



Government  
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Gouvernement  
du Canada

**Report of the Independent Advisor  
into the Allegations Respecting  
Financial Dealings Between  
Mr. Karlheinz Schreiber and  
the Right Honourable Brian Mulroney**

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Public Works and Government Services, 2008

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Independent Advisor into  
the Allegations Respecting  
Financial Dealings Between  
Mr. Karlheinz Schreiber and  
the Right Honourable Brian Mulroney

Conseiller indépendant  
concernant les allégations au sujet  
des transactions financières entre  
M. Karlheinz Schreiber et  
le très honorable Brian Mulroney

January 9, 2008

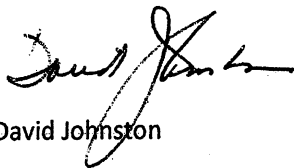
The Right Honourable Stephen Harper,  
Prime Minister of Canada,  
80 Wellington Street,  
Ottawa, ON K1A 0A2

Dear Prime Minister:

On November 14, 2007, by Order in Council, you asked me to take on a task. The attached report completes that task.

I am honoured to be of service to Canada. Please let me know if I can be helpful in any further way.

Yours sincerely,



David Johnston

## 1. INTRODUCTION

Karlheinz Schreiber, a businessman with dual Canadian-German citizenship, is under investigation by German authorities and currently in the process of being extradited from Canada. Mr. Schreiber filed an affidavit sworn on November 7, 2007, in a civil lawsuit he brought against former prime minister Brian Mulroney. This affidavit is attached as Schedule 1. In his statement of claim, Mr. Schreiber alleged that Mr. Mulroney was paid \$300,000, but performed no services for the funds. In his affidavit, Mr. Schreiber swore that on June 23, 1993, he met with the prime minister at the latter's official summer residence at Harrington Lake and entered into an agreement.

Mr. Schreiber also swore that Mr. Mulroney agreed to perform certain services on Mr. Schreiber's behalf, in particular, to support the latter's efforts in obtaining approval of the establishment of a light armoured vehicle facility in either Nova Scotia or Quebec.

Mr. Schreiber swore that on each of three occasions, August 27, 1993, December 18, 1993 and December 8, 1994, he handed Mr. Mulroney an envelope containing \$100,000 in cash.

In Mr. Schreiber's affidavit, he disclosed that he wrote to Prime Minister Harper on March 29, 2007 enclosing a letter that he had previously sent to Mr. Mulroney on January 29, 2007. The enclosed letter to Mr. Mulroney referred to the Harrington Lake agreement reached while Mr. Mulroney was still prime minister.

Concerns were raised both in Parliament and by the media about the payments and the Government's handling of the allegations contained in the March 29, 2007 letter. Currently, the House of Commons Committee on Access to Information, Privacy and Ethics (the "Ethics Committee") is conducting hearings on the issue of Mr. Mulroney's relationship with Mr. Schreiber and the cash payments. These hearings were held on November 29, December 4, 6, 11 and 13, 2007; they have been adjourned for the holiday period and are scheduled to resume in late January or early February 2008.

On November 14, 2007, before the Ethics Committee stated that it would hold hearings, Prime Minister Harper announced my appointment as Independent Advisor to conduct

an independent review of allegations respecting the financial dealings between Mr. Schreiber and Mr. Mulroney, and to make recommendations for an appropriate mandate for a public inquiry. Attached as Schedule 2 are my Terms of Reference.

My counsel and I have reviewed extensive materials, received detailed briefings from the RCMP and spoken with Government officials and other interested persons with knowledge of the matters in issue to inform my recommendations.

Since that appointment, both Mr. Schreiber and Mr. Mulroney have testified before the Ethics Committee. Mr. Schreiber testified under oath. Mr. Mulroney testified under the acknowledged general expectation that witnesses appearing before the committees will testify in a truthful and complete manner.

In my work to fulfill my mandate under the Terms of Reference, I have concluded that the concerns of many Canadians arose from the fact that a former prime minister took large cash payments from someone now implicated in questionable transactions, and whose extradition for various charges has been sought and obtained by the Government of Germany. The suspicions raised by these cash payments were compounded by Mr. Mulroney's silence on the matter. As Mr. Mulroney acknowledged before the Ethics Committee, taking those cash payments "created an impression of impropriety". As the stories about the cash payments became more and more widely reported, and as they remained unanswered by Mr. Mulroney himself, suspicions among Canadians intensified. Mr. Mulroney told the Ethics Committee that the circumstances that led to this "impression of impropriety" amounted to a serious error in judgment on his part. Mr. Mulroney also acknowledged that it had been an "unwise decision" to remain silent on these matters.

My analysis of the Terms of Reference for the public inquiry that the Government announced it intended to call led me to the conclusion that one important element of that inquiry — perhaps the most important element — was to let Canadians hear from their former prime minister about these suspicious dealings with Mr. Schreiber. As Mr. Mulroney indicated in his testimony before the Ethics Committee, the concern is that the transactions involving the cash payments that created an impression of impropriety could reflect adversely on the high office of prime minister. Now that Mr. Mulroney has made his statement and answered the initial

questions of the Ethics Committee members,<sup>1</sup> the landscape has changed. Whether the Government would call an inquiry today and whether Canadians would see the pressing need for such an inquiry are questions that naturally arise by reason of this changed landscape. I have not been asked to express a definitive opinion on either of these questions but I provide some reflections later in this report.

Let me now proceed to outline my review on the mandate I have been given.

I have considered the following:

1. The nature of a public inquiry;
2. The known facts; and
3. The issues of public concern.

## **2. NATURE OF A PUBLIC INQUIRY**

It is well established that a public inquiry is neither a criminal trial nor a civil action to determine liability. It is a process by which facts are found, the public can be informed and recommendations for corrective action can be considered and made.

As Justice Cory said in *Phillips v. Nova Scotia (Westray Mine Tragedy)*:

One of the primary functions of public inquiries is fact-finding. They are often convened, in the wake of public shock, horror, disillusionment, or scepticism in order to uncover “the truth”. Inquiries are, like the judiciary, independent; unlike the judiciary they are often endowed with wide-ranging investigative powers. In following the mandates, commissions of inquiry are, ideally, free from partisan loyalties and better able than Parliament or the legislatures to take a long-term view of the problem presented. Cynics decry public inquiries as a means used by the government to postpone acting in circumstances which often call for speedy action. Yet, these inquiries can and do fulfil an important function

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<sup>1</sup> The Chair of the Committee said the Committee may call him back for further testimony in February 2008.

in Canadian society.... They are an excellent means of informing and educating concerned members of the public.<sup>2</sup>

In the present case, we are not faced with a recent cataclysmic event such as a mine collapse, an airline crash or a train derailment. The matters concerning Messrs. Schreiber and Mulroney have been addressed publicly from time to time, over many years, and in many different contexts, including media coverage, court cases and RCMP investigations. We are not here faced with the need for an inquiry “in the wake of public shock [or] horror” arising from some recent surprising and tragic event. The trigger for this inquiry appears to be the revelation, made publicly for the first time in Mr. Schreiber’s November 7, 2007 affidavit, that some of the dealings between the two men occurred at a meeting at Harrington Lake while Mr. Mulroney was still prime minister. As well, Mr. Schreiber sent correspondence, addressed to Prime Minister Harper, containing this information, in March 2007. In my view, these ‘new facts’ do not now justify a wide-ranging, unfocused inquiry into all of the matters that Messrs. Schreiber’s and Mulroney’s names have been associated with over these many years, in the many different contexts referred to above.

As noted above, when it comes to dealings involving Mr. Schreiber and Mr. Mulroney, much has been alleged, litigated, written about and investigated for the past decade. Taking the allegation that bribes were paid to Mr. Mulroney in respect of Air Canada’s deal with Airbus Industrie, both Mr. Mulroney and Mr. Schreiber have steadfastly denied that allegation. The RCMP spent eight years investigating that matter and closed its file because it found insufficient evidence to proceed. Libel litigation over the allegation was settled by the Government of Canada, and a complete apology was given to Mr. Mulroney for making such an allegation in the Government’s Letter of Request for Assistance to Swiss authorities (the “LOR”). I would not recommend terms of reference that charge a Commissioner today with the task of holding an inquiry to go over this well-tilled ground. The public inquiry should not be used to repeat what has already been done in the extensive RCMP investigation and other

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<sup>2</sup> *Phillips v. Nova Scotia (Commission of Inquiry into the Westray Mines Tragedy)*, [1995] 2 S.C.R. 97 at para. 62, adopted in *Canada (Attorney General) v. Canada (Commissioner of the Inquiry on the Blood System)*, [1997] 2 F.C. 36 at para. 30; *Boyle v. Canada (Commission of Inquiry into the Deployment of Canadian Forces in Somalia - Letourneau Commission)*, [1997] A.C.F. No. 942 at para. 18; *Canada (Attorney General) v. Canada (Commission of Inquiry on the Blood System)* (1997), 151 D.L.R. (4th) 1 at para. 30; *Beno v. Canada (Attorney General)*, [2002] 3 F.C. 499 at para. 105.

litigation and investigations that have been pursued for many years without leading to any charges. My view would be different if there existed significant evidence that had only now come to light. In my investigation I have found no such evidence. In my view there must be more precise questions put before the Commissioner — questions that legitimately engage the public interest at present.

As courts and commentators have cautioned, inquiries must proceed carefully to avoid excessive costs, delay and, as Justice Cory points out, “unduly rigid procedures or lack of focus.” The inquiry should be neither open-ended nor called to review ground that has already been extensively reviewed in other investigations. The purpose of this public inquiry must be to establish facts that remain unexamined and in respect of which there is a legitimate public interest. The point of doing so is to ascertain what lessons can be learned from those facts. As Justice Cory notes, such inquiries are held in order to fulfil an important function in Canadian society. They should not be permitted to become expensive, lengthy, unfocused reviews of vague allegations or of issues driven by partisan politics rather than public interest. They use considerable resources. They can dominate public debate, monopolize media coverage and detract from other important issues. It is imperative, therefore, that the inquiry be structured in such a way that it answers important questions of real public interest; that it not become mired in a history that has been investigated and explored for years; and that it not be permitted to be used by various groups or factions for their own, as opposed to the public’s legitimate, purposes.

As a previous Independent Advisor to the Government has noted, the public is concerned that the inquiry not become “a ‘circus of lawyers’, that it be timely and that it produce results.”<sup>3</sup> This requires focused questions and a strong Commissioner who will keep the process on track.

