

ARMS PROCUREMENT COMMISSION

Transparency, Accountability and the Rule of Law

PUBLIC HEARINGS

PHASE 2

DATE : 23 MARCH 2015

(PAGE 9926 -)

23 MARCH 2015

PHASE 2

HEARING ON 23 MARCH 2015

CHAIRPERSON: Good morning. Advocate Sibeko?

ADV SIBEKO: Thank you, Chair. At the outset, I wish to apologise for the late commencement of the proceedings. As was previously advised,
5 when we adjourned the evidence of Dr Young, we were supposed to have started at nine o'clock today.

However, due to circumstances, beyond our control, we were not able to start at the appointed time. I must just point out, for the record, earlier on an apology was made that, having conferred with the
10 evidence leaders, it seemed that there was an issue of documents.

Indeed, it may well be that there was an issue of documents that still needed to be distributed to the interested parties. But, it was through no fault, or on the part of the evidence leaders that the documents were distributed, much later than when they were required.

15 Having done that, Chair, before the witness is sworn in again, to continue with his evidence, there are a number of housekeeping matters that I would like to deal with. They relate to the arrangement of the documents in the files.

You will recall, chair, that when Dr Young, Dr Young's evidence was
20 adjourned, you made a, you issued a directive that he delivers a supplementary statement, relating to the evidence that he intended to lead, on what was previously a blank appendix a, b, c, et cetera, to his statement. These, this supplementary statement was sent on Wednesday, together with documents, referred to there.

25 These documents have been copied, paginated and marked with

23 MARCH 2015

PHASE 2

annexure numbers. Now, there is a file eight, in the bundle of documents. If one opens file eight, appearing right at the top of file eight, is a document, which is marked RMY 157A.

It is, it has a title appendix a. Now, I am not certain, why this was
5 done, in the manner that it was. But, this is the supplementary statement that was sent through, by Dr Young and should ordinarily continue from where his statement ends.

Perhaps it would be prudent that that document is placed in the same file, in which the statement is placed. I noticed also that, during the
10 course of yesterday evening, there is an email that Dr Young sent through to the evidence leaders and Advocate Mdumbe that contains, it is a one page document, with a paragraph numbered 811.

It has a title, Thyssen evidence to the APC. That should then go to the end of the statement, as I have proposed. So, it perhaps, would be
15 prudent to replace the original appendices to the statement, with the documents that were subsequently delivered, by Dr Young.

Secondly, there are annexures, or documents, to which Dr Young refers to, in his statement, which have been copied and I believe, have been given to the parties and respect, interested parties and their legal
20 representatives. I noticed that file seven that is the last file that we used, when Dr Young's evidence was adjourned, that we had included in that bundle of documents an RMY 151, which was to commence as from page 3037.

That is the letter entitled, Public Prosecutors officers of Bochum.
25 That is the letter, in terms of which, it was claimed that German

23 MARCH 2015

PHASE 2

Investigative proceedings were terminated. I notice, however, that in the documents that are included in the quotation file, this would be this file. There is also a RMY 151, which ought to have a different number.

You will recall, Chair, that this is the transcript that Dr Young had referred to. It is a Section 28 transcript of Mr AJC Reed. To which, he referred to some passages, during the course of his evidence. It, however, appears also, in the quotation file. It is the first document.

It is marked RMY 151. Now, this brings confusion to the numbering that we had become accustomed to. What is even more startling is that that document, also starts at 3037, when the document, I have just referred to, also starts at 3037.

I am not certain at least, my mind has not worked far enough, to work out, what we are going to do with the numbering. What I propose we do though, is that we leave the numbering as it is. But, mark the document that appears in the quotation file as RMY 151, change the reference there, to 151A.

Perhaps we can live with the numbering going forward. So, when we refer to specific documents, they will be, at least, for purposes of the record, identifiable, in terms of the RMY sequence, or sequential numbers.

That, that is something that confronted me, as I looked at these documents, Chair. I believe, all of this work was done over the weekend, despite our instructions, for the admin staff to look at the last document in file seven and number sequentially, going forward. This is the result of the work of the weekend. Other, other than that, Chair, we

23 MARCH 2015

PHASE 2

are ready to proceed.

CHAIRPERSON: I think, maybe let us proceed then. Then, maybe let me remind you, the last time, when we requested Dr Young to give us a written statement. He said he needs an hour, at most, two hours. Can we stick to that?

ADV SIBEKO: I suppose the witness would be best placed, to confirm that position.

