723 MR. KAPLAN: That's what he said.
4 18724 MR. WOLSON:
5 "The RCMP, before they signed
6 off on April 22nd, had examined
7 everything and had satisfied
8 themselves about this. I don't
9 want to do anything to feed
10 Stevie Cameron. With all this
11 stuff coming out she would seize
12 on this as would her allies."
13 18725 MR. KAPLAN: That's what he said.
14 18726 MR. WOLSON:
15 "Don't forget that I am the one
16 who sued the Government of
17 Canada. I was fully aware that
18 in the Province of Quebec they
19 have the right to interrogate
20 you on discovery before
21 production of a plea. I knew
22 that my full life was open for
23 an interrogation."
24 18727 He said that?
25 18728 MR. KAPLAN: Yes, sir.

1 18729 MR. WOLSON:
2 "I can tell you something else,
3 Karl Heinz Schreiber once
4 suggested that he examined a
5 transcript and that there was
6 something wrong with it. There
7 was nothing wrong with the
8 transcript."
9 18730 That was said?
10 18731 MR. KAPLAN: Yes, sir.
11 18732 MR. WOLSON: You asked this question:
12 "Well, there are two issues
13 here. The first is that it is
14 said that Karl Heinz Schreiber
15 paid you \$300,000 on four
16 separate occasions and the
17 second issue is on the
18 transcript."
19 18733 And you were talking about the
20 transcript of the examination for discovery there?
21 18734 MR. KAPLAN: Yes, sir.
22 18735 MR. WOLSON:
23 "... the second issue is on the
24 transcript. You don't indicate
25 a commercial relationship with

1 Schreiber."

2 18736 Mr. Mulroney says, at page 3:

3 "All that is false. His reading

4 of it might give him that

5 impression but the transcript is

6 fine. Regarding the money, I

7 can tell you that there would be

8 enough inaccuracy in what was

9 just said to maintain a

10 lawsuit."

11 18737 He said that to you?

12 18738 MR. KAPLAN: Yes, sir.

13 18739 MR. WOLSON:

14 "I will tell you what I have

15 told you before, everything I

16 have done is completely honest

17 and above board. Before, during

18 and after political life."

19 18740 MR. KAPLAN: Yes, sir.

20 18741 MR. WOLSON:

21 "All I can do is tell you that

22 you can be god-damned certain

23 that before they signed the

24 letter in April telling me that

25 everything was okay we had to

1 look at everything including all
2 commercial transactions. They
3 investigated everything."
4 18742 MR. KAPLAN: He said that.
5 18743 MR. WOLSON: You say:
6 "That's helpful."
7 18744 At page 4. Mr. Mulroney says:
8 "They were aware of any
9 transactions that I did after I
10 left office. I am asking you to
11 keep this between you and me.
12 Keep it as a Chinese wall."
13 18745 MR. KAPLAN: He made that request.
14 18746 MR. WOLSON:
15 "I can give you a personal
16 guarantee that everything I did
17 with anyone was looked at by the
18 RCMP."
19 18747 You said:
20 "Okay."
21 18748 He said:
22 "And also everything in the
23 transcript is completely
24 accurate."
25 18749 MR. KAPLAN: He said that, sir.

1 18750 MR. WOLSON: The transcript being the
2 discovery?

3 18751 MR. KAPLAN: Yes, sir.

4 18752 MR. WOLSON: Mr. Commissioner, it is
5 10 to 11:00. Do you want to take the morning break
6 now?

7 18753 COMMISSIONER OLIPHANT: If it's an
8 appropriate time to do so, certainly.

9 18754 MR. WOLSON: Sure.

10 18755 COMMISSIONER OLIPHANT: We will break
11 until 11:05 then. Thank you.

12 --- Upon recessing at 10:55 a.m. / Suspension à 10 h 55
13 --- Upon resuming at 11:10 a.m. / Reprise à 11 h 10

14 18756 COMMISSIONER OLIPHANT: Be seated,
15 please.

16 18757 Please continue, Mr. Wolson.

17 18758 MR. WOLSON: Mr. Kaplan, you have
18 referred several times to the examination for discovery
19 or the equivalent thereof in Québec.

20 18759 I would like to turn you, please, or
21 direct you, please, to Tab 22.

22 18760 Tab 22 are some excerpts of your book
23 and if you turn, please, to page 19. It's three pages
24 in, I believe.

25 18761 MR. KAPLAN: Yes, sir.

1 18762 MR. WOLSON: You write in your book
2 regarding the discovery process at page 19, halfway
3 down the page, again which is referenced,
4 Mr. Commissioner in Tab 22 of the materials.
5 "The real examination on
6 discovery began on April 17,
7 1996, at the Montréal Palais de
8 Justice. Before entering the
9 courtroom, Mulroney turned to
10 Lavoie and said, 'Luc, do you
11 know what [chief government
12 lawyer Claude-Armand] Sheppard's
13 problem is going to be today?'
14 'No, boss,' Lavoie replied."
15 18763 Mulroney:
16 "He is going to ask me questions
17 and he expects me to answer
18 them."
19 18764 That is an accurate quote?
20 18765 MR. KAPLAN: Yes, sir.
21 18766 MR. WOLSON: You received that
22 information from Mr. Lavoie?
23 18767 MR. KAPLAN: Yes, sir.
24 18768 MR. WOLSON: And it refers to the
25 very discovery process that we have discussed here this

1 morning on a number of different occasions?

2 18769 MR. KAPLAN: Yes, sir.

3 18770 MR. WOLSON: I also had asked you
4 this morning about your writing this article for the
5 Globe and Mail of November 10, 2003. You had indicated
6 that in fact you did write that article and it does
7 contain in the article allegations about Mr. Mulroney
8 receiving money from Mr. Schreiber?

9 18771 MR. KAPLAN: Yes, sir.

10 18772 MR. WOLSON: Now, I have reviewed
11 with you a number of different interviews you have had
12 with Mr. Mulroney, but I understand that aside from
13 those interviews you also received a number of phone
14 calls from him leading up to the time when you were
15 going to publish that article on 10 November '03.

16 18773 MR. KAPLAN: Yes, sir.

17 18774 MR. WOLSON: You write in your book
18 at page 161 -- while that is an added document to the
19 book, I am going to read from page 161 of your book,
20 about two-thirds down the page:

21 "... Mulroney's unrelenting
22 campaign to persuade me not to
23 publish the story about the
24 money for one reason only -- to
25 protect his reputation -- was

1 brutal, heavy-handed, and
2 extremely wearing."
3 18775 MR. KAPLAN: That was my impression.
4 18776 MR. WOLSON: And in terms of your
5 receiving a number of calls from him, can you tell the
6 Commissioner the nature of those calls in a general way
7 regarding your publishing this story?
8 18777 MR. KAPLAN: Mr. Mulrone y did not
9 want the story about the cash payments to become public
10 and encouraged me on a number of occasions not to
11 report on that.
12 18778 MR. WOLSON: Now, I had before the
13 break referred you to Tab 6 when you asked the question
14 at page 2, or Mr. Mulrone y asked you this question:
15 "I got the impression that you
16 plan to write about Karl Heinz
17 Schreiber and me."
18 18779 You say:
19 "It's part of the story."
20 18780 Mr. Mulrone y says:
21 "It is not part of the story at
22 all. It is a different story."
23 18781 That conversation takes place on the
24 12th of October. Is this part of the unrelenting
25 campaign that you are talking about?

1 18782 MR. KAPLAN: There was -- the answer
2 is yes, sir. There were many telephone calls and
3 discussions with Mr. Mulroney leading up to the
4 publication of the story in November.

5 18783 MR. WOLSON: All right. All along
6 the same line, trying to persuade you not to write?

7 18784 MR. KAPLAN: Among other things.

8 18785 MR. WOLSON: Yes. But that was
9 certainly part of it?

10 18786 MR. KAPLAN: Yes, sir.

11 18787 MR. WOLSON: I would like to take
12 you, then, to Tab 7 if you will, please.

13 18788 Tab 7 is an interview with
14 Mr. Mulroney on the 24th of October 2003, so about
15 2-1/2 weeks or so prior to your publishing the November
16 10th story.

17 18789 MR. KAPLAN: Yes, sir.

18 18790 MR. WOLSON: Page 2, question -- I am
19 assuming this is you asking the question:
20 "I understand that Cashore is
21 calling around."

22 18791 MR. KAPLAN: Yes, sir.

23 18792 MR. WOLSON: Answer, Mr. Mulroney
24 says:
25 "What is he asking?"

1 18793 You say:
2 "I understand that he is asking
3 about Britan."
4 18794 And Mr. Mulroney says:
5 "We know that Britan is not me.
6 I still don't know how he
7 justifies accusing Britan and
8 me. It is quite a grave
9 mistake."
10 18795 MR. KAPLAN: Yes, sir.
11 18796 MR. WOLSON: Cashore is Harvey
12 Cashore, you knew?
13 18797 MR. KAPLAN: Yes, sir.
14 18798 MR. WOLSON: And he is one of the --
15 is he a producer on The Fifth Estate or involved with
16 CBC Television Fifth Estate show?
17 18799 MR. KAPLAN: I don't know his title,
18 sir, but I know that he works at The Fifth Estate.
19 18800 MR. WOLSON: All right. And he is a
20 journalist obviously?
21 18801 MR. KAPLAN: Yes, sir.
22 18802 MR. WOLSON: At page 3 of Tab 7, at
23 the bottom of the page Mr. Mulroney tells you that he
24 doesn't want to do anything or say "anything that would
25 impact on Schreiber's extradition".

1 18803 MR. KAPLAN: Yes, sir.

2 18804 MR. WOLSON:

3 "He is a Canadian citizen. I

4 don't think he should wind up in

5 a German court."

6 18805 MR. KAPLAN: Yes, sir.

7 18806 MR. WOLSON:

8 "I don't want to do anything

9 that would cause him even the

10 slightest suspicion."

11 18807 And he tells you that?

12 18808 MR. KAPLAN: Yes, sir.

13 18809 MR. WOLSON: At page 4 he says:

14 "... we were in an anticipatory

15 mode fighting the CBC with

16 respect to an upcoming Fifth

17 Estate program where they

18 suggested that I was Britan."

19 18810 MR. KAPLAN: Yes, sir.

20 18811 MR. WOLSON: At the bottom of that

21 page you say to him:

22 "I accept that you have done

23 nothing wrong but what disturbed

24 me was the payment of the

25 money."

1 18812 Mr. Mulroney says:
2 "I don't accept some of the
3 facts that you related to me as
4 being true. I don't want to get
5 into a ... match."
6 18813 He says a derogatory word and then
7 "match".
8 18814 MR. KAPLAN: Why don't we say the
9 word.
10 18815 MR. WOLSON: Go ahead.
11 18816 MR. KAPLAN:
12 "I don't want to get into a
13 pissing match."
14 18817 MR. WOLSON: All right.
15 18818 MR. KAPLAN: That's what he said.
16 18819 MR. WOLSON: He says, at page 5:
17 "When this thing is over, at
18 some point in the future, and
19 you want clarification on this
20 or any other thing, and we
21 conclude that there is no impact
22 on the extradition hearing, then
23 you and I can sit down and we
24 can see how different the
25 situation is from what you

1 believe it to be."

2 18820 MR. KAPLAN: Yes, sir, he said that.

3 18821 MR. WOLSON: And the situation that

4 you believed was that Mr. Schreiber gave Mr. Mulroney

5 money?

6 18822 MR. KAPLAN: Yes, sir.

7 18823 MR. WOLSON: And you tell him that

8 while you didn't see anything illegal about it, you

9 were disturbed by the fact that you didn't know about

10 it.

11 18824 MR. KAPLAN: Well, I would say I was

12 disturbed about the fact that I didn't know about it,

13 but I was more disturbed about the fact that a former

14 Prime Minister of Canada met with someone in a motel a

15 month after he left office, someone that he had dealt

16 with in an official capacity, and received a cash

17 payment, and then had met with him in another hotel and

18 received another cash payment and then had met with him

19 in New York and received a third cash payment.

20 18825 I was disturbed about all of those

21 things.

22 18826 MR. WOLSON: And you say at the

23 bottom of page 5 -- first of all, at the top of page 5

24 he says to you when the extradition proceeding of

25 Mr. Schreiber is over -- he talk to you about this?

1 18827 MR. KAPLAN: Yes, sir.

2 18828 MR. WOLSON: And you say -- or he

3 says:

4 "Is that agreeable to you?"

5 18829 And you say:

6 "I don't have an answer."

7 18830 And he says:

8 "There it is that is the truth."

9 18831 MR. KAPLAN: Yes, sir.

10 18832 MR. WOLSON: At the bottom of the

11 page you say:

12 "I accept..."

13 18833 This is from you now:

14 "I accept that what happened

15 between you and Schreiber was

16 not unlawful."

17 18834 MR. KAPLAN: I said that.

18 18835 MR. WOLSON: And he says:

19 "Somebody has given you a wrong

20 slant on this."

21 18836 MR. KAPLAN: Yes, sir.

22 18837 MR. WOLSON: At the top of page 6 he

23 says to you:

24 "Are you around next weekend?"

25 18838 MR. KAPLAN: Yes, sir.

1 18839 MR. WOLSON: I'm sorry --

2 18840 MR. KAPLAN: No.

3 18841 MR. WOLSON: -- you say that to him.

4 18842 MR. KAPLAN: Yes, sir.

5 18843 MR. WOLSON:

6 "Are you around next weekend?"

7 18844 I apologize. And then he says:

8 "Let me see where I am going to

9 be. I can plan on talking to

10 you on the weekend. Let me give

11 you a hypothetical image that

12 you can reflect on. Something

13 you told me about, forget about

14 illegality and impropriety and

15 focus on the fact that there is

16 a suggestion that there is

17 something sinister about two

18 people meeting in a hotel room."

19 18845 That is what you have recorded>

20 18846 MR. KAPLAN: Yes, sir.

21 18847 MR. WOLSON: And he goes on to say:

22 "Well think about this, one of

23 the people in the hotel room was

24 there to attend a banquet and

25 there is a meeting that is

1 taking place and discussions
2 about a commercial arrangement
3 that is taking place. But what
4 about if there was 3 other
5 people in the hotel room, how
6 would that change the image.
7 That kind of changes it."

8 18848 He says:
9 "I am telling you that the facts
10 you gave me, they never
11 happened."

12 18849 MR. KAPLAN: Yes, sir.

13 18850 MR. WOLSON: What you talked about
14 was him accepting money from Mr. Schreiber.

15 18851 MR. KAPLAN: I think what
16 Mr. Mulroney was referring to here -- and maybe a bit
17 speculative on my part -- is the meeting that took
18 place at the Pierre Hotel in New York when there were
19 other people present.

20 18852 I believe that is what he is
21 referring to.

22 18853 MR. WOLSON: I understand that, but
23 the last sentence:
24 "That kind of changes it. I am
25 telling you that the facts you

1 gave me, they never happened."
2 18854 The facts that you had talked about
3 was simply getting money in the hotel room.
4 18855 MR. KAPLAN: I don't think
5 Mr. Mulroney denied receiving money for Mr. Schreiber.
6 18856 MR. WOLSON: Okay.
7 18857 MR. KAPLAN: I don't believe he ever
8 denied it. He quibbled about the amount and here about
9 the context, but I don't believe he ever outright
10 rejected that claim.
11 18858 MR. WOLSON: Outright rejected it
12 when you put it to him after you had written your first
13 book and after the series of initial interviews?
14 18859 MR. KAPLAN: That's right.
15 18860 MR. WOLSON: Initial interviews for
16 your first book.
17 18861 MR. KAPLAN: That's correct. In
18 fact, Mr. Lavoie admitted it, Mr. Johnson his other
19 lawyer admitted it. They all admitted it.
20 18862 MR. WOLSON: All right. I want to go
21 on, then, on page 6.
22 "The reason that I was given a
23 clean bill of health..."
24 18863 He said to you:
25 "... is that it was part of the

1 investigation. Do you think the
2 RCMP would have given that a
3 pass? Of course not. That is
4 why I am asking for your
5 confidence on this matter so
6 that you do not feed Stevie
7 Cameron. And I should tell you
8 this, be prepared for a son of a
9 bitch of a reaction from me. I
10 will deal with it immediately.
11 If you want my cooperation and
12 friendship, then you cannot be a
13 friend and an opponent at the
14 same time. That is my position.
15 Obviously, I don't want to hurt
16 Karl Heinz Schreiber."

17 18864 MR. KAPLAN: That is what he said.

18 18865 MR. WOLSON: And then on the next
19 page he says:

20 "I will be your friend or your
21 enemy but not both."

22 18866 MR. KAPLAN: Yes, sir.

23 18867 MR. WOLSON: Turn to Tab 8, please.

24 --- Pause

25 18868 MR. WOLSON: My colleague Ms Brooks

1 is reminding me to advise you and put on the record,
2 sir, that while there are some redactions, they were
3 redacted because they weren't relevant to this inquiry.
4 18869 So you, when looking at these
5 documents, would see some redactions and, as I said,
6 those are because they weren't relevant to the terms of
7 our inquiry.
8 18870 And I thank her for her note.
9 18871 COMMISSIONER OLIPHANT: Thank you,
10 Mr. Wolson.
11 18872 MR. WOLSON: Tab 8, please,
12 Mr. Kaplan.
13 18873 MR. KAPLAN: Yes, sir.
14 18874 MR. WOLSON: Interview with Brian
15 Mulroney on October 25, 2003.
16 18875 It starts off -- I take it he is
17 saying:
18 "Cashore is barking up the wrong
19 tree. I am not Britan. The
20 RCMP investigated that."
21 18876 MR. KAPLAN: Yes, sir.
22 18877 MR. WOLSON: You are now moving
23 forward to the time when you are going to write the
24 article.
25 18878 MR. KAPLAN: That's correct, sir.

1 18879 MR. WOLSON: It is now getting to the
2 end of October and you are in the process, I take it,
3 of preparing to write?

4 18880 MR. KAPLAN: Yes, sir.

5 18881 MR. WOLSON: Tab 9, please. October
6 30, 2003.

7 18882 Mr. Mulroney says:
8 "I will accept it unless you
9 were going to mention that
10 little thing that we have talked
11 about, in which case I am going
12 to have to step down from it
13 before it is announced. So
14 could you please let me know as
15 soon as possible what your
16 intention is with respect to
17 mentioning that thing."

18 18883 That's what he said?

19 18884 MR. KAPLAN: Yes, sir.

20 18885 MR. WOLSON: You have recorded twice
21 "that little thing" and "that thing". Those refer to
22 the money?

23 18886 MR. KAPLAN: The payments of money by
24 Mr. Schreiber to Mr. Mulroney.

25 18887 MR. WOLSON: Now, you are moving

1 towards printing your account of this and while you
2 have no further recorded interviews, you do indicate in
3 your book about this campaign of Mr. Mulroney's to try
4 to convince you not to write?

5 18888 MR. KAPLAN: Yes, sir.

6 18889 MR. WOLSON: If you would turn to Tab
7 22 -- again these are excerpts of your book, and I am
8 looking to pages 136 and 137.

9 18890 MR. KAPLAN: Yes, sir.

10 18891 MR. WOLSON: At the bottom of page
11 136 you talk about Mr. Greenspon.

12 18892 MR. KAPLAN: Yes, sir.

13 18893 MR. WOLSON: And he was the
14 Editor-In-Chief of the Globe and Mail at the time?

15 18894 MR. KAPLAN: Yes, sir.

16 18895 MR. WOLSON: You indicate at the
17 bottom of page 136:

18 "Telephone calls from Mulroney
19 to me, and to Greenspon,
20 escalated. Greenspon advised
21 Mulroney that I would be telling
22 the whole story."

23 18896 That's true?

24 18897 MR. KAPLAN: Yes, sir.

25 18898 MR. WOLSON:

1 "Let's meet, Mulroney suggested
2 to me on Monday, November 3,
3 2003, and, he added, 'I would be
4 grateful if you brought what you
5 wrote.'"

6 18899 MR. KAPLAN: Yes, sir.

7 18900 MR. WOLSON: So he's asking you to
8 bring the article that you had written which was going
9 to be published on the 10th of November?

10 18901 MR. KAPLAN: A draft I believe of the
11 article.

12 18902 MR. WOLSON: All right. If you would
13 go to the second paragraph at page 137:
14 "Finally, there was our
15 conversation early Sunday
16 morning, November 9, 2003. I
17 was completely worn out by the
18 process of getting the series
19 ready for publication, while
20 working at my day job, and worn
21 down by his effort to stop the
22 publication of the last in a
23 series of three articles in the
24 Globe and Mail."

25 18903 MR. KAPLAN: Yes, sir.

1 18904 MR. WOLSON:
2 "The purpose of this
3 conversation was, for him, to
4 address my concerns with his
5 misleading testimony at the
6 examination on discovery."
7 18905 MR. KAPLAN: Yes, sir.
8 18906 MR. WOLSON: And that was again?
9 18907 MR. KAPLAN: I'm sorry, sir?
10 18908 MR. WOLSON: The misleading testimony
11 that you referred to was...?
12 18909 MR. KAPLAN: It was him suggesting
13 that he had at best a casual relationship with
14 Mr. Schreiber involving the occasional cup of coffee at
15 a place like the Queen Elizabeth Hotel in Montréal and
16 his evidence in which he said he never had had any
17 dealings with Mr. Mulroney, and his evidence further on
18 in the examination of discovery when he was talking
19 about the relationship when he said, quote unquote,
20 that was it.
21 18910 MR. WOLSON: All right. Let me
22 continue on page 137.
23 "This was the first time, in all
24 the years I've known him and in
25 countless conversations, many

1 lasting hours..."

2 18911 I'm sorry, let me back up.

3 "The purpose of this

4 conversation was, for him, to

5 address my concerns with his

6 misleading testimony at the

7 examination on discovery."

8 18912 Which you have explained.

9 "At some point in our

10 conversation, not long after we

11 began, Mulroney told me it was

12 not an interview. This was the

13 first time, in all the years

14 I've known him and in countless

15 conversations, many lasting

16 hours, that he had ever said

17 that. I should have said no,

18 that it was an interview and

19 that if it continued I could and

20 would feel free to quote what he

21 said. We reviewed the

22 transcript. I directed him to

23 the problems. It was an

24 emotional conversation and, at

25 the time, the stakes truly

1 seemed enormous. We both
2 believed, quite wrongly as it
3 turned out, that Canadians would
4 notice -- and care."

5 18913 What you mean by that is when you
6 ultimately did write your article on November 10, 2003,
7 it didn't receive a lot of fanfare.

8 18914 MR. KAPLAN: Well, it didn't attract
9 much attention or interest.

10 18915 MR. WOLSON: All right.

11 "He talked about honour. I
12 pointed out that he was not the
13 only person with honour. I had
14 sat in his house and he had told
15 me that he barely knew
16 Schreiber -- and that was not
17 true. He responded: 'I regret
18 any inconvenience that I may
19 have caused.'
20 I could not believe my ears."

21 18916 You write:

22 "I had trusted Brian Mulroney.
23 He had looked me in the eye. He
24 had told me the same story he
25 told the Canadian people -- the

1 same misleading story that he
2 had but a 'peripheral'
3 relationship with Karl
4 Schreiber. He regretted the
5 inconvenience?"

6 18917 Near the bottom of the page:
7 "Raising my voice for the first
8 time ever in a discussion with
9 him, I told him it was not good
10 enough. He then said, 'I'm
11 sorry.' Although he called my
12 house later that night, I did
13 not answer the telephone. I
14 have not spoken to Brian
15 Mulroney since."

16 18918 MR. KAPLAN: That's correct.

17 --- Pause

18 18919 MR. WOLSON: One last area that I
19 want to cover regarding your interviews with
20 Mr. Mulroney and that is at Tab 22 of the materials.
21 It is at page 186 of your book, which is the last
22 excerpt in the tab.

23 18920 It deals at page 186, you had
24 interviewed Mr. Mulroney at one point about his
25 financial circumstances when he was leaving office. I

1 will direct you to this in the second full paragraph on
2 the page:

3 "There are a number of
4 interesting theories..."

5 18921 Are you with me, Mr. Kaplan?

6 18922 MR. KAPLAN: Yes, sir.

7 18923 MR. WOLSON:

8 "... about the movement of
9 Schreiber's money, to Mulroney
10 and to others. One of them is
11 that Mulroney needed money, so
12 Schreiber gave him some. 'I can
13 tell you,' Mulroney told me on
14 June 4, 1988..."

15 18924 So this was well before any of these
16 allegations about money being passed from Schreiber to
17 Mulroney?

18 18925 MR. KAPLAN: When I was working on my
19 first book, sir.

20 18926 MR. WOLSON: All right.

21 "'I can tell you,' Mulroney told
22 me on June 4, 1998, 'when I
23 first started out, I needed...
24 money quite badly.'"

25 18927 That's what he told you?

1 18928 MR. KAPLAN: Yes, sir.

2 18929 MR. WOLSON: All right.

3 18930 Then I'm going to go on and ask you

4 some questions now regarding interviews that you

5 conducted with Mr. Karlheinz Schreiber.

6 18931 The first one noted in your materials

7 is at Tab 10, if you could turn that up, please?

8 18932 MR. KAPLAN: Yes, sir.