### **3. THE KNOWN FACTS**

The relationship between Mr. Mulroney and Mr. Schreiber has a long history, spanning over 25 years. In light of Mr. Schreiber’s recent assertions, the details of their dealings

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<sup>3</sup> The Honourable Bob Rae, *Lessons To Be Learned* (Ottawa: Air India Review Secretariat, 2005) at 27, reporting on questions with respect to the bombing of Air India flight 182.



have become the subject of renewed public attention. Many of these details have already been publicized. The RCMP conducted an extensive investigation from 1995 to 2003 into Mr. Schreiber's business dealings — an investigation that resulted in the collection of up to 100,000 documents and no prima facie conclusions of illegal conduct on Mr. Mulroney's part. Fraud charges were laid against Eurocopter Canada Limited as a result of the RCMP's investigation, but the court decided against a committal for trial. Civil litigation has also arisen out of these matters: Mr. Mulroney commenced a libel suit against the federal Government on November 20, 1995, and on April 20, 2007, Mr. Schreiber sued Mr. Mulroney claiming a return of the \$300,000. Aside from all this, facts have been publicized by comprehensive media coverage and four full-length books on the topic.<sup>4</sup>

The following facts are known:

**A. Relevant Corporate Entities and Agreements**

1. *International Aircraft Leasing ("IAL")*

IAL, of Liechtenstein, was controlled by Mr. Schreiber. On March 7, 1985, IAL entered into a contract with Airbus Industrie, whereby IAL would be paid commission for planes sold in Canada.

2. *Messerschmitt-Bolkow-Blohm GmbH ("MBB") and Eurocopter Canada Limited ("Eurocopter")*

On February 19, 1985, MBB, a West German helicopter manufacturing company, agreed to pay IAL commissions for the sale of MBB helicopters to the Canadian Government, which occurred on May 3, 1985. The Canadian Coast Guard contracted to purchase helicopters and equipment from Eurocopter Canada Limited, a Canadian subsidiary of MBB, formerly named Messerschmidt Canada Limited (the "MBB deal"). The contract contained a clause

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<sup>4</sup> Stevie Cameron, *On the Take: Crime, Corruption and Greed in the Mulroney Years* (Toronto: Macfarlane Walter & Ross, 1994); William Kaplan, *Presumed Guilty: Brian Mulroney, the Airbus Affair, and the Government of Canada* (Toronto: McClelland & Stewart Inc., 1998); Stevie Cameron & Harvey Cashore, *The Last Amigo: Karlheinz Schreiber and the Anatomy of a Scandal* (Toronto: Macfarlane Walter & Ross, 2001); and William Kaplan, *A Secret Trial: Brian Mulroney, Stevie Cameron, and the Public Trust* (Montreal & Kingston: McGill-Queen's University Press, 2004).

banning Eurocopter from paying bribes, commissions or other inducements to help secure the sale.

3. *Government Consultants International Incorporated ("GCI")*

GCI, a Canadian lobbying firm, worked with Mr. Schreiber to lobby on behalf of MBB, Airbus Industrie and Thyssen Industrie AG. Frank Moores<sup>5</sup> controlled GCI. In March 1985, the Governor in Council appointed Mr. Moores to the Air Canada board of directors. He resigned from that position in September 1985 after reports of conflict of interest.

4. *Thyssen Industrie AG ("Thyssen") and Bear Head Manufacturing Industries Inc. ("BMI")*

In November 1985, Thyssen, of West Germany, formed a Canadian company, BMI, to establish a light armoured vehicle facility in Cape Breton, Nova Scotia (the "Bear Head Project"). It was expected that the Project would be sponsored by the Canadian Government. Mr. Schreiber, who was the only director of BMI, also controlled Bear Head Industries, a Canadian firm created to lobby in Ottawa for Thyssen's Bear Head Project.

On September 27, 1988, the federal Government signed an Understanding in Principle with Thyssen to support the Project. In the early 1990s, public opposition to the Project and internal Government review resulted in its cancellation by the Mulroney Government. In a May 1992 letter, Mr. Schreiber attempted to persuade Mr. Mulroney to move the Project to Quebec, but this never occurred.

5. *Airbus Industrie*

After an extensive evaluation process, the board of directors of Air Canada approved the purchase of 34 A320 aircraft from Airbus Industrie, an aircraft manufacturer based in Europe, for approximately \$1.8 billion on March 30, 1988 (the "Airbus deal"). Because Air Canada was a Crown corporation at the time, the deal required approval by the Treasury Board of Canada, which consisted of senior Government officials appointed by Mr. Mulroney. On

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<sup>5</sup> Mr. Moores was the Premier of Newfoundland from 1972 to 1979, leader of the Progressive Conservative Party of Newfoundland from 1970 to 1979, a Member of Parliament from 1968 to 1979, and became the principal of GCI in 1985.

September 26, 1988, after receiving approval from the Treasury Board, Air Canada signed a contract with Airbus Industrie for the Airbus deal. Airbus Industrie paid IAL substantial commission for the deal, believed by the RCMP to be approximately \$20 million.

## **B. The RCMP Investigations**

From January through May 1995, several media reports emerged in both Germany and Canada that contended that illegal commission payments had been made to ensure that Air Canada reached a contract with Airbus Industrie and that inappropriate relationships existed between recipients of the commissions and Government officials.

In early January 1995, the RCMP began inquiring into the Airbus deal to determine whether sufficient information existed to warrant a full criminal investigation. Later that year, the inquiry developed into a full criminal investigation into the Airbus deal and eventually into an investigation into both the MBB and Bear Head Project deals based on information received by the RCMP.

On September 29, 1995, the Canadian Department of Justice (the "DOJ") sent the LOR. The LOR sought assistance in the RCMP investigation and asked the Swiss to share records and freeze bank accounts allegedly linked to the Airbus, MBB and Bear Head Project deals. The LOR also named Messrs. Schreiber, Moores and Mulroney, and sought information into activities allegedly committed by the three while Mr. Mulroney was prime minister. The DOJ sent a follow-up letter in November 1995 to Swiss authorities underscoring that the LOR contained only unproven allegations and that the matter was to be treated as confidential.

As a result of legal challenges to the LOR, the DOJ sought a suspension of the request for assistance from Swiss authorities in August 1996. In May 1998, the Supreme Court of Canada ultimately ruled that federal authorities did not need prior judicial approval before sending the LOR and that Mr. Schreiber's rights were not violated by sending the letter to Swiss authorities.<sup>6</sup>

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<sup>6</sup> Subsequently, the DOJ revised its procedures for handling international requests for assistance, including that such requests would be reviewed at more senior levels.

On August 27, 1999, a German arrest warrant for Mr. Schreiber arrived in Canada. On August 31, 1999, Mr. Schreiber was arrested in Toronto on the German warrant. Mr. Schreiber's arrest and pending extradition to face the charges in Germany resulted in eight years of protracted litigation and challenges to his extradition, which continue to the present.

With investigations ongoing with respect to the Airbus, MBB and Bear Head Project deals in Canada, the RCMP obtained a search warrant on December 8, 1999 to raid the Eurocopter headquarters in Fort Erie, Ontario. The RCMP sought information on illegal activity with respect to the purchase of MBB helicopters for the Canadian Coast Guard. The largest raid took place on December 13, 1999.

On April 26, 2001, the RCMP received the last of the documents and banking records sought in the 1995 LOR.

In October 2002, as a result of the RCMP's investigation into the MBB deal, Eurocopter and two German MBB executives, Kurt Pfleiderer and Heinz Pluckthun, were charged with fraud, pursuant to the Canadian *Criminal Code*, section 380. The prosecutions were ultimately dismissed.

On April 22, 2003, after an investigation spanning more than eight years, involving a complete review of all the available evidence and extensive interviews, the RCMP announced that it had completed its investigations into the Airbus, MBB and Bear Head Project deals, noting that the bribery allegations could not be proven and that no charges beyond the Eurocopter fraud charges would be laid.

### **C. Other Legal Proceedings**

#### **1. Eurocopter Case**

A preliminary inquiry was held before Justice Bélanger of the Ontario Court of Justice in the Eurocopter fraud case. After more than 50 days of evidence and submissions, Justice Bélanger dismissed it on November 25, 2005.

The Crown's theory was that Eurocopter defrauded the federal Government in the MBB deal. The Crown alleged that to help secure the deal with the Canadian Coast Guard,

MBB made secret commission payments to GCI, funnelled through IAL, and that some of these payments had also been made to Government officials. The contract in the MBB deal, which was between Eurocopter and the Coast Guard, strictly prohibited engaging a lobbyist. The Crown was able to show that MBB paid IAL to lobby the Canadian Government on its behalf. The defence argued that MBB was not acting as an agent of Eurocopter when it employed IAL's services and, as a result, Eurocopter did not breach its contract with the Coast Guard.

Justice Bélanger agreed with the defence and dismissed the case, finding that there was no evidence that secret commission payments were made to Government officials to secure the MBB deal, as the Crown alleged. His Honour found that Eurocopter and MBB may have "acted sharply or somewhat less than ethically" by not revealing the existence of MBB's agreement with IAL, but the contract had not been breached and no crime had been committed.

In December 2005, the Crown sought judicial review of Justice Bélanger's decision. The Crown's application was dismissed by Justice Ratushny of the Ontario Superior Court of Justice in a decision dated August 9, 2006. Justice Ratushny found that the Crown had not established that the federal Government suffered financial loss as a result of the alleged contract breach — an essential element of fraud. The Crown did not appeal further.

## 2. *Mulroney's Libel Suit Against the Canadian Government*

On November 20, 1995, Mr. Mulroney filed a statement of claim against the federal Government, seeking \$50 million in damages for libel. The claim arose from information contained in the LOR. The LOR included serious, unsubstantiated allegations that Mr. Mulroney had received kickbacks as a result of the Airbus, MBB and Bear Head Project deals. The LOR's contents were leaked and published in the media earlier that year. The case eventually settled in January 1997. The federal Government agreed to pay Mr. Mulroney's legal fees and other professional fees, assessed at \$2.1 million by an arbitrator.

In Mr. Mulroney's examination for discovery in April 1996, he testified that he met with Mr. Schreiber for coffee on one or two occasions after stepping down as prime minister, but he was not specifically questioned about his financial dealings with Mr. Schreiber after leaving public office and made no mention of the cash payments.