DR YOUNG: Yes. I would certainly like to do so, because the quicker I finish here, the quicker I go home. But, I, I have done a lot of work, over the last week and to be frank, I think that some of the evidence that I wish to address, especially in the Hlongwane, BAE, British Aerospace, is exceedingly important and interesting to this Commission. Certainly, I would, the way I would recommend is that, once we, I start to address that. Then we take a view on it, at that stage. It would, it would, it just would not be appropriate, just to leave it in midair, or hardly even start it. So, if I may, I do not, I do not call the shots here, but if I am asked for my opinion, that is, that is my view.

CHAIRPERSON: Thank you, Advocate Sibeko. Let us kick off.

ADV SIBEKO: Thank you, Chair. Dr Young. Oh. Yes. If you may, the witness may be sworn in, Chair.

RICHARD MICHAEL MOBERLY YOUNG: (d.s.s.)

ADV SIBEKO: Dr Young, may I ask you to turn to page 198 of your statement. That is the concluding page of your original statement, through which you were giving evidence to this Commission. Just let me know if you have found that page.

23 MARCH 2015

PHASE 2

DR YOUNG: [Indistinct] I have working with a live word perfect version here. So, our page numbers do not necessarily correspond. So, I just have to find, I think, I think, you are talking about the section that is headed conclusions. Is that right?

5 ADV SIBEKO: That would be the signature page, of your original statement.

DR YOUNG: No. My signature page has moved on.

ADV SIBEKO: Yes. That would be the original signature page, just before the index, I think. Ja.

10 DR YOUNG: I certainly have the signature page. But, do you want to address anything specific that takes me back to the conclusions page?

ADV SIBEKO: No. I, I want us to find common locations, from where we should start today, pursuant to the ruling of the Chairperson.

DR YOUNG: Yes. Well, that is, I think, we should be starting at
15 Appendix B.

ADV SIBEKO: Now, the Appendix B, you are referring to, would be in the supplementary statement and it would be, in that page, numbered 212. Is that correct?

DR YOUNG: That is correct, yes.

20 ADV SIBEKO: Chair and Commissioner Musi, as I indicated that, that document, would have been in file eight and I asked that it be taken to the statement file. Appendix B starts at page 212.

CHAIRPERSON: Advocate Sibeko, let us go back to what the witness referred to, as appendix A. I have read that appendix A. I am not quite
25 certain what it is. Should we first deal with that one and from there,

23 MARCH 2015

PHASE 2

maybe go to appendix B? Can you perhaps get the witness to clarify that to us?

DR YOUNG: Yes. Appendix A, we addressed in my previous sitting, before the, before the Commission. I have modified it very slightly, 5 because of course, I now realise that everybody has monochrome, it is black, black and white copies. So, what I have, what we did address it, I think as far as I remember. So, my understanding was that we did not need to address its contents, certainly not in great detail. But, to identify what it is, is that it is a, let us call it a letter, I think, I call it an [indistinct] 10 written by the then, President Thabo Mbeki, published in the ANC today, which is a digital weekly letter, of the, of the ANC. It is published way back, in May 2005. But, what I have done, in my, what I call extended witness statement, as opposed to a supplementary, is I have indented my paragraph by paragraph responses, to what was originally said. So, 15 the original text is indicated as a non-indented paragraph and then, following that is a paragraph or two of, it is actually double indented. So, it means it is indented from both the left and the right. So, even though, my, my copy here, is in blue text, to differentiate what was written in, originally, it is now clearly indicated, what is the original text 20 from, written by Mr Mbeki and what is written by me. That is to at least, explain the difference of what was on the paper, what was on the record, two weeks ago and what is on the record, before us today. I think, I will, I will, as an introduction, that is what I have said. If, I was not, in fact, I was not expecting or planning to go through this today. 25 But, I certainly will do so, if asked, if asked to do so.

23 MARCH 2015

PHASE 2

CHAIRPERSON: Advocate Sibeko, I was not asking the witness to go through this document. I do not understand what this document is. When I looked at it, over the weekend, I was not sure whether, is this a letter that was signed by, by former President Mbeki, or not? It is
5 confusing. I am not quite sure, why the witness decided to do this. When you look at it, at first glance, you might think that this entire document was written by Mr Mbeki, when in actual fact that is not so. I just thought that let me mention this, right at the beginning, because to me, it does not make sense. But, then, we can move on to, to other
10 documents.