9 18933 MR. WOLSON: Just before I leave the

10 subject, you have not talked to Mr. Mulroney since that

11 time?

12 18934 MR. KAPLAN: No, sir.

13 18935 MR. WOLSON: All right.

14 18936 At Tab 10 you interviewed

15 Mr. Schreiber on the 11th of November 1998.

16 18937 MR. KAPLAN: Yes, sir.

17 18938 MR. WOLSON: He tells you that:

18 "I inherited a feeling of

19 fairness when I was a judge"

20 18939 MR. KAPLAN: That's what he said.

21 18940 MR. WOLSON:

22 "Did you know I was a judge?"

23 18941 He says to you. And he also says:

24 "I would expect that sooner or

25 later you will come out with a

1 pocket book."

2 18942 He is telling you this?

3 18943 MR. KAPLAN: Yes, sir.

4 18944 MR. WOLSON:

5 "Then there would be the

6 opportunity for us to make some

7 connections and I will help

8 you."

9 18945 MR. KAPLAN: That's what he told me,

10 sir.

11 18946 MR. WOLSON: At page 2 of the

12 materials at Tab 10, he talks of his meeting with Paul

13 Tellier.

14 18947 MR. KAPLAN: Yes, sir.

15 18948 MR. WOLSON: And he tells you in the

16 second paragraph at page 2:

17 "Anyway, there was this meeting.

18 I was there with Doucet."

19 18949 And you learned that was Fred Doucet?

20 18950 MR. KAPLAN: Yes, sir.

21 18951 MR. WOLSON:

22 "Mulroney attended the first

23 part of the meeting and then

24 left. So it was just the three

25 of us. Me, Tellier, and Fred

1 Doucet. I heard about what
2 Mulroney had already said in
3 Cabinet, namely, that we are
4 going to do something for Nova
5 Scotia."
6 18952 So he is talking about the Bear Head
7 Project?
8 18953 MR. KAPLAN: Yes, sir.
9 18954 MR. WOLSON: "This is on the record."
10 18955 At page 3 of Tab 10:
11 "This is on the record. You can
12 see the documents for yourself.
13 Anyway, before he left Mulroney
14 says at this meeting 'I want
15 this thing to happen'. Then he
16 leaves."
17 18956 So he is talking about the Tellier
18 meeting?
19 18957 MR. KAPLAN: Yes, sir.
20 18958 MR. WOLSON: Where he was present for
21 the first part of the meeting, which was about Bear
22 Head?
23 18959 MR. KAPLAN: Well, I think what
24 Mr. Schreiber is describing to me about is what he
25 heard happened at the meeting.

1 18960 MR. WOLSON: All right. Is he not
2 talking, if you go back to page 2, of the meeting with
3 Doucet, Tellier and himself and it says:

4 "Mulroney attended the first
5 part of the meeting and then
6 left."

7 18961 MR. KAPLAN: I know, I see that, but
8 then it says here:

9 "I heard about what Mulroney had
10 already said in Cabinet, namely,
11 that we are going to do
12 something for Nova Scotia. This
13 is on the record. You can see
14 the documents for yourself.
15 Anyway, before he left Mulroney
16 says at this meeting 'I want
17 this thing to happen'."

18 18962 Maybe it happened at the meeting with
19 Mr. Doucet and Mr. Schreiber or maybe it happened at
20 Cabinet. I'm not sure.

21 18963 MR. WOLSON: All right.

22 "Then he leaves. Tellier then
23 comes out with all of these
24 strange statements. These
25 really weird remarks about the

1 power of the bureaucracy. I
2 said to him, 'Paul, this is a
3 strange situation, all of these
4 people who got their jobs from
5 the Liberals, opposing the
6 present government's wish to
7 have something done on this
8 project'."

9 18964 He then goes on:

10 "Anyway, we have the meeting and
11 I thought that it was really
12 strange the way Tellier had made
13 these remarks which were
14 seemingly contradictory to what
15 Mulroney had said when he said
16 he wanted something for the
17 people of Nova Scotia."

18 18965 MR. KAPLAN: Mr. Wolson, I see your
19 point now I think you are right, from before, that
20 Mr. Mulroney said at this meeting with Mr. Schreiber
21 and Mr. Doucet I want this thing to happen.

22 18966 I see your point.

23 18967 MR. WOLSON: All right. Thank you,
24 then.

25 "And I can tell you that..."

1 18968 Going on at page 3, end of the first
2 paragraph:
3 "And I can tell you that this
4 would have been great for Nova
5 Scotia. It would have created
6 thousands and thousands of
7 jobs."
8 18969 MR. KAPLAN: Correct. That's what he
9 told me.
10 18970 MR. WOLSON: And just near the bottom
11 of the page:
12 "I can tell you though, that
13 throughout the entire piece, all
14 of these politicians said that
15 they were for the project, that
16 they believed in it. They
17 betrayed me and Thyssen for \$14
18 million."
19 18971 MR. KAPLAN: He told me that.
20 18972 MR. WOLSON: At page 4:
21 "We could have got a great thing
22 going. A peace keeping machine
23 designed for NATO and the
24 Commonwealth. I think the
25 Americans would have even agreed

1 to buy some since Canada was
2 always involved with
3 peacekeeping missions."
4 "With respect to Pelossi..."
5 18973 This is the middle paragraph:
6 "... it was only a matter of
7 time before I get him in jail.
8 I haven't attacked you because
9 that would support my enemies I
10 feel guilty, about not speaking
11 to you earlier on."
12 18974 MR. KAPLAN: That's what he said.
13 18975 MR. WOLSON: And then at page 5:
14 "I am going after Pelossi but I
15 am doing it step by step. It is
16 like a farmer who plant seeds in
17 April. You get your potatoes in
18 October. I am now in September
19 and I will get Pelossi in jail."
20 18976 MR. KAPLAN: That's what he told me.
21 18977 MR. WOLSON: You interviewed him
22 again, at Tab 11, on the 29th of April 2002.
23 18978 MR. KAPLAN: Yes, sir.
24 18979 MR. WOLSON:
25 "He told me that he had the

1 goods on Mulroney, Fowler and
2 others."
3 18980 That's what he told you?
4 18981 MR. KAPLAN: Yes, sir.
5 18982 MR. WOLSON: He indicated that he
6 never bribed anybody?
7 18983 MR. KAPLAN: Yes, sir.
8 18984 MR. WOLSON: He started talking
9 about:
10 "...wanting to sue the Mulroney
11 government for the cancellation
12 of the Bearhead contract."
13 18985 So this is April 29, '02; right?
14 18986 MR. KAPLAN: Yes. Yes, sir.
15 18987 MR. WOLSON: He obviously knew the
16 Bear Head had been cancelled.
17 18988 MR. KAPLAN: Well, yes, sir.
18 18989 MR. WOLSON:
19 "He referred to the opinion he
20 received from Ian Scott but
21 explained that he didn't go
22 ahead with the suit because
23 Thyssen refused to give him
24 permission."
25 18990 MR. KAPLAN: Yes, sir.

1 18991 MR. WOLSON: Page 2:
2 "He spoke at some length about
3 what a shame it was that the
4 Bear Head project never
5 proceeded and discussed various
6 armaments..."
7 18992 With you.
8 18993 MR. KAPLAN: That's correct, sir.
9 18994 MR. WOLSON: At page 3 he indicates
10 that:
11 "He said that he actually asked
12 Mulronev about me and whether he
13 should cooperate and that
14 Mulronev advised him in the
15 strongest possible terms not to
16 speak to me because I was
17 unreliable."
18 18995 MR. KAPLAN: Yes. That is a
19 reference, sir, to when I was doing the research for
20 the first book and I made many, many efforts to contact
21 Mr. Schreiber so that I could interview him. I offered
22 to go to Switzerland to see him so that I could get his
23 side of the story and none of those efforts resulted in
24 any meeting with him.
25 18996 MR. WOLSON: All right. And near the

1 bottom of the third page:
2 "I told him..."
3 18997 You are talking now:
4 "... that I knew about the
5 meeting at the Queen Elizabeth
6 Hotel..."
7 18998 MR. KAPLAN: Yes, sir.
8 18999 MR. WOLSON: You told him that?
9 19000 MR. KAPLAN: Yes, sir.
10 19001 MR. WOLSON: You told them that you
11 "had independent information about this."
12 19002 MR. KAPLAN: That's correct, sir.
13 19003 MR. WOLSON:
14 "He said that one day he wanted
15 it all to come out."
16 19004 MR. KAPLAN: That's what he said,
17 sir.
18 19005 MR. WOLSON: I want to next go to Tab
19 12, please.
20 19006 MR. KAPLAN: Yes, sir.
21 19007 MR. WOLSON: Interview with
22 Mr. Schreiber on the 13th of February 2004.
23 19008 MR. KAPLAN: Yes, sir.
24 19009 MR. WOLSON: This is now after you
25 had written the article obviously by some months.

1 19010 MR. KAPLAN: Yes.

2 19011 MR. WOLSON: You wrote the article
3 November 10, '03.

4 19012 MR. KAPLAN: Yes, sir.

5 19013 MR. WOLSON: So at least from your
6 perspective the matter was out in the public?

7 19014 MR. KAPLAN: Well, the payment of
8 cash --

9 19015 MR. WOLSON: Yes.

10 19016 MR. KAPLAN: -- had been reported in
11 the Globe and Mail.

12 19017 MR. WOLSON: By you.

13 19018 MR. KAPLAN: That's right, sir.

14 19019 MR. WOLSON: All right. 13 February
15 2004:

16 "He told me that he wanted to
17 see bm at harrington lake and
18 did so at bm's request."

19 19020 MR. KAPLAN: He told me that, sir.

20 19021 MR. WOLSON:

21 "BM sent a car to pick him up.
22 Discussed the bearhead project.
23 Bm told him that kim campbell
24 would be elected and he could
25 help with the project at that

1 time. Told me that he did not
2 realize at that time that the
3 government had decided against
4 the project and pointed out that
5 he had a signed contract to
6 proceed that he could have sued
7 on but that thyssen decided
8 against doing so."

9 19022 MR. KAPLAN: That's what he told me.

10 19023 MR. WOLSON:
11 "Mentioned at some point that
12 his commission for the project
13 would have been about 18m."

14 19024 MR. KAPLAN: That's what he told me.

15 19025 MR. WOLSON: And then he went on
16 about the merits of the project.

17 19026 MR. KAPLAN: That's right.

18 19027 MR. WOLSON: Second paragraph:
19 "Told me that he paid bm at a
20 hotel suite near the airport in
21 mtl. He suggested that he had
22 been told that bm needed the
23 money and I asked him what bm
24 said when he handed over the
25 cash and he said that he said

1 'thank you.' He started laughing
2 at bm's explanation that it was
3 for pasta, as there was no pasta
4 business at that time. The
5 first payment 100k, another
6 payment at the Queen Eliz hotel
7 in mtl and the third payment at
8 the Pierre Hotel in NY."

9 19028 MR. KAPLAN: Yes, sir.

10 19029 MR. WOLSON: On the second page he
11 says:

12 "Told me that he has given lots
13 of money away to a lot of
14 people, eg fred doucet."

15 19030 MR. KAPLAN: Yes, sir.

16 19031 MR. WOLSON: You interview him --
17 that interview at Tab 12 was the 13th of February. You
18 interview him not quite a month away from that on the
19 6th of March 2004.

20 19032 MR. KAPLAN: Yes, sir.

21 19033 MR. WOLSON: Tab 13. You:
22 "... asked him about the britan
23 account, said that britan was
24 breton."

25 19034 MR. KAPLAN: That's what he said.

1 19035 MR. WOLSON: Said that:
2 "... when he met mbm at
3 harrington lake mbm said that
4 kim campbell would be reelected
5 with a majority and then there
6 could be progress on moving the
7 proposed facility to pq."
8 19036 MR. KAPLAN: That's what he said.
9 19037 MR. WOLSON: You used "pq". You mean
10 the Province of Québec?
11 19038 MR. KAPLAN: That's correct.
12 19039 MR. WOLSON: All right.
13 "This kind of pissed off khs
14 because they had done a lot of
15 work in cape breton and had even
16 posted ads prior to the last
17 election and got some 800
18 replies and then nothing. He
19 had no idea that the bureaucrats
20 were working against him and
21 that mbm was too. Found that
22 out later."
23 "In any event, thyssen had by
24 that point spent more than 10m
25 on the project, and he spoke to

1 them..."

2 19040 Meaning Thyssen?

3 19041 MR. KAPLAN: Correct.

4 19042 MR. WOLSON:

5 "... and they agreed to spend

6 500k more and that was the

7 breton or britan account."

8 19043 MR. KAPLAN: Yes.

9 19044 MR. WOLSON: So he clearly tells you

10 that Thyssen, after spending the money that they had,

11 antied up another \$500,000 which was put in the Britan

12 account --

13 19045 MR. KAPLAN: That's correct.

14 19046 MR. WOLSON: -- to pay Mr. Mulroney.

15 19047 MR. KAPLAN: Yes, sir.

16 19048 MR. WOLSON:

17 "I told him that the pattern of

18 withdrawals seemed to correspond

19 with payments to mbm. He

20 refused comment on that. What

21 he did say however was that he

22 could not understand why mbm was

23 so self-destructive. All he had

24 to do was say it was a loan.

25 Mbm needed money at the time, he

1 was trying to sell his furniture
2 and all he had to do was say
3 that khs gave him the money for
4 his future help on bearhead."
5 19049 Now I want to point this out to you,
6 because when I was reading your notes -- and I have
7 read them many times -- I didn't quite appreciate this
8 next statement:
9 "Apparently khs..."
10 19050 Karlheinz Schreiber:
11 "... had some idea that mbm
12 would spearhead the peacekeeping
13 part of the initiative."
14 19051 MR. KAPLAN: Well, that's what he
15 told me.
16 19052 MR. WOLSON: Yes.
17 "Mbm could have just said that.
18 Khs has no idea why he made into
19 such a big deal."
20 19053 MR. KAPLAN: I think the word "it" is
21 missing.
22 19054 MR. WOLSON: All right.
23 19055 I want to go to Tab 14 if you will,
24 please, Mr. Kaplan.
25 19056 MR. KAPLAN: Yes, sir.

1 19057 MR. WOLSON: The interview of
2 Mr. Schreiber on the 31st of March. So some weeks
3 after the interview of March that we just covered, you
4 interview them again.

5 19058 MR. KAPLAN: Yes, sir.

6 19059 MR. WOLSON: He says:
7 "Don't forget what the facts
8 are. After all the years of
9 investigation there is no proof
10 of any bribes. By the way, he
11 did help with pasta..."

12 19060 Meaning Mr. Mulroney.

13 19061 MR. KAPLAN: Yes, sir.

14 19062 MR. WOLSON: "... in 1994."
15 19063 So even though he had told you on the
16 previous interview that -- or a previous interview that
17 pasta was a joke, he says:
18 "By the way, he did help with
19 pasta in 1994. In 1993, I
20 thought he could help with
21 Bearhead and that is what I
22 thought when I left Harrington
23 Lake."

24 19064 MR. KAPLAN: That's what he said,
25 sir.

1 19065 MR. WOLSON: He indicates that:
2 "It was Walter Wolf who
3 introduced me to Brian
4 Mulroney."
5 19066 MR. KAPLAN: Yes, sir.
6 19067 MR. WOLSON:
7 "The meeting took place at the
8 Ritz when he was president at
9 the Iron Ore company."
10 19068 Mr. Mulroney was.
11 19069 MR. KAPLAN: Yes, sir.
12 19070 MR. WOLSON: And then he tells you
13 that he wanted a better piece of equipment for the
14 military.
15 19071 MR. KAPLAN: Yes, sir.
16 19072 MR. WOLSON: And then he goes into
17 again the project, the Bear Head Project and the Strait
18 of Canso.
19 19073 MR. KAPLAN: Yes, sir.
20 19074 MR. WOLSON: That there was a real
21 need for jobs in the area.
22 19075 MR. KAPLAN: Yes, sir.
23 19076 MR. WOLSON: He says to you at page
24 2:
25 "The only crime I ever committed

1 was trying to create 2,000 jobs
2 in Canada without substantial
3 grants from the government.
4 That was my greatest mistake,
5 not asking for grants."

6 19077 MR. KAPLAN: Yes, sir, he said that.

7 19078 MR. WOLSON: Then he goes into a
8 discussion about certain Army personnel and he talks to
9 you about the Bear Head Project.

10 19079 MR. KAPLAN: Yes, sir.

11 19080 MR. WOLSON: At the bottom he said:
12 "The peacekeepers risk their
13 lives and they deserve the best
14 equipment."

15 19081 MR. KAPLAN: Yes, sir.

16 19082 MR. WOLSON: At page 3 he says:
17 "About Brian Mulroney, I would
18 say that I do not understand why
19 Brian Mulroney would say
20 something like this because I
21 never did the smallest thing to
22 hurt him. It's the opposite,
23 all I did was respond to the
24 request of his government and to
25 Mr. Strauss, chairman of the

1 CDU, to bring business and
2 qualified jobs for young
3 Canadians to Canada. I was
4 introduced to him at the request
5 of Mr. Strauss through Walter
6 Wolf and Michael Cogger at the
7 time that he was president of
8 Iron Ore."

9 19083 So he is talking about being
10 introduced to Mr. Mulroney.

11 19084 MR. KAPLAN: Yes, sir.

12 19085 MR. WOLSON:
13 "From then on I was involved to
14 support his political
15 activities. At no time did Mr.
16 Mulroney tell me that I should
17 give up on the project. It was
18 the opposite. After Brian
19 Mulroney left the office I hoped
20 to get his support that the
21 Bearhead project would go ahead.
22 The previous Prime Minister of
23 Canada, namely Mulroney, in my
24 opinion would have been a good
25 representative of Thyssen. A

1 value added representative to
2 support the sale of peacekeeping
3 and an environmental protection
4 equipment out of Canada. I am
5 aware that many of the companies
6 that Brian Mulroney is involved
7 with today have similar reasons
8 for employing him. After Mr.
9 Mulroney left office he was
10 looking for clients to generate
11 income that in my opinion he
12 badly needed in those days."

13 19086 MR. KAPLAN: Yes, sir.

14 19087 MR. WOLSON: You ask a question:
15 "When he testified he barely
16 knew you."

17 19088 You are talking then about the
18 discovery?

19 19089 MR. KAPLAN: Yes, sir.

20 19090 MR. WOLSON: Answer:
21 "I wasn't there; I don't know
22 what he testified to, I didn't
23 care too much because I thought
24 he must have a reason.
25 When I look back, I have to say

1 that I liked Brian Mulroney. I
2 liked him from the beginning
3 because I enjoyed his sense of
4 humour from the beginning when
5 we met at the Ritz in Montreal."

6 19091 MR. KAPLAN: Yes, sir.

7 19092 MR. WOLSON: Page 4:

8 "Regardless of what Brian
9 Mulroney might do or say, I
10 forgive him because I can't
11 thank him enough for what he did
12 for the reunification of
13 Germany, which was historic.
14 Whoever reads this or is aware,
15 should understand that I would
16 have done a lot more for him if
17 he had asked me. I want that he
18 looks whenever he opens his
19 mouth bad about me, that I say I
20 know all that I have done at his
21 request, for his election, for
22 Canada. The most important
23 thing he ever did for me and for
24 the German people and for the
25 world, was the final release of

1 17,000,000 Germans who were in a
2 communist jail. I would have
3 done more for him."
4 19093 And he talks some more about the
5 reunification of Germany and he then says:
6 "I have a series of photos..."
7 19094 At the bottom of page 4:
8 "... of me and Brian Mulroney
9 and Mila Mulroney and my wife,
10 etc. I(sic) can call..."
11 19095 MR. KAPLAN: "He".
12 19096 MR. WOLSON: Pardon me?
13 19097 MR. KAPLAN: "He". "He can call."
14 19098 MR. WOLSON: Yes.
15 19099 MR. KAPLAN: Sorry.
16 19100 MR. WOLSON: In effect what he is
17 saying is he can call him down.
18 "If he needs my help, I am there
19 based on what he did for
20 Germany. If he needed \$2
21 million at the time, I would
22 have given it to him."
23 19101 Right?
24 19102 MR. KAPLAN: That's what he told me.
25 19103 MR. WOLSON: Okay. I want to ask you

1 one question before I move on to a second interview
2 with Mr. Lavoie and it's a question regarding
3 Mr. Schreiber.

4 19104 If you would turn to Tab 22, please,
5 these again are excerpts of your book, and turn to page
6 4, which is the first entry in Tab 22.

7 19105 MR. KAPLAN: Yes, sir.

8 19106 MR. WOLSON: You talk about in that
9 book, in the first full paragraph, near the bottom of
10 that paragraph you talk about the Harrington Lake visit
11 between Mulroney and Mr. Schreiber.

12 19107 MR. KAPLAN: Yes, sir.

13 19108 MR. WOLSON: And you say this:

14 "It was no surprise to
15 Schreiber, then, when Mulroney
16 summoned him to Harrington Lake
17 for a chat that summer day in
18 1993. When it was time to go,
19 Schreiber remembers Mulroney
20 escorting him to the door and
21 the waiting car.

22 The limousine kicked up dust
23 along the dirt-and-gravel road
24 out of the Harrington Lake
25 compound and was waved through

1 the white entrance gate by an
2 RCMP officer. Three cameras
3 mounted on poles recorded the
4 exit as the vehicle bounced down
5 the narrow road hugging the
6 south shore of Meech Lake, one
7 of three..."

8 19109 And you go on to describe the ride
9 back in the limousine.

10 19110 MR. KAPLAN: Yes, sir.

11 19111 MR. WOLSON: Where did you get the
12 information from of the limousine?

13 19112 MR. KAPLAN: Mr. Schreiber, as I
14 recall -- and you will appreciate, Mr. Wolson, that I
15 wrote this book in 2003 and 2004 and it is now 2009.

16 19113 But I believe that Mr. Schreiber told
17 me that he was picked up by a limousine. I understand,
18 although I haven't followed all the proceedings here,
19 that Mr. Schreiber testified that he was brought to
20 Harrington Lake by a limousine and isn't sure how he
21 got home, while Mr. Smith, I'm told -- but I haven't
22 seen his evidence -- testified that he picked up
23 Mr. Schreiber and wasn't sure how Mr. Schreiber got
24 home.

25 19114 So now in 2009 I can't tell you

1 exactly where I got this information, but I was
2 satisfied that it was accurate at the time.

3 19115 MR. WOLSON: All right.

4 19116 I then want to turn to Tab 16, if you
5 will, please.

6 19117 MR. KAPLAN: Yes, sir.

7 19118 MR. WOLSON: We have now been through
8 all of the interviews you have recorded regarding
9 Mr. Mulroney and regarding Mr. Schreiber in the
10 evidence book. We have gone through one of the
11 interviews with Mr. Lavoie, which we have done earlier
12 this morning.

13 19119 You had dinner with Mr. Lavoie. At
14 Tab 16 you will find your notes:

15 "Dinner with Luc Lavoie on March
16 8/06".

17 19120 MR. KAPLAN: Yes, sir.

18 19121 MR. WOLSON:

19 "We had some discussion about
20 when he found out about Mulroney
21 and the cash. He told me that
22 he found out several months
23 before I did. However, he is a
24 professional used to dealing in
25 all sorts of complicated

1 situations including negotiating
2 hostage retrievals in South
3 America. However, he told me
4 both in the middle of the dinner
5 and at the end of the evening,
6 that he was quite pissed off to
7 find out about the cash but
8 didn't take it personally."

9 19122 MR. KAPLAN: That is correct, sir.

10 19123 MR. WOLSON: Page 2 of that
11 interview, Tab 16:

12 "He told me that Mulroney was so
13 afraid of this information
14 coming out that he panicked and
15 that explains why he kept it
16 secret. He says that no one
17 could care less today even if
18 the story came out about the
19 voluntary declaration."

20 19124 That was regarding tax?

21 19125 MR. KAPLAN: We had a discussion and
22 I knew by this time that Mr. Mulroney had not declared
23 the income in the years that he had received it but in
24 fact had made a voluntary declaration later, and so we
25 had a discussion about what the impact of that news

1 would be when it finally came out.

2 19126 MR. WOLSON: And you write "he
3 says" -- of Lavoie:

4 "... that no one could care less
5 today even if the story came out
6 about the voluntary
7 declaration."

8 19127 MR. KAPLAN: That was his
9 observation.

10 19128 MR. WOLSON:
11 "This was interesting
12 because..."

13 19129 MR. KAPLAN: The next sentence says,
14 sir:

15 "This was interesting because
16 this was an implicated mission
17 that there had been a voluntary
18 declaration."

19 19130 But I believe that what I dictated
20 was that "this was an implied admission that there had
21 been a voluntary declaration".