3. *Schreiber's Lawsuit Against Mulroney*

On March 23, 2007, Mr. Schreiber served his statement of claim on Mr. Mulroney, in which he claimed \$300,000 plus interest against the former prime minister. Mr. Schreiber alleged that Mr. Mulroney failed to provide services related to the Bear Head Project in exchange for payment of \$300,000. Mr. Mulroney has publicly dismissed Mr. Schreiber's action as groundless. Mr. Schreiber's November 7, 2007 affidavit set out the circumstances in which he says he made payments to Mr. Mulroney and described his recent correspondence with Government officials.

In a decision released on December 20, 2007, the action was dismissed by Justice Cullity of the Ontario Superior Court of Justice on the ground that the court had no jurisdiction over the matter.

**D. The Cash Payments to Mulroney**

As of December 13, 2007, both Mr. Schreiber and Mr. Mulroney have testified before the Ethics Committee. Although the Committee has not completed its work and further testimony may be submitted, Messrs. Schreiber and Mulroney have had the opportunity to explain the circumstances surrounding the cash payments. A brief summary of the evidence given is attached as Schedule 3. As can be seen from Schedule 3, there are a number of conflicts and inconsistencies in the accounts disclosed thus far.

Mr. Mulroney and Mr. Schreiber do agree on certain parts.

Both Mr. Schreiber and Mr. Mulroney have acknowledged that they met on June 23, 1993 at Harrington Lake while Mr. Mulroney was still in office as prime minister.

Mr. Mulroney entered into an arrangement to perform certain services for Mr. Schreiber, although they disagree over the terms of their agreement and when it was made.<sup>7</sup> Sometime after they entered into that deal, Mr. Mulroney's mandate was expanded to assist with Mr. Schreiber's new Canadian business venture involving pasta.

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<sup>7</sup> See Schedule 3.

Mr. Schreiber paid Mr. Mulroney a retainer for his services after he stepped down as prime minister. The retainer was paid in three cash installments when the two men met in hotels. The first cash payment was made on August 27, 1993 at a hotel in Mirabel, Quebec, when Mr. Mulroney was still a Member of Parliament for the Charlevoix, Quebec riding. Mr. Schreiber made two more cash payments to Mr. Mulroney after he left public office: one at the Queen Elizabeth Hotel in Montreal in December 1993, and another at the Pierre Hotel in New York in December 1994. At each of these meetings, Mr. Mulroney accepted cash contained in an envelope from Mr. Schreiber.

Mr. Mulroney explained that he deposited the cash that Mr. Schreiber gave him at the Pierre Hotel in a safety deposit box in New York, and he placed the cash he received at his first two meetings with Mr. Schreiber in a safe inside his Montreal home.

Mr. Mulroney also stated that he neither provided accounting records to Mr. Schreiber for his services nor asked where the retainer money came from; but he maintained that his agreement with Mr. Schreiber was lawful and conformed with the ethical rules he followed.

Prior to his attendance before the Ethics Committee, Mr. Mulroney had never personally explained the circumstances surrounding the cash payments. However, Mr. Mulroney's spokespersons made various statements with respect to the payments. Not all of these statements can be reconciled with Mr. Mulroney's testimony before the Ethics Committee.<sup>8</sup>

#### **E. Disclosure Issues**

A number of issues arise from the lack of disclosure surrounding the transactions. As Mr. Mulroney noted before the Ethics Committee, the method of payment lacked transparency. No records of the payments exist. No records of expenses still exist. No written reports were made. Income tax declarations were not made until 1999.

At the Ethics Committee hearing, Mr. Mulroney explained that he spent approximately \$40,000 of the retainer money on travel and related expenses he incurred in

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<sup>8</sup> See Schedule 4 for statements by Mr. Mulroney's spokespersons.

performing his services for Mr. Schreiber overseas. In 1999, when Mr. Schreiber was arrested pursuant to an extradition warrant from Germany, Mr. Mulroney filed a voluntary late disclosure of the retainer for tax purposes. He explained that he declared the entire amount that he said he received in cash (viz, \$225,000) as income to Quebec and federal tax authorities, and chose not to deduct the \$40,000 he had incurred in expenses. Mr. Mulroney stated: "I absorbed the money that I legitimately spent on my expenses. I took it for my own account. In other words, I did not take the legitimate expenses. I filed for the full amount and paid full tax on it." He also added: "I didn't want questions coming from anywhere — God knows there are right now — but I wanted it all to be resolved in favour of Canadian and Quebec taxes. That's why I declared all the expenses as income and I paid the bills."

Other disclosure issues have also been raised. Mr. Schreiber has suggested that various attempts have been made to try to cover up the fact of the cash payments. In paragraph 27 of his November 7, 2007 affidavit, Mr. Schreiber stated that at Mr. Mulroney's request, the two men met in a hotel in Zurich, Switzerland, on February 2, 1998, at which time Mr. Mulroney expressed concern over evidence that he had received payments from Mr. Schreiber. Mr. Mulroney has acknowledged that this meeting with Mr. Schreiber occurred, but has not been questioned about the details of what transpired there.

Mr. Schreiber further stated that Mr. Mulroney directly contacted Mr. Schreiber's lawyer, Robert Hladun, on October 17, 1999 to request that Mr. Schreiber provide an affidavit swearing that Mr. Mulroney did not solicit or receive compensation from Mr. Schreiber. Mr. Mulroney confirmed that he called Mr. Hladun on that date, but asserted that he sought to obtain a statement from Mr. Schreiber to the effect that no payments were paid to Mr. Mulroney in relation to the Airbus, MBB or Bear Head Project deals as alleged in the LOR.

Mr. Mulroney cited Mr. Hladun's letter dated January 26, 2000, which refers to involvement "as alleged in the Letter of Request." In addition, Mr. Mulroney cited Mr. Hladun's statements made in his March 17, 2005 letter to the CBC, responding to the *Fifth Estate's* assertion that it had evidence that Mr. Hladun was asked, by Mr. Mulroney, for a statement from Mr. Schreiber indicating that Mr. Mulroney received no money from him. In this letter, Mr. Hladun stated that, to his mind, no such evidence existed because he had never discussed



“compensation” with Mr. Mulroney. Mr. Hladun further stated: “The only conversations I had with anyone were in the context of and limited to the allegations of improper payments made as referenced in the September, 1995, Letter of Request... My retainer was directed to the allegations stated in that Letter of Request.”

Mr. Schreiber stated before the Ethics Committee that Elmer MacKay, the former solicitor general of Canada, drafted a letter that Mr. Schreiber modified and sent to Mr. Mulroney. The letter included an apology from Mr. Schreiber to Mr. Mulroney and stated that Mr. Mulroney was “the best advocate I [Mr. Schreiber] could have retained.” Mr. Schreiber maintained that he agreed to send this letter because he had been told that Mr. Mulroney would show it to Prime Minister Harper, which would help him avoid extradition to Germany. On December 3, 2007, Mr. MacKay admitted to the media that he drafted the letter for Mr. Schreiber in an effort to repair the relationship between Messrs. Mulroney and Schreiber. Mr. Lavoie, Mr. Mulroney’s former spokesperson, has cited the letter to journalists as evidence that there was nothing improper about the cash payments Mr. Mulroney received from Mr. Schreiber.

The lack of transparency resulting from the cash payments, lack of documentation, delay in filing tax returns and allegations of attempts to cover up the fact of the cash payments have increased suspicion and the impression of impropriety. As rumours and media reports and allegations swirled around the two men and their dealings, Mr. Mulroney made no concerted effort to set the record straight or tell his story to the Canadian people. This has led to the heightened concerns about the integrity of these dealings and their appropriateness. The Ethics Committee hearings have now allowed Canadians to hear from the protagonists themselves. Although all details have not been exhaustively explored, Canadians are now in a position to make their own assessment of these events.

#### **4. FACTS THAT HAVE NOT BEEN FULLY EXPLORED**

Although Mr. Schreiber told the RCMP that he had met with Mr. Mulroney while the latter was still prime minister, he said no payments were made until after Mr. Mulroney had left that office. The allegation of a meeting to discuss a business arrangement during Mr. Mulroney’s tenure as prime minister was not generally known despite all the coverage and investigation surrounding the relationship between Messrs. Schreiber and Mulroney. On

December 13, 2007, Mr. Mulroney testified before the Ethics Committee that although the meeting occurred, no business arrangement was concluded. Mr. Schreiber's claim of an agreement with Mr. Mulroney while still in office had been contained in an enclosure to a letter addressed to Prime Minister Harper. As well, William Kaplan in his 2004 book had reported the information concerning the substantial cash payments made to Mr. Mulroney, but there was no information about where the money came from, why it was paid in cash and what, if anything, was done in return for the money. Until his December 13 appearance before the Ethics Committee, Mr. Mulroney had not personally commented on this issue or answered the concerns that arise from these cash payments from Mr. Schreiber, although as noted above Mr. Lavoie had been quoted making various statements about the payments.<sup>9</sup>

At the time of my appointment, Mr. Mulroney had not directly explained his relationship with Mr. Schreiber and, in particular, these unusual cash payments. He has now provided his side of the story to the Ethics Committee. Although a private citizen would not be required to explain private business dealings, there may be a legitimate expectation that a former prime minister will clear up concerns about conduct that is publicly questioned in litigation or by the media. Mr. Mulroney initially welcomed the public inquiry, saying he wished to appear and state his case, and expected to make that case at hearings as part of the public inquiry. Now that he has made his statement and has been questioned at some length by parliamentarians from all parties, the circumstances that prompted his call for a full inquiry have changed.

**A. Schreiber's Correspondence with Government Officials**

*1. The Correspondence Review Process*

As noted above, Mr. Schreiber wrote a letter to Prime Minister Harper in March 2007, enclosing another letter that referenced the Harrington Lake meeting. This letter was part of more than one million pieces of correspondence addressed to the Prime Minister or his office annually.

Between June 2006 and September 2007, the Executive Correspondence Services (the "ECS"), the correspondence management arm of the Privy Council Office (the "PCO")

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<sup>9</sup> See Schedule 4.

comprising 35 full-time employees, received 16 letters from Mr. Schreiber, contained in 15 separate mailings. These letters were vetted and categorized in accordance with the ECS's standard procedure and were tracked using its automated Correspondence Management Information System. The ECS receives a vast amount of correspondence each year. During the last documented 12-month period, which spanned both 2006 and 2007, the ECS received over 1.7 million items of correspondence.