ADV SIBEKO: Thank you, Chair. As the witness indicated, he had not intended to deal with that letter today. Dr Young, we are in appendix B of your statement, at page 212. You will recall that previously, when you gave evidence, you dealt with some aspects of the evidence that
15 was given, by Mr Chippy Shaik, as he is commonly known, before the Commission. I see that you, in the couple of this appendix B, you deal with other aspects of the evidence of Mr Shaik, with, at least, in respect of the first reference, you deal with that policy MD 4/147. That document, I think, in your pdf documents is 01997. It is our documents,
20 RMY 153, which is in the quotation file at page 3096. There are certain comments that you wish to make, regarding policy MD 417 and its applicability in relation to the evidence of Mr Shaik.

DR YOUNG: That is correct. There are actually two reasons, why this specific matter, under MD 4/17 is relevant. One, is they are relevant to
25 what Mr Shaik gave evidence in this Commission, but also, in my

23 MARCH 2015

PHASE 2

previous session, before the Commission, the issue of the policy document MD 4/147 was, in itself a self-standing issue. We never addressed it, while I was led, during those eight days. But, I was asked, by the Chairperson, I can remember try, specifically, basically what I said, was that it was my understanding that certain witnesses had acknowledged, before the Commission that in the 4/147, was in fact, never an approved document, before the, the relevant committees, before the relevant authorities. The Chairman asked me, who said that and I said, I thought that that, one of the, one of the parties, who addressed that issue was Chippy Shaik. Certainly, that is the case, but it is, in fact, in this particular bit of evidence of mine, I am addressing two issues. Of what he said, as well as the relevance of MD 4/147 in the greater scheme of things, in terms of the, the acquisition policies of the whole SDP's.

15 ADV SIBEKO: You will see that, in the passage that you have quoted, from the transcript of the proceedings, where Mr Shaik was being led, by my colleague, Advocate Sello, he mentions certain aspects of this policy and its applicability. Could you just point out briefly, the point you wish to make, with regard to the MD /147 policy?

20 DR YOUNG: Okay. I basically, just copied, hopefully verbatim, the relevant parts of the witness statement, which I think, I refer to. I can actually open up those documents. There is a hot link, underneath and there, you can see them in square, square brackets. I think, you know, of course, those documents are on the record. But, of course, for the point of context, both for the giving of evidence, but of course, I need a

25

23 MARCH 2015

PHASE 2

handle on which to hook. I, I cannot just use, just very short phrases and things. I have introduced the topic, by means of the relevant context, which I do not intend to, to traverse. But, hopefully, what does come out in the photocopying, of my extended witness statement are, is
5 the bold parts. There is a bold part, in my paragraph 777 and in, about halfway down the page, Mr Shaik is saying:

*“It was my understanding (and then the bold starts) this policy gave rise to the work group that was established, to deal with the defence acquisition packages. It was formalised, by being submitted to the
10 Minister, in the Ministry, in the COD.”*

In fact, although it is not completely clear, from just those two words, it is clear from what, what I come to is that it is actually in this Council of Defence, the COD, where extensively, this policy 4/147 was either approved or not approved. Okay. But, as importantly, and the other
15 point I wish to make is, here, the Chief of Acquisitions is testifying that, for whatever its form or status, it actually was used. This work group that he is talking about clearly becomes what is known as SOFCOM. It got named, in fact, he refers to it, by a different, different terminology. But, I think, at one stage, it was the MC. It was the Management
20 Committee. Then, it became the IOMC, International Offers Management Committee. Then, it became SOFCOM. As I will, hopefully, correct, or adequately address, that it is SOFCOM, who made many, many of these decisions, based on its so-called authority, that it got from this approval of this policy document, in the Council of
25 Defence. But, where, maybe it is relevant to point out, but whereas,

23 MARCH 2015

PHASE 2

hopefully, the documents then prove, will prove that in fact, this document was specifically not approved, on the instructions of the Minister, who of course, was the chairperson, I think, of both the AAC, Armaments Acquisition Council that should have approved it, but also

5 the Council of Defence, where it was, at least tabled. Of course, relevant to my own particular areas of interest, the information management system, which I have traversed at great length, over the last eight days of my, of my evidence, it is clear that certain bodies made decisions. I think, it is relevant and important and certainly

10 interesting is that SOFCOM, where I, hopefully we will see, was not a decision making body. In fact, Mr Shaik actually says it was not a decision making body and many other witnesses before this Commission have basically said the same thing. I think, it is General Steyn and Erich Esterhuysen, Kevin Hanafey, I mean, I specifically

15 addressed, is that, well maybe not, maybe it was Mr Hanafey regarding the public, Project Control Board. But, nevertheless, SOFCOM was not a decision making body. But, carrying on from that point, it is SOFCOM, it seems, according to Mr Shaik's evidence that gave rise to the project control board. It is the Project Control Board that made the decisions,