22 19131 MR. WOLSON: All right. And you then
23 correct this to read:

24 "This was interesting because
25 this was an implied admission

1 that there had been a voluntary
 2 declaration."
 3 19132 MR. KAPLAN: Yes, sir.
 4 19133 MR. WOLSON:
 5 "He said no one would care about
 6 that story. He paid his taxes."
 7 19134 That more or less ended your notes of
 8 that interview.
 9 19135 MR. KAPLAN: Yes, sir.
 10 19136 MR. WOLSON: We have talked about the
 11 article which can be found at Tab 23 in which you --
 12 Tab 23 of the material in which you wrote about
 13 Mr. Mulroney and Mr. Schreiber and the money and you
 14 did that on November 10, 2003.
 15 19137 MR. KAPLAN: Yes, sir.
 16 19138 MR. WOLSON: When did you write the
 17 book "A Secret Trial"?
 18 19139 MR. KAPLAN: I began writing it, if
 19 recollection serves, in 2004. But I may have started
 20 in 2003 after the article. I can't remember exactly.
 21 19140 MR. WOLSON: Why did you write the
 22 book?
 23 19141 MR. KAPLAN: Well, sir, I had written
 24 "Presumed Guilty", which was a defence of Mr. Mulroney.
 25 I had, based on my research and my study, determined

1 that he was, based on the evidence that was then
2 available, a victim of a miscarriage of justice.

3 19142 That was the conclusion that I had
4 reached, that the letter of request had been unfair to
5 him, that he had been defamed by it and by the process
6 that followed.

7 19143 I wasn't the only one, of course,
8 sir, who reached that conclusion. The Government of
9 Canada reached that conclusion when it apologized to
10 Mr. Mulroney and said that there was no evidence of
11 wrongdoing on his part when the letter of request was
12 sent and that no evidence of wrongdoing had been found
13 since.

14 19144 The Fifth Estate had no information
15 indicating wrongdoing on Mr. Mulroney's part and Judge
16 Gold, who arbitrated his settlement after the case was
17 over to determine the amount of legal and public
18 relations fees that he had received, said that
19 Mr. Mulroney was the victim of a grievous injustice.

20 19145 That was the landscape and that's
21 what the evidence all indicated at the time.

22 19146 But the cash payments in the motel
23 and the hotel and in New York changed everything and I
24 felt that I had an obligation, as a historian of the
25 Airbus affair, to set the record straight.

1 19147 I was determined to do that, and I
2 did do that.

3 19148 MR. WOLSON: All right.

4 19149 I have just one more question for
5 you. I missed one tab, Tab 21 --

6 19150 MR. KAPLAN: Yes, sir.

7 19151 MR. WOLSON: Tab 21 of the exhibit
8 deals with your --

9 19152 Whose interview is this now?

10 19153 MR. KAPLAN: This is a note of a
11 conversation that I had with Mr. Schreiber.

12 19154 MR. WOLSON: All right, and what you
13 have done is -- there is a handwritten note.

14 19155 MR. KAPLAN: Yes, sir.

15 19156 MR. WOLSON: And that is at the
16 second page in.

17 19157 Well, there is actually some writing
18 on the first page, which seems to be from a document --
19 perhaps even a diary.

20 19158 Is that writing yours?

21 19159 MR. KAPLAN: Yes, sir.

22 19160 MR. WOLSON: And then, on the second
23 page, there is also some writing.

24 19161 MR. KAPLAN: Yes, sir.

25 19162 MR. WOLSON: And the third page is

1 the typed version?

2 19163 MR. KAPLAN: Yes, sir.

3 19164 MR. WOLSON: All right. We might as
4 well, for the sake of convenience, go to the typed
5 version. It says: "KHS went to Harrington Lake.
6 Doucet asked me to help out."

7 19165 MR. KAPLAN: Yes, sir.

8 19166 MR. WOLSON: Fred Doucet.

9 19167 MR. KAPLAN: That's right, sir.

10 19168 MR. WOLSON: And then, at the bottom
11 of the page:
12 "...if you write the story that
13 KHS says BM lied, in 1993 no
14 pasta, it was Thyssen, so that
15 means the old story is dead."
16 19169 MR. KAPLAN: That's what it says,
17 sir.

18 19170 MR. WOLSON: And that's what he told
19 you.

20 19171 MR. KAPLAN: Yes, sir.

21 19172 MR. WOLSON: Subject to one moment,
22 please, I am about to close my examination.

23 --- Pause

24 19173 MR. WOLSON: The question that I just
25 asked you, "If you write the story that KHS says BM

1 lied in `93..."

2 19174 MR. KAPLAN: I'm sorry, what tab was

3 that, sir?

4 19175 MR. WOLSON: Tab 21, sir.

5 19176 MR. KAPLAN: Sorry.

6 19177 Yes, sir?

7 19178 MR. WOLSON: "...if you write the

8 story that KHS says BM lied, in 1993, no pasta, it was

9 Thyssen..."

10 19179 Are you saying there -- is that in

11 reference to the fact that in an earlier interview he

12 had told you that there was no pasta in `93?

13 19180 MR. KAPLAN: I would imagine so, sir,

14 but in April of 2009, I could only speculate about the

15 context in which this was said.

16 19181 MR. WOLSON: All right, then I won't

17 ask you to speculate.

18 19182 Those are my questions.

19 19183 It is now noon. I don't know whether

20 my friends would like the lunch hour.

21 19184 COMMISSIONER OLIPHANT: Good morning,

22 Mr. Pratte.

23 19185 MR. PRATTE: Good morning, sir.

24 19186 It's almost "Good afternoon".

25 19187 COMMISSIONER OLIPHANT: Yes, it is.

1 19188 MR. PRATTE: I will have some
2 questions, sir, and I would be grateful if I could have
3 the normal luncheon break until two, if that is all
4 right with my friend.

5 19189 COMMISSIONER OLIPHANT: I take it,
6 Mr. Pratte, that you are going to be first up in terms
7 of questioning Mr. Kaplan?

8 19190 MR. PRATTE: We have not discussed it
9 formally, sir, but I am making this application to my
10 friends through you; and, if not, we can discuss it.

11 19191 COMMISSIONER OLIPHANT: That's fine,
12 I have no problem with the request at all.

13 19192 MR. WOLSON: I can tell you that the
14 only other witness today is Mr. Terrien, whose evidence
15 I expect to be very brief. I would hope that we would
16 finish Mr. Kaplan in time to have Mr. Terrien on this
17 afternoon. He will be here, and his evidence is
18 considered to be so brief that I would like to deal
19 with it today at some point.

20 19193 COMMISSIONER OLIPHANT: All right.
21 Could I ask counsel over the noon hour to determine the
22 order in which questions will be asked?

23 19194 Mr. Jacobsen...?

24 19195 MR. JACOBSEN: To keep the
25 bureaucrats at Air Canada happy, I am wondering if we

1 could get a rough estimate from counsel about how long
2 they think they are going to take.

3 19196 COMMISSIONER OLIPHANT: You can get
4 the estimate, but I am not so sure that it is going to
5 be of much help, based on experience thus far.

6 19197 MR. JACOBSEN: I see. Well, I would
7 appreciate the estimate in any event.

8 19198 COMMISSIONER OLIPHANT: Okay.

9 19199 MR. JACOBSEN: Because if I am
10 hearing half an hour or 10 minutes, that means one
11 thing; if I am hearing longer, I agree with you, we are
12 going back tonight.

13 19200 COMMISSIONER OLIPHANT: I appreciate
14 that.

15 19201 Mr. Pratte, do you have any idea how
16 long you are going to be at this point in time?

17 19202 MR. PRATTE: No.

18 19203 COMMISSIONER OLIPHANT: That is the
19 concern.

20 19204 I think the best way to handle this,
21 Mr. Jacobsen, is, rather than do it publicly, in
22 session, for all of the lawyers to put their heads
23 together -- because I gather that the length of Mr.
24 Pratte's questioning may well depend on questions that
25 are asked by other counsel, and that, again, depends on

1 the order in which counsel agree to go.

2 19205 MR. JACOBSEN: Thank you, sir.

3 19206 COMMISSIONER OLIPHANT: I wish I
4 could be of more help to you and the bureaucrats at Air
5 Canada, but I can't.

6 19207 MR. JACOBSEN: Thank you, sir.

7 19208 COMMISSIONER OLIPHANT: Okay, two
8 o'clock.

9 --- Upon recessing at 12:05 p.m. / Suspension à 12 h 05
10 --- Upon resuming at 2:00 p.m. / Reprise à 14 h 00

11 19209 COMMISSIONER OLIPHANT: Good
12 afternoon. Be seated please.

13 19210 Just give me half a second, would you
14 please, Mr. Pratte, there is something that I want to
15 check.

16 19211 I have a question that I want to ask,
17 just while I am there.

18 19212 Mr. Kaplan, Good afternoon.

19 19213 MR. KAPLAN: Good afternoon, sir.

20 19214 COMMISSIONER OLIPHANT: Let me tell
21 you that I have read both of your books, never
22 anticipating that I would be sitting in this chair when
23 I read your books.

24 19215 At Tab 15, Mr. Kaplan, you have an
25 interview with Mr. Lavoie on Friday, January 4th, and

1 at the bottom of that page Mr. Lavoie suggested to you
2 that you could confirm details by contacting Yves
3 Fortier.

4 19216 MR. KAPLAN: Yes, sir.

5 19217 COMMISSIONER OLIPHANT: Mr. Fortier
6 is a well-known lawyer in Montreal.

7 19218 MR. KAPLAN: Yes, sir.

8 19219 COMMISSIONER OLIPHANT: Did you ever
9 do that?

10 19220 MR. KAPLAN: No, sir.

11 19221 COMMISSIONER OLIPHANT: All right.
12 That's fine, thanks.

13 19222 Mr. Pratte...

14 19223 MR. PRATTE: Mr. Commissioner, before
15 I start, I thought we should have some of the paper
16 that I might be referring to in front of us, some of
17 which was referred to by the witness but I don't think
18 was officially marked.

19 19224 The first one is the unofficial
20 translation of the Statement of Claim in the Superior
21 Court of Quebec from which he read. I believe that
22 copies were made for all concerned, but it wasn't
23 marked, and I hope that you have a copy of it, Mr.
24 Commissioner.

25 19225 COMMISSIONER OLIPHANT: Thus far I do

1 not have it, but the Acting Registrar has a copy.

2 19226 MR. PRATTE: It would need an exhibit
3 number. Madam Registrar, what would that be, please?

4 19227 THE REGISTRAR: Exhibit P-26.

5 19228 MR. PRATTE: P-26.

6 19229 As well, Mr. Commissioner, reference
7 was made to an article in the Globe and Mail in which
8 Mr. Yarosky was quoted. We have made copies of this, I
9 believe, and I am trusting that the Registrar also has
10 copies of that article.

11 19230 Could that be marked as the next
12 exhibit, Mr. Commissioner?

13 19231 I believe it would be P-27.

14 19232 COMMISSIONER OLIPHANT: These are
15 going in by consent, I take it, are they?

16 19233 MR. PRATTE: I am assuming so.

17 19234 COMMISSIONER OLIPHANT: I see nobody
18 rising to object.

19 19235 MR. PRATTE: They were referred to by
20 Commission counsel, so I am assuming that at least he
21 consents.

22 19236 COMMISSIONER OLIPHANT: What is the
23 date of the article from the Globe and Mail, please?

24 19237 MR. PRATTE: November 20, 1995.

25 19238 COMMISSIONER OLIPHANT: All right.

1 The Statement of Claim, and its translation, will be
2 received and marked as Exhibit P-26, and the article
3 from the Globe and Mail, the edition of November 20,
4 1995, will be received and marked as Exhibit P-27.

5 EXHIBIT NO. P-26: Statement of
6 Claim, dated November 20, 1995,
7 with unofficial translation,
8 filed in Superior Court of
9 Quebec

10 EXHIBIT P-27: Article from
11 Globe and Mail, edition November
12 20, 1995

13 19239 MR. PRATTE: May I correct something
14 that Mr. Wolson just reminded me of?

15 19240 COMMISSIONER OLIPHANT: Yes.

16 19241 MR. PRATTE: He didn't make reference
17 to it. I am not sure that he knew it was coming,
18 because I am sure that he would have given us copies.
19 The witness did, though, in answer to a question.

20 19242 COMMISSIONER OLIPHANT: Yes, I recall
21 hearing the reference to Mr. Yarosky being quoted.

22 19243 MR. YAROSKY: It's my moment in the
23 sun, Mr. Commissioner, you have to accept the article.

24 19244 COMMISSIONER OLIPHANT: I thought it
25 might mean your disappearance from the Inquiry when I

1 first heard it, to be honest with you.

2 19245 MR. WOLSON: I should say that I only
3 became aware of it this morning, minutes before we
4 started, and at that time I didn't have the opportunity
5 to have copies made. So that should put it in context.

6 19246 COMMISSIONER OLIPHANT: All right.
7 Thank you.

8 19247 MR. PRATTE: Of course, I accept that
9 implicitly.

10 19248 Then, that would be P-27.

11 19249 Could I go back, Mr. Commissioner, to
12 P-26? I don't have copies for everyone, but I would
13 like to make, maybe as P-26A, the original version of
14 the Statement of Claim, to which I won't make
15 reference, but for the completion of the record.

16 19250 We will provide copies of that by the
17 end of the day.

18 19251 Maybe we could mark it now.

19 19252 COMMISSIONER OLIPHANT: Sure. The
20 original of the Statement of Claim from Montreal, then,
21 will be Exhibit P-26A.

22 EXHIBIT P-26A: Statement of
23 Claim filed in Superior Court of
24 Quebec, dated November 20, 1995

25 19253 COMMISSIONER OLIPHANT: Now, I

1 haven't seen the document, this was the lawsuit that
2 was commenced against the Attorney General of Canada?

3 19254 MR. PRATTE: Yes, and --

4 19255 COMMISSIONER OLIPHANT: And others.

5 19256 MR. PRATTE: Correct. And it's
6 dated --

7 19257 COMMISSIONER OLIPHANT: Based on
8 which the exam -- I think you call it an Examination on
9 Discovery in Quebec.

10 19258 MR. PRATTE: That's right.

11 19259 It's dated November 20th, 1995, sir.

12 19260 This need not be marked, but you
13 might be sure that you have it handy. It is the Letter
14 of Request, which is, of course, the basis of the
15 lawsuit.

16 19261 I will give you the exhibit number.
17 Hopefully the Registrar can assist -- and it will be
18 important for Mr. Kaplan to have a copy of the Letter
19 of Request, if he doesn't have one.

20 19262 COMMISSIONER OLIPHANT: I know it's
21 in one of the Schreiber books, because I asked about it
22 over the noon hour.

23 19263 MR. PRATTE: It is. I believe it is
24 Exhibit 7, Book 2, Tab 116.

25 19264 Perhaps just so we have everything in

1 front of us before I get going, someone could get you
2 that, Mr. Commissioner.

3 19265 Perhaps, through you, I could inquire
4 of Mr. Kaplan if he has a copy of the Letter of Request
5 with him.

6 19266 MR. KAPLAN: No, I don't. It is
7 referred to, of course, in the Statement of Claim.

8 19267 MR. PRATTE: I appreciate that, but I
9 want to make some reference to the Letter of Request
10 itself.

11 19268 COMMISSIONER OLIPHANT: Give the
12 Registrar a moment, Mr. Pratte, please.

13 --- Pause

14 19269 MR. KAPLAN: Thank you. Mr. Pratte,
15 what tab is it at?

16 19270 COMMISSIONER OLIPHANT: Tab 116, I
17 think, Mr. Kaplan.

18 19271 MR. PRATTE: Yes, it should be found,
19 Mr. Kaplan, at Tab 116.

20 19272 MR. KAPLAN: Thank you.

21 EXAMINATION: WILLIAM KAPLAN BY MR. PRATTE /
22 INTERROGATOIRE: WILLIAM KAPLAN PAR Me PRATTE

23 19273 MR. PRATTE: Mr. Kaplan, good
24 afternoon.

25 19274 Early on in your examination with Mr.

1 Wolson, he asked you a question about why you had not
2 specifically asked Mr. Mulroney as to whether he had
3 had any commercial business with Mr. Schreiber.

4 19275 Do you recall that question?

5 19276 MR. KAPLAN: Yes, sir.

6 19277 MR. PRATTE: And you said to him, as
7 I recall, that it wasn't only the description of the
8 relationship as "peripheral", but other things,
9 including the Statement of Claim that Mr. Mulroney had
10 filed.

11 19278 Do you recall that?

12 19279 MR. KAPLAN: Yes, sir.

13 19280 MR. PRATTE: And you read from what
14 you said was page 5 of the unofficial translation, and
15 I couldn't find the passage you read on that page, but
16 I did on page 6, at paragraph 12(ii).

17 19281 Have I got that right?

18 19282 MR. KAPLAN: I'm sorry if I cited the
19 wrong page. It's page 6, yes.

20 19283 MR. PRATTE: Okay, and it's paragraph
21 (ii).

22 19284 Is that right?

23 19285 MR. KAPLAN: Yes, sir.

24 19286 MR. PRATTE: Paragraph 12 says:
25 "Without restricting the

1 generality of the foregoing, the
2 above cited allegations are
3 false in that..."

4 -- and then I go directly to (ii):

5 "Plaintiff has never received
6 any of the alleged payments, in
7 any form, from any person,
8 whether named or not in the
9 Request for Assistance, for any
10 consideration whatsoever..."

11 19287 That's the passage you read.

12 19288 MR. KAPLAN: Yes, sir.

13 19289 MR. PRATTE: Now, I have here a copy
14 of the transcript of this morning, where you say:

15 "I am reading from page 5 of the
16 translation that Mr. Mulroney
17 provided when he launched the
18 civil suit."

19 19290 So, at that point, you had already
20 read the paragraph that you and I just read.

21 19291 It is page 24, line 11 -- and I will
22 read it to you, Mr. Kaplan. You said this morning:

23 "I am reading from page 5 of the
24 translation..."

25 -- and we now know it's page 6:

1 "...that Mr. Mulroney provided
2 when he launched the civil suit.

3 So there was that reason.
4 Mr. Mulroney said in his
5 Statement of Claim with respect
6 to the Bear Head transaction
7 that he had never received a
8 dime from 'no one', as they
9 say."

10 19292 That's what you said this morning.

11 19293 MR. KAPLAN: Okay.

12 19294 MR. PRATTE: Now, in fact what the
13 claim said wasn't quite as broad as that, it denied
14 that he had received any of the payments as alleged in
15 the claim. Correct?

16 19295 MR. KAPLAN: Well, that's what it
17 says.

18 19296 MR. PRATTE: Could we just go back in
19 the claim a little bit -- and I am referring to P-26,
20 Mr. Commissioner -- first of all, to paragraph 8 at
21 page 2, Mr. Kaplan.

22 19297 I will read it for you, Mr. Kaplan,
23 and for the record. Paragraph 8 says:

24 "This Request for Assistance,
25 addressed by the Canadian

1 government to the Swiss
2 government, contains very grave
3 allegations against Plaintiff,
4 all of which are totally
5 false..."

6 19298 Do you see that?

7 19299 MR. KAPLAN: Yes, sir.

8 19300 MR. PRATTE: I have read that
9 correctly?

10 19301 MR. KAPLAN: Yes, sir.

11 19302 MR. PRATTE: And this claim is
12 limited to the allegations in the Letter of Request --
13 or Request for Assistance. Correct?

14 19303 On its face.

15 19304 MR. KAPLAN: I would have to read the
16 whole claim, but --

17 19305 MR. PRATTE: Please, do that, if you
18 need the time.

19 19306 MR. KAPLAN: I am not actually sure
20 what you are asking me, Mr. Platte.

21 19307 MR. PRATTE: The Statement of Claim
22 that you referred to was a claim for defamation
23 resulting from allegations made in the Request for
24 Assistance.

25 19308 MR. KAPLAN: Yes, sir.

1 19309 MR. PRATTE: And then, if you look at
2 paragraph 9, following, it has a number of
3 subparagraphs in Roman numerals. Correct?

4 19310 MR. KAPLAN: Yes, sir.

5 19311 MR. PRATTE: Would you agree with me
6 that the first 15 or 16 of the subparagraphs really
7 deal with Air Canada and Airbus, and alleged payments
8 made to Mr. Mulroney resulting from the purchase by
9 Canada of Airbus planes?

10 19312 MR. KAPLAN: Yes, sir.

11 19313 MR. PRATTE: In fact, most of this
12 lawsuit was focused on that allegation, secret
13 commissions paid to Mr. Mulroney as a result of the
14 purchase by Air Canada of Airbus planes.

15 19314 MR. KAPLAN: I don't know if most of
16 the lawsuit was focused, but that was the
17 preoccupation.

18 19315 MR. PRATTE: Right. In fact, your
19 book, "Presumed Guilty: The Airbus Affair", speaks to
20 that, that Airbus was the prime concern.

21 19316 MR. KAPLAN: Absolutely.

22 19317 MR. PRATTE: In the first chapter of
23 your book "Presumed Guilty", which is entitled, "The
24 Airbus Affair", you only talk about the allegations
25 relating to Airbus.

1 19318 MR. KAPLAN: I don't remember that,
2 but I do know that I talked about the allegations
3 relating to Airbus at the greatest length.

4 19319 MR. PRATTE: Thank you.

5 19320 Now, let's look at what is mentioned
6 in respect of Bear Head.

7 19321 That will be found, Mr. Commissioner,
8 at page 5, to begin with, subparagraphs (xx) and (xxi).

9 19322 There it says:

10 "In the case of the Bear Head
11 Project and the MBAV contract,
12 Mr. Moores acted as a private
13 counsellor in order to
14 facilitate the money flow to Mr.
15 Mulroney. A confidential person
16 says that IAL made monthly
17 payments regarding the MBAV
18 contract until at least April
19 22, 1988."

20 19323 Do you know who that confidential
21 person was?

22 19324 MR. KAPLAN: No, sir.

23 19325 MR. PRATTE: It's not either Stevie
24 Cameron or Mr. Pelossi?

25 19326 MR. KAPLAN: It would be entirely

1 speculative on my part.

2 19327 MR. PRATTE:

3 "The person believes that a part
4 of all the payments made to Mr.
5 Moores and Mr. Schreiber were
6 transferred to Mr. Mulroney."

7 19328 Do you see that?

8 19329 MR. KAPLAN: Yes, sir.

9 19330 MR. PRATTE: Then, at paragraph
10 (xxi):

11 "The three above-mentioned cases
12 are proof of a persisting
13 plot/conspiracy by Mr. Mulroney,
14 Mr. Moores and Mr. Schreiber,
15 who defrauded the Canadian
16 government in the amount of
17 millions of dollars during the
18 time when Mr. Mulroney was in
19 office until his resignation in
20 June 1993."

21 19331 Do you see that?

22 19332 MR. KAPLAN: Yes, sir.

23 19333 MR. PRATTE: So the allegation, both
24 in respect of Air Canada and, also, in respect of Bear
25 Head, was that there had been a scheme -- a conspiracy

1 to defraud the Canadian government while he was in
2 office.

3 19334 MR. KAPLAN: Yes, sir.

4 19335 MR. PRATTE: And the suit denied
5 these allegations, and we see that at paragraph 11.

6 19336 Correct?

7 "All of the above-cited
8 allegations concerning the
9 plaintiff were made by
10 defendants who knew the
11 allegations to be solely
12 generated by media
13 speculation..."

14 19337 Then, at paragraph 12 -- we just
15 looked at it:

16 "Without restricting the
17 generality of the foregoing, the
18 above cited allegations are
19 false..."

20 19338 MR. KAPLAN: Yes, sir.

21 19339 MR. PRATTE: And at paragraph (ii):
22 "Plaintiff has never received
23 any of the alleged payments, in
24 any form, from any person,
25 whether named or not in a

1 Request for Assistance..."

2 19340 So the claim was denying that Mr.

3 Mulroney had received payments while he was Prime

4 Minister in respect of three things: Airbus, MBAV, and

5 Bear Head.

6 19341 Is that not correct?

7 19342 MR. KAPLAN: Yes, sir.

8 19343 MR. PRATTE: Then, at paragraph (iv)

9 of 12 it says:

10 "Plaintiff has never been a

11 party to any agreement alleged

12 in the Request for Assistance to

13 achieve any end therein alleged,

14 whether with Messrs. Schreiber

15 or Moores or with any other

16 unnamed person..."

17 19344 Again, what was alleged in the Letter

18 of Request was that there was a conspiracy ongoing,

19 while he was Prime Minister, to defraud the government,

20 and that he received payments from that conspiracy

21 while he was Prime Minister.

22 19345 Correct?

23 19346 MR. KAPLAN: Actually, sir, on page 5

24 it says: "The payments were made until at least April

25 22, 1988."

1 19347 So they ended, according to this,
2 while he was Prime Minister.

3 19348 MR. PRATTE: All right. So, then,
4 there was nothing in this claim that alleged that Mr.
5 Mulroney participated in any untoward activity or
6 received payments after he was Prime Minister.

7 19349 MR. KAPLAN: I will take your word on
8 that, Mr. Pratte. I just focused on the Bear Head
9 part.

10 19350 MR. PRATTE: We just read the Bear
11 Head part --

12 19351 MR. KAPLAN: Right.

13 19352 MR. PRATTE: -- and it is focusing on
14 a conspiracy while he is Prime Minister.

15 19353 MR. KAPLAN: Yes, sir.

16 19354 MR. PRATTE: And that's what was
17 denied.

18 19355 That's what he sued on.

19 19356 MR. KAPLAN: That's what he sued on.

20 19357 MR. PRATTE: Right.

21 19358 Can we now look at the Letter of
22 Request?