Of the 16 letters received, 10 of the letters remained under the ECS's control and were directed to be filed without response. According to the ECS, these 10 letters did not warrant responses pursuant to standard procedure for the following reasons: first, the letters described matters that were before the courts and it is standard procedure not to comment on ongoing litigation; second, the letters attached copies of letters between Mr. Schreiber and other individuals and it is standard procedure not to reply to letters that are copies.

The ECS sent Mr. Schreiber's November 30, 2006 letter to the PCO, seeking its advice on handling ongoing correspondence from Mr. Schreiber. The letter was reviewed and the Clerk's Office advised the ECS that no response was necessary, and the ECS filed the letter.

The ECS acknowledged Mr. Schreiber's January 16, 2007 letter and forwarded it on to the DOJ for information purposes.

The remaining four letters (June 16, 2006, August 23, 2006, May 3, 2007 and September 26, 2007) were sent to the Prime Minister's Correspondence (the "PMC"), which is a smaller correspondence review arm of the Prime Minister's Office, for its review and comments. From time to time, the ECS sends correspondence to the PMC to give it the opportunity to determine if it wishes to reply to correspondence on a subject on which the ECS received no specific PMC instructions. According to the ECS, these letters were not sent for any particular reason; rather they were chosen from all Mr. Schreiber's letters and sent to the PMC only to receive feedback from its perspective on Mr. Schreiber's correspondence generally on how the correspondence should be handled and to raise any concerns. The PMC did not provide the ECS with any direction on how to handle the correspondence.

The PCO, ECS and PMC, following their respective standard procedures, reviewed Mr. Schreiber's letters in the normal course and all three departments determined that the letters that they reviewed should not be sent to Prime Minister Harper for his review.

Prime Minister Harper has also confirmed that he never received any of Mr. Schreiber's correspondence sent during this period. On November 29, 2007, Mr. Schreiber testified before the Ethics Committee that he has never spoken with or met with Prime Minister Harper.

## 2. *The Schreiber Letters*

The letters sent between June 2006 and September 2007 primarily addressed Mr. Schreiber's claim of a "political justice scandal" against him and Mr. Mulroney, and the "Airbus Affair", and the RCMP. In those letters, Mr. Schreiber attached various pieces of correspondence that he had sent to Government officials over the years, various newspaper articles and summaries of events from his perspective.

In a March 29, 2007 letter to Prime Minister Harper, Mr. Schreiber enclosed a copy of a letter sent to Mr. Mulroney on January 29, 2007. The January 29, 2007 letter stated that he and Mr. Mulroney had reached an agreement on June 23, 1993 at Harrington Lake for services related to the Bear Head Project, while Mr. Mulroney was still prime minister. According to Mr. Schreiber's letter, he and Mr. Mulroney, "agreed to work together and I [Schreiber] arranged for some funds for you [Mr. Mulroney]."

Mr. Schreiber sent additional letters dated April 8 and 10, 2007 to Prime Minister Harper. They primarily discussed his impending extradition to Germany, and provided copies of various correspondence between Mr. Schreiber and Government officials, such as Mr. Mulroney and Ms. Kim Campbell.

## 5. THE ISSUES OF CONCERN

In broad terms there are three issues of concern:

1. the substantial cash payments;

2. the nature of the business and financial relationship between Messrs. Schreiber and Mulroney; and
3. the steps taken by the PCO when it received Mr. Schreiber's March 29, 2007 correspondence.

#### **A. No prima facie Evidence of Criminal Activity**

The RCMP, with knowledge of the cash payments and Mr. Schreiber's assertion that he made an agreement with Mr. Mulroney just before the latter left the prime minister's office, determined there was insufficient evidence to proceed with any charges. The information set out in Mr. Schreiber's November 7, 2007 affidavit caused the RCMP to review its file to determine whether there was any new evidence. After careful review, the RCMP concluded that there was nothing new. As there was no significant new information in Mr. Schreiber's affidavit, its file at this time remains closed. I have not been presented with or discovered any further evidence beyond that known to the RCMP. My terms of reference require that I state whether I have determined if there is prima facie evidence of criminal action. In view of the extensive work done by the RCMP over eight years and my own review, my answer is no.<sup>10</sup>

#### **B. Remaining Concerns**

Despite the closure of the RCMP file, there remain public concerns expressed in the media, in Parliament and by Canadians concerning Mr. Mulroney's receipt of cash from Mr. Schreiber, and the appropriateness of their dealings. Was there an agreement between them? What was the agreement? Why was it entered into? When was it entered into? Was it appropriate? Prior to the Ethics Committee hearings, there had been insufficient disclosure of the facts surrounding these payments to allay public concern about their integrity and propriety. Prior to Mr. Mulroney's testimony, the former prime minister had provided no clear explanation

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<sup>10</sup> Despite Mr. Schreiber's recent statements before the Ethics Committee to the contrary, the RCMP advises that Mr. Schreiber and his counsel were interviewed several times over the course of the RCMP's investigation. On a number of occasions between August 1999 and September 2004, the RCMP spoke directly with Mr. Schreiber in courtrooms, hotels and over the telephone; they met with Edward Greenspan, Mr. Schreiber's counsel, on August 30, 2000, September 19, 2000 and October 10, 2000; and on March 17, 2006, the RCMP met with both Mr. Schreiber and Mr. Greenspan.

of their nature and details. Numerous details have yet to be explored, and the Ethics Committee chair has indicated that Mr. Mulroney may be asked to return for further questioning.

The issue I have struggled with is whether and to what extent a public inquiry exploring these further details would be in the public interest, keeping in mind the purpose and constraints on such inquiries. The answer depends on what public interest is legitimately engaged by the exploration of these events. In my view, the public interest issue is the integrity of Government and whether there was a breach of constraints; and if not, whether there is a need for further constraints on former high office holders after they leave office.

### **C. Existing Constraints**

A regime is currently in place to regulate the activities of lobbyists. Ethics rules also apply to parliamentarians under the *Conflict of Interest Act*, the *Conflict of Interest Code for Members of the House of Commons*, and the *Parliament of Canada Act*, specifically section 41. There were also rules that applied in 1993 under the *Parliament of Canada Act* and the *Conflict of Interest and Post-Employment Code for Public Office Holders*.

In 1993, subsection 41(1) of the *Parliament of Canada Act* prohibited any member of the House of Commons from receiving or agreeing to receive compensation for services rendered or to be rendered to anyone, “in relation to any bill, proceeding, contract, claim, controversy, charge, accusation, arrest or other matter before the Senate or the House of Commons or a committee of either House” or “for the purpose of influencing or attempting to influence any member of either House.” Contravention of this rule amounted to an offence punishable by a fine and disqualification “from being a member of the House of Commons and from holding any office in the public service of Canada.” Moreover, the Act made it an indictable offence, punishable by fine or imprisonment, for any person to give, offer or promise compensation to a member of the House of Commons for services described in subsection 41(1).

The *Parliament of Canada Act* and the *Conflict of Interest and Post-Employment Code for Public Office Holders* were introduced by the Mulroney Government in 1985. For the first time, the 1985 ethics code regulated inappropriate activities of senior public office holders that fell short of criminal wrongdoing and established conflict of interest and post-employment

guidelines for those individuals. While the code applied to Ministers of the Crown and other high ranking public officials, it did not govern Members of Parliament. The code was slightly modified in June 1994 under Prime Minister Chrétien's Liberal Government and more extensively by Prime Minister Martin, before it was made even more stringent by Prime Minister Harper's current Conservative Government. As a result, the 1985 code, described below, applied to Mr. Mulroney during his term as prime minister and remained in force until June 1994, one year after his term ended.

The following principles are identified in the 1985 ethics code: "public office holders have an obligation to act in a manner that will bear the closest of public scrutiny, an obligation that is not fully discharged by simply acting within the law"; "on appointment to office, and thereafter, public office holders shall arrange their private affairs in a manner that will prevent real, potential or apparent conflicts of interest from arising but if such a conflict does arise... the conflict shall be resolved in favour of the public interest"; "public office holders shall not step out of their official roles to assist private entities or persons in their dealings with the Government where this would result in preferential treatment to any person"; "public office holders shall not knowingly take advantage of, or benefit from, information that is obtained in the course of their official duties and responsibilities and that is not generally available to the public"; and "public office holders shall not act, after they leave public office, in such a manner as to take improper advantage of their previous office."

Under Part II of the code, Ministers of the Crown were required to arrange their private affairs so as to avoid conflicts of interest. They were prohibited from serving as paid consultants outside their official duties, except in exceptional circumstances under which those services related to the public office holder's official duties. With few exceptions, Ministers of the Crown could not accept money or gifts from outsiders while in office, and they had public disclosure obligations in that regard. Ministers of the Crown were also required to "take care to avoid being placed or the appearance of being placed under an obligation to any person or organization that might profit from special consideration on the part of the office holder" and avoid according preferential treatment to anyone.

The object of Part III of the 1985 ethics code was to ensure that former senior public officials did not take improper advantage of their previous positions and, in particular, to minimize the possibilities of “allowing prospects of outside employment to create a real, potential or apparent conflict of interest for public office holders while in public office; obtaining preferential treatment or privileged access to Government after leaving public office; taking personal advantage of information obtained in the course of official duties and responsibilities until it has become generally available to the public; and using public office to unfair advantage in obtaining opportunities for outside employment.”

Under Part III of the ethics code, prior to leaving office, Ministers of the Crown were required to disclose to the prime minister any offers of outside employment that could place them in a conflict of interest. In any event, Ministers of the Crown were to disclose to the prime minister any job offer that they had accepted, and if it was determined that the public official was “engaged in significant official dealings with the future employer, the public office holder shall be assigned to other duties and responsibilities as soon as possible.” Then, the period of time spent in public office following such an assignment would be counted towards the limitation period imposed on prohibited activities after leaving office, described below.

After leaving office, a former Minister of the Crown was forever prohibited from acting “for or on behalf of any person, commercial entity, association or union in connection with any specific ongoing proceeding, transaction, negotiation or case to which the Government is party,” with regard to which “the former public office holder acted for or advised a department,” and “which would result in the conferring of a benefit not for general application or of a purely commercial or private nature.” Other prohibited activities after leaving public office were subject to a limitation period under section 60 the 1985 code, which read:

Former public office holders [which definition does not include Members of Parliament], except for Ministers of the Crown for whom the prescribed period is two years, shall not, within a period of one year after leaving office,

- (a) accept appointment to a board of directors of, or employment with, an entity with which they had significant official dealings during the period of one year immediately prior to the termination of their service in public office;
- (b) make representations for or on behalf of any other person or



entity to any department with which they had significant official dealings during the period of one year immediately prior to the termination of their service in public office; or  
(c) give counsel, for the commercial purposes of the recipient of the counsel, concerning the programs or policies of the department with which they were employed, or with which they had a direct and substantial relationship during the period of one year immediately prior to the termination of their service in public office.