20 regarding not only the combat suite and the IMS, but also many aspects of, okay, at least, the corvettes or the frigates. So, you know, if the body, that gave rise to the Project Control Board was, was in itself not a decision making body, it is impossible, by a simple tint of logic that a sub-body that gave rise to it, also could not have been a regularly

25 constituted body. So, that is an important leg of this particular part of

23 MARCH 2015

PHASE 2

my evidence. Anyway, that takes us through most of, most of this, this evidence here, where I am, transcript, or re-transcribing the evidence of the Commission. But, Advocate Sello does put to Mr Shaik the, the position, regarding the so-called approval. That is in the last, let us say, 5 couple of responses of each of the parties. I think, it is self obvious here, but in any case, the document is in front of us, so I can, I have got, sorry, maybe I should give myself a break. I am sure we have got the document in front of us as well.

ADV SIBEKO: As I indicated, the document starts at page 3097. It 10 does appear that from the quotation you have reproduced, on pages 212 and 213 of your statement, the jest of the evidence, seems to suggest that the policy 4/147 is one that was used to establish the, the work group. It was used as reference point, to establish the work group, that later became SOFCOM, as you suggest. That this policy was used, 15 or relied on, to discharge, in part, the obligations of SOFCOM. Is, is that the point, you wish to make?

DR YOUNG: Yes. I, I think that that is correct. I mean, before we, of course, we know of MODAC, as well, which was the official policy. But, I think, it is fairly clear from, I mean, not, mainly from just this bit of 20 evidence here, is that SOFCOM did most of the decision making. In fact, in most instances, reported directly to the MINCOM, Minister's Committee, that was also not a body, a constituted body of the MODAC, as far, as far as I know. So, and in fact, should, should have reported, at least, through the AAC. But, my understanding is that, that it was 25 SOFCOM and MINCOM that did all the decision making and almost

23 MARCH 2015

PHASE 2

entirely, at least, the AACB, that is the Armaments Acquisition Control Board, there does not seem to be any mention of that anywhere that I have come across, where it was actually being used. The, the AASB, the Armaments Acquisition Steering Board, there have been mention of 5 this, but I do not have minutes of those. I certainly cannot see, where these decisions were actually propagated, through the AASB. There is a little bit more reference to the AACB. But, again, I actually cannot find any, any instances of where relevant decisions were made by the, by the AAC. They were, and even by, I do not think the Council of Defence 10 was a decision making body. But, it seems to be that, in the 4/147 almost entirely gave grounds or birth for a policy, which is, I think, we use the term, in parallel to MODAC. In fact, I think, I used the term, at one stage, hybrid. But, looking at it, in the sober light of day, in the last week and a bit, the term hybrid, may be putting it too high. It is almost 15 exclusively done, according to 41, 4/147.

ADV SIBEKO: Now, while in the two pages, which constitute your paragraph your 777, it does appear that Mr Shaik was lending some credence to the existence of an approval of the policy for MD4/147. If one has regard to what you set out, in your paragraph 778, which 20 appears on page 214 of your statement ...[intervene]

CHAIRPERSON: Advocate Sibeko, I am sorry. I am a bit confused. Maybe you might help me. I have, I have looked at the statement of Dr Young over the weekend. I am not sure, whether he is, he is giving evidence or is he making submissions. At what stage, are you, what is 25 Dr Young doing at the moment? Is he giving evidence or is he making

23 MARCH 2015

PHASE 2

submissions?

ADV SIBEKO: I believe he is giving evidence, Chair.

CHAIRPERSON: He is giving evidence, by analysing evidence of other people and from there, commenting on the, on the evidence. Is
5 that what we call giving direct evidence? Because basically, what he is doing here, is telling us, what other people have said and gives us his opinion about that. Is that analysis correct? Or am I wrong? Maybe I am misunderstanding some of the things that he is saying in this document.

10 ADV SIBEKO: Chair, you will recall that during the hearing, when Dr Young gave evidence, with regard to evidence before the Commission, regarding this policy document 4/147, a specific question was posed to this witness, with regard to his understanding of the applicability of that
15 policy. It is on that basis that he has brought the policy and what the evidence of, of Mr Shaik, with regard to this policy was, before the Commission and what it has been, at other forum, regarding the approval, or non approval of this policy. So, to, to the extent that this is in response to a direct question that was put to the witness, it is for that
20 reason that this witness has gone about, in producing the evidence that he seeks to place, before the Commission.