23 19359 MR. KAPLAN: Yes, sir.

24 19360 MR. PRATTE: That is the basis of the
25 lawsuit, as I think we agreed. Right, Mr. Kaplan?

1 19361 MR. KAPLAN: Absolutely.

2 19362 MR. PRATTE: If you look at page 7,
3 you see that the letter --

4 19363 It is paginated at the top, Mr.
5 Commissioner.

6 19364 There is reference in the first three
7 paragraphs to payments made to I.A.L. following the
8 signing of the Understanding in Principle in `88.

9 19365 MR. KAPLAN: Yes, sir.

10 19366 MR. PRATTE: Then, if you flip to
11 page 8, it says, starting at the very top:

12 "In the case of the Bear Head
13 Project and the MBAV contract,
14 Mr. Moores, who was acting as a
15 private consultant, used to
16 facilitate the flow of money to
17 Mr. Mulroney. The confidential
18 source advised that monthly
19 payments were made to Mr. Moores
20 by IAL until at least April 22,
21 1988, on the MBAV contract. The
22 source believes that a portion
23 of the commissions paid to Mr.
24 Moores and Mr. Schreiber were
25 paid to Mr. Mulroney. It is

1 believed that a Mr. Giorgio
2 Pelossi, the manager of IAL, has
3 intimate knowledge of the
4 transactions conducted by IAL in
5 relation to the three contracts
6 described above and will be able
7 to provide information
8 concerning the payments by IAL
9 to Mr. Moores and Mr. Mulroney."

10 19367 I read that correctly?

11 19368 MR. KAPLAN: I think so.

12 19369 MR. PRATTE: Then it says:
13 "The above three cases
14 demonstrate an ongoing scheme by
15 Mr. Mulroney, Mr. Moores and Mr.
16 Schreiber to defraud the
17 Canadian government of millions
18 of dollars of public funds from
19 the time Mr. Mulroney took
20 office in September 1984 until
21 he resigned in June 1993."

22 19370 Correct?

23 19371 MR. KAPLAN: Yes, sir.

24 19372 MR. PRATTE: Again, confirming what
25 you and I have discussed, which is that the claim was

1 denying allegations that Mr. Mulroney had acted
2 illegally by participating in a conspiracy to defraud
3 the government and receive payments while he was Prime
4 Minister.

5 19373 Correct?

6 19374 MR. KAPLAN: Yes, sir.

7 19375 MR. PRATTE: There was no broader
8 denial than that in the claim.

9 19376 Isn't that correct?

10 --- Pause

11 19377 MR. KAPLAN: You see, Mr. Pratte,
12 this is the problem that I have -- and you will forgive
13 me, of course.

14 19378 Yes, that's correct, there is no
15 broader denial than that, but it is all part of a
16 pattern of carefully chosen words.

17 19379 So, yes, sir, you're right.

18 19380 MR. PRATTE: Words are important,
19 sir, and I think you have agreed with me that the claim
20 was denying the payments and the conspiracy, as
21 alleged, and no more than that.

22 19381 Correct?

23 19382 MR. KAPLAN: Yes, sir.

24 19383 MR. PRATTE: There was no broad
25 denial of any payments whatsoever from Mr. Schreiber

1 related to Bear Head at any point in time, it was
2 limited to the time period while he was Prime Minister.

3 19384 MR. KAPLAN: In the materials we are
4 looking at.

5 19385 MR. PRATTE: Right, which is the
6 first leg of your explanation for not asking the more
7 specific question that you reported to Mr. Wolson.

8 19386 Correct?

9 19387 MR. KAPLAN: Yes, sir.

10 19388 MR. PRATTE: The second leg is the
11 article, P-27. My notes suggest, sir, that you read
12 part of a quotation from Mr. Yarosky, who, as you
13 pointed out, is sitting in front of you here.

14 19389 MR. KAPLAN: That's right, sir.

15 19390 MR. PRATTE: And my recollection is
16 that the line you read was -- it made some general
17 comments about Bear Head, and then you quoted from the
18 article, "...nor did he receive a cent from anyone."

19 19391 MR. KAPLAN: Yes, sir.

20 19392 MR. PRATTE: That's all you read from
21 the article. Correct?

22 19393 MR. KAPLAN: I believe so.

23 19394 MR. PRATTE: Can we look now at the
24 paragraph within which that quote is found in its
25 entirety, to provide context?

1 19395 Do you have the article in front of
2 you?

3 19396 MR. KAPLAN: I only have an extract
4 from it here.

5 19397 MR. PRATTE: You don't have the
6 entire article in front of you?

7 19398 MR. KAPLAN: No, I only have an
8 extract from it here.

9 19399 MR. PRATTE: Okay. Maybe we should
10 give you a copy, because you would agree with me, sir,
11 that sometimes context is important when we read a
12 quote.

13 19400 MR. KAPLAN: Absolutely.

14 19401 MR. PRATTE: Yes.

15 --- Pause

16 19402 MR. KAPLAN: Thank you.

17 19403 MR. PRATTE: Go to the fifth
18 paragraph.

19 19404 MR. KAPLAN: Yes, sir.

20 19405 MR. PRATTE: Let me read it, so that
21 we all are on the same page, and paragraph. It says:
22 "On Saturday, Harvey Yarosky, a
23 member of a legal team retained
24 by Mr. Mulroney..."

25 19406 Let me stop there. That was in the

1 context of the defamation lawsuit that we just talked
2 about. Right?

3 19407 MR. KAPLAN: Yes, sir.

4 19408 MR. PRATTE: I continue:
5 "...said the `former rime
6 minister categorically...states
7 that he had absolutely nothing
8 to do with Air Canada's decision
9 to buy Airbus.'"

10 19409 The quote continues:
11 "'Nor did he receive a cent from
12 anyone. He was simply not part
13 of any conspiracy whatsoever.'"

14 19410 MR. KAPLAN: Yes, sir.

15 19411 MR. PRATTE: Do you agree that his
16 statement that he didn't receive a cent from anyone is
17 in the paragraph where he limits his comments to Airbus
18 and Air Canada?

19 19412 MR. KAPLAN: Well, I agree it's in
20 that paragraph, but I don't agree that it's as narrow
21 as you suggest.

22 19413 MR. PRATTE: But let's agree that
23 it's in that paragraph?

24 19414 MR. KAPLAN: Absolutely.

25 19415 And, Mr. Pratte, I would say as well

1 that, whether knowingly or not, the impression that was
2 intended to convey was that Mr. Mulroney had received
3 no money from Mr. Schreiber or Mr. Moores, and that is
4 the impression that it, in fact, did convey.

5 19416 MR. PRATTE: Well, it conveyed that
6 to you, sir, but we looked at the claim and you agreed
7 with me that the claim was no broader than payments
8 while he was Prime Minister.

9 19417 Correct?

10 19418 MR. KAPLAN: No fair-minded person
11 could read this article, Mr. Pratte --

12 19419 Let me finish, please.

13 19420 No fair-minded person could read this
14 article and conclude anything other than Mr. Yarosky
15 was telling them that Mr. Mulroney didn't receive a
16 nickel from anyone.

17 19421 MR. PRATTE: Let's read the other
18 paragraph:

19 "Mr. Mulroney has repeatedly
20 denied allegations, as had Air
21 Canada, Airbus and Mr. Moores,
22 of any impropriety in connection
23 with the sale of [Airbus]
24 aircraft."

25 19422 Do you see that?

1 19423 MR. KAPLAN: Yes, sir.

2 19424 MR. PRATTE: The only companies
3 mentioned there are Air Canada and Airbus. Correct?

4 19425 MR. KAPLAN: As you pointed out, Mr.
5 Pratte, the Letter of Request referred to a conspiracy
6 involving three elements -- Air Canada, MNAV, and Bear
7 Head -- and that was the conspiracy, I believe, that
8 Mr. Yarosky was referring to, but perhaps we could hear
9 from him.

10 19426 MR. PRATTE: Well, we might have to.

11 19427 But, sir, we agreed that that
12 conspiracy was limited to the period while he was Prime
13 Minister, it did not encompass matters that came after.

14 19428 MR. KAPLAN: His Statement of Claim
15 was limited to allegations relating to his period as
16 Prime Minister.

17 19429 MR. PRATTE: Correct. And you just
18 told me that what he was referring to was that very
19 claim and the Letter of Request.

20 19430 That's what you just told me.

21 19431 MR. KAPLAN: Oh, I see. So am I to
22 understand that Mr. Mulroney instructed his lawyers to
23 carefully tell the Canadian people that, while he had
24 taken no money as Prime Minister -- to mislead them in
25 that way and not deal with the fact that he had taken

1 money after being Prime Minister?

2 19432 Were those the instructions that Mr.
3 Yarosky receive?

4 19433 MR. PRATTE: Sir, you said to us that
5 you relied on the Letter of Request and the Statement
6 of Claim. You are a lawyer, you know that that was the
7 limited context of the action. You have agreed with
8 me.

9 19434 Correct?

10 19435 MR. KAPLAN: I have agreed with you,
11 sir, that that was the limited context of the action.
12 I do not agree with you, sir -- and you can call me
13 old-fashioned -- that when a Prime Minister sues the
14 Government of Canada for \$50 million for saying that he
15 had taken commissions in an illegal conspiracy, that he
16 shouldn't go on to reveal that he had also taken cash
17 in motels.

18 19436 You and I will never agree about
19 that, I suppose, Mr. Pratte.

20 19437 MR. PRATTE: Don't make any
21 assumptions, sir, I am just going by what you told us
22 this morning. Okay?

23 19438 We will have the discussion as to
24 what else he might have volunteered, but let's at least
25 get the context perfectly clear -- and I won't repeat

1 it, I think you have explained to the Commission that,
2 in fact, the Statement of Claim is limited in time; not
3 broadly, we have agreed on that. Correct?

4 19439 MR. KAPLAN: It is quite clear now,
5 especially in hindsight, Mr. Pratte, that the Statement
6 of Claim is carefully limited in time. Now that we
7 know about the cash payments, it would have to be,
8 wouldn't it?

9 19440 MR. PRATTE: The Letter of Request
10 limited the allegations to that. The claim could not
11 be broader than the Letter of Request upon which it was
12 founded, could it?

13 19441 MR. KAPLAN: I have no idea, sir.

14 19442 MR. PRATTE: Are you called to the
15 Quebec bar?

16 19443 MR. KAPLAN: No. That's why I just
17 said that I had no idea.

18 19444 MR. PRATTE: Well, that is maybe
19 something that we should figure into the context.

20 19445 Let's talk about the Examination for
21 Discovery for a moment.

22 19446 MR. KAPLAN: Yes, sir.

23 19447 MR. PRATTE: Mr. Wolson said to you
24 several times that the discovery before a plea in
25 Quebec was equivalent to that which pertains in

1 Ontario, for example.

2 19448 Do you remember that?

3 19449 MR. KAPLAN: I know that he said

4 that, sir.

5 19450 MR. PRATTE: Right. Now, you are a

6 highly respected and acknowledged expert in labour law

7 and employment law. Correct?

8 19451 MR. KAPLAN: I wouldn't say correct,

9 but I appreciate the characterization.

10 19452 MR. PRATTE: Take the compliments

11 when they come your way, Mr. Kaplan.

12 19453 There are certain things that we can

13 agree on, and I am willing to agree to that.

14 19454 COMMISSIONER OLIPHANT: No matter the

15 source.

16 19455 MR. JACOBSEN: But the witness has a

17 right to be suspicious in these circumstances, surely.

18 19456 MR. PRATTE: You have no reason for

19 suspicion, sir.

20 19457 Do you, in a regular part of your

21 practice, engage in civil procedure -- trials and

22 discoveries?

23 19458 MR. KAPLAN: No, sir.

24 19459 MR. PRATTE: In the Province of

25 Quebec, are you aware that there is a procedure that

1 doesn't exist in any other common law province --
2 certainly not in Ontario -- which is that one can be
3 examined for discovery before the defence has filed?
4 19460 MR. KAPLAN: Yes, sir.
5 19461 MR. PRATTE: And are you aware that,
6 on such an Examination for Discovery, the questioner is
7 limited to the four corners of the allegations in the
8 claim, and no more broad than that?
9 19462 MR. KAPLAN: Mr. Jeansonne explained
10 that to me.
11 19463 MR. PRATTE: And you have no reason
12 to disagree with him.
13 19464 MR. KAPLAN: No.
14 19465 MR. PRATTE: Mr. Jeansonne is another
15 highly respected lawyer, this time from the Province of
16 Quebec. Right?
17 19466 MR. KAPLAN: So I understand.
18 19467 MR. PRATTE: In your book -- that is
19 not a page that was part of the book.
20 19468 And when I say "in your book," I mean
21 "A Secret Trial".
22 19469 MR. KAPLAN: Yes, sir.
23 19470 MR. PRATTE: It's not an excerpt
24 which Commission counsel put in, but you address at
25 page 20, if you could have it in front of you --

1 19471 MR. KAPLAN: Yes, sir.

2 19472 MR. PRATTE: -- the Examination for
3 Discovery.

4 19473 Could I take you to the second full
5 paragraph, beginning in the middle of page 20 --
6 "Examinations on Discovery..."

7 19474 Do you see that?

8 19475 It is page 20, the middle of the
9 page, and it starts -- and I quote: "Examinations on
10 Discovery..."

11 19476 MR. KAPLAN: Oh, I'm sorry, I was
12 looking at page 21. Excuse me.

13 19477 Yes, sir.

14 19478 MR. PRATTE: I quote -- let me start
15 again:
16 "Examinations on Discovery
17 provide each side in a legal
18 action with a wide scope to ask
19 the other side questions, and
20 this one was no exception."

21 19479 You would agree with me that, in the
22 Province of Quebec, that is not quite accurate.

23 19480 MR. KAPLAN: I can tell you the
24 chronology, Mr. Pratte. After I found out about the
25 cash payments, I phoned Mr. Jeansonne, whom I had

1 developed a relationship with over the course of
2 working on the first book, and expressed my dismay that
3 Mr. Mulroney hadn't revealed the extent of his
4 commercial relationship with Mr. Schreiber, and it was
5 then that I fully learned about the technicalities of
6 the Quebec code and --

7 19481 MR. PRATTE: The differences --

8 19482 MR. KAPLAN: -- the procedures that
9 you just indicated.

10 19483 MR. PRATTE: The differences between
11 the Ontario system --

12 19484 MR. KAPLAN: Yes, sir.

13 19485 MR. PRATTE: So, when you talk about
14 the wide scope, that has to be qualified by that
15 understanding of the limits in Quebec discovery, when
16 one is asked questions before one enters a defence.
17 Correct?

18 19486 MR. KAPLAN: If you are stating that
19 those are the rules that apply, I agree with you.

20 19487 MR. PRATTE: Thank you.

21 19488 Then you say -- and I continue:

22 "Government lawyers had the
23 opportunity to put Mr.
24 Mulroney's relationship with Mr.
25 Schreiber under a microscope,

1 but not once in the hundreds of
2 questions they put to the former
3 Prime Minister was he ever asked
4 point blank whether he had
5 accepted money from
6 Schreiber..."

7 19489 MR. KAPLAN: Yes, sir.

8 19490 MR. PRATTE: That's correct?
9 19491 You have reviewed the transcript?

10 19492 MR. KAPLAN: I have to believe that
11 that is correct, but I haven't reviewed the transcript
12 since I wrote this book.

13 19493 MR. PRATTE: Okay. Now, after you
14 had spoken to Mr. Mathias in 2001, I believe, you did
15 contact Mr. Mulroney at some point in 2002 --

16 19494 MR. KAPLAN: Or vice versa.

17 19495 MR. PRATTE: Okay.

18 19496 And you said this morning to
19 Mr. Wolson, as I recall, that Mr. Mulroney did not deny
20 that he had received money from Karlheinz Schreiber
21 after he left office, but he disagreed with the amount
22 that you are putting to him. Correct?

23 19497 MR. KAPLAN: That's correct.

24 19498 MR. PRATTE: In fact, you said he
25 disputed that figure from the get-go, I think were your

1 words.

2 19499 MR. KAPLAN: Absolutely correct.

3 19500 MR. PRATTE: But when you actually

4 did put the question to him, he admitted it?

5 19501 MR. KAPLAN: Yes, sir, he did.

6 19502 MR. PRATTE: And that was

7 information, was it not, that was important for your

8 series of articles?

9 19503 MR. KAPLAN: Well, it was important

10 for the third of the three.

11 19504 MR. PRATTE: Right. Because

12 confirmation obviously was key to being able to publish

13 that article, wasn't it?

14 19505 MR. KAPLAN: I wanted to be very

15 careful that the story was true.

16 19506 MR. PRATTE: Right.

17 19507 MR. KAPLAN: But I --

18 19508 MR. PRATTE: Now, you had approached

19 Mr. Schreiber before publishing the story --

20 19509 COMMISSIONER OLIPHANT: Mr. Kaplan,

21 did you finish your answer?

22 19510 MR. KAPLAN: I was going to say that

23 I saw confirmation of that fact from other people as

24 well.

25 19511 MR. PRATTE: Right. And one of them

1 was Mr. Schreiber?

2 19512 MR. KAPLAN: Yes, sir.

3 19513 MR. PRATTE: And he did not confirm

4 it before you published. Is that right?

5 19514 MR. KAPLAN: No. He did confirm it

6 before I published.

7 19515 MR. PRATTE: Well, in the note we

8 reviewed this morning I thought -- and maybe I can just

9 find it. I know you spoke to him after publication.

10 19516 MR. KAPLAN: Yes, sir.

11 19517 MR. PRATTE: Let me just find it so I

12 have my facts straight.

13 19518 In your notes, if you go to Tab 10

14 first of all.

15 19519 MR. KAPLAN: Yes, sir.

16 19520 MR. PRATTE: These are -- at least in

17 the book that has been put into evidence, Mr. Kaplan,

18 this appears to be the first interview for which we

19 have notes, at least that you have given the

20 Commission, of a conversation that you had with

21 Mr. Schreiber in '98?

22 19521 MR. KAPLAN: Yes, sir.

23 19522 MR. PRATTE: There is no reference to

24 the payments there, is there?

25 19523 MR. KAPLAN: No, sir.

1 19524 MR. PRATTE: Then in the next one
2 there is a conversation that you have with
3 Mr. Schreiber and Mr. Greenspan in 2002. Correct?
4 19525 MR. KAPLAN: Yes, sir.
5 19526 MR. PRATTE: And then at page 4 --
6 it's numbered manually, if I can express myself this
7 way -- at the top, the last page, I think Mr. Wolson
8 read this passage, you said:
9 "I told him..."
10 19527 I'm quoting now, Mr. Commissioner.
11 "I told him that I knew about
12 the meeting at the Queen
13 Elizabeth Hotel and his eyes
14 narrowed and focused on Eddie
15 but he said nothing."
16 19528 Do you see that?
17 19529 MR. KAPLAN: Yes, sir.
18 19530 MR. PRATTE: That was not confirming
19 that he acknowledged the payments, was it?
20 19531 MR. KAPLAN: No, sir.
21 19532 MR. PRATTE: No.
22 19533 Then the next one I have are two
23 conversations that you have. There may be more than
24 that, but they are all in 2004, after the publication.
25 19534 Is that correct?

1 19535 MR. KAPLAN: I'm sorry, I'm just
2 making a note to myself. Would you give me a moment,
3 please, Mr. Pratte?

4 19536 MR. PRATTE: Of course.
5 --- Pause

6 19537 MR. KAPLAN: I'm sorry, sir, what was
7 your question?

8 19538 MR. PRATTE: Maybe there were more
9 notes than that, but I don't see any conversation that
10 you have recorded with Mr. Schreiber prior to the
11 publication, which is on November 10, 2003, where he
12 acknowledged paying Mr. Mulroney.

13 19539 Is that right?

14 19540 MR. KAPLAN: On the Thursday or
15 Friday prior to the publication of the Globe story, I
16 had another meeting with Mr. Schreiber and at that
17 meeting he confirmed to me that he had paid \$300,000 to
18 Mr. Mulroney.

19 19541 When the Commission served a subpoena
20 on me and directed me to go back and look through all
21 of my materials, I tried to find notes of that meeting,
22 which I vividly recall, but I was unable to do so.

23 19542 MR. PRATTE: In any event, when you
24 first put it to Mr. Mulroney, he did not deny it; he
25 confirmed it?

1 19543 MR. KAPLAN: Nor did Mr. Johnson, nor
2 did Mr. Lavoie.

3 19544 MR. PRATTE: Right.

4 19545 MR. KAPLAN: They all agreed that
5 Mr. Mulroney was paid by Mr. Schreiber.

6 19546 MR. PRATTE: And when you first put
7 it, at least according to your notes, to Mr. Schreiber
8 in 2002, he didn't confirm it. As I understand now
9 from you, he confirmed it on the eve of the publication
10 of the article. Correct?

11 19547 MR. KAPLAN: Formally confirmed it
12 then, yes, sir, but he knew that I knew.

13 19548 MR. PRATTE: Well, I understand that,
14 but that's not acknowledging -- because you had told
15 him that in 2002.

16 19549 MR. KAPLAN: Sure.

17 19550 MR. PRATTE: Right.

18 --- Pause

19 19551 MR. PRATTE: When you wrote the book,
20 the second book, "A Secret Trial", you explained the
21 circumstances that led you to write that book, which
22 included, apart from the secret trial per se, the new
23 facts you had learned and which Mr. Mulroney had
24 confirmed when you put it directly to him that he had
25 received payments from Mr. Schreiber after he left as

1 Prime Minister.

2 19552 You thought that that was a very
3 important fact to share with the public. Correct?

4 19553 MR. KAPLAN: I felt that it was my
5 professional and moral obligation, as an historian of
6 the Airbus affair who had written an exculpatory book
7 about Mr. Mulroney castigating his enemies and finding
8 that he was a victim of a serious injustice, to correct
9 the record insofar as there was new information
10 indicating that the person he was alleged to have been
11 involved in a conspiracy with had paid him cash in
12 hotels and he had not told the Canadian people about
13 it.

14 19554 I had felt an obligation, once I
15 learned that information, to correct the historical
16 record.

17 19555 MR. PRATTE: And armed with that
18 piece of information you wrote a conclusion to your
19 book. Maybe I could take you to pages 161 and 162.

20 19556 MR. KAPLAN: Yes, sir.

21 19557 MR. PRATTE: And there you say in
22 about the eighth line, I quote:

23 "That single piece of
24 information changes everything."

25 19558 You re talking about the payments and

1 hotel rooms. Right?

2 19559 MR. KAPLAN: That was my opinion,
3 sir.

4 19560 MR. PRATTE: Well, has it changed?

5 19561 MR. KAPLAN: No, sir.

6 19562 MR. PRATTE: No. Then you say:
7 "No evidence has ever come
8 forward, none whatsoever, that
9 Mulroney had any improper
10 involvement with Airbus, MBB or
11 Bearhead."
12 19563 Right?

13 19564 MR. KAPLAN: I believe that is still
14 true, sir.

15 19565 MR. PRATTE: Right. So that applies
16 to the period of time where the conspiracy was alleged
17 while he was Prime Minister?

18 19566 MR. KAPLAN: It applies both to that
19 period of time and the period afterwards.

20 19567 MR. PRATTE: Right.

21 19568 MR. KAPLAN: Are you going to read
22 on, Mr. Pratte?

23 19569 MR. PRATTE: I'm happy to read on.
24 You then go on to say that you thought he had a moral
25 obligation -- which you have already told me. He had a

1 moral obligation to disclose that to the public as a
2 former Prime Minister. Right?

3 19570 MR. KAPLAN: Mr. Mulroney absolutely
4 had a moral obligation, I agree with you, Mr. Pratte,
5 since he was suing the Government of Canada for
6 \$50 million for saying he had been involved in a
7 criminal conspiracy with Mr. Schreiber and Mr. Moores,
8 to tell the Canadian people that he actually was
9 involved with Mr. Schreiber and had taken cash from him
10 in hotels and failed to declare it on his income tax
11 for many years.

12 19571 MR. PRATTE: Okay. Well --

13 19572 MR. KAPLAN: Yes, sir, I do believe
14 he had an obligation, because of the public trust he
15 enjoyed as Prime Minister, to be fully forthcoming.

16 19573 Moreover, Mr. Pratte, and you know,
17 you really can accuse me for being -- you can accuse me
18 of being old-fashioned, but I believe that when someone
19 is Prime Minister, the public trust doesn't just
20 involve their activities when they are Prime Minister
21 but it involves their activities before they are Prime
22 Minister after Prime Minister. And they can't rely on
23 the legal technicalities that are open to ordinary
24 litigants who appear before our courts.

25 19574 I think, sir, that they should come

1 forward and tell the Canadian people everything and let
2 the Canadian people, Mr. Pratte, decide whether their
3 behaviour is appropriate or not.

4 19575 MR. PRATTE: We will deal with that
5 in due course, and I know that is your opinion
6 forcefully articulated, as usual, and the Commissioner
7 will have to answer some of these questions at the
8 appropriate time.

9 19576 But I want to at least understand
10 what you are saying.

11 19577 Your suspicions were aroused. You
12 say Mr. Mulroney should have divulged that, but once
13 you have that information you conclude -- and you have
14 just confirmed it again today -- that it does not
15 change your opinion that there was no evidence of a
16 criminal conspiracy while he was Prime Minister or
17 after. Correct?