Under section 61 of the code, the employment limitation period under section 60 could be reduced upon application by the public office holder to the “designated authority”, which in the case of a Minister of the Crown, was the prime minister.

Senior public officials who failed to comply with the 1985 ethics code were “subject to such appropriate measures as may be determined by the designated authority, including, where applicable, discharge or termination of appointment.”

#### **D. Examining the Adequacy of the Constraints**

Once the facts are determined regarding the relationship between Mr. Schreiber and Mr. Mulroney and their business and financial dealings, specifically the payments to Mr. Mulroney and their rationale, the Commissioner can determine whether the conduct complied with the applicable ethical rules in place in 1993 and 1994. The Commissioner can also determine whether the conduct would comply with current rules, and then consider whether there should be further rules governing the conduct of former politicians.

These are concerns about the integrity of high-level government officials. The key issue is the relationship between Mr. Mulroney and Mr. Schreiber that led to cash payments. An inquiry should not be a wide-ranging review of Airbus, Eurocopter, the Bear Head Project or any of Mr. Schreiber’s other dealings. To launch a public inquiry into those matters would be tantamount to reopening the extensive RCMP investigation that reviewed these dealings in detail to determine if evidence existed on which criminal charges could be based, something that a public inquiry is not permitted to do.

In determining the scope of any public inquiry, the Government must make a ‘cost benefit analysis’ to determine how wide-ranging the public inquiry should be. In this case,

I conclude that the integrity concerns described above do not warrant a lengthy inquiry into matters that have been investigated by the RCMP since 1995. Nor should there be an inquiry with respect to facts already known. Focused questions and a strong Commissioner who can maintain that focus are essential if this inquiry is to avoid becoming an excessive and expensive exploration of ground already covered, which will not answer the legitimate concerns the public has about whether these dealings were ethical.

## 6. FORM OF THE INQUIRY

My terms of reference refer to “a formal public inquiry”. I take this to mean an inquiry under the *Public Inquiries Act*, with full subpoena powers. Under the Act, the Commissioner can determine his or her own procedures. The Commissioner’s staff can review such documents as are necessary to provide the background required to examine the relevant questions and can hold hearings to hear from Mr. Schreiber, Mr. Mulroney and such other witnesses as the Commissioner deems necessary. I believe the inquiry can be efficient and focused, without the need for numerous interveners. The inquiry can and should steer clear of partisan political positions since the advance of such positions is not the purpose of the inquiry and would be contrary to the public interest.

Although, as the Supreme Court of Canada noted, the inquiry cannot make findings of criminal or civil liability, it can evaluate and interpret factual findings and make findings “that there has been a failure to comply with a certain standard of conduct, so long as it is clear that the standard is not a legally binding one...[.]”<sup>11</sup> The Federal Court of Appeal has stated that the “standard may be moral, legal, scientific, social or political” and that “a conclusion that someone breached his duty does not necessarily mean that the individual in question broke the law. It simply means that the individual failed to meet a standard proposed by the Commissioner.”<sup>12</sup>

The focus of this inquiry is to consider whether the appropriate standards of conduct were met in the circumstances found by the Commissioner.

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<sup>11</sup> *Canada (AG) v. Canada (Commission of Inquiry on the Blood System)* (1997), 151 D.L.R. (4th) 1 at para. 57.

<sup>12</sup> Quoted *ibid.* at para. 19.

### **A. Other Options — Building on the Ethics Committee Testimony**

In view of the Ethics Committee hearings, it is open to conclude that extensive evidence and lengthy hearings would not be productive. That is not to say that all the questions have been asked that could have been asked or that all inconsistencies have been or will be resolved; but after the Ethics Committee completes its work, the essential facts of the Schreiber/Mulroney business relationship and the significant cash payments may have been determined as far as they usefully can be.<sup>13</sup> What remains to be analyzed is whether, based on the facts as reasonably determined, there is need for further guidelines dealing with former high office holders. Should there be additional guidelines for international transactions? Is there an issue about the way in which former prime ministers or other high officials trade on their former power or positions? How does one prevent improper advantage being taken of former high office? Should one define what improper advantage is?

An option that the Government may wish to consider is an inquiry under the *Inquiries Act* in which the Commissioner is instructed to consider the testimony already given before the Ethics Committee, working largely from that testimony. The Commissioner would not be limited to that testimony and could hold such further hearings as he or she deems necessary. The Commissioner's mandate would be to review the issue of the sufficiency of ethical guidelines governing holders of high public office after they leave office. The aim of the inquiry would be to consider what protections are needed to ensure that the actions of those who have left public office do not reflect adversely on the office they previously held.

### **B. Other Options — No Public Inquiry Now**

As noted, there was no public knowledge of the Ethics Committee hearings at the time I was appointed. Now that they are underway, the Government may decide to defer the issue of a public inquiry until the Ethics Committee has completed its work. At that time, the Government could determine that no inquiry is necessary or that a narrower inquiry should be called.

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<sup>13</sup> There is no doubt that extensive examination into every last detail could be pursued, but the question that must be asked is whether such exhaustive factual exploration would provide any further useful information on which to explore the issue of the appropriate standards of conduct, going forward. In my view, the inquiry would quickly reach a point of diminishing returns if the "turn over every stone approach" were adopted. I do not recommend it.

Finally, it may be that the Ethics Committee could continue its work and explore the issues raised in my report and consider what further ethical rules, if any, should be brought forward in light of the Committee's findings.

## **7. TERMS OF REFERENCE**

On the first two broad issues of concern, the cash payments to a former prime minister and the nature of the business and financial dealings between Messrs. Schreiber and Mulroney, the following questions should be answered directly and straightforwardly.

1. What were the business and financial dealings between Mr. Schreiber and Mr. Mulroney?
2. Was there an agreement reached by Mr. Mulroney while still a sitting prime minister?
3. If so, what was that agreement, when and where was it made?
4. Was there an agreement reached by Mr. Mulroney while still sitting as a Member of Parliament or during the limitation periods prescribed by the 1985 ethics code?
5. If so, what was that agreement, when and where was it made?
6. What payments were made, when and how and why?
7. What was the source of the funds for the payments?
8. What services, if any, were rendered in return for the payments?
9. Why were the payments made and accepted in cash?
10. What happened to the cash; in particular, if a significant amount of cash was received in the U.S., what happened to that cash?
11. Were these business and financial dealings appropriate considering the position of Mr. Mulroney as a current or former prime minister and Member of Parliament?
12. Was there appropriate disclosure and reporting of the dealings and payments?

13. Were there ethical rules or guidelines which related to these business and financial dealings? Were they followed?
14. Are there ethical rules or guidelines which currently would have covered these business and financial dealings? Are they sufficient or should there be additional ethical rules or guidelines concerning the activities of politicians as they transition from office or after they leave office?

The second issue that arises is whether any different steps should have been taken by the PCO after the receipt of Mr. Schreiber's March 29, 2007 allegation.

Once the PCO learned that the agreement for the payments was alleged to have been made while Mr. Mulroney was sitting as prime minister, did the PCO handle the matter appropriately?

The prime minister did not receive a copy of Mr. Schreiber's January 29, 2007 letter to Mr. Mulroney in which Mr. Schreiber referred to the June 23, 1993 meeting at Harrington Lake. In less than 18 months, Mr. Schreiber sent over 700 pages of correspondence and attachments addressed to Mr. Harper. Officials from the PCO determined what would be passed onto the prime minister and concluded none.

From my review of this correspondence and the PCO procedures, it appears to me that an appropriate gatekeeper role is played by officials so that the prime minister is not inundated with extensive correspondence and documentation that does not warrant his attention. There will be communications addressed to a prime minister that should not be passed on because they are seeking interference with applicable and ongoing legal processes, or they do not contribute constructively to the public interest by uniquely commanding the prime minister's attention. I have reviewed those procedures and the correspondence in question and have not found any improper interference with the flow of necessary information to the Prime Minister. There would, normally, be no need for a further review of the judgments made in this regard. On the basis of my review, nothing suggests a compelling need for a public inquiry. However, in view of the suggestions made that there may have been some effort to suppress information concerning a former Conservative prime minister, this issue could be aired at an inquiry, and if so, should be done in as efficient a manner as possible on the following terms of reference:

15. What steps were taken in processing Mr. Schreiber's correspondence to Prime Minister Harper of March 29, 2007?
16. Why was the correspondence not passed on to Prime Minister Harper?
17. Should the PCO have adopted any different procedures in this case?

Finally, as noted above, the primary function of a public inquiry is fact finding. It is not to try individuals or determine civil or criminal liability. Furthermore, an inquiry must be cost-effective and efficient. In keeping with the constraints that the law places on public inquiries and the goal of efficiently and effectively carrying out the mandate, the Commissioner's terms of reference should contain the following general terms:

18. The Commissioner shall determine his or her own procedure and the manner in which he or she shall conduct the investigation and inquiry.
19. The Commissioner should be directed to perform his duties without expressing any conclusion or recommendation regarding the civil or criminal liability of any person or organization and to ensure that the conduct of the inquiry does not jeopardize any criminal investigation or criminal proceeding that may arise.

## **8. FINAL OBSERVATIONS**

When my appointment was made, no announcements had been made that the Ethics Committee was going to hold hearings and call the two principal witnesses, Messrs. Schreiber and Mulroney. As one of the main reasons for an inquiry was the opportunity for the public to hear from Messrs. Schreiber and Mulroney concerning their dealings and to examine their conduct in relation to applicable ethical rules, it may be that the proceedings of the Ethics Committee may affect the judgment about whether an inquiry should be called. It may be determined that the more rigorous and focused process of an inquiry is still required. As well, the Government could decide that further terms of reference should be given to the Commissioner in light of any new material disclosed before the Ethics Committee as it continues its work. These questions have not been referred to me so I make no specific recommendations in regard to them.

The Government, after appointing the Commissioner, may wish to include in the terms of reference a timetable for completion of the work of the Commissioner and delivery of his or her report.