CHAIRPERSON: Okay. Thank you.

ADV SIBEKO: You were about to deal with, what you set out, in your paragraph 778.

DR YOUNG: Yes. You see, what is in 778, is directly in opposition to
25 what is in the very end of 777. Now, this, this is indeed evidence, I

23 MARCH 2015

PHASE 2

mean, as you have just correctly pointed out, evidence leader, that this, this was a direct instruction from Chairperson to me, to come back, to indicate where this had been addressed, by Chippy Shaik. It was addressed in these, in this Commission, under leading by Advocate

5 Sello, where he basically said that the policy was approved. Well, she said it was approved and he agreed. Then, Advocate Sello asks him, was he aware, she says, were you aware of that. He says, no, I was not. So, there, he is actually directly stating that he was not aware that MD 4/147 was actually withdrawn from approval. So, okay, whereas,

10 what I am trying to say is, in previous evidence under oath, which is just as relevant, in fact, it is a very similar body to this. It was, well, the JIT investigation, except it was not that, so it was the public part, but it was his response, hopefully, under oath, where he specifically said something, completely to the opposite. Somebody, who is in the know,

15 I, I do not have minutes of the Council of Defence meeting, held on that day, the 8th of August. I do know that they exist. They apparently seem to be extremely sensitive. But, nevertheless, I am advised that what I have paraphrased here is exactly what was paraphrased, by Mr Shaik, with the assistance of his own legal team, way back in, in I think it was

20 September 2001. He himself says, no, this document was not approved and the Minister says, quoting, double quoting, in paragraph 613 of those minutes of the Council of Defence, it says:

“The Minister was of the opinion that a policy of listening, without committing oneself, should be adopted, at present decision.”

25 Okay. So, what I think is so important is that, well there are two things,

23 MARCH 2015

PHASE 2

is one is that Mr Shaik, under oath, is completely changing. This is a very, extremely fundamental thing, for this Commission of Inquiry. It is because under what, under what regulatory policy was the acquisition carried out? I mean, that is one of the, the legs of the terms of reference, regularity or otherwise. So, that is extremely important. Then, here, you have got the evidence of a really critical witness that, one of the last witnesses, only heard in November last year, where he has completely said, completely opposite things, not only that, but what he is saying is in regard of such an important thing before all of us. Just for the record, this copy of MD 4/147 is my very own one. It is not something that I have lifted from the other evidence documents of other witnesses. It is actually one of the documents, given to me, by the Department of Defence, in tranche three. In fact, that is why, where that number comes from. It was the very first one of 01_197. So, of course, I am entitled to have this document. I do know of its existence, through that mechanism. But, I think, for all of those, why I am elaborating this, little bit of, this little point, it is not such a little point, but it is a very, very fundamental thing, as far as I am concerned.

ADV SIBEKO: You continue to deal with the issues, arising from bodies that were formed, outside of the MODAC acquisition policies, in the following paragraphs going up to your statement at paragraph 77, 784. Is that correct?

DR YOUNG: It is correct, yes.

ADV SIBEKO: And what you are trying to demonstrate there is that the policy, which according to what is, you have set out in paragraph 778,

23 MARCH 2015

PHASE 2

had the effect of displacing certain acquisition processes that were prescribed by MODAC.

DR YOUNG: Well, you put it in the plural. There was only one and that was the approved one, called MODAC.

5 ADV SIBEKO: So, is there anything else you wish to add, having regard to the fact that the, the document, you seek to rely on, in making the points you make, in these paragraphs is, is in our RMY 150, a document we have considered in your evidence. That is your DT 1-0858.

10 DR YOUNG: Yes. That is probably a reasonable summary of it.

ADV SIBEKO: Is there anything else you wish to add, with regard to how the MODAC acquisition policy was replaced with the MD 4/147?

DR YOUNG: No. I think, at the interest of time, we should labour on it and of course, I mean, I would like to summarise these things, which is
15 what my inclination is. But, in the interest of time, concerning what I have said now, what I have considered about the PCB before, probably that is sufficient.

ADV SIBEKO: If you then go to paragraph 785 of your statement, appearing at page 217, you deal there, with the issue, relating to
20 BAeSema/ASM. I believe, from my recollection that this is a matter we dealt with previously. Is there anything else you wish to add here?