18 19578 MR. KAPLAN: No. My view is that
19 there has been no evidence adduced that Mr. Mulroney
20 has violated any Criminal Code laws.

21 19579 MR. PRATTE: Right. And that was
22 what the lawsuit was about because it was alleging, in
23 fact it was stating, a violation of the Code. Right?

24 19580 MR. KAPLAN: I'm sorry, sir.

25 19581 MR. PRATTE: The lawsuit was about

1 the fact that not only was there an allegation, there
2 was a statement he had violated the Criminal Code?

3 19582 MR. KAPLAN: If I recall correctly,
4 the letter of request said that the above-noted facts
5 establish that Mr. Mulroney, Mr. Schreiber and
6 Mr. Moores had violated Criminal Code laws and other
7 provisions and it was completely categorical.

8 19583 MR. PRATTE: And that's what the
9 lawsuit was about?

10 19584 MR. KAPLAN: And the facts that
11 underlay it as set out in the letter of request.

12 19585 MR. PRATTE: Right.

13 19586 Now, at page 162 you go on to say,
14 the third line, and I quote:

15 "There is no reason to believe
16 that the money was a reward for
17 official services rendered."

18 19587 You still believe that. Right?

19 19588 MR. KAPLAN: Frankly, Mr. Pratte, I
20 don't know what to believe any more, but I would say
21 that there is no evidence that the money was a reward
22 for official services rendered.

23 19589 MR. PRATTE: At Tab 15 Commission
24 counsel took you to a conversation you had with Mr. Luc
25 Lavoie.

1 19590 MR. KAPLAN: Yes, sir.

2 19591 MR. PRATTE: If you go to the second
3 page, this is a sentence I don't think Commission
4 counsel had you read, but the second line says, and I
5 quote:
6 "The truth was that Mulroney had
7 nothing to do with Airbus,
8 he..."

9 19592 There is a word missing, obviously
10 "had":
11 "... nothing to do with MBB and
12 he had nothing improper to do
13 with Bearhead."

14 19593 And you agree with me that there is
15 still no evidence of any criminal activity in respect
16 of those three companies. Correct?

17 19594 MR. KAPLAN: You know, Mr. Pratte,
18 I'm very glad that you drew that sentence to my
19 attention, because it proves the point I was making
20 earlier about how Mr. Mulroney's lawyers and
21 spokespeople phrase things, and this is just yet
22 another example.

23 19595 I think Mr. Yarosky's quote in the
24 Globe and Mail is the first we have dealt with about
25 how they carefully phrased things to mislead the

1 Canadian people.

2 19596 If you take apart this sentence, I
3 think you will agree with me that that is exactly what
4 has happened here. Look at it.

5 "The truth was that Mulroney had
6 nothing to do with Airbus..."

7 19597 Okay.

8 "... he (had) nothing to do with
9 MBB..."

10 19598 And then Mr. Lavoie slips in:
11 "... and he had nothing improper
12 to do with Bearhead."

13 19599 There we go again, leaving the
14 impression that he had nothing to do with anything when
15 in fact the truth is quite different.

16 19600 MR. PRATTE: Well, with the greatest
17 of respect, sir, I know you have an issue over what he
18 should have volunteered, but you have told me already
19 there is no evidence of any criminal activity,
20 including for Bear Head.

21 19601 MR. KAPLAN: None that I'm aware of.

22 19602 MR. PRATTE: Right. And here what
23 Mr. Lavoie is saying is I'm not denying there was
24 anything to do with Bear Head, he's saying there was
25 nothing improper about Bear Head.

1 19603 MR. KAPLAN: Yes, sir.

2 19604 MR. PRATTE: Right. So he is
3 acknowledging there was activity in respect of Bear
4 Head. Correct?

5 19605 MR. KAPLAN: At this point.

6 19606 MR. PRATTE: He is saying it is not
7 improper.

8 19607 MR. KAPLAN: Yes, sir.

9 19608 MR. PRATTE: Right.

10 19609 MR. KAPLAN: I made a more modest
11 point, Mr. Pratte, if you will forgive me: that these
12 are carefully chosen words to mislead me and mislead
13 the Canadian people about what his relationship was
14 with Mr. Schreiber.

15 19610 This is the second example we have
16 discussed in my evidence today.

17 19611 MR. PRATTE: Well, sir, by the time
18 you talk to Luc Lavoie the payments have been
19 acknowledged. Isn't that so?

20 19612 MR. KAPLAN: This is one example,
21 sir. Mr. Lavoie, as I'm sure he will confirm, will
22 tell you that we had many conversations.

23 19613 MR. PRATTE: Well, I know, but that's
24 not the point, sir. He is not denying in this that
25 there was nothing to do with Bear Head. He is saying

1 it's not improper.

2 19614 MR. KAPLAN: Yes, sir.

3 19615 MR. PRATTE: Right. And he has

4 acknowledged, as Mr. Mulroney did when you spoke to

5 him, that there were payments but these were for future

6 services, not some past services. Correct?

7 19616 MR. KAPLAN: I don't see that, sir.

8 19617 MR. PRATTE: Well, did he ever tell

9 you the money I got was money for what I did when I was

10 Prime Minister?

11 19618 MR. KAPLAN: Did Mr. Mulroney ever

12 tell me that?

13 19619 MR. PRATTE: Yes.

14 19620 MR. KAPLAN: No.

15 19621 MR. PRATTE: Did Mr. Lavoie say that?

16 19622 MR. KAPLAN: No.

17 19623 MR. PRATTE: No. And did you ask

18 them what it was for?

19 19624 MR. KAPLAN: I asked them many times

20 what the money was for.

21 19625 MR. PRATTE: And they told you it was

22 to assist Mr. Schreiber internationally, among other

23 things, isn't that so, after he left as Prime Minister?

24 19626 MR. KAPLAN: That's another example,

25 sir. That is the third example of different

1 explanations given at different times intended to
2 mislead people.

3 19627 The first thing Mr. Lavoie told me
4 was that the money was to assist Mr. Schreiber with his
5 pasta machine.

6 19628 The second thing --

7 19629 COMMISSIONER OLIPHANT: With his
8 what?

9 19630 MR. KAPLAN: With his pasta machine.
10 Mr. Schreiber had developed a pasta machine that he was
11 trying to market in Toronto and elsewhere, I believe.

12 19631 The second thing Mr. Lavoie told me
13 that the money was to lobby for Bear Head.

14 19632 The third thing Mr. Lavoie told me
15 was it was for to work on behalf of a client and it was
16 covered by solicitor-client privilege.

17 19633 The fourth thing Mr. Lavoie told me
18 and the world was that Mr. Mulroney was poor and needed
19 the money and that's why he "went for it".

20 19634 So I don't know, sir, which
21 explanation you are referring to, but there have been a
22 number of them.

23 19635 MR. PRATTE: All of these
24 explanations relate to services to be rendered after he
25 was Prime Minister. Correct?

1 19636 MR. KAPLAN: Yes, sir.

2 19637 MR. PRATTE: And you have no reason
3 to believe that that wasn't so?

4 19638 MR. KAPLAN: No, sir.

5 19639 MR. PRATTE: Right. May I just have
6 a moment, Mr. Commissioner?
7 --- Pause

8 19640 MR. PRATTE: Okay. Now, we have
9 talked about the claim in the article which you say
10 explains why you didn't ask a direct question. You
11 also mentioned a statement by Mr. Wakim who is, I think
12 in your words, trying to belittle -- I'm paraphrasing
13 now, but he was minimizing the nature of the
14 relationship between Mr. Schreiber and Mr. Mulroney.
15 19641 Is that correct?

16 19642 MR. KAPLAN: That is one
17 characterization of what Mr. Wakim was doing, sir.

18 19643 MR. PRATTE: Okay. You say actually
19 in your book, and I think that page may be in Tab 22,
20 page 8.

21 19644 MR. KAPLAN: Page 8?

22 19645 MR. PRATTE: I'm sorry, I think I
23 have the wrong page. No, I have the wrong page.
24 19646 Yes, it's page 13.
25 19647 I think this will be found,

1 Mr. Commissioner, in your Tab 22, if you don't have the
2 book handy, page 13.

3 19648 COMMISSIONER OLIPHANT: I have it.

4 --- Pause

5 19649 MR. PRATTE: I would like to take --
6 you refer actually to a conversation with a Larry Zolf.

7 19650 MR. KAPLAN: Yes, sir.

8 19651 MR. PRATTE: And just so you know,
9 Mr. Commissioner, I am about six or seven lines before
10 the bottom of that paragraph.

11 19652 COMMISSIONER OLIPHANT: I have it.

12 19653 MR. PRATTE: And then you say -- this
13 is you speaking or writing, I should say:

14 "However, I now learned that
15 their post-prime ministerial
16 get-togethers had to have been
17 something more than
18 'peripheral,' and that the
19 relationship between the two men
20 actually went way back. I had
21 been duped. Schreiber had been
22 part of the Mulroney circle even
23 before he entered public life.
24 In fact, he had played an
25 important behind-the-scenes role

1 in Mulroney's road to power."
2 19654 Do you see that?
3 19655 MR. KAPLAN: Yes, sir.
4 19656 MR. PRATTE: And then it is not part
5 of the excerpt, but in the footnote 8 you refer to a
6 Fifth Estate program in 2001 and to a section of The
7 Last Amigo, the work co-authored by Stevie Cameron and
8 Mr. Cashore.
9 19657 Is that right?
10 19658 MR. KAPLAN: I don't have the
11 footnote in front of me, but I accept that, sir.
12 19659 MR. PRATTE: Okay. Do you have the
13 book?
14 19660 MR. KAPLAN: Yes. I accept what you
15 are saying.
16 19661 MR. PRATTE: All right. So I would
17 like to look briefly, then, at the nature of the
18 relationship before Mr. Mulroney came to power and
19 where you say you have been duped by the word
20 "peripheral" there, because you found out that actually
21 the relationship went way back. And you say
22 Mr. Schreiber had been part of Mulroney's circle.
23 19662 So in effect what you are saying is
24 it is not peripheral; he is closer to the centre of the
25 circle. Right?

1 19663 MR. KAPLAN: I would say, Mr. Pratte,
2 that anyone who accepts \$300,000 in cash in motels from
3 someone to do I don't know what, does not have a
4 peripheral relationship with that person.

5 19664 MR. PRATTE: I understand that, but
6 let's take it piece by piece, if we can, Mr. Kaplan.

7 19665 MR. KAPLAN: Of course.

8 19666 MR. PRATTE: You say in your
9 statement that in fact it wasn't peripheral, it went
10 way back and he was in the circle that led him to the
11 road to power.

12 19667 So I want to examine for a minute or
13 two what the relationship was before he came to power.

14 19668 MR. KAPLAN: Okay.

15 19669 MR. PRATTE: Okay? Now, I don't know
16 how closely you have followed the proceedings here. I
17 know you have been commenting on television.

18 19670 But perhaps you heard that
19 Mr. Schreiber had filed an affidavit on November 7,
20 2007 in which he set out -- or purported to set out the
21 extent of his relationship with Mr. Mulroney.

22 19671 Do you recall that?

23 19672 MR. KAPLAN: I know he filed an
24 affidavit and I read it at that time.

25 19673 MR. PRATTE: And in that affidavit,

1 from memory of paragraphs 2 to 4, he describes meetings
2 he had with Mr. Mulroney before he became Prime
3 Minister and Leader of the Opposition.

4 19674 MR. KAPLAN: I accept your word on
5 that, sir.

6 19675 MR. PRATTE: Now, he had testified in
7 Eurocopter -- and he confirmed that to me and I have
8 the transcript reference, April 16, pages 854 to 855 --
9 that he might have had one to three meetings with
10 Mr. Mulroney before he became Leader of the Opposition.

11 19676 MR. KAPLAN: I accept your word on
12 that, sir.

13 19677 MR. PRATTE: And these were purely
14 social meetings, there was no business attached to it.
15 They took place in a lounge or a bar in the Ritz
16 Carlton in Montréal.

17 19678 MR. KAPLAN: Again, I don't have any
18 direct knowledge of that, sir.

19 19679 MR. PRATTE: Well, that is what
20 Mr. Schreiber told us.

21 19680 MR. KAPLAN: I accept that, but I
22 wasn't here, I don't believe, for that evidence and I
23 don't recall seeing it on television.

24 19681 MR. PRATTE: He also said in
25 Eurocopter that he did not support Mr. Mulroney's bid

1 for leadership at September 10th, page 8, although he
2 alleged that he supported the leadership review.

3 19682 You will recall there was a
4 leadership review in Winnipeg I believe in January
5 1983, and when Mr. Clark lost the vote it was then --
6 or decided to resign and call for a full convention,
7 there was then a Leadership Convention where
8 Mr. Mulroney was ultimately chosen as leader.

9 19683 MR. KAPLAN: Okay.

10 19684 MR. PRATTE: You know that
11 Mr. Schreiber acknowledged in Eurocopter he did not
12 support the leadership were Mr. Mulroney was actually
13 selected as opposed to the review.

14 19685 Did you know that?

15 19686 MR. KAPLAN: I have no knowledge of
16 this.

17 19687 MR. PRATTE: You have no knowledge of
18 that?

19 19688 MR. KAPLAN: I did not -- I think I
20 attended one day of the Eurocopter proceedings and
21 those proceedings of course took place years after I
22 wrote this book.

23 19689 MR. PRATTE: I'm sorry, when did you
24 read the book?

25 19690 MR. KAPLAN: Pardon me?

1 19691 MR. PRATTE: Which book are we
2 talking about now?

3 19692 MR. KAPLAN: The second book, if I'm
4 correct.

5 19693 MR. PRATTE: When did you publish
6 your book?

7 19694 MR. KAPLAN: In 2004.

8 19695 MR. PRATTE: Eurocopter was in 2004.

9 19696 MR. KAPLAN: But when did it finish?

10 19697 MR. PRATTE: The transcripts are from
11 2004.

12 19698 MR. KAPLAN: I don't recall that,
13 Mr. Pratte.

14 19699 MR. PRATTE: All right.

15 19700 MR. KAPLAN: My book was out in the
16 fall of 2004. When was the Eurocopter matter
17 concluded?

18 19701 MR. PRATTE: Well, you wrote about
19 it.

20 19702 MR. KAPLAN: Pardon me?

21 19703 MR. PRATTE: You wrote about The
22 Secret Trial, didn't you?

23 19704 MR. KAPLAN: I wrote about The Secret
24 Trial in 2003.

25 19705 MR. PRATTE: Yes.

1 19706 MR. KAPLAN: Oh, are you talking
2 about that? I thought you were talking about the
3 preliminary inquiry, excuse me.

4 19707 There was also the preliminary
5 inquiry of course.

6 19708 MR. PRATTE: That's right.

7 19709 MR. KAPLAN: So I was getting
8 confused. I thought you were talking about the
9 preliminary inquiry, which carried on until 2006,
10 didn't it?

11 19710 MR. PRATTE: The transcript was 2004
12 is what I'm talking about.

13 19711 MR. KAPLAN: Okay. Well, I'm not
14 sure which proceeding you are talking about.

15 19712 There was a Eurocopter matter and
16 there was also a preliminary inquiry, wasn't there?

17 19713 MR. PRATTE: Yes, there was.

18 19714 MR. KAPLAN: Maybe somebody can help
19 refresh my memory, because I really don't --

20 19715 MR. WOLSON: If I might just
21 interject?

22 19716 COMMISSIONER OLIPHANT: Mr.
23 Wolson...?

24 19717 MR. WOLSON: The difficulty with
25 putting evidence of witness to another witness is that

1 Mr. Schreiber has said a number of things and while the
2 statement my friend referred to in Eurocopter was put
3 to Mr. Schreiber, he also testified differently at the
4 hearing before you.

5 19718 And being selective on what
6 Mr. Schreiber says -- I know my friend isn't trying to
7 mischaracterize the evidence, but the difficulty is
8 that Mr. Schreiber has said different things at
9 different times.

10 19719 MR. KAPLAN: Commissioner, if I may
11 as well, sir?

12 19720 COMMISSIONER OLIPHANT: Yes...?

13 19721 MR. KAPLAN: My book has a 2004
14 publication date and my recollection is that it came
15 out in the fall of 2004, which means that I would have
16 last looked at the page proofs for the book sometime in
17 the spring of 2004.

18 19722 So I'm not sure exactly about the
19 timing of these different questions and I am confused
20 about what legal proceedings Mr. Pratte is referring me
21 to.

22 19723 MR. PRATTE: Mr. Kaplan, I'm not
23 blaming you or criticizing you for not referring to the
24 facts that you may not have had at hand at the time.
25 You referred to The Last Amigo in your book and the

1 2001 Fifth Estate program, right, to justify that
2 statement that we have read about Mr. Schreiber's
3 alleged role before he became Prime Minister?

4 19724 MR. KAPLAN: The Fifth Estate my
5 recollection is -- and I stand to be corrected. But
6 The Fifth Estate had quite an extensive program about
7 how Mr. Schreiber and Mr. Wolf paid for delegates from
8 Québec to come to Winnipeg and there was also a
9 reference in Mr. "MacDonald's book, L. Ian MacDonald's
10 book, about how the cash was liberally spread around.
11 and I quote these things.

12 19725 MR. PRATTE: Yes. And in your book
13 at page 14 you say about those payments, in the middle
14 paragraph:

15 "Mulroney dismissed the claims
16 at the time as rumors and
17 innuendos and it is of course
18 possible that he was kept in the
19 dark about some of the efforts
20 exerted on his behalf."

21 19726 Right?

22 19727 MR. KAPLAN: Yes, sir.

23 19728 MR. PRATTE: And you have no evidence
24 that he actually knew that Mr. Schreiber actually
25 played any role in the leadership review?

1 19729 MR. KAPLAN: I tried to be fair to
2 Mr. Mulroney here by including that sentence.

3 19730 MR. PRATTE: You have no evidence
4 that Mr. Mulroney actually knew that Mr. Schreiber had
5 played any role in allegedly funding the leadership
6 review process.

7 19731 Is that correct?

8 19732 MR. KAPLAN: Yes, sir.

9 19733 MR. PRATTE: Thank you.

10 19734 Mr. Commissioner, I certainly didn't
11 intend to mislead when I was referring to Eurocopter to
12 the number of meetings, but at pages 854 and 855 of the
13 transcript, your transcript, I put to Mr. Schreiber the
14 fact that he had said earlier it was one to three
15 meetings, and in particular at question 8988 I said:
16 "Yes. And so should we not rely
17 on your recollection in 2004
18 rather than the change you made
19 a day or two ago when you said
20 five or six?"

21 19735 Meetings. He said:
22 "Yes, right."

23 19736 So he confirmed before you that his
24 better recollection was that there may have been one,
25 two or three meetings, that's it. That was the

1 Eurocopter testimony. And we know these meetings are
2 euphemistically called meetings because they were
3 so-called meetings at the Ritz-Carlton.

4 19737 MR. KAPLAN: Mr. Pratte, all I would
5 say is I don't know anything about anything you just
6 said.

7 19738 MR. PRATTE: Well, you say in your
8 book, sir, you state as a fact that there was a --
9 Mr. Schreiber was part of the circle; he was not on the
10 periphery. And he played a role in the road to power
11 to Mr. Mulroney. Right?

12 19739 That's what you say as a fact.

13 19740 MR. KAPLAN: And then I provide the
14 evidence upon which I rely.

15 19741 MR. PRATTE: And the only evidence is
16 not Eurocopter because you don't know the number of
17 meetings that they had together. Correct?

18 19742 MR. KAPLAN: Well, I'm not familiar
19 with the transcript of the Eurocopter proceeding, if
20 that's what you are asking.

21 19743 MR. PRATTE: So the only thing you
22 have is the allegation that Mr. Schreiber may have paid
23 some money in respect of the leadership review.
24 Correct?

25 19744 MR. KAPLAN: Confirmed by L. Ian

1 MacDonalld in his biography of Mr. Mulroney and by
2 Dalton Camp I believe in his biography or
3 autobiography.

4 19745 MR. PRATTE: The reference in your
5 book refers to The Fifth Estate?

6 19746 MR. KAPLAN: Yes, sir.

7 19747 MR. PRATTE: And to The Last Amigo.

8 19748 MR. KAPLAN: Yes, sir.

9 19749 MR. PRATTE: And you have no
10 evidence, as you have told me that is the only thing
11 that Mr. Mulroney knew of any such activity.

12 19750 MR. KAPLAN: Yes, sir, but I don't
13 think you are being fair because I also refer
14 somewhere -- and I don't know where, to Mr. L. Ian
15 MacDonalld who in his book said that a quarter million
16 dollars was required in cash. I believe that's what he
17 said.

18 19751 Perhaps I could look for that and
19 bring it to your attention.

20 19752 MR. PRATTE: Well, I would like to
21 see the actual reference.

22 19753 MR. KAPLAN: I'm just not sure where
23 that is. That's by memory, in any event, Mr. Pratte.

24 19754 MR. PRATTE: Well, would you agree
25 with me that --

1 19755 MR. KAPLAN: Could you hold on,
2 please, I just want to look at some footnotes.

3 19756 MR. PRATTE: Of course we can.
4 Footnote 8.
5 --- Pause

6 19757 MR. KAPLAN: So these are the
7 references, sir, that I rely on for the information
8 about Mr. Schreiber and his involvement in
9 Mr. Mulroney's ascension to power: the transcript of
10 The Fifth Estate; The Last Amigo by Harvey Cashore and
11 Stevie Cameron; L. Ian MacDonald's book Mulroney: The
12 Making of the Prime Minister; John Sawatsky's book,
13 Mulroney: The Politics of Ambition; Ron Graham's book,
14 One-Eyed Kings; and another Fifth Estate transcript.

15 19758 So those are the references I rely
16 on, sir.

17 19759 COMMISSIONER OLIPHANT: Mr.
18 Kaplan...?

19 19760 MR. KAPLAN: Yes...?

20 19761 COMMISSIONER OLIPHANT: You have a
21 footnote where the references to those various sources
22 are made, I take it. You might help Mr. Pratte a bit
23 if you could refer him to that.

24 19762 MR. KAPLAN: Chapter 1, footnote 8
25 and 9.

1 19763 COMMISSIONER OLIPHANT: Okay.

2 19764 MR. JACOBSEN: Page 219.

3 19765 COMMISSIONER OLIPHANT: Page 219?

4 19766 If you think you have a problem,
5 Mr. Pratte, I don't even have a copy of the book in
6 front of me.

7 19767 MR. KAPLAN: You see -- sorry to
8 interrupt, Mr. Pratte.

9 19768 If you go to page 15 and you go to
10 the second full paragraph, I write:
11 "It took a quarter of \$1 million
12 in cash according to L. Ian
13 MacDonald, Mulroney's official
14 biographer, to 'get the Pro
15 review delegates to Winnipeg'."
16 19769 So that is the reference that I was
17 making before.

18 19770 MR. PRATTE: Okay. Well, I was
19 referring to footnote 8 where you say you had been
20 duped and that he had played an important behind the
21 scenes role at page 13. And it is only footnote 8,
22 nothing else; correct?

23 19771 MR. KAPLAN: But if you go on and
24 turn the page, sir, you will see there is footnote 9,
25 which follows three paragraphs discussing

1 Mr. Schreiber's role and the sources that support it.

2 19772 COMMISSIONER OLIPHANT: Where are you
3 at, Mr. Kaplan? I just got a copy of the book.

4 19773 MR. KAPLAN: We are now on page 13,
5 sir, and Mr. Pratte, as I understand it, is referring
6 to footnote 8, which is at the end of the first full
7 paragraph.

8 19774 And then the bottom of that page and
9 two-thirds of the page that follow detail what role
10 Mr. Schreiber played in Mr. Mulroney's ascension to
11 power and provides the scholarly references for it,
12 including Mr. MacDonald's book in which Mr. MacDonald,
13 Mr. Mulroney's official biographer, speaks about the
14 cash that was required to bring the delegates to
15 Winnipeg.

16 19775 MR. PRATTE: Let me just get this
17 straight, sir. You told me, though, clearly you have
18 no evidence Mr. Mulroney knew anything about the
19 alleged role Mr. Schreiber played in respect of the
20 leadership review. Right?

21 19776 MR. KAPLAN: Yes, sir.

22 19777 MR. PRATTE: And Mr. Schreiber was
23 not at that time an intimate friend. He has never
24 claimed that of Mr. Mulroney. Correct?

25 19778 MR. KAPLAN: You would have to ask

1 him. He has never said that to me, though, sir.

2 19779 MR. PRATTE: Right. And he was not a
3 business associate at that time? We are talking before
4 he becomes Prime Minister.

5 19780 MR. KAPLAN: I don't believe so.

6 19781 MR. PRATTE: No.

7 19782 MR. PRATTE: And he was not, to your
8 knowledge, an adviser, and inner circle adviser to
9 Mr. Mulroney in respect of his political ambitions?

10 19783 MR. KAPLAN: All I know is what I
11 have written in the book, sir.

12 19784 MR. PRATTE: That's right. And all
13 you know is that he claims to have given money to some
14 of the organizers, but you can't say that Mr. Mulroney
15 knew anything about that. Right?