**SCHEDULE 1**

Court File No. 07-CV-329949PD3

**ONTARIO  
SUPERIOR COURT OF JUSTICE**

**B E T W E E N:**

**KARLHEINZ SCHREIBER**

Plaintiff

- and -

**BRIAN MULRONEY**

Defendant

**AFFIDAVIT OF KARLHEINZ SCHREIBER**

I, **KARLHEINZ SCHREIBER**, of the City of Toronto and of Ottawa in the Province of Ontario, **MAKE OATH AND SAY:**

1. I am the plaintiff in the above noted matter and have personal knowledge of the matters set out in this Affidavit, except to the extent such matters are based upon information and belief, in which case I have stated the source of my information and believe such matters to be true.
2. The first contact I had with Mr. Mulroney was in the early 1980's after I became a landed immigrant in Canada, which was on September 2, 1978. It was Mr. Frank Moores who introduced me to Mr. Mulroney.
3. I had several meetings with Mr. Mulroney at the Ritz Carleton hotel in Montreal all taking place before Mr. Mulroney became the leader of the Progressive Conservative party in 1983.



4. Needless to say during my many meetings with Mr. Mulroney in the early 1980's neither the cash payments made by me to Mr. Mulroney nor the agreement (the "Agreement") made between Mr. Mulroney and I, as referred to in the statement of claim, were discussed, or even contemplated at that time.
5. The Agreement giving rise to this action was not entered into until some 10 years after my first dealings with Mr. Mulroney.
6. My first official meeting with Mr. Mulroney was in late 1983 (when Mr. Mulroney had become the Leader of the Conservative Party and was the Leader of the Opposition) when I introduced Mr. Max Strauss to Mr. Mulroney.
7. Having received very encouraging assistance from the Government of Canada in Ottawa and the Government of the Province of Nova Scotia in Halifax to bring a significant manufacturing plant to Cape Breton and in order to establish a corporate presence in Canada for Thyssen Industrie Aktiengesellschaft, one of the largest industrial concerns in Europe, Bear Head Industries Limited ("Bear Head Industries") was incorporated on November 6, 1985 with an office in Ottawa. Attached hereto as **Exhibit "1"** is a copy of my Bear Head Industries business card and a Province of Ontario, Ministry of Consumer and Business Services, corporate profile report for Bear Head Industries.
8. Finally, after considerable efforts, we managed to secure an agreement with the Province of Nova Scotia and an "Understanding in Principle" with the Government of Canada, which was signed September, 27, 1988 and which confirmed that the Government of Canada was interested in expanding the industrial development of Cape Breton and that Bear Head Industries was prepared to establish a heavy industry manufacturing facility for the production of light armoured defence products, to create at least 500 full time jobs and to commit an initial capital investment of \$58 Million and the transfer of significant

manufacturing know how by its parent company Thyssen Industrie Aktiengesellschaft (the "Bear Head Project").

9. The Understanding in Principle was signed by three Ministers of the Government of Canada and by me as Chairman of Bear Head Industries on September 27, 1988, a copy of which is attached hereto as **Exhibit "2"**.
10. A year later I received a letter dated September 18, 1989 from Mr. Mulroney who by then had been Prime Minister of Canada for over 5 years, in which Mr. Mulroney confirmed not only that we had met on previous occasions, that we had been writing letters to one another, but also that he had sent a telegram to me back in 1982 when I received my Canadian citizenship, which telegram I received on or about February 3, 1982, a copy of which letter is attached hereto as **Exhibit "3"**.
11. On one occasion Mr. Mulroney, The Honourable Elmer MacKay, at that time Minister of Public Works and Minister for the Atlantic Canada Opportunities Agency Act, and I met for a breakfast meeting at 24 Sussex Drive, Ottawa, Ontario.
12. On April 10, 1991, at a meeting arranged by Mr. Fred Doucet at the request of Mr. Mulroney, I had the pleasure of meeting Mr. Mulroney, Mr. Doucet and Mr. Paul Tellier, who at the time was the Clerk of the Privy Council, and who was also involved with the Bear Head Project.
13. Then on June 13, 1991 I met Mr. Mulroney in Bonn, Germany at a luncheon hosted by the Government of Germany in honor of Canada's role and in particular Mr. Mulroney's efforts in bringing about the reunification of Germany on October 3, 1990 and also at a reception that same evening hosted by the Government of Canada.

14. Almost a year later on May 22, 1992 I wrote another letter to Mr. Mulroney, a copy of which letter is attached hereto as **Exhibit "4"**, which confirmed our ongoing efforts and certain meetings towards making the Bear Head Project a success and that at that time it was still my understanding that the Government of Canada was supportive of locating production facilities for light armoured vehicles in Nova Scotia and possibly even certain parts in Quebec.
15. On June 23, 1993 Mr. Doucet, at the request of Mr. Mulroney, arranged a meeting between me and Mr. Mulroney which took place on June 23, 1993, at Harrington Lake, the official summer residence of the Prime Minister (the "Harrington Lake Meeting"). It was at this meeting that Mr. Mulroney and I entered into the Agreement. On June 23, 1993 Mr. Mulroney was still in office as Prime Minister of Canada and consequently resided at 24 Sussex Drive, Ottawa, Ontario.
16. One of the terms of the Agreement which Mr. Mulroney and I agreed to on June 23, 1993 was that Mr. Mulroney would perform certain services on my behalf. Mr. Mulroney undertook to support my efforts in obtaining approval of the establishment of a production facility for light armoured vehicles by Bear Head Industries Limited, and we discussed that if matters got difficult in the Province of Nova Scotia, then Mr. Mulroney would assist in moving parts of the project to the Province of Quebec (the "Bear Head Quebec Project").
17. At the Harrington Lake Meeting Mr. Mulroney told me that in his opinion The Honorable Kim Campbell, would win a majority government in the next election, which would enable him (Mr. Mulroney) to accomplish much on my behalf.

18. During our meeting Mr. Mulroney, as a token of his appreciation of our friendship that had developed over the years, proudly promised that he would send to me a copy of his official picture which would be placed in the House of Commons. Shortly after the Harrington Lake Meeting I received, as promised by Mr. Mulroney, the picture with Mr. Mulroney's hand written note: "For my friend, Karlheinz with gratitude and best personal regards" and which he signed "Brian Mulroney". A copy of said picture is attached hereto as **Exhibit "5"**.
19. I then proceeded to make arrangements for certain cash funds to be paid to Mr. Mulroney as an advance for his services as had been agreed by us during the Harrington Lake Meeting.
20. I gave the first cash payment in the amount of \$100,000 to Mr. Mulroney on or about August 27, 1993 when I met Mr. Mulroney at the Mirabel Airport on my way from Ottawa to Germany.
21. I delivered a second cash payment, also in the amount of \$100,000, to Mr. Mulroney on or about December 18, 1993 when I met Mr. Mulroney at the Queen Elizabeth Hotel in Montreal.
22. Mr. Mulroney honored me again on the occasion of my sixtieth birthday when he sent to me a letter dated March 25<sup>th</sup>, 1994 in which he expressed his very good wishes and best personal regards, a copy of which letter is attached hereto as **Exhibit "6"**.
23. And finally some 18 months after the Harrington Lake Meeting I met with Mr. Mulroney on December 8, 1994 in New York at the Pierre Hotel and delivered to Mr. Mulroney a third cash payment also in the amount of \$100,000.
24. I made this third payment, even though, at the time that I made this third payment, it was clear that it was practically impossible for Mr. Mulroney to become involved in the Bear

Head Quebec Project (after Mr. Mulroney announced his retirement, The Honourable Kim Campbell, then Leader of the Conservative Party, became the Prime Minister of Canada and called an election in October 1993 but lost and The Right Honourable Jean Chrétien became Prime Minister on October 25, 1993) because Mr. Mulroney and I agreed that Mr. Mulroney would continue to be available to assist me in my other business endeavours.

25. In his testimony before the District Court of Montreal on April 17, 1996 Mr. Mulroney confirmed that he had not just had numerous meetings with me going back as early as the 1980's, including meetings in his office in Ottawa, but also that we had ongoing business dealings. Attached hereto as **Exhibit "7"** is a copy of parts of the transcript of the testimony of Mr. Mulroney (see Questions 192, 228, 241, 425 and 432).
26. In spite of all the difficulties that Mr. Mulroney and I encountered in 1995 and 1996 I did not lose confidence in Mr. Mulroney and was relieved when I received a letter from the Government of Canada dated January 9, 1997 signed by The Honourable Allan Rock, then Minister of Justice & Attorney General of Canada and Mr. Philip Murray, Commissioner, RCMP which contained a "full apology" and acknowledged that "some of the language contained in the Request of Assistance indicates, wrongly, that the RCMP had reached conclusions that you had engaged in criminal activity", a copy of which letter is attached hereto as **Exhibit "8"**.
27. Then at the request of Mr. Mulroney I agreed to meet him on or about February 2, 1998 at the Hotel Savoy in Zürich, Switzerland (the "Savoy Meeting"). During the Savoy Meeting Mr. Mulroney and I discussed Mr. Mulroney's personal concerns regarding evidence of any payments made to him. I informed Mr. Mulroney about statements made by Mr. Frank Moores and Mr. Gary Ouelett regarding The Government Business Consulting Group Incorporated ("GCI") business affairs and the earlier request made by Mr. Fred Doucet to transfer funds from GCI to Mr. Mulroney's lawyer in Geneva related to the Airbus deal. The Ontario corporate profile report for GCI is attached as **Exhibit "9"**.

28. During the Savoy Meeting Mr. Mulroney and I also discussed how we could move forward with various business matters in the future which included Mr. Mulroney's support of the business activities of Spaghetissimo North America Inc. ("Spaghetissimo") and the potential for Archer Daniels Midland Company to get involved in this new business venture. The Ontario corporate profile report for Spaghetissimo North America Inc. is attached as **Exhibit "10"**.
29. Several months before the Savoy Meeting my lawyer Mr. Robert Hladun, Q.C. to the best of his recollection had received a telephone message (the "Tremblay Message") to call Mr. Gerald Tremblay, a lawyer acting for Mr. Mulroney, on October 17, 1997 regarding a letter Mr. Tremblay wanted to send to the CBC in connection with the Airbus Affair.
30. Two years after the Tremblay Message (almost 20 months after the Savoy Meeting), Mr. Hladun to the best of his recollection received two calls from Mr. Mulroney on October 17, 1999 during which Mr. Mulroney repeated to Mr. Hladun a similar request as made on prior occasions all to the effect that I provide in an affidavit assurances that "at no time did Brian Mulroney solicit or receive compensation of any kind from Schreiber".
31. On January 10, 2000 Mr. Edward Greenspan, Q.C., my lawyer representing me in my extradition case, requested that Mr. Hladun confirm his recollection of the above mentioned calls in connection with this request from Mr. Mulroney. A copy of Mr. Hladun's responding letter to Mr. Greenspan's inquiry dated January 26, 2000 is attached hereto as **Exhibit "11"**.
32. Following our a meeting during Christmas 1999 with the family of Mr. Doucet during which I told Mr. Doucet that I would not commit perjury I met again with Mr. Doucet at his request in early 2000 in Ottawa. At that meeting, Mr. Doucet presented to me a draft

document that Mr. Mulroney requested I sign in order to confirm the terms of our Agreement. A draft of said document is attached hereto as **Exhibit "12"**.