DR YOUNG: No. Only the point that it was also made by another witness, who is, you know, of course testified under oath. Of course, I need to rebut, not only the theme, but of course, his testimony and that,
25 you know, he also states here that I formed the, the consortium of ASM

23 MARCH 2015

PHASE 2

with BAeSema, okay, which it just is not correct. Because BAeSema started it and they formed it with Tellumat. I think, the documents that I certainly, where I do not think I actually ventilated them in detail, but they showed that very clearly. But, of course, there is a secondary point
5 is here, is that he correctly says, that we formed a competitor, in a, in a competitor. I think, I think, it is correct to say is, so I, that is he himself, that is being me, became a competitor. That is correct. But, not in a competitor, well, if it is a competitor, it is in a competition. Okay. He does not say an unlawful competition, like Admiral Kamerman, or a
10 regular one, or an unfair one, or whatever one. But, there is lots of other documents, that even Chippy Shaik has said that, at that, by that stage, is that there actually was, or at least, should have been a, a competition. So, the point is, as well is, so what, if I formed a consortium, even if it was true?

15 ADV SIBEKO: Alright. Then, you next deal with the issue, relating to conflict of interest. I seem to recall that we, we dealt with this aspect, or theme of your evidence quite extensively, during your last appearance before the Commission. Is there anything you wish to add, with regard to that topic?

20 DR YOUNG: Not really in general, except, of course, it is on the record. I was not previously dealing with Chippy Shaik's evidence at the Commission, as much as the themes. I went through, theme by theme. But, here we have more evidence of, you know, when, when the conflict of interest was known by other parties. How it was [indistinct] in other
25 parties, specifically by, you know, the Minister of Defence, Joe Modise,

23 MARCH 2015

PHASE 2

clearly he knew that very early on. How it was reported by, by let us say, a colleague of Chippy Shaik's, in the same Chiefs venue, you know, the Project Control Board, Admiral Simpson-Anderson. So, I have got the documents here. I have got the references. They are self
5 standing. I do not think, I do not think it is necessary to, to elaborate on them, but they are on the record and you know, from my perspective.

ADV SIBEKO: I think, for purposes of the record, we need to identify them. The first one, being your DT 0671, our RMY 155, which, Chair, appears in the quotation file, with the rest of the other annexures. It is
10 marked page 3104. It is a document entitled:

"Memorandum from Project Director Sitron to Naval, Director Naval Acquisition, in for Chief Director Maritime Warfare."

Now, the heading of that letter is:

*"Confirmation of independence Corvette project team. Evaluation and
15 recommendations."*

It is a letter, dated 16 October 2000. Is that the letter? Is that one of the letters, Dr Young?

DR YOUNG: Yes. I have got, I have got three letters in front of me. One from Chippy Shaik to Gavin Woods, under my underlined heading,
20 Shaik, I have, then I have got, it is 155, I think.

ADV SIBEKO: That is 15, 156. It is at page 3106 of the, of our bundles.

DR YOUNG: May I ask you, the previous document, my DT 1-0670, is that 155? No? Please just remember that all of these are completely
25 new to me right now. They have only been given numbers and pages,

23 MARCH 2015

PHASE 2

right, you know [indistinct].

ADV SIBEKO: RMY 156 is a memorandum to Dr Gavin Woods MP, Chairperson, Standing Committee on Public Account from Mr Chippy Shaik, Chief of Acquisition, Department of Defence, date 16 October
5 2000.

DR YOUNG: Yes. That is correct, yes. I see it is [indistinct].

ADV SIBEKO: Is that the document?

DR YOUNG: Yes. That is correct.

ADV SIBEKO: Just in brief, what, what is contained in that document?

10 DR YOUNG: As far as I can remember, I have not looked at it for a little while, but it is, it is the position, of his conflict of interest and how it was managed, from his own perspective. It is only this document is written by Chippy Shaik himself. So, it is written to Dr Woods, who was the Chairman of SCOPA.

15 ADV SIBEKO: The other document is your DT 0675, our RMY 157, which is at page 3110. It is a document dated 7 October 2000. It seems to be a letter, written to Mr JB Masilela, coming from the Navy office, Department of Defence. Is that the document, the other document?

20 DR YOUNG: The document that I have just opened is, my, what, my 0673, which was a letter from Mr J Modise to Mr, to Dr GG Woods.

ADV SIBEKO: Now, that document is in our files, marked RMY 154. It is at page 3103, a document from Mr J Modise, former Minister of Defence. It, it has a date, October 2000 to Dr GG Woods. Is that the
25 letter?

23 MARCH 2015

PHASE 2

DR YOUNG: That is correct, yes.

ADV SIBEKO: Alright. Just briefly, you say, this is evidence of the, to demonstrate that Mr Shaik reported his conflict of interest and when it was reported.