16 19785 MR. KAPLAN: I believe I have
17 confirmed that several times, sir.

18 19786 MR. PRATTE: Right. So in terms of
19 what Mr. Mulroney knew about Mr. Schreiber, you don't
20 know that he knew anything about his activities. He
21 was not a friend, he was not a business associate, he
22 was not part of his inner circle of advisers.

23 19787 In terms of how he knew Mr. Schreiber
24 at that time, you have no evidence to suggest he knew
25 him any other way than peripherally at that time?

- 1 19788 MR. KAPLAN: Well, I wouldn't use the
2 word peripheral, sir. In my experience -- and it is
3 not extensive in political matters -- I would expect
4 that if somebody provided a lot of funds to assist
5 someone else in attaining the leadership of a national
6 political party that it would necessarily be unknown to
7 that person.
- 8 19789 But if your rejoinder, sir, for the
9 fourth time is I have no direct evidence of that, that
10 is correct.
- 11 19790 MR. PRATTE: Did you ever ask
12 Mr. Mulroney if he knew of Mr. Schreiber financing
13 anything in respect of his -- the Leadership Review?
14 Did you ever ask him that question?
- 15 19791 MR. KAPLAN: Mr. Pratte, when I went
16 to write this book, Mr. Mulroney and I no longer had
17 the cordial relationship we once did.
- 18 19792 MR. PRATTE: But when you wrote the
19 first book you didn't ask him that question either, did
20 you?
- 21 19793 MR. KAPLAN: When I wrote the first
22 book I thought, as Mr. Mulroney testified and as his
23 lawyers and spokespeople indicated, that he barely knew
24 the guy.
- 25 19794 MR. PRATTE: Well, he did --

- 1 19795 MR. KAPLAN: So when one barely knows
2 a guy, it doesn't make a lot of sense to say well, did
3 he pay you cash in a motel or did he support your
4 leadership bid?
- 5 19796 MR. PRATTE: Okay. But let me
6 understand this, sir. You asked him about the cash
7 payments when you found out from Mr. Mathias and he
8 answered he didn't deny them. Right?
- 9 19797 MR. KAPLAN: Yes, sir.
- 10 19798 MR. PRATTE: Right. And you knew
11 about The Fifth Estate program in 2001 before you
12 talked to Mr. Mulroney, correct, alleging
13 Mr. Schreiber's role in the leadership review?
- 14 19799 MR. KAPLAN: Yes, sir.
- 15 19800 MR. PRATTE: You didn't put that to
16 Mr. Mulroney while you were talking to him up until the
17 eve of the publication in 2003.
- 18 19801 MR. KAPLAN: I don't believe so, no.
- 19 19802 MR. PRATTE: Now, while he was Prime
20 Minister, do you know how often Mr. Schreiber had met
21 Mr. Mulroney?
- 22 19803 MR. KAPLAN: I believe I read an
23 article about Mr. Schreiber's testimony to that effect
24 that was published after his appearance here, but I
25 don't remember the exact number.

1 19804 MR. PRATTE: I believe that
2 Mr. Wolson put to Mr. Schreiber that he may have met
3 with him during that period 10 to 12 times, if one
4 relies on his agendas and the correspondence.

5 19805 That's my recollection of the number.

6 19806 MR. KAPLAN: I haven't looked at the
7 transcript, but I will accept your account.

8 19807 MR. PRATTE: How long was
9 Mr. Mulroney Prime Minister for? Nine years?

10 19808 MR. KAPLAN: Yes, sir.

11 19809 MR. PRATTE: So roughly maybe a
12 meeting a year, maybe a tiny bit more, assuming those
13 numbers and assuming that Mr. Schreiber doesn't inflate
14 the numbers in his agendas.

15 19810 Let's make that assumption. Right?

16 19811 MR. KAPLAN: Okay.

17 19812 MR. PRATTE: Can you go with that?

18 19813 MR. KAPLAN: I mean, I don't --

19 19814 MR. PRATTE: You have no other
20 evidence.

21 19815 MR. KAPLAN: I wasn't there. I have
22 no direct information or knowledge about that.

23 19816 MR. PRATTE: All right.

24 19817 MR. JACOBSEN: Mr. Commissioner, I
25 don't think it's fair. I mean, if he meets nine times,

1 10 to 12 times, it doesn't mean he met once a year. He
2 could have met all those in one year. I mean I don't
3 see what averaging it out does and I think it's only
4 confusing to the witness.

5 19818 COMMISSIONER OLIPHANT: Well, maybe
6 we can just agree that it was 12 times over the space
7 of nine years.

8 19819 MR. KAPLAN: Well, I can't agree to
9 any of this because I don't have any direct knowledge
10 about any of this.

11 19820 MR. PRATTE: Okay.

12 19821 MR. KAPLAN: I can only agree that
13 Mr. Pratte tells me that Mr. Schreiber says this.

14 19822 MR. PRATTE: Okay. So when you
15 describe Mr. Schreiber, then, as part of the circle of
16 Mr. Mulroney going back to before he was Prime
17 Minister, you are not making that statement on the
18 basis of whatever meetings they may have had while he
19 was Prime Minister because you say you know nothing
20 about that.

21 19823 Is that right?

22 19824 MR. KAPLAN: No, I knew that he had
23 meetings with respect to the Bear Head Project.

24 19825 MR. PRATTE: Right.

25 19826 MR. KAPLAN: I don't know the number

1 of meetings, but I know he was pitching that project.
2 19827 MR. PRATTE: Right. And that's the
3 project that in the end, during Mr. Mulroney's tenure
4 anyway, did not go ahead. Correct?
5 19828 MR. KAPLAN: That's correct, sir.
6 19829 MR. PRATTE: So whatever alleged
7 influence Mr. Schreiber may have had on the Government
8 of Canada, it was not sufficient to overcome the advice
9 of the civil servants who were against it. Right?
10 19830 MR. KAPLAN: That appears to be the
11 case.
12 19831 MR. PRATTE: Right.
13 19832 And do you know whether during the
14 time Mr. Mulroney was Prime Minister he ever went to
15 Mr. Schreiber's home?
16 19833 MR. KAPLAN: I have never heard that,
17 no.
18 19834 MR. PRATTE: And he was not part of
19 his inner circle of intimate friends?
20 19835 MR. KAPLAN: You know, you are asking
21 me to comment on something that I can only tell you
22 what Mr. Schreiber has told me.
23 --- Pause
24 19836 MR. KAPLAN: I'm sorry to interrupt,
25 but I can tell you that Mr. Schreiber would regularly

1 fish out of his wallet a worn telegram from
2 Mr. Mulroney congratulating him on becoming a Canadian
3 citizen. He was very proud of the many photographs
4 that he had with Mr. and Mrs. Mulroney and the warm
5 inscriptions.

6 19837 I mean, I don't put a lot of stock in
7 that, but I can tell you that from Mr. Schreiber's
8 perspective these were important mementos of a
9 significant relationship.

10 19838 MR. PRATTE: You stay in your book at
11 page 17 there is an inscription beside the picture I
12 think you are referring to, and the inscription is --
13 sorry, you write, or the editor writes:

14 "The inscription under this
15 picture speaks for itself:
16 'For my dear friend Karlheinz
17 with gratitude and best personal
18 regards."

19 19839 MR. KAPLAN: I remember this
20 photograph of course and when we went to reproduce it
21 in the book, the handwriting couldn't come up and so
22 that's why we put it over on the side.

23 19840 MR. PRATTE: Were you here for the
24 evidence of Mr. Smith a day or two ago who said that
25 hundreds if not thousands of such pictures with such

1 inscriptions were sent?

2 19841 MR. KAPLAN: I wasn't here, but that
3 wouldn't surprise me, no.

4 19842 MR. PRATTE: So while he is Prime
5 Minister all you know is that he may have met for an
6 unknown number of times in respect to the Bear Head
7 Project?

8 19843 MR. KAPLAN: I don't think I make any
9 other claim in my book or anywhere else.

10 19844 MR. PRATTE: And would you agree with
11 me, sir, that there are almost certainly hundreds of
12 people that Mr. Mulroney knew better than
13 Mr. Schreiber, either as friends or as professional
14 advisors?

15 19845 MR. KAPLAN: Isn't that a question,
16 sir, more properly put to Mr. Mulroney?

17 19846 MR. PRATTE: So you have no evidence
18 to suggest that the relationship was any different, do
19 you?

20 19847 MR. KAPLAN: I'm not following your
21 question, sir.

22 19848 MR. PRATTE: You said that he was not
23 just peripheral, he was part of the circle, and I want
24 to understand what you meant before --

25 19849 MR. KAPLAN: What I meant, sir, is

1 what I said in the book, that Mr. Schreiber played an
2 important role in Mr. Mulroney's rise to power.

3 19850 How did he play that role? He played
4 that role along with Walter Wolf and other people by
5 ensuring that pro-Mulroney delegates were flown to
6 Winnipeg on a special plane, that they got enough money
7 to pay for their expenses, that their wives or partners
8 got enough money to go shopping and that they lined up
9 to vote for Mr. Mulroney.

10 19851 That's what I meant by
11 Mr. Schreiber's involvement in Mr. Mulroney's ascension
12 to power.

13 19852 MR. KAPLAN: But you criticize
14 Mr. Mulroney for not telling the Canadian public about
15 this relationship and you assume that he knew that
16 Mr. Schreiber was involved in that.

17 19853 Isn't that right?

18 19854 MR. KAPLAN: That is absolutely
19 incorrect, Mr. Pratte. At no occasion have I ever
20 criticized Mr. Mulroney for not telling Canadian people
21 that Mr. Schreiber had helped fund his rise to power,
22 on no occasion.

23 19855 In fact, I bent over backwards in the
24 account that you refer to to say that there is no
25 evidence, none whatsoever, that Mr. Mulroney knew about

1 this, even though Mr. Camp, the President of the Party
2 knew about it, even though other people knew about it.
3 19856 So I make it very clear, sir --
4 excuse me, may I finish, please?
5 19857 I make it very clear --
6 19858 MR. PRATTE: I don't think I said
7 anything.
8 19859 MR. KAPLAN: -- that there is no
9 evidence that Mr. Mulroney knew about this.
10 19860 What I do say, and what I continue to
11 say -- and you and I, I suppose, will disagree about
12 this forever -- is that when Mr. Mulroney was suing the
13 Canadian people for \$50 million for saying that he had
14 had an improper business relationship with
15 Mr. Schreiber he should have told us that he was taking
16 cash in motels from Mr. Schreiber at that very time and
17 that he wasn't declaring the income to CRA.
18 19861 That's what I say. That's my one
19 modest criticism of Mr. Mulroney.
20 19862 MR. PRATTE: I want to just get
21 something straight, sir, because in your book you say
22 he should have told me and I was duped because inter
23 alia he was an important behind-the-scenes role -- or
24 he played an important behind-the-scenes role in
25 Mr. Mulroney's road to power; right?

1 19863 Let me just -- that's what you state.

2 19864 MR. KAPLAN: Yes, sir.

3 19865 MR. PRATTE: And you imply that

4 Mr. Mulroney knew about this, otherwise why can you

5 criticize him for not divulging any more about

6 Mr. Schreiber?

7 19866 MR. KAPLAN: I invite the

8 Commissioner, sir, to look at what I say and how I say

9 it, because I go out of my way to indicate there is no

10 evidence that Mr. Mulroney knew of Mr. Schreiber's

11 financing activities and his leadership.

12 19867 What I was duped about, sir, and I

13 say this with some embarrassment, is believing

14 Mr. Mulroney when he told me that he had no

15 relationship with Mr. Schreiber. I was duped by

16 believing the Statement of Claim, maybe not reading it

17 as technically as I should have. I was duped by

18 Mr. Yarosky, by Mr. Wakim, by Mr. Lavoie, by all sorts

19 of people who claimed that these two guys didn't know

20 each other when they were squirrelled away in a motel

21 handing over cash.

22 19868 So yes, sir, was I duped? Do I have

23 a criticism about that? Yes, sir, I do, and the

24 criticism is that if you are the Prime Minister of

25 Canada, you have a public trust and that means when

1 questions are asked about your conduct before, during
2 or after you are a Prime Minister you come forward, you
3 answer those questions, you leave out no details, and
4 you let the Canadian people decide whether you acted
5 improperly.

6 19869 That is my one and only criticism of
7 Mr. Mulroney.

8 19870 MR. PRATTE: Okay. So I understand
9 this correctly, you are not saying that the
10 relationship was such other than the commercial
11 relationship after he left office?

12 19871 MR. KAPLAN: I have no idea what the
13 relationship was, Mr. Pratte.

14 19872 MR. PRATTE: Okay. So in your mind
15 what cannot make it peripheral is the fact he had a
16 commercial relationship after he left office?

17 19873 MR. KAPLAN: What cannot make it
18 peripheral is a former Prime Minister of Canada meeting
19 with someone he had dealt with in an official capacity,
20 one month after he stepped down from being Prime
21 Minister, while he was still a Member of Parliament,
22 meeting him in a motel, taking \$100,000 in cash, taking
23 another \$100,000 in cash at a subsequent meeting at the
24 Queen Elizabeth Hotel, taking a third \$100,000 in cash
25 in New York City, not declaring the income in the year

1 in which it was received, as required by CRA, not
2 telling the Canadian people about it, sending his
3 lawyers and spokespeople out to convince all of us,
4 including me, that there was nothing to do with
5 Schreiber, and then not providing a proper explanation
6 about what the money was for and what the services were
7 that he provided.

8 19874 That is my criticism.

9 19875 MR. PRATTE: With all of this,
10 though, it doesn't change your view that there was any
11 illegal activity while he was Prime Minister. Correct?

12 19876 MR. KAPLAN: I have not seen any
13 evidence whatsoever --

14 19877 MR. PRATTE: Right.

15 19878 MR. KAPLAN: -- indicating that
16 Mr. Mulroney did anything wrong while he was Prime
17 Minister with respect to his relationship with
18 Mr. Schreiber and Mr. Moores and Mr. Doucet and the
19 other people that we are concerned about.

20 19879 MR. PRATTE: At pages 10 to 11 of
21 your book you say, at the very bottom of the page, the
22 last three or four lines, Mr. Commissioner, it starts,
23 and I quote:

24 "When the newspaper reporter
25 asked why Mulroney did not make

1 this matter public at an earlier
2 time, the confidante replied
3 that Mr. Mulroney was 'fearful
4 of creating a false impression
5 in the middle of what he
6 described as a witchhunt over
7 the Airbus affair'. The fear
8 was hardly misplaced."

9 19880 MR. KAPLAN: That's right.

10 19881 MR. PRATTE: Do you still agree with
11 those words?

12 19882 MR. KAPLAN: Yes, sir.

13 19883 MR. PRATTE: And the fear of course
14 was that if it became public, suspicions would be
15 aroused and people might think there was criminal
16 behaviour. Right?

17 19884 MR. KAPLAN: Well, think of the
18 chronology, Mr. Pratte. Mr. Mulroney --

19 19885 MR. PRATTE: Could you just answer
20 that question?

21 19886 MR. KAPLAN: Yes, I can.

22 19887 MR. PRATTE: And then you can give me
23 the explanation --

24 19888 MR. KAPLAN: Sure.

25 19889 MR. PRATTE: -- so I get it straight.

1 Thank you.

2 19890 MR. KAPLAN: The answer to the
3 question -- the question was: Was the fear misplaced?
4 I say no, the fear wasn't misplaced.

5 19891 The reason why the fear wasn't
6 misplaced, sir, is because Mr. Mulroney took the cash
7 payments in 1993 and 1994. He didn't declare the
8 income as required by law in the years in which he
9 received it.

10 19892 The letter of request was sent in
11 1995 and the lawsuit began at that time and was
12 eventually settled in 1997.

13 19893 So sure, if Mr. Mulroney had come
14 forward in 1995 to reveal the cash payments, he would
15 also have to reveal that in addition to taking cash
16 from Mr. Schreiber in a Québec motel and elsewhere, he
17 had also not declared the income on his income tax.

18 19894 So I think he did have a problem.

19 19895 MR. PRATTE: The fear -- the income
20 tax issue, you assume it was income -- we will deal
21 with the tax issue in an appropriate way at another
22 time.

23 19896 But the fear, was it not, Mr. Kaplan,
24 was that people might try to make a link to the
25 allegations in the letter of request.

1 19897 Isn't that right?

2 19898 MR. KAPLAN: I think that the
3 ordinary Canadian, upon learning that Mr. Mulroney had
4 in fact taken cash from Mr. Schreiber in hotels, would
5 be hard-pressed not to link it to the allegations set
6 out in the letter of request.

7 19899 MR. PRATTE: And now that you know
8 that, that would have been a false impression because
9 there is no evidence that in fact they were linked.

10 19900 Is that correct?

11 19901 MR. KAPLAN: It would have certainly
12 clouded the issue for most people.

13 19902 MR. PRATTE: But now that you know
14 that and you have reflected on this, I suggest to you
15 that when you think about it, it would have created a
16 false impression, because you have confirmed that there
17 is no evidence that there was any illegal behaviour.
18 Correct?

19 19903 MR. KAPLAN: I have confirmed that,
20 sir.

21 19904 MR. PRATTE: Right.

22 19905 And when you met with Mr. Mulroney
23 about the letter of request and the impact on him and
24 his family, you sensed, did you not, that he was going
25 through a -- had gone through an incredible ordeal as a

- 1 result of these unsubstantiated statements?
- 2 19906 MR. KAPLAN: That is clearly how he
3 presented.
- 4 19907 MR. PRATTE: Do you doubt that in any
5 way?
- 6 19908 MR. KAPLAN: You know, Mr. Pratte,
7 over the years that I have been involved in this
8 particular story I have wondered about all sorts of
9 things, and what I wonder about now is on the one hand
10 the moral outrage and the sense of personal hurt he
11 described and, on the other hand, portraying and
12 describing all of these things when he knew that he was
13 meeting with Mr. Schreiber in a motel and several
14 hotels taking cash.
- 15 19909 The indignation, it seems to me upon
16 reflection, isn't as well placed as it would have been
17 if he was truly a victim of a grievous injustice.
- 18 19910 MR. PRATTE: So you are telling me
19 you don't believe that he suffered, and his family
20 suffered as a result of what turned out to be false
21 allegations in the letter of request?
- 22 19911 MR. KAPLAN: I'm not saying that at
23 all, sir.
- 24 19912 MR. PRATTE: All right.
- 25 19913 MR. KAPLAN: He obviously suffered

1 and I'm sure his family suffered as well. But we have
2 to remember that the suffering was in part, sir,
3 because of his own behaviour in taking cash from
4 Mr. Schreiber in hotels and not declaring it on his
5 income tax.

6 19914 MR. PRATTE: Well, just a minute,
7 sir. The suffering was due to the false allegation and
8 letter of request in 1995. Right?

9 19915 MR. KAPLAN: I think that is a very
10 narrow way of looking at it. I'm sure the suffering
11 also had to do with the fear of exposure of the cash
12 payments.

13 19916 MR. PRATTE: Because of the false
14 impression they would create?

15 19917 MR. KAPLAN: Because of the
16 impression they would create; right.

17 19918 MR. PRATTE: And that impression
18 would have been false had someone concluded that there
19 was criminal behaviour. Right?

20 19919 MR. KAPLAN: I'm sure different
21 people hearing these facts will reach different
22 conclusions about them.

23 19920 MR. PRATTE: Now, just to conclude,
24 Mr. Mulroney of course knew about the cash payments
25 before he acknowledged them to you. Right?

- 1 19921 MR. KAPLAN: Yes, sir, he was there.
- 2 19922 MR. PRATTE: And you have no reason
3 to doubt when he says that these were for future
4 services and not for the past conduct. You don't have
5 any reason or evidence to doubt that?
- 6 19923 MR. KAPLAN: Frankly, Mr. Pratte, I
7 have heard Mr. Mulroney's different explanations. I
8 read his evidence before the Ethics Committee. I have
9 heard the explanations that his lawyers and
10 spokespeople have provided. There are as many
11 contradictions in the different accounts of what the
12 money was for that have been promulgated by the
13 Mulroney side as there are inconsistencies in the
14 evidence of Mr. Schreiber.
- 15 19924 So actually I do think the
16 Commissioner is going to have a very difficult job in
17 figuring out what exactly happened.
- 18 19925 MR. PRATTE: But I just want to get
19 something clear.
- 20 19926 I understand you are not clear as to
21 what the money might have been for, but it was going
22 forward you have no evidence it was to -- in respect of
23 services that were rendered while he was Prime
24 Minister?
- 25 19927 MR. KAPLAN: I believe I have

1 testified to that effect, sir.

2 19928 MR. PRATTE: You have agreed you have
3 confirmed that; correct?

4 19929 MR. KAPLAN: Yes, sir.

5 19930 MR. PRATTE: Yes.

6 --- Pause

7 19931 MR. PRATTE: Thank you, Mr. Kaplan.

8 19932 MR. KAPLAN: Thank you, Mr. Pratte.

9 19933 MR. PRATTE: Thank you, sir.

10 19934 COMMISSIONER OLIPHANT: Thank you,
11 Mr. Pratte.

12 19935 Just before we decide on what we are
13 going to do, counsel, did you agree amongst yourselves
14 the order in which questioning would be done; and, if
15 you did agree, would somebody let me know?

16 19936 MR. HOUSTON: I don't think my order
17 matters, Mr. Commissioner, because I have no questions.
18 Thanks.

19 19937 COMMISSIONER OLIPHANT: Okay. Thanks
20 very much.

21 19938 MR. VICKERY: I have not spoken to
22 Mr. Auger at this point.

23 19939 COMMISSIONER OLIPHANT: Oh, I thought
24 I had asked to speak over the noon hour.

25 19940 MR. VICKERY: I had spoken to

1 Mr. Pratte, but I did not have the chance to speak to
2 Mr. Auger.

3 19941 COMMISSIONER OLIPHANT: Do you intend
4 on asking questions of Mr. Kaplan?

5 19942 MR. VICKERY: Yes, briefly.

6 19943 COMMISSIONER OLIPHANT: You do.

7 19944 Mr. Auger, will you have questions
8 for Mr. Kaplan?

9 19945 MR. AUGER: Very brief, Commissioner,
10 5-10 minutes.

11 19946 COMMISSIONER OLIPHANT: Okay.

12 19947 Would you like to take a break? You
13 have been on the stand --

14 19948 MR. KAPLAN: I am happy to continue,
15 sir.

16 19949 COMMISSIONER OLIPHANT: All right.

17 19950 Well, as between Mr. Vickery and
18 Mr. Auger, who will go next?

19 19951 MR. AUGER: I will.

20 19952 COMMISSIONER OLIPHANT: Okay. You
21 are going to be 10 minutes?

22 19953 MR. AUGER: Less.

23 19954 COMMISSIONER OLIPHANT: Less, okay.

24 19955 Mr. Auger, as you know, acts for
25 Mr. Schreiber.

1 19956 MR. KAPLAN: I understand that, sir.
2 Thank you.

3 19957 COMMISSIONER OLIPHANT: Okay.
4 EXAMINATION: WILLIAM KAPLAN BY MR. AUGER /
5 INTERROGATOIRE : WILLIAM KAPLAN PAR Me AUGER

6 19958 MR. AUGER: Good afternoon,
7 Mr. Kaplan.

8 19959 I have gone through the exhibit book
9 that was filed today in support of your evidence, which
10 is P-25, and just with the benefit of the index a quick
11 glance shows that they are were at least nine
12 interviews that you conducted with Mr. Mulroney.

13 19960 Is that right?

14 19961 MR. KAPLAN: Well, there were many
15 more interviews than that, but I only provided to the
16 Commission those that were relevant to Bear Head.

17 19962 MR. AUGER: Would there be more
18 interviews than nine relevant to Bear Head?

19 19963 MR. KAPLAN: No. I made my best
20 efforts to ensure that any interview with any reference
21 to Bear Head was provided to Commission counsel.

22 19964 MR. AUGER: Those interviews
23 specifically relating to Bear Head cover the period of
24 approximately six years, going back to 1997?

25 19965 MR. KAPLAN: 1997 to sometime in

1 2003.

2 19966 MR. AUGER: And I think you even
3 alluded earlier in your evidence that there were
4 interviews that lasted many hours?

5 19967 MR. KAPLAN: There were interviews
6 with Mr. Mulroney that lasted many hours.

7 19968 MR. AUGER: Correct.

8 19969 MR. KAPLAN: Yes, sir.

9 19970 MR. AUGER: And that's the focus of
10 my questioning.

11 19971 MR. KAPLAN: Yes, sir.

12 19972 MR. AUGER: And so obviously over a
13 number of six years, perhaps dozens of hours spent with
14 Mr. Mulroney discussing Bear Head?

15 19973 MR. KAPLAN: No. No, we discussed
16 all sorts of things.

17 19974 The only references to Bear Head are
18 the ones that I provided to Commission counsel.

19 19975 MR. AUGER: And I have reviewed all
20 of the notes that you have filed in relation to
21 Mr. Mulroney's interviews on the issue of Bear Head and
22 there are some 50 or 60 pages of notes.

23 19976 What I'm interested in, I noticed
24 that there was no note whatsoever in relation to
25 Mr. Mulroney travelling to China on behalf of

1 Mr. Schreiber.

2 19977 Is that accurate?