33. On May 23, 2000 I met Mr. Mulroney at a black tie dinner function at the Royal York Hotel, Toronto (the "Royal York Meeting") hosted by the Canadian Council for International Business and asked Mr. Mulroney for a private meeting to discuss our business relations and Mr. Mulroney agreed that we should meet and promised to arrange a meeting after his return from Florida.
34. Not only did Mr. Mulroney and I have many meetings with one another, exchanged correspondence and telephone calls with one another, and attended fund raising dinners together, starting as early as 1985 and continuing until the Royal York Meeting, but as already mentioned we also had considerable dealings with one another through intermediaries before and after the Royal York Meeting.
35. Reto's Restaurant Systems International Inc. ("Reto's") was incorporated on June 26, 2001 with its head office in Toronto and another office in Ottawa. Reto's continued the business activities of Spaghetissimo and in late 2002 we were working on the opening of the first pasta franchise store under the trade mark "Reto and The Machine Bistro Bar" in Toronto. Attached hereto as **Exhibit "13"** is a copy of my Reto's business card and an Ontario corporate profile report for Reto's.
36. At this time I approached Mr. Mulroney to assist in obtaining private or government commitments towards the expansion of the Reto pasta manufacturing process and Reto pasta franchises (the "Reto Pasta Business") in Ontario and across Canada.
37. In a letter dated July 19, 2004 addressed to Mr. William Kaplan, author of two books about Mr. Mulroney, Mr. Pat MacAdam confirmed that after reviewing his correspondence and emails he found that I had "hired Mulroney to sell Bearhead armoured vehicles to

China"... and that "Schreiber also engaged Mulroney to explore the sale of pasta machines...". A copy of this letter is attached hereto as **Exhibit "14"**.

38. At the special request of Mr. Mulroney I wrote a letter to him on July 20, 2006 suggesting to Mr. Mulroney that the public rhetoric regarding the sale of Airbus planes by Airbus Industries G.I.E. (the "Airbus Affair") and the conspiracy against me personally amounted to the largest political scandal in the history of Canada, and that Mr. Mulroney and I must expose the people behind the scandal around the Airbus Affair, a copy of which letter is attached hereto as **Exhibit "15"**.
39. I wrote the July 20, 2006 letter at the request of Mr. Mulroney because he told me that he was going to meet with The Right Honourable Stephen Harper, the current Prime Minister of Canada, by the end of July, 2006 at Harrington Lake, and that he (Mr. Mulroney) was going to show to Mr. Harper a copy of Exhibit 15 to show that he and I were on good terms.
40. There was no apparent follow up by Mr. Mulroney to my July 20, 2006 letter and therefore I wrote a letter on January 29, 2007 advising Mr. Mulroney that I was still counting on his support to engage the Government of Canada to commence a public inquiry into the Airbus Affair and how the Airbus Affair triggered my extradition case, a copy of which letter is attached hereto as **Exhibit "16"**.
41. Finally, on February 20, 2007, having realized that Mr. Mulroney no longer intended to fulfill his part of the Agreement (Mr. Mulroney had denied to meet with Mr. MacKay and Mr. Michael Cochrane to discuss the Reto Pasta Business and in particular the pasta obesity fighting program for children, which is described in the George Brown College Reto Pasta Demonstration Project (the "Reto Pasta Demonstration Project"), a copy of which is attached hereto as **Exhibit "17"**), I sent a letter to Mr. Mulroney dated February 20, 2007



demanding the repayment of the cash payments totaling \$300,000 plus interest, a copy of which letter is attached hereto as **Exhibit "18"**.

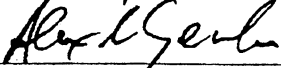
42. Since Mr. Mulroney did not respond I instructed my lawyer Mr. Richard Anka, Q.C. to send a demand letter for the recovery of the moneys owing to me in the amount of \$300,000 plus interest. A copy of Mr. Anka's letter dated March 14, 2007 is attached hereto as **Exhibit "19"**.
43. The reply to this letter was written on March 20, 2007 by Mr. Kenneth Prehogan of Weir Foulds LLP, who confirmed that he represented Mr. Mulroney and the he had received a copy of Mr. Anka's letter and that Mr. Mulroney denied "that he owes any money to me" and that his firm had "instructions to accept service" of Mr. Anka's initiating process on Mr. Mulroney's behalf, a copy of which letter is attached hereto as **Exhibit "20"**.
44. Since Mr. Mulroney never provided the services as promised, nor did he return the \$300,000.00 and even though our Agreement contemplated that Mr. Mulroney provide certain services relating to the Bear Head Quebec Project and when it became clear that the Bear Head Quebec Project could not succeed Mr. Mulroney did not return the \$300,000.00 plus interest, but instead we agreed that Mr. Mulroney would perform other services in Ontario and elsewhere all relating to companies and persons doing business and residing in Ontario, I instructed Mr. Anka to commence an action in Ontario.
45. Not only was the Agreement formed by two Ontario residents but I believe that the Agreement was breached by Mr. Mulroney in Ontario. Furthermore, I have suffered damages in Ontario as a result of Mulroney's failure to repay me.
46. The statement of claim was issued on March 22, 2007 and Mr. Anka sent a letter to Mr. Prehogan on March 22, 2007 enclosing two copies of the statement of claim as issued and filed with the court requesting that Mr. Prehogan endorse acceptance of service on the back

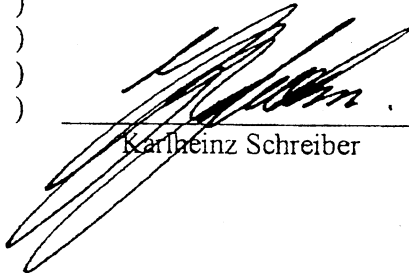
page and return one original to Mr. Anka at his earliest convenience, a copy of which letter is attached hereto as **Exhibit "21"**.

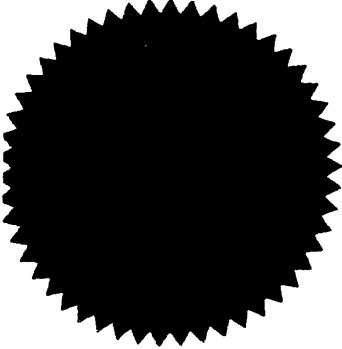
47. On March 26, 2007 Mr. Prehogan wrote a letter to Mr. Anka wherein he acknowledged receipt of the statement of claim, however Mr. Prehogan declined to accept service. Instead Mr. Prehogan confirmed that he will assist in arranging for personal service on Mr. Mulroney in Quebec, a copy of which letter is attached as **Exhibit "22"**.
48. As a courtesy to Mr. Mulroney I sent a personal reminder letter on April 14, 2007 to Mr. Mulroney, a copy of which letter is attached hereto as **Exhibit "23"**.
49. Nevertheless, not only had Mr. Prehogan resiled from his earlier agreement to accept service on behalf of Mr. Mulroney, but then once Mr. Mulroney was personally served on April 20, 2007 with the statement of claim, as amended, Mr. Prehogan filed a notice of motion to dismiss this action for lack of jurisdiction returnable on July 17, 2007 which he never set down for a hearing for reasons I have never clearly understood. It is my honest belief that Mr. Mulroney and his legal team have been engaged in delaying tactics in this action in the hope that I would be extradited to Germany and less able to pursue my action with any measure of dispatch or diligence.
50. I am informed by counsel, and believe, that the statute of limitations in the Province of Quebec is three (3) years. Depending on when a court finds my cause of action against Mr. Mulroney to have arisen, this has the potential to deprive me of my cause of action, if I am compelled to bring this action in the Province of Quebec instead of Ontario.

51. I swear this affidavit in relation to a Motion brought by Mr. Mulroney for an order dismissing this action for lack of jurisdiction and for no other or improper purpose.

SWORN before me at the City )  
of Toronto, in the Province of )  
Ontario, this 7<sup>th</sup> day of November, 2007 )

  
\_\_\_\_\_  
Notary Public )

  
\_\_\_\_\_  
Karlheinz Schreiber



BETWEEN:

**KARLHEINZ SCHREIBER**

- and -

**BRIAN MULRONEY**

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**ONTARIO  
SUPERIOR COURT OF JUSTICE**

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**AFFIDAVIT OF  
KARLHEINZ SCHREIBER  
DATED NOVEMBER, 2007**

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Solicitors for the Plaintiff



CANADA

PRIVY COUNCIL • CONSEIL PRIVÉ

P. C. 2007-1719  
November 14, 2007

Whereas Mr. Karlheinz Schreiber has made various allegations with respect to his financial dealings with the Right Honourable Brian Mulroney, P.C., that go beyond the private interests of the parties, including in an affidavit sworn on November 7, 2007; and

Whereas the allegations with respect to the Right Honourable Mulroney's time as Prime Minister, although unproven and in part conflicting with other available information, raise questions respecting the integrity of an important office of the Government of Canada;

Therefore, Her Excellency the Governor General in Council, on the recommendation of the Prime Minister, pursuant to paragraph 127.1(1)(c) of the *Public Service Employment Act*, hereby appoints to the position of special adviser to the Prime Minister, David Johnston of St. Clements, Ontario, as Independent Adviser, to hold office during pleasure, for a term ending on January 11, 2008; and

- (a) specifies the duties of the Independent Adviser as to conduct an independent review of those allegations respecting financial dealings between Mr. Schreiber and the Right Honourable Brian Mulroney, P.C., and to submit to the Prime Minister by January 11, 2008 a report in both official languages, which shall
  - (i) make recommendations as to the appropriate mandate for a public inquiry into those allegations, including the specific issues that warrant examination, under the *Inquiries Act*,
  - (ii) state whether the Independent Adviser, in the course of his review, has determined that there is any *prima facie* evidence of criminal action; in that case, the report shall make recommendations as to how this determination should be dealt with, and what should be the appropriate mandate and timing for a formal public inquiry in those circumstances, and

- 2 -

(iii) make recommendations as to whether any additional course of action may be appropriate;

(b) authorizes the Independent Adviser to adopt procedures for the expedient and proper conduct of the independent review, including reviewing relevant records and documents and consulting as appropriate;

(c) fixes his remuneration as set out in the attached schedule, which per diem is within the range (\$1,200 - \$1,400); and

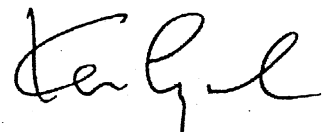
(d) authorizes the payment, in accordance with Treasury Board policies, of the following expenses incurred in the course of his duties:

(i) travel and living expenses while in travel status in Canada while away from his normal place of residence in accordance with the Treasury Board Travel Directive and Special Travel Authorities,

(ii) expert staff, as required, and

(iii) any other reasonable expenses as necessary to conduct the independent review.