5 DR YOUNG: Well, if, looking at this letter, of course, it is pretty interesting, because what you have just said is correct, in the second paragraph of the letter. What is more interesting for me is what is actually recorded in the first, the first paragraph.

ADV SIBEKO: Just for purposes of clarity, which letter are you
10 ...[intervene]

DR YOUNG: This is the letter, this thing has developed a mind of its own. In any case, this is the letter, written by Mr Joe Modise, former Minister of Defence, to Dr GG Woods, dated October 2000.

ADV SIBEKO: What is the common theme, with regard to the three
15 letters we have?

DR YOUNG: The common theme is all conflict of interest and the point I made, at the beginning here is, at least, it was known by these relevant people. But, of course, what is particularly important is when the actual conflict of interest became active. We know when it was
20 reported, the so-called recusal was, was invoked, which was the 4th of December 1998. But, here, Mr Modise is saying in the first paragraph of this letter is:

*"I was informed personally by Mr Schabir Shaik (not Mr Shamim Shaik) the brother of the Chief of Acquisitions, Mr Chippy Shaik, of the
25 possibility of Thomson South Africa may acquire equity in Altech*

23 MARCH 2015

PHASE 2

Defence Systems. He also informed me of the company's interest with Thomson South Africa, which existed from 1995."

So, certainly, at least there, there is maybe indirect evidence of when this was known to the relevant parties and when the conflict of interest
5 should have kicked in.

ADV SIBEKO: I am certain that the Commissioners, would, in the fullness of time, have regard to all three letters, dealing with the issue of the further evidence of conflict of interest. Perhaps, we could then conclude this aspect of the evidence of Mr Shaik, with regard to that
10 matter, relating to the IMS risk, which appears at page 218 of your statement. Again, this is a matter that you have given evidence on. But, I see here that there is a further document you wish to submit, for the consideration, by the Commissioners.

DR YOUNG: Sorry, which document? Are you referring to, to the
15 next one, my 0675, or something else?

ADV SIBEKO: No. I mentioned that perhaps, that the Commissioners would, in the fullness of time, consider all three letters, that you say, constitute evidence of the conflict of interest and relating to when this was reported and when other people became aware of it. Sought to
20 direct your attention to the other matter or theme of your evidence, which relates to the IMS risk, which is at your DTI 0507 and mentioned that this is another aspect that we dealt with, at some length, during your testimony, a couple of weeks ago.

DR YOUNG: Yes. Sorry, I lost that train, so, okay, indeed, we are
25 still, we are still on the theme of Chippy Shaik's evidence. Possibly, I

23 MARCH 2015

PHASE 2

just need to pause for an instance, to say that these, these new letters, what you have just referred to, although, they have just been put into the evidence bundles now, they all are discovered documents. That is why they are all preceded by the, the index number DT 1, that was tranche

5 one. Okay. So, they all have been available to the, the Commission and other parties, for, for the last year. But, I do not want to belabour this issue of the IMS risk either, other than to say that this is also a, an issue, which Chippy Shaik addressed, not only in these, in these proceedings, but he also addressed in, in the SCOPA hearings. But,

10 obviously, the reason why I am saying is that he found it of particular interest and I also believe that it is addressed by, or used by Admiral Kamerman, in his, in his evidence. Anyway, again, I am referring to my very own letter. It is again, the, it is a discovered document. I think, the point there is that this letter, my very own letter has been used, as a

15 negative against me, in some kind of acknowledgement of risk of the IMS. But, what people, you know, unfortunately, the term self, self serving is an often used, legal term, is they interpret this letter in a self serving kind of way. Seeing, seeing that it is my own letter, I think, I am entitled to do so myself. But, what invariably is left out is that I offer

20 clearly, well, I am not going to go through the whole letter at all now, various ways of dealing with this matter. But, I only acknowledge risk, due to the changes of the base line. Base lines are things that are discussed quite a lot in my earlier evidence. I do not need to go back there. But, what is so important is that I talk about, on the third page, of

25 my full page letter, about the various options, which I address, in order

23 MARCH 2015

PHASE 2

of preference. That is to revert back to the project base line architecture.

ADV SIBEKO: Chair, I, I need to apologise, with regard, in respect of the numbering of these documents that Dr Young is referring to. The, 5 the letter that he deals with, under the IMS risk, which is dated 1999/07/29, is, it appears to be RMY 152, instead of what is written there and that is at 3092. The options that the witness is referring to, appear at 3094 of the bundle. You may proceed, Dr Young, to finalise the point.