3 19978 MR. KAPLAN: No, I never -- I never

4 heard that, sir, until Mr. -- he testified here the

5 other day, could someone help me, please? His Chief of

6 Staff when he was Leader of the Opposition.

7 19979 MR. AUGER: Patrick MacAdam?

8 19980 MR. KAPLAN: Mr. MacAdam, yes.

9 19981 I never heard that until Mr. MacAdam

10 wrote me, and I believe that exhibit has been

11 introduced. I know I turned it over to the Commission.

12 19982 That was the first time I heard

13 anything I believe about China, and then of course I

14 heard more about it when Mr. Mulroney testified before

15 the Ethics Commission in December 2007.

16 19983 MR. AUGER: You certainly didn't hear

17 about it directly from Mr. Mulroney in the course of

18 your own one-on-one interviews with him?

19 19984 MR. KAPLAN: I don't believe so, but

20 I stand to be corrected. But if there is no reference

21 to it in any of the interviews, then he never said

22 anything to me about it.

23 19985 MR. AUGER: Because you would have

24 made a note of such a significant fact?

25 19986 MR. KAPLAN: And I would have turned

1 it over to the Commission.

2 19987 MR. AUGER: No note whatsoever in the
3 materials that are filed today in relation to your
4 interviews with Mr. Mulroney in connection with
5 Mr. Mulroney travelling to Russia on behalf of Bear
6 Head?

7 19988 MR. KAPLAN: I never heard that, sir,
8 until Mr. Mulroney testified before the Ethics
9 Committee of the House of Commons.

10 19989 MR. AUGER: And the same question in
11 relation to Mr. Mulroney travelling to France?

12 19990 MR. KAPLAN: That was all new
13 information to me that I heard in December 2007.

14 19991 MR. AUGER: And I suppose, by
15 extension as well, you wrote two books touching upon
16 matters relating to Mr. Mulroney and no mention
17 whatsoever in either of those two accounts of work done
18 in China, Russia or France by Mr. Mulroney?

19 19992 MR. KAPLAN: This was news to me,
20 sir.

21 19993 MR. AUGER: So that would be added to
22 the list of explanations that you referred to in
23 answering Mr. Pratte's questions. That would be a
24 final explanation, a more recent explanation that you
25 had learned about. Correct?

1 19994 MR. KAPLAN: That is the most recent
2 explanation, sir.

3 19995 MR. AUGER: Thank you, sir.

4 19996 MR. KAPLAN: Thank you.

5 19997 COMMISSIONER OLIPHANT: Thank you,
6 Mr. Auger.

7 19998 Mr. Vickery, how long do you expect
8 to be, sir?

9 19999 MR. VICKERY: Very brief, five
10 minutes.

11 20000 COMMISSIONER OLIPHANT: Okay.

12 20001 Mr. Vickery represents the Government
13 of Canada, Mr. Kaplan.

14 20002 MR. KAPLAN: I heard that. Thank
15 you.

16 EXAMINATION: WILLIAM KAPLAN BY MR. VICKERY /
17 INTERROGATOIRE : WILLIAM KAPLAN PAR Me VICKERY

18 20003 MR. VICKERY: Mr. Kaplan, you were
19 asked this morning questions regarding an explanation
20 that Mr. Mulroney had given to you with regard to the
21 RCMP investigation and specifically at page 44 of
22 today's transcript, which you won't have.

23 20004 MR. KAPLAN: Yes, sir.

24 20005 MR. VICKERY: Beginning at line 21,
25 Mr. Wolson read you a quote:

1 "This thing involving Schreiber,
2 someone told that to the RCMP
3 and they investigated that and
4 they concluded that it was all
5 clean as a whistle."
6 20006 MR. KAPLAN: Yes, sir.
7 20007 MR. VICKERY:
8 "MR. KAPLAN: That's what he
9 said."
10 20008 Then Mr. Wolson continues the quote:
11 "That was the final thing they
12 were investigating prior to
13 giving me the apology letter in
14 April."
15 20009 MR. KAPLAN: Yes, sir.
16 20010 MR. VICKERY: Now, do you recall that
17 segment of your notes being put to you this morning?
18 20011 MR. KAPLAN: Yes, sir.
19 20012 MR. VICKERY: Now, I take it that the
20 apology letter in April that was under discussion was
21 the letter dated April 17, 2003?
22 20013 MR. KAPLAN: That's correct, sir.
23 20014 MR. VICKERY: Would that be correct?
24 20015 MR. KAPLAN: Yes, sir.
25 20016 MR. VICKERY: And can you tell me,

1 sir, following Mr. Mulroney giving you that explanation
2 did you make any attempt to determine whether in fact
3 the facts were as stated: that the RCMP had
4 investigated the payments and had determined that it
5 was clean as a whistle?

6 20017 MR. KAPLAN: Yes, sir.

7 20018 MR. VICKERY: What attempts
8 specifically did you make, sir?

9 20019 MR. KAPLAN: I contacted Inspector Al
10 Mathews, who was head of the RCMP Airbus investigation,
11 and I asked him when the RCMP learned for the first
12 time of the cash payments received by Mr. Mulroney from
13 Mr. Schreiber.

14 20020 MR. VICKERY: Yes...?

15 20021 MR. KAPLAN: And he told me that he
16 learned about them when he read my article on November
17 10, 2003, some many months after the so-called letter
18 of apology has been given to Mr. Mulroney.

19 20022 MR. VICKERY: I see. Thank you.
20 Those are my questions.

21 20023 COMMISSIONER OLIPHANT: Thank you,
22 Mr. Vickery.

23 20024 Any re-examination, Mr. Wolson?

24 20025 MR. WOLSON: No, Mr. Commissioner. I
25 only want to thank the witness and his counsel for

1 being here today and I am obliged to them. Thank you.

2 20026 COMMISSIONER OLIPHANT: Yes. Is

3 there any reason to be advanced by any other counsel as

4 to why Mr. Kaplan and Mr. Jacobsen ought not to be

5 excused at this time?

6 20027 MR. PRATTE: Might I just have one

7 minute, please?

8 20028 COMMISSIONER OLIPHANT: Yes.

9 --- Pause

10 20029 MR. PRATTE: No, thank you, sir.

11 20030 COMMISSIONER OLIPHANT: All right.

12 20031 Mr. Vickery...?

13 20032 MR. VICKERY: I have nothing.

14 20033 COMMISSIONER OLIPHANT: Mr. Houston,

15 no problem. Mr. Auger...?

16 20034 MR. AUGER: No, sir.

17 20035 COMMISSIONER OLIPHANT: Mr. Kaplan,

18 thank you very much for your contribution to the work

19 of this Commission. I appreciate your attendance very

20 much, sir.

21 20036 MR. KAPLAN: Thank you.

22 20037 COMMISSIONER OLIPHANT: You are free

23 to leave at this time.

24 20038 MR. KAPLAN: Thank you.

25 20039 COMMISSIONER OLIPHANT: Thanks again.

1 20040 Mr. Jacobsen, nice to see you again.
2 20041 We will break for 15 minutes.
3 --- Upon recessing at 3:30 p.m. / Suspension à 15 h 30
4 --- Upon resuming at 3:52 p.m. / Reprise à 15 h 52
5 20042 THE REGISTRAR: All rise.
6 20043 COMMISSIONER OLIPHANT: Be seated,
7 please.
8 20044 Mr. Terrien, welcome very much to the
9 inquiry. I will affirm you, if you will stand, please,
10 sir.
11 AFFIRMED: PAUL TERRIEN /
12 DÉCLARATION SOLENNELLE : PAUL TERRIEN
13 20045 COMMISSIONER OLIPHANT: Thank you.
14 20046 MR. BATTISTA: So I will go ahead
15 now, Commissioner.
16 20047 COMMISSIONER OLIPHANT: Mr. Battista.
17 20048 MR. BATTISTA: Yes. Before we go
18 ahead I am going to file an exhibit. There are some
19 documents - so, I am going to speak in French for Mr
20 Terrien.
21 20049 So, we are going to file an exhibit
22 in support of Mr. Terrien's testimony.
23 20050 We are at... we are at P-28? P-28.
24 So, P-28.
25 EXHIBIT NO. P-28: Exhibit in

1 support of Mr Paul Terrien's
2 testimony.
3 --- Pause
4 INTERROGATOIRE : PAUL TERRIEN PAR Me BATTISTA /
5 EXAMINATION: PAUL TERRIEN BY MR. BATTISTA
6 20051 MR. BATTISTA: So, good afternoon, Mr.
7 Terrien.
8 20052 MR. TERRIEN: Thank you.
9 20053 MR. BATTISTA: So, you are currently
10 the Chief of Staff to the Honourable Lawrence Cannon...
11 20054 Mr. TERRIEN: That's right.
12 20055 MR BATTISTA: ...Minister of Foreign
13 Affairs. Have you been working for him since his
14 appointment?
15 20056 MR. TERRIEN: Yes.
16 20057 MR. BATTISTA: November 2008?
17 20058 MR TERRIEN: That's right.
18 20059 MR BATTISTA: Can you tell us about
19 your education?
20 20060 MR. TERRIEN: I was, before ... I
21 studied journalism and history. Then I was a
22 journalist for... I don't know whether you also want my
23 professional experience.
24 20061 MR. BATTISTA: Yes, please.
25 20062 MR. TERRIEN: I was a journalist for

1 some 20 years. Then I joined the External Affairs
2 Minister in 1986, and from there I went to the Prime
3 Minister's Office in '87, where I stayed until the PM's
4 departure in 1993.

5 20063 COMMISSIONER OLIPHANT: Could you talk
6 louder, please?

7 20064 MR. TERRIEN: Yes. Yes, sir.

8 20065 MR BATTISTA: Maybe just move closer
9 to the mic, because sometimes, it's not... yes, that's
10 better.

11 20066 So, you worked for Prime Minister
12 Mulroney?

13 20067 MR. TERRIEN: Yes.

14 20068 MR BATTISTA: From '87, you said, to
15 '93?

16 20069 MR. TERRIEN: From Spring '87 to June
17 '93.

18 20070 MR BATTISTA: And what were your
19 duties when you worked for him?

20 20071 MR. TERRIEN: I was essentially a
21 speech writer.

22 20072 MR BATTISTA: All right. You did that
23 when he was prime minister. Did you do that after he
24 left?

25 20073 MR. TERRIEN: Afterwards, I

1 accompanied him on some trips. I never worked as a
2 speech writer, as I recall, after '93, no.

3 20074 MR BATTISTA: All right. So the last
4 time was in '93?

5 20075 MR. TERRIEN: Yes.

6 20076 MR BATTISTA: And you said you do not
7 believe you wrote any speeches for him after 1993...

8 20077 MR. TERRIEN: No.

9 20078 MR BATTISTA: ...but you accompanied
10 him on some trips?

11 20079 MR. TERRIEN: Yes.

12 20080 MR BATTISTA: What kind of trips?

13 20081 MR. TERRIEN: Mr. Mulroney belonged to
14 an organization called the Washington Speakers Bureau,
15 which provided prestigious speakers to various
16 international conventions and meetings, and I
17 accompanied him when he delivered speeches on those
18 occasions.

19 20082 MR BATTISTA: All right. How long did
20 you do that?

21 20083 MR. TERRIEN: For a period of 10
22 years. Between '93 and around 2003, I made perhaps
23 five or six trips with him. So it was really very
24 sporadic. It was according to... according to his
25 needs.

- 1 20084 MR BATTISTA: And at that time, your
2 function was essentially to participate in writing
3 speeches or did you have other duties?
- 4 20085 MR. TERRIEN: No, I accompanied him.
5 The speech was pretty much the same everywhere, and he
6 would show it to me, and we sometimes made some minor
7 changes. But I was not the one who wrote the speech.
8 Essentially, I accompanied him. The Speakers Bureau
9 paid the expenses for someone to accompany the
10 speakers.
- 11 20086 MR BATTISTA: And when you accompanied
12 him, what was your role, essentially, at that time?
- 13 20087 MR. TERRIEN: I did what he asked me
14 to do. I was an assistant, basically. I made phone
15 calls for him if he needed me to. I made sure the
16 luggage arrived, and that the rooms were ready. I was
17 really just an assistant.
- 18 20088 MR. BATTISTA: All right. Now, you
19 are here because of one trip that concerns us,
20 specifically in 1998?
- 21 20089 MR. TERRIEN: Yes.
- 22 20090 MR BATTISTA: So, it was a trip to
23 Europe in 1998, in February?
- 24 20091 MR. TERRIEN: That's right.
- 25 20092 MR BATTISTA: What was the reason for

1 that trip?

2 20093 MR. TERRIEN: I got a call from Mr
3 Mulroney's assistant in Montreal, who asked me if I was
4 available for the dates of the trip, and she said at
5 that time it would help Mr Mulroney, who had a sore
6 arm. So, I... I agreed to do it.

7 20094 MR BATTISTA: Mr. Mulroney had a sore
8 arm at that time?

9 20095 MR. TERRIEN: Yes. Yes. So, I have
10 to say that I was there mainly to carry the luggage.

11 20096 MR. BATTISTA: Okay! And how would
12 you describe your relationship with him at that time?
13 You said you worked from '93 to 2003, you accompanied
14 him on a number of trips. What was your relationship
15 with him?

16 20097 MR. TERRIEN: I was always on good
17 terms with Mr Mulroney. I thought he was a good boss.
18 We saw each other afterwards, during those trips. So I
19 feel it was a friendly relationship.

20 20098 MR. BATTISTA: All right. As for the
21 trip to Europe, what type of trip was it for Mr.
22 Mulroney?

23 20099 MR. TERRIEN: Mr. Mulroney was acting
24 on behalf of the World Gold Council, le Conseil mondial
25 de l'or, and he met in different European countries

1 with the central banks, I believe essentially to
2 convince them not to liquidate the gold reserves too
3 hurriedly. I believe there were one or two countries
4 that had begun to do so.

5 20100 MR. BATTISTA: All right.

6 20101 MR. TERRIEN: He was acting for the
7 World Gold Council.

8 20102 MR. BATTISTA: So he was there on a
9 business trip, to your knowledge?

10 20103 MR. TERRIEN: Absolutely.

11 20104 MR. BATTISTA: And he had a specific
12 mandate, he was acting for the World Gold Council?

13 20105 MR. TERRIEN: Yes.

14 20106 MR. BATTISTA: And where did you go
15 exactly?

16 20107 MR. TERRIEN: Paris, Rome, Frankfurt,
17 Zurich.

18 20108 MR. BATTISTA: The four cities that
19 you... those are the four...

20 20109 MR. TERRIEN: As I recall, yes.

21 20110 MR. BATTISTA: How long did that trip
22 last?

23 20111 MR. TERRIEN: I have to say
24 approximately four or five days. Unfortunately, I
25 didn't... I didn't try to obtain the itinerary, which

1 Mr. Mulroney's office probably has, but I didn't keep
2 it. So, if memory serves, we stayed in Rome,
3 Frankfurt, and two nights in Zurich, so five days, four
4 nights, as I recall.

5 20112 MR. BATTISTA: All right. And I
6 presume that Mr. Mulroney had an itinerary for those
7 days?

8 20113 MR. TERRIEN: Absolutely. Absolutely,
9 yes.

10 20114 MR. BATTISTA: Appointments were
11 scheduled in advance?

12 20115 MR. TERRIEN: Yes.

13 20116 MR. BATTISTA: Organized?

14 20117 MR. TERRIEN: Yes.

15 20118 MR. BATTISTA: Did you participate in
16 organizing those meetings?

17 20119 MR. TERRIEN: No.

18 20120 MR. BATTISTA: So that was already
19 done, you simply accompanied him?

20 20121 MR. TERRIEN: Yes. When I agreed to
21 go on the trip, Ms. Colin, his assistant in Montreal,
22 faxed me the itinerary which was already prepared.

23 20122 MR. BATTISTA: All right. Do you
24 remember whether he had a large number of meetings? You
25 said he visited four cities. Did he...

1 20123 MR. TERRIEN: Well, he certainly had
2 at least one important meeting in each city. He met
3 with the central banks. I couldn't say... I think it
4 was one meeting per city, but it was a high-level
5 meeting.

6 20124 MR. BATTISTA: Where did those
7 meetings take place?

8 20125 MR. TERRIEN: Honestly, I'm not sure.
9 I wasn't there. I would wait for him at the hotel. Mr.
10 Mulroney was accompanied by another person and went to
11 those meetings without me.

12 20126 MR. BATTISTA: How many of you were
13 there with Mr. Mulroney at that time?

14 20127 MR. TERRIEN: There was one other
15 passenger.

16 20128 MR. BATTISTA: Who was that?

17 20129 MR. TERRIEN: It was Mr. James Crow,
18 the former governor of the Bank of Canada.

19 20130 MR. BATTISTA: All right. So, Mr.
20 Mulroney, yourself and Mr. James Crow left for that
21 trip together?

22 20131 MR. TERRIEN: Yes.

23 20132 MR. BATTISTA: And Mr. Crow, if I
24 understand your testimony, attended the meetings with
25 Mr. Mulroney?

1 20133 MR. TERRIEN: Exactly.

2 20134 MR. BATTISTA: Those were meetings
3 with bankers?

4 20135 MR. TERRIEN: Exactly.

5 20136 MR. BATTISTA: And you were not
6 present at those meetings?

7 20137 MR. TERRIEN: No.

8 20138 MR. BATTISTA: Did you at least
9 accompany Mr. Mulroney to the location of his meeting,
10 or...?

11 20139 MR. TERRIEN: No. That did not occur,
12 as I recall, no.

13 20140 MR. BATTISTA: So, when he had
14 meetings with bankers, you were not...

15 20141 MR. TERRIEN: No.

16 20142 MR. BATTISTA: ...you were not
17 present?

18 20143 MR. TERRIEN: No.

19 20144 MR. BATTISTA: Did you have any role
20 in connection with those meetings, like preparing them
21 or scheduling them?

22 20145 MR. TERRIEN: Not at all. On one
23 occasion, I believe we were in Paris, he showed me the
24 translation of a presentation by the Gold Council to
25 ask my opinion on the quality of the French, but that

1 was really the only time I intervened during the entire
2 trip.

3 20146 MR. BATTISTA: Now, there was a stop
4 in Zurich. You said you spent two nights there?

5 20147 MR. TERRIEN: Yes.

6 20148 MR. BATTISTA: Which hotel did you
7 stay in?

8 20149 MR. TERRIEN: The Savoy, but we also
9 spent a night in Davos. That is, one night at the
10 Savoy and another in Davos, which is not far from
11 Zurich.

12 20150 MR. BATTISTA: All right. When was
13 the night in Davos? Perhaps you don't recall from
14 memory. If you look at the exhibit, Tab 1, it says it
15 was Monday, February 2. Do you have it in front of
16 you?

17 20151 MR. TERRIEN: Yes, absolutely.

18 20152 MR. BATTISTA: Yes. So, we see
19 Monday, February 2, 10:00 a.m. I imagine that's your
20 arrival at the hotel in Zurich?

21 20153 MR. TERRIEN: I think that's the
22 departure, from Davos to Zurich.

23 20154 MR. BATTISTA: So, you went to Davos
24 before and to Zurich afterwards?

25 20155 MR. TERRIEN: Yes. Yes. If memory

1 serves, that's what I recall, yes.

2 20156 MR. BATTISTA: All right. So, you
3 made the trip from Davos to Zurich in a vehicle?

4 20157 MR. TERRIEN: By car.

5 20158 MR. BATTISTA: By car?

6 20159 MR. TERRIEN: Yes.

7 20160 MR. BATTISTA: And you... you were in
8 what hotel?

9 20161 MR. TERRIEN: In Zurich, at the Savoy.

10 20162 MR. BATTISTA: At the Savoy.

11 20163 MR. TERRIEN: Yes.

12 20164 MR. BATTISTA: You as well?

13 20165 MR. TERRIEN: Yes. Yes.

14 20166 MR. BATTISTA: All right. You each
15 had a room in the hotel?

16 20167 MR. TERRIEN: Yes.

17 20168 MR. BATTISTA: And the itinerary you
18 have here is the one you had at the time?

19 20169 MR. TERRIEN: Well, the itinerary that
20 the Commission gave me, really, is only... the rest
21 is...

22 20170 MR. BATTISTA: Yes, the rest is
23 blacked out, but...

24 20171 MR. TERRIEN: So, I'm doing this from
25 memory. I recall that we spent one night in Davos. I

1 can't absolutely swear to you that it was the Sunday
2 night or the Saturday night, but I'm pretty sure it was
3 the Sunday night.

4 20172 MR. BATTISTA: But my question was
5 rather... and perhaps it was poorly worded. My
6 question simply sought to establish that you had the
7 same kind of an itinerary as the one you have here?

8 20173 MR. TERRIEN: Absolutely. Yes.

9 20174 MR. BATTISTA: What we have here is an
10 excerpt...

11 20175 MR. TERRIEN: Yes, yes, yes.

12 20176 MR. BATTISTA: ...but you had,
13 obviously, the full itinerary?

14 20177 MR. TERRIEN: Yes, yes, yes. Exactly.

15 20178 MR. BATTISTA: Am I correct in saying
16 that at that time, the meeting was already scheduled?

17 20179 MR. TERRIEN: Which meeting are you
18 talking about?

19 20180 MR. BATTISTA: The meeting at 12:30
20 p.m.

21 20181 MR. TERRIEN: No.

22 20182 MR. BATTISTA: It says: "12:30 lunch
23 in your room."

24 20183 MR. TERRIEN: I honestly can't say,
25 because during the flight to Zurich Mr. Mulroney had

1 asked me to call Mr. Schreiber to set up the meeting.
2 So I don't know whether the meeting in question was...
3 all that was on the itinerary was "lunch in your room."
4 20184 MR. BATTISTA: All right. If we look
5 here at the schedule with the hourly entries on
6 February 2, we don't see Mr. Schreiber's name.
7 20185 MR. TERRIEN: Exactly.
8 20186 MR. BATTISTA: No.
9 20187 MR. TERRIEN: Honestly, I don't recall
10 having seen that.
11 20188 MR. BATTISTA: All right. So, what we
12 see, is that... what is scheduled is that on February
13 2, there will be a lunch in his hotel room?
14 20189 MR. TERRIEN: Exactly.
15 20190 MR. BATTISTA: All right. And that was
16 the context in which the meeting with Mr. Schreiber
17 took place?
18 20191 MR. TERRIEN: Yes. Mr. Mulroney had
19 told me in advance, however...
20 20192 MR. BATTISTA: All right.
21 20193 MR. TERRIEN: ...during the flight to
22 Zurich.
23 20194 MR. BATTISTA: So, you learned during
24 the flight...
25 20195 MR. TERRIEN: Yes.

1 20196 MR. BATTISTA: ...that you had to
2 contact Mr. Schreiber?

3 20197 MR. TERRIEN: Yes.

4 20198 MR. BATTISTA: Did he give you the
5 contact information or did you already have it?

6 20199 MR. TERRIEN: He gave me a piece of
7 paper with Mr. Schreiber's name on it and a phone
8 number.

9 20200 MR. BATTISTA: All right. Now, did
10 you know Mr. Schreiber personally?

11 20201 MR. TERRIEN: No.

12 20202 MR. BATTISTA: If I ask you, however,
13 if you knew who Mr. Schreiber was?

14 20203 MR. TERRIEN: I had heard that name
15 previously, yes.

16 20204 MR. BATTISTA: You know there had been
17 a controversy in 1995...

18 20205 MR. TERRIEN: Yes.

19 20206 MR. BATTISTA: ...regarding the
20 request by the Swiss authorities?

21 20207 MR. TERRIEN: Yes.

22 20208 MR. BATTISTA: You knew that Mr.
23 Schreiber was one of the individuals who were named in
24 that affair?

25 20209 MR. TERRIEN: Yes, I knew that.

- 1 20210 MR. BATTISTA: And you were aware,
2 obviously, of the prosecution of Mr. Mulroney? It had
3 just been settled at that time, had it not?
- 4 20211 MR. TERRIEN: Yes. I was not aware of
5 the details or all the procedures, but I knew what had
6 happened, yes.
- 7 20212 MR. BATTISTA: All right. So, you
8 knew that a number of allegations had been made against
9 Mr. Mulroney in that affair and that Mr. Schreiber's
10 name was implicated in that matter?
- 11 20213 MR. TERRIEN: I knew that, yes.
- 12 20214 MR. BATTISTA: But you're saying you
13 were not necessarily aware of all the details?
- 14 20215 MR. TERRIEN: No, absolutely not.
- 15 20216 MR. BATTISTA: All right. Did you
16 know why Mr. Mulroney wanted to meet with Mr.
17 Schreiber?
- 18 20217 MR. TERRIEN: No.
- 19 20218 MR. BATTISTA: Did you ask Mr.
20 Mulroney why he was meeting with him in a hotel room?
- 21 20219 MR. TERRIEN: Never.
- 22 20220 MR. BATTISTA: You contacted Mr.
23 Schreiber by phone?
- 24 20221 MR. TERRIEN: Yes.
- 25 20222 MR. BATTISTA: Did you call him to

1 check whether he was available for the meeting, or did
2 you call him to confirm the meeting?