CERTIFIED TO BE A TRUE COPY—COPIE CERTIFIÉE CONFORME

A handwritten signature in black ink, appearing to be 'T. G. L.', is written over the text.



CANADA

PRIVY COUNCIL • CONSEIL PRIVÉ

P. C. 2007-1720  
November 14, 2007

Her Excellency the Governor General in Council, on the recommendation of the Prime Minister, hereby amends the French version of Order in Council P.C. 2007-1719 of November 14, 2007 by replacing in paragraph c) the word "horaire" with the word "journalier".

CERTIFIED TO BE A TRUE COPY—COPIE CERTIFIÉE CONFORME

A handwritten signature in black ink, appearing to be "L. G. L." or similar.

CLERK OF THE PRIVY COUNCIL—LE GREFFIER DU CONSEIL PRIVÉ

### **SCHEDULE 3**

#### **Contradictions and Inconsistencies in the Evidence of Messrs. Schreiber and Mulroney**

The testimonies of Messrs. Schreiber and Mulroney before the Ethics Committee have made public many previously unknown facts about the dealings between them. Their statements have also uncovered several discrepancies in the events surrounding the cash payments received by Mr. Mulroney.

#### **The Harrington Lake Meeting**

Messrs. Schreiber and Mulroney disagree on what was discussed at their Harrington Lake meeting. Mr. Schreiber stated that at the Harrington Lake meeting, Mr. Mulroney agreed to perform services for him after leaving office. Mr. Mulroney, however, claimed that he entered into the deal to work for Mr. Schreiber after stepping down as prime minister, but while he was still a sitting Member of Parliament.

#### **The Amount of Cash Exchanged and the Scope of the Retainer**

Mr. Schreiber stated in both his November 7, 2007 affidavit and in his testimony before the Ethics Committee that he paid Mr. Mulroney a total of \$300,000, in three installments of \$100,000, to obtain approval for the Bear Head project in Canada. Mr. Mulroney stated that Mr. Schreiber paid him \$225,000, in three installments of \$75,000, to promote Thyssen's light armoured vehicles internationally.

According to paragraph 36 of Mr. Schreiber's November 7, 2007 affidavit, he approached Mr. Mulroney in late 2002 to request the latter's assistance in obtaining "private or government commitments" for the expansion of Mr. Schreiber's pasta manufacturing and franchise business in Ontario and across Canada. Mr. Mulroney did not contradict the above details in his testimony, but he did claim that the promotion of Mr. Schreiber's pasta business did not form part of the original business agreement reached in 1993. It remains unclear when, and to what extent, the promotion of Mr. Schreiber's pasta business became part of the agreement between Messrs. Schreiber and Mulroney.



Mr. Mulronev stated that he hesitated before accepting the cash from Mr. Schreiber at their first meeting in Mirabel, Quebec - Mr. Schreiber told him, "I am an international businessman and I only deal in cash. This is the way I do business." Mr. Mulronev conceded that accepting the cash was a mistake, and stated that had he been offered a cheque in place of cash as a form of payment he would have certainly accepted it.

### **Services Rendered**

At the Pierre Hotel meeting, Mr. Mulronev claimed that he gave Mr. Schreiber an extensive report on his work promoting Thyssen's products abroad, which had included meetings with officials in China, Russia, Europe and the United States. According to Mr. Mulronev, Fred Doucet was also present at the Pierre Hotel meeting. Mr. Schreiber asserted that Mr. Mulronev rendered no services in exchange for the payments.

## SCHEDULE 4

### Media Statements by Mr. Mulroney's Spokespersons

1. In October 1999, Luc Lavoie denied that Mr. Mulroney had accepted any money from Mr. Schreiber. He told the media: "the bottom line is that he [Mr. Mulroney] never received any money from anybody. Because there never was any money." More recently, Mr. Lavoie said his remarks at the time were limited to allegations arising out of the Airbus deal.

Source: Brian Laghi "Mulroney spokesman gives up his duties" *The Globe and Mail* (1 December 2007) A4.

2. Sometime in 2002, Mr. Mulroney acknowledged he received payments from Mr. Schreiber after he left the prime minister's office. The explanation given was that Mr. Schreiber paid him for consulting services in connection with a pasta venture for which Mr. Mulroney's business connections through Archer, Daniels Midland were useful. Mr. Mulroney also said he reported the money to the revenue service and paid all due taxes on it.

Source: Hubert Bauch "Mulroney challenged on \$300,000 payment" *The Gazette (Montreal)* (9 February 2006) A1.

3. In November 2003, Mr. Lavoie is reported to have said that Mr. Mulroney never lobbied for Mr. Schreiber and therefore did not have to register as a lobbyist. Mr. Lavoie was quoted as: "The truth is, Mulroney never had anything to do with Airbus, he had nothing to do with MBB and he had nothing improper to do with Bearhead. Being hired as an international adviser after he left office was entirely consistent with the practice he was setting out to establish."

Source: William Kaplan "Schreiber hired Mulroney" *The Globe and Mail* (10 November 2003) A1.

4. In 2004, Pat MacAdam, a close friend of Mr. Mulroney, sent a fax to William Kaplan while he was writing a book about the cash payments. The fax stated: "The amount Mulroney received was \$225,000 - not \$300,000 - and he declared it and paid tax on it".

Source: Greg McArthur "Schreiber files suit on Mulroney" *The Globe and Mail* (24 March 2007) A2.

5. In January 2007, Mr. Lavoie acknowledged that the amount Mr. Schreiber paid to Mr. Mulroney was \$300,000 when he said that the RCMP informed Mr. Mulroney in the summer of 2000 that they were aware of a \$300,000 retainer from Schreiber: "There were formal contacts between the RCMP and Mr. Mulroney's lawyer in which it was made clear that they knew that." In response to questions regarding why Mr. Mulroney was paid in cash, Mr. Lavoie stated: "All the retainers he [Mr. Schreiber] had with people

... were paid in cash. Cash is legal tender, and as long as you pay your taxes what you're doing is legal." Mr. Lavoie would not reveal when Mr. Mulroney paid taxes on the money, saying it was "nobody's business."

Source: Jim Bronskill and Joan Bryden, "Justice Department weighed reopening 1997 Airbus settlement with Mulroney" *The Canadian Press* (23 January 2007) (QL).

6. On October 30 2007, in a letter sent to the *Globe and Mail*, one of Mulroney's spokespersons explained that Mr. Mulroney was delayed in paying his taxes on the money he received from Mr. Schreiber because of the allegations in the LOR sent to Switzerland, which was a "cataclysmic event" that disrupted his life. The letter stated, "as such, it is understandable that until all these matters were resolved - as they eventually were with his total vindication - he could not resume normal functioning and attend to normal day-to-day affairs ... and indeed to the point of the finalization of his tax matters with his accountants."

Source: Greg McArthur "Brian Mulroney: the payments and the taxman" *The Globe and Mail* (31 October 2007) A1.

7. In April 2007, shortly after Mr. Schreiber commenced his lawsuit against Mr. Mulroney, Mr. Lavoie described the lawsuit as "merit-less, groundless."

Source: Richard Brennan "It's the saga that just won't end" *The Toronto Star* (7 April 2007) F01.

8. On November 8, 2007, Mr. Lavoie told the *Globe and Mail* that Mr. Mulroney met with Mr. Schreiber at Harrington Lake on June 23, 1993, but said "there was no discussion whatsoever ... of any agreement of any sort." He described Mr. Schreiber's visit as "a courtesy sort of thing," set up by Fred Doucet, who was Mr. Mulroney's chief of staff beginning in 1983. When Mr. Lavoie was asked how Mr. Mulroney knew to meet Mr. Schreiber two months later at a hotel in Montreal to pick up \$100,000, he stated that Mr. Doucet arranged for this first payment some time after the Harrington Lake meeting.

Source: Greg McArthur "Mulroney adviser asked Schreiber to transfer Airbus funds, affidavit alleges" *The Globe and Mail* (9 November 2007) A1.

9. On November 12, 2007, Mr. Lavoie was reported to have said that Mr. Mulroney received his last cash instalment at the Pierre Hotel in New York on Dec. 8, 1994 and that Mr. Doucet was present there.

Source: Greg McArthur "Mila Mulroney offered support to Mrs. Schreiber" *The Globe and Mail* (12 November 2007) A1.

10. Also in November 2007, Mr. Lavoie said that Mr. Schreiber met with Mr. Mulroney at the Chateau Mirabel hotel to propose that Mr. Mulroney act as a consultant on Mr. Schreiber's projects with an "international dimension", which included a military vehicle plant in Montreal and a pasta business. Mr. Lavoie said that this meeting occurred approximately one week before the October 1993 federal election, when Mr. Mulroney

was still a sitting Member of Parliament and in financial straits. In an interview with the *Ottawa Citizen*, Mr. Lavoie suggested that Mr. Mulroney was surprised when Mr. Schreiber presented him with cash at that meeting. Mr. Lavoie is quoted as saying: "Then he [Mr. Schreiber] said 'I would give you \$100,000 a year' and then he pulled out an envelope with \$100,000, and Mr. Mulroney said 'what is that?' He said 'Well, I want to pay you in cash.' So Mr. Mulroney asked a few questions. 'Why would you do this in cash?' and all that... Mr. Mulroney admits today that he made a colossal mistake."

Source: Campbell Clark and Brodie Fenlon "Opposition unites to force Commons investigation" *The Globe and Mail* (22 November 2007) A9.