10 DR YOUNG: Okay. So, anyway, it has also been alleged that, in fact, by Admiral Kamerman that I may, never addressed, you know, arithmetically, or never made any offer, whatsoever, regarding risk provision. Although, you know, it was done in a slightly, slightly different context, being a little bit after the fact, before I, here is a very, very stark 15 reference to a letter that I wrote that has, addressing the issues, as they had evolved and how to how to, which of course, resulted in the so-called risk and how to address this risk, under various, under the four different scenarios. So, two things, I do not think that this letter should be used, against me. That is my own view. Secondly, it is stark proof, 20 on the record, of that I did address the whole matter of risk, in numeric terms, financial terms in some way.

ADV SIBEKO: Alright. Having said that, that would conclude the evidence or your reference to the evidence of Mr Shamim Shaik. This would take us to your page 219, paragraphs 7, ja, now it becomes 25 confusing, because the numbering changes. I suppose, this would be

23 MARCH 2015

PHASE 2

786, where you tend to deal with the evidence of Admiral Higgs to the Commission and you do so, very briefly.

DR YOUNG: Yes. That is correct.

ADV SIBEKO: What is it that you intend to convey to the Commission,
5 with regard to this evidence?

DR YOUNG: Yes. This is a, a very short point, basically, by way, by means of introduction to Admiral Schoultz's evidence. It all goes around, at least one or in fact, two of the legs of the, of the terms of reference to the Commission, which are rationale and utilisation. This
10 particular point mainly goes around rationale. I, by way of introduction, I wanted to, to reproduce of what a, the position of the Navy, or at least, one of its senior members, Admiral, Rear Admiral Higgs said, regarding the reason why we acquired these patrol Corvettes.

ADV SIBEKO: Now, dealing with the evidence of Rear Admiral
15 Schoultz, in the context of the introduction you make, what point do you seek to convey to the Commission, in, with regard to the rationale and the utilisation?

DR YOUNG: First of all, I think, I just would like to say what Rear Admiral Higgs has said, because he repeated it twice. It is very short. It
20 is only a sentence in each case. But, at page 241, it is obviously fairly close to the beginning of the, the business of this Commission, but he says:

“And the reality is, if we do not patrol, we do not control. We have got to be out there.”

25 That is what he means by the, the reason for acquiring these Naval

23 MARCH 2015

PHASE 2

vessels, specifically, the patrol Corvettes. So, it looks like [indistinct] agree the submarines, but, then he goes on to say, just seven pages later:

5 *“So, it is very, very important that people, who have interest at sea, are able to patrol, what they have interest in and there is an [indistinct] he says.”*

I say, because I actually means an adage, it is a Naval adage, which says, if you do not patrol, you do not control. So, basically, that is the point what, what Admiral Higgs, now I have to be honest, I do not know.

10 I have met Admiral Higgs once or so, to shake his, or he came to shake my hand and the only comment was on the, that he liked my tie. So, we are not, you can say industry colleagues or something. But, I want to put this in the context of what Admiral Schoultz then goes on to say, not much later. So, we are talking about 485 of the transcripts. By way of

15 context, he answers Advocate Lebala, his evidence leader by saying:

20 *“Chairperson, I do not believe that would be fair, because I have indicated operational available (I think, he means availability) can also be lying alongside, awaiting an assignment and if there was no assignment to go and do, then just to steam around outside, would be pointless, quite frankly.”*

Now, that does not accord with my understanding and I, I am not a Navy Admiral, or even a Naval seaman. But, I do have quite a lot of, I have got about 30 years' of experience in Naval acquisition, which all stems from, or system engineering, which all stems from, from acquisition. It

25 certainly is my understanding that a frigate is something that does

23 MARCH 2015

PHASE 2

patrol, that these were, at least, acquired as patrol Corvettes. That is the job of a frigate or a patrol Corvette is to patrol. The, it is very important in the context that South Africa is a major maritime nation. So, it is something like 3 300 kilometres of coast line. It has also got an enormous, exclusive economic exclusion. So, in going right out to the, I think it is the Prince Edward Island and various other islands. So, in terms of square kilometres, or square hectares, it is an absolutely enormous zone and there are all kinds of things going on there. We know there is poaching of Patagonian toothfish and all kinds of things and whatever. So, the Navy uses deep water capability, which the term has been used, certainly in the context, at least, of these proceedings, of deep water patrol capability. I would certainly agree with Rear Admiral Higgs that the Navy should use its surface assets. The rationale for those assets is