3 20223 MR. TERRIEN: As I recall, I called
4 him to tell him that Mr. Mulroney was prepared to see
5 him, and he didn't seem surprised. So I don't know
6 whether the meeting was scheduled in advance or not.

7 20224 MR. BATTISTA: All right.

8 20225 MR. TERRIEN: I really don't recall.

9 20226 Me BATTISTA: In fact, when you called
10 him, you didn't call him to know whether the meeting
11 was possible, you called him to tell him that the
12 meeting would take place at the Savoy Hotel on February
13 2?

14 20227 MR. TERRIEN: I... I... as I said, he
15 wasn't surprised. So he knew there would be a meeting.
16 Did he know it was at that time? My impression was that
17 he did, as I recall.

18 20228 MR. BATTISTA: All right. To your
19 knowledge, did Mr. Fred Doucet participate in preparing
20 that meeting?

21 20229 MR. TERRIEN: I have no way of knowing
22 how the meeting was prepared.

23 20230 MR. BATTISTA: All right. Do you know
24 Mr. Doucet?

25 20231 MR. TERRIEN: Yes.

1 20232 MR. BATTISTA: Fred Doucet, who worked
2 in Mr. Mulroney's office.

3 20233 MR. TERRIEN: Yes, I know him. Yes.

4 20234 MR. BATTISTA: O.K. And you don't
5 know whether Mr. Doucet was in any way involved in
6 preparing that meeting?

7 20235 MR. TERRIEN: Not at all.

8 20236 MR BATTISTA: His name wasn't
9 mentioned?

10 20237 MR. TERRIEN: No.

11 20238 MR. BATTISTA: Neither by Mr. Mulroney
12 nor by Mr. Schreiber?

13 20239 MR. TERRIEN: No.

14 20240 MR. BATTISTA: How did it work? You
15 called Mr. Schreiber, you told him you would be at the
16 Savoy Hotel on February 2; is that correct?

17 20241 MR. TERRIEN: Yes.

18 20242 MR. BATTISTA: And how was the meeting
19 with Mr. Schreiber organized concretely, physically?

20 20243 MR. TERRIEN: I heard Mr. Schreiber at
21 the hotel door, and we met. I don't know exactly how,
22 but in any case, he knew that... obviously if someone
23 was waiting for him it was I. We shook hands. I
24 introduced myself and I accompanied him to the location
25 of the meeting.

1 20244 MR. BATTISTA: All right. Did he say
2 something to you at that time?

3 20245 MR. TERRIEN: Not that I recall, apart
4 from small talk, perhaps, how was your trip or... but I
5 don't recall.

6 20246 MR. BATTISTA: All right. You took
7 Mr. Schreiber to Mr. Mulroney's room?

8 20247 MR. TERRIEN: I don't know for certain
9 whether it was Mr. Mulroney's room or a room that had
10 been rented for the meeting, but Mr. Mulroney was
11 waiting in a room, yes.

12 20248 MR. BATTISTA: All right. And what
13 happened when they saw each other?

14 20249 MR. TERRIEN: Well, they shook hands,
15 they greeted each other, and they went into the room.

16 20250 MR. BATTISTA: How did they greet each
17 other? What did they...

18 20251 MR. TERRIEN: Well, it seemed very
19 cordial to me.

20 20252 MR. BATTISTA: How did they...

21 20253 MR. TERRIEN: It was... I think it
22 was: How are you, Karlheinz? Well, Brian. How are
23 you? It was very...

24 20254 MR. BATTISTA: All right.

25 20255 MR. TERRIEN: ...very friendly.

1 That's the impression I had.

2 20256 MR. BATTISTA: All right. So, they
3 greeted each other. What did you do??

4 20257 MR. TERRIEN: I went back to my room,
5 which was on the same floor.

6 20258 MR. BATTISTA: All right. And do you
7 recall the number of the room you had?

8 20259 MR. TERRIEN: No. No.

9 20260 MR. BATTISTA: Mr. Mulroney's room
10 number?

11 20261 MR. TERRIEN: Well, I don't recall
12 because I read it in the... in one of the documents you
13 gave me, which is the article from the *Globe and Mail*,
14 where it said it was Room 209, but I wouldn't have
15 recalled that otherwise.

16 20262 MR. BATTISTA: And having read the
17 article in the *Globe and Mail*, with 209, does that
18 refresh your memory or not at all?

19 20263 MR. TERRIEN: Well, I know it was on
20 the second floor; 209 is logical.

21 20264 MR. BATTISTA: All right. And you
22 recall that your room was on the same floor...

23 20265 MR. TERRIEN: Yes.

24 20266 MR. BATTISTA: ...as that of Mr.
25 Mulroney at the time?

1 20267 MR. TERRIEN: Yes. Yes.

2 20268 MR. BATTISTA: All right. Now, that
3 meeting concluded?

4 20269 MR. TERRIEN: Yes.

5 20270 MR BATTISTA: And what did you do?

6 20271 MR. TERRIEN: Well, Mr. Mulroney,
7 before closing the door again when the meeting began,
8 said to me: Come back in an hour, I think, which I
9 did, and about an hour later, the door opened again,
10 and the two men came out.

11 20272 MR. BATTISTA: All right. Had you
12 spoken with Mr. Mulroney before the meeting?

13 20273 MR. TERRIEN: Before the meeting?

14 20274 MR. BATTISTA: Yes.

15 20275 MR. TERRIEN: Regarding the meeting?

16 20276 MR. BATTISTA: Yes.

17 20277 MR. TERRIEN: No.

18 20278 MR BATTISTA: Do you recall what you
19 did with Mr. Mulroney that morning?

20 20279 MR. TERRIEN: Well, we were coming
21 back... according to the itinerary, anyway. We were
22 coming back from Davos. So we had talked in the car,
23 but never about the meeting.

24 20280 MR. BATTISTA: Never. Why?

25 20281 MR. TERRIEN: Mr. Mulroney never

1 revealed the contents of those meetings to me, and I
2 didn't... well, it was not my role to ask him, either.

3 20282 MR. BATTISTA: All right. Did it
4 frequently happen that you witnessed the fact that Mr.
5 Mulroney met with people in hotel rooms?

6 20283 MR. TERRIEN: Absolutely.

7 20284 MR. BATTISTA: That happened
8 frequently?

9 20285 MR. TERRIEN: Absolutely.

10 20286 MR. BATTISTA: During your trips with
11 him?

12 20287 MR. TERRIEN: Well yes, because the
13 conventions or the... usually took place in hotels. He
14 had a hotel room, as did I. So it was not unusual for
15 him to meet with people, either in his room or in hotel
16 suites. It was... we lived in hotels.

17 20288 MR. BATTISTA: All right. So you saw
18 nothing unusual about that?

19 20289 MR. TERRIEN: Absolutely not.

20 20290 MR. BATTISTA: All right. Now, what
21 was the atmosphere like at the end of the meeting?

22 20291 MR. TERRIEN: Once again, they both
23 seemed to me to be in a good mood, Mr. Schreiber in
24 particular, whom I found to be a rather jovial person,
25 and I got the impression the meeting must have gone

1 well. At any rate, I... judging from their mood.

2 20292 MR BATTISTA: All right. What do you
3 mean by "judging from the rumours"?

4 20293 MR. TERRIEN: Their mood.

5 20294 MR BATTISTA: Their mood.

6 20295 MR. TERRIEN: Mr. Schreiber was...

7 20296 MR. BATTISTA: I'm sorry, I misheard.

8 20297 MR. TERRIEN: No, no.

9 20298 MR. BATTISTA: So, judging from their
10 mood.

11 20299 MR. TERRIEN: ...was in a good mood,
12 and Mr. Mulroney also seemed to be in a good mood,
13 certainly.

14 20300 MR BATTISTA: All right. Did Mr.
15 Mulroney tell you something when the meeting concluded?

16 20301 MR. TERRIEN: As I recall, Mr
17 Schreiber said to me... when the doors opened: "He's a
18 good man, take care of him."

19 20302 MR. BATTISTA: All right.

20 20303 MR TERRIEN: Apart from that, Mr.
21 Mulroney never made any comment to me whatsoever about
22 the meeting.

23 20304 MR. BATTISTA: Now, in the context in
24 which you look at that, what, to your mind, could
25 justify Mr. Schreiber's saying to you: "He's a good

1 man, take care of him"?

2 20305 MR. TERRIEN: I don't know. Perhaps
3 he has a generously personality, I have no idea. I have
4 the impression that he also thought that I accompanied
5 Mr Mulroney constantly, which was not the case. But I
6 really don't know.

7 20306 MR BATTISTA: Did you make any reply?

8 20307 MR. TERRIEN: No, I don't think so.

9 20308 MR. BATTISTA: All right. And what
10 happened then?

11 20309 MR. TERRIEN: I reaccompanied Mr.
12 Schreiber, but I don't recall... I don't think I went
13 as far as the hotel door that time, I think to the top
14 of the stairs or to the elevator. That's not clear, but
15 in any case, I reaccompanied him, certainly, for a
16 certain time.

17 20310 MR. BATTISTA: And then?

18 20311 MR. TERRIEN: I think I returned to
19 the room to pack my bags.

20 20312 MR. BATTISTA: When Mr. Schreiber
21 said, "He's a good man, take care of him", did Mr.
22 Mulroney say anything?

23 20313 MR. TERRIEN: No. No. He may have
24 laughed or smiled, but no, he didn't make any comment.

25 20314 MR. BATTISTA: With regard to the

1 atmosphere, when Mr. Schreiber said that, did Mr.
2 Mulroney seem worried, concerned?

3 20315 MR. TERRIEN: Not at all.

4 20316 MR. BATTISTA: Before the meeting?

5 20317 MR. TERRIEN: Not at all.

6 20318 MR. BATTISTA: Not at all.

7 20319 MR. TERRIEN: No. He was... he was in
8 a mood that was and still is typical of him, he was in
9 a serious mood, but not... not more worried or
10 concerned.

11 20320 MR. BATTISTA: Do you know whether
12 they had documents, if there was something scheduled
13 for that meeting?

14 20321 MR. TERRIEN: I'm pretty sure they
15 didn't have any.

16 20322 MR. BATTISTA: That there wasn't...

17 20323 MR. TERRIEN: Neither of them was
18 holding any documents.

19 20324 MR. BATTISTA: All right.

20 --- Pause

21 20325 MR. BATTISTA: Since that incident,
22 have you had the occasion to discuss that meeting with
23 Mr. Mulroney?

24 20326 MR. TERRIEN: Never.

25 20327 MR. BATTISTA: You never discussed

1 that matter?

2 20328 MR. TERRIEN: No. However, I did call
3 Luc Lavoie, his assistant, to tell him that Mr what's
4 his name, the reporter from the *Globe*, had called me to
5 talk to me about that meeting. I told Luc Lavoie just
6 like that, but never Mr. Mulroney.

7 20329 MR. BATTISTA: Is there a particular
8 reason? Is there a particular reason why you never
9 spoke with...

10 20330 MR. TERRIEN: I never spoke with Mr.
11 Mulroney about his meetings. That really wasn't my
12 role.

13 20331 MR. BATTISTA: But what I mean is,
14 once that matter became a subject of interest, let's
15 say, you never had occasion to talk with Mr. Mulroney
16 about that meeting?

17 20332 MR. TERRIEN: Never. Never. I want
18 to say also that I saw Mr. Mulroney quite rarely. Mr.
19 Mulroney was in Montreal, I was in Ottawa. We only saw
20 each other for those trips I'm talking about, very
21 rarely, but I did not have ongoing contact with him.

22 20333 MR. BATTISTA: All right. And even
23 since his testimony to the parliamentary Ethics
24 Committee?

25 20334 MR. TERRIEN: No. I never spoke to

1 Mr. Mulroney about that meeting.

2 20335 MR. BATTISTA: All right.

3 20336 If you'll give me a moment, Mr.

4 Commissioner, I just want to check something.

5 --- Pause

6 20337 MR. BATTISTA: So thank you, Mr.

7 Terrien. My colleagues may have some questions.

8 20338 MR. TERRIEN: Perfect.

9 20339 MR. BATTISTA: Thank you.

10 20340 That's it for me, Commissioner.

11 20341 COMMISSIONER OLIPHANT: Here?

12 20342 MR. PRATTE: No, thank you, no

13 questions.

14 20343 COMMISSIONER OLIPHANT: No questions.

15 20344 Mr. Vickery...?

16 20345 MR. VICKERY: No.

17 20346 COMMISSIONER OLIPHANT: No.

18 20347 Mr. Houston...?

19 20348 MR. HOUSTON: No, thanks.

20 20349 COMMISSIONER OLIPHANT: Mr. Auger...

21 20350 MR. AUGER: Briefly, Commissioner.

22 EXAMINATION: WILLIAM KAPLAN BY MR. AUGER /

23 INTERROGATOIRE: WILLIAM KAPLAN PAR Me AUGER

24 20351 MR. AUGER: Good afternoon, sir. I

25 am going to have to ask my questions in English, and

1 you, of course, can reply in either French or English.

2 20352 MR. TERRIEN: That's fine, I'll do it

3 in English.

4 20353 MR. AUGER: You told the Commission

5 that you were assisting Mr. Mulroney with his trip to

6 Europe. Is that, generally, what the purpose was?

7 20354 MR. TERRIEN: Yes.

8 20355 MR. AUGER: In addition, you had

9 indicated that Mr. Mulroney's arm was sore, and your

10 primary role was to carry his luggage?

11 20356 MR. TERRIEN: That's what I mean by

12 assisting.

13 20357 MR. AUGER: So, specifically, you

14 were travelling, expenses paid by Mr. Mulroney, to

15 assist him with his luggage.

16 20358 MR. TERRIEN: Well, by Mr. Mulroney

17 or the World Gold Council. You know, I don't know

18 that.

19 20359 MR. AUGER: Am I right that Mr.

20 Mulroney attended the World Economic Forum in Davos in

21 February of 1998?

22 20360 MR. TERRIEN: I don't believe that he

23 was at the actual forum. He went to a reception at

24 Peter Munk's house, and people who were delegates to

25 the forum were at that reception. I am not absolutely

1 sure that Mr. Mulroney was at the forum itself.

2 20361 Mr. Munk's house is not far -- it's

3 in Davos and is not far from where the forum is held.

4 20362 MR. AUGER: But in Davos.

5 20363 MR. TERRIEN: Absolutely.

6 20364 MR. AUGER: So you can confirm to the

7 Commission that Mr. Mulroney was in Davos in early

8 February of 1998.

9 20365 MR. TERRIEN: Yes.

10 20366 Well, before the February 2nd meeting

11 he was in Davos, yes.

12 20367 MR. AUGER: Right, and that would

13 take us to February 1st, 1998, that Mr. Mulroney was in

14 Davos that evening?

15 20368 MR. TERRIEN: To the best of my

16 recollection, yes, I think it was the day before.

17 20369 MR. AUGER: And just to assist you,

18 Tab 1 does give us the February 2nd, 1998 -- "Mr.

19 Mulroney -- "

20 20370 Well, to be fair, it says: "10:00AM,

21 a limousine from Brunel Carriage will pick you up at

22 the hotel and proceed to the Savoy Hotel in Zurich."

23 20371 Do you see that?

24 20372 MR. TERRIEN: Absolutely.

25 20373 MR. AUGER: And is it your

1 understanding that on Monday, February 2nd, 1998, Mr.
2 Mulroney travelled from Davos at 10:00 a.m. to Zurich?
3 20374 MR. TERRIEN: That sounds right.
4 That looks right, yes.
5 20375 MR. AUGER: And you were with Mr.
6 Mulroney in Davos that previous evening?
7 20376 MR. TERRIEN: In Davos, yes.
8 20377 MR. AUGER: We can see that the next
9 entry says, "11:30 a.m. - Brian Mulroney will arrive
10 the Savoy Hotel."
11 20378 Right?
12 20379 MR. TERRIEN: Yes.
13 20380 MR. AUGER: That's an hour and a half
14 trip from Davos?
15 20381 MR. TERRIEN: That's my recollection,
16 yes.
17 20382 MR. AUGER: Are you able to tell the
18 Commissioner when you and Mr. Mulroney arrived in
19 Europe?
20 20383 Just try to use those dates.
21 February 1st you are in Davos, and then February 2nd
22 you arrive in Zurich.
23 20384 Are you able to tell the Commissioner
24 when you arrived --
25 20385 MR. TERRIEN: Unfortunately not. I

1 would have to see the complete itinerary. I just don't
2 remember the exact date that we arrived.

3 20386 MR. AUGER: We do know from page 2,
4 Tab 1, that you and Mr. Mulrone y departed Zurich at 3
5 o'clock on February 2nd.

6 20387 MR. TERRIEN: Is that the itinerary,
7 sir?

8 20388 MR. AUGER: If you take Tab 1 in the
9 exhibit, the next page --

10 20389 MR. TERRIEN: Yes.

11 20390 MR. AUGER: -- if I am reading it
12 right --

13 20391 MR. TERRIEN: Yes, I see that now.

14 20392 MR. AUGER: "Three o'clock p.m.," it
15 says, "BM departs Zurich."

16 20393 Do you see that?

17 20394 MR. TERRIEN: Yes.

18 20395 MR. AUGER: And you had told the
19 Commissioner that you and Mr. Mulrone y were in Europe
20 for -- I think you said four or five days.

21 20396 MR. TERRIEN: Well, that's to the
22 best of my recollection. I should have the complete
23 itinerary.

24 20397 MR. AUGER: And you told Commission
25 counsel in your interview on March 25th, 2009, that you

1 had first learned of Mr. Mulroney's meeting with Mr.
2 Schreiber the day before the meeting with Mr.
3 Schreiber. Correct?

4 20398 MR. TERRIEN: I didn't have the
5 benefit of this when I spoke to the Commission, I must
6 tell you that. But, to the best of my recollection, he
7 gave me Mr. Schreiber's phone number the day before the
8 meeting. But, reading this, it might have been two
9 days before.

10 20399 MR. AUGER: So, at the very latest,
11 Mr. Mulroney asked you to contact Mr. Schreiber on
12 February 1st. Right?

13 20400 MR. TERRIEN: I remember that I
14 called Mr. Schreiber from the hotel -- from The Savoy.
15 So we were at The Savoy when I phoned him.

16 20401 MR. AUGER: So you had already been
17 checked into the Savoy Hotel when you landed in Zurich.

18 20402 MR. TERRIEN: Absolutely.

19 20403 MR. AUGER: So you had a room rented
20 for four or five days?

21 20404 MR. TERRIEN: No, I did not say that;
22 four or five days in Europe.

23 20405 We went to Frankfurt, we went to
24 Rome, we went to Paris.

25 20406 We slept one night, to my knowledge,

1 at The Savoy, and we slept one night close to Zurich,
2 in Davos.

3 20407 MR. AUGER: If I were to suggest to
4 you that it was the night that you were in Davos --
5 that's when Mr. Mulroney asked you to contact Mr.
6 Schreiber to set up the meeting the next day at The
7 Savoy.

8 20408 MR. TERRIEN: That's not the way I
9 remember it, but, as I said, it's not absolutely clear,
10 that was 11 years ago.

11 20409 The recollection that I have is that
12 I phoned him from The Savoy, but -- I'm pretty sure
13 that it was from The Savoy.

14 20410 MR. AUGER: I take it that you knew
15 that when you contacted Mr. Schreiber he was in
16 Pontresina, Switzerland.

17 20411 MR. TERRIEN: I don't think I have
18 heard that word before.

19 20412 What I recall is, I think he was at
20 his sister's place.

21 20413 MR. AUGER: That's what Mr. Schreiber
22 told you?

23 20414 MR. TERRIEN: I believe so, when I
24 met him.

25 20415 MR. AUGER: I take it that because

1 Mr. Mulrone y had a sore arm on this trip, you
2 accompanied him at all times, checking in and checking
3 out of the various hotels?
4 20416 MR. TERRIEN: Yes, I was with him
5 then.
6 20417 MR. AUGER: Each night?
7 20418 MR. TERRIEN: I'm not quite sure what
8 you mean.
9 20419 MR. AUGER: Whenever Mr. Mulrone y
10 checked into a hotel, you assisted him?
11 20420 MR. TERRIEN: Yes, absolutely.
12 20421 MR. AUGER: And whenever he checked
13 out of a hotel, you assisted him.
14 20422 MR. TERRIEN: Yes.
15 20423 MR. AUGER: Because your primary role
16 was to carry his luggage.
17 20424 MR. TERRIEN: That's right, sir.
18 20425 MR. AUGER: If we turn to Tab 1, Page
19 1, in the exhibit, at 11:30 a.m. -- do you see the word
20 "Note"?
21 20426 MR. TERRIEN: Yes.
22 20427 MR. AUGER: Then there is a blank,
23 and then it says: "Will meet you upon your arrival and
24 will take care of your luggage."
25 20428 Do you see that?

1 20429 MR. TERRIEN: Yes.

2 20430 MR. AUGER: Is that referencing you
3 taking care of the luggage?

4 20431 MR. TERRIEN: I have no idea, it's
5 blacked out.

6 20432 MR. AUGER: As far as you are aware,
7 there was no one else assisting Mr. Mulroney with his
8 luggage at The Savoy?

9 20433 MR. TERRIEN: There could have been.

10 20434 MR. AUGER: Well, you just told the
11 Commissioner that you assisted with the luggage.

12 20435 MR. TERRIEN: That's what I was asked
13 to do. That's why I was asked to accompany Mr.
14 Mulroney. But was I the exclusive holder of all of his
15 luggage during that time? I don't think so. There
16 might have been somebody else.

17 20436 MR. AUGER: And then, on the second
18 page of the itinerary, we see that lunch is at 12:30
19 p.m.

20 20437 Do you see that?

21 20438 MR. TERRIEN: Yes.

22 20439 MR. AUGER: By the way, the meeting
23 with Mr. Schreiber was in the range of an hour to an
24 hour and a half?

25 20440 MR. TERRIEN: That's what I remember,

1 yes.

2 20441 MR. AUGER: And then, at 2:15, there
3 is the limousine pick-up.

4 20442 Do you see that?

5 20443 MR. TERRIEN: Yes, I do.

6 20444 MR. AUGER: And then the flight
7 departs at three o'clock. Right?

8 20445 MR. TERRIEN: Yes.

9 20446 MR. AUGER: I am interested in that,
10 because you told Commission counsel in your interview
11 that Mr. Mulroney also met with Peter Munk as part of
12 his work for the World Gold Council.

13 20447 Can you tell the Commissioner how it
14 is that Mr. Mulroney fit in that meeting in such a
15 tight schedule on that day?

16 20448 MR. TERRIEN: It wasn't on that day.

17 20449 MR. AUGER: It was on another day?

18 20450 MR. TERRIEN: Yes.

19 20451 MR. AUGER: What day was that?

20 20452 MR. TERRIEN: I'm not sure. I think
21 it was either the Saturday or the Sunday.

22 20453 MR. AUGER: Were you present for that
23 meeting?

24 20454 MR. TERRIEN: No, I was not.

25 20455 MR. AUGER: You will recall that the

1 Savoy Hotel was situated on a world-famous square in
2 Switzerland -- in Zurich?

3 20456 MR. TERRIEN: Well, I didn't know
4 that it was a world-famous square, but it was a square.

5 20457 MR. AUGER: This is a square where
6 there are major banks, including the Swiss Bank
7 Corporation and the Credit Suisse at the time.

8 20458 Do you remember that?

9 20459 MR. TERRIEN: I vaguely remember that
10 there were an awful lot of banks in Zurich.

11 20460 MR. AUGER: Thank you, Commissioner,
12 those are my questions.

13 20461 COMMISSIONER OLIPHANT: Thank you
14 very much, Mr. Auger.

15 20462 Any re-direct?

16 20463 MR. BATTISTA: No, Commissioner.

17 20464 COMMISSIONER OLIPHANT: Is there any
18 reason why Mr. Terrien ought not to be excused at this
19 point?

20 20465 MR. BATTISTA: No reason.

21 20466 COMMISSIONER OLIPHANT: Mr. Terrien,
22 merci beaucoup.

23 20467 M. TERRIEN: Bienvenue.

24 20468 COMMISSIONER OLIPHANT: Thank you for
25 coming, sir. You are free to leave. I take it that's

1 the work of the Commission for the day --

2 20469 MR. BATTISTA: That's it for the
3 day --

4 20470 COMMISSIONER OLIPHANT: -- and the
5 week.

6 20471 MR. BATTISTA: -- and the week.

7 20472 COMMISSIONER OLIPHANT: And we will
8 commence at 9:30 on Monday morning with Mr. Fred
9 Doucet.

10 20473 MR. BATTISTA: That's correct.

11 20474 COMMISSIONER OLIPHANT: All right.
12 Thank you very much, counsel. Have a good weekend.
13 Good afternoon.

14 --- Whereupon the hearing adjourned at 4:26 p.m., to
15 resume on Monday, April 27, 2009 at 9:30 a.m. /
16 L'Audience est ajournée à 16 h 26, pour reprendre
17 le lundi 27 avril 2009 à 9 h 30

18

19

20 We hereby certify that we have accurately
21 transcribed the foregoing to the best of
22 our skills and abilities.

23

24 Nous certifions que ce qui précède est une
25 transcription exacte et précise au meilleur

1 de nos connaissances et de nos compétences.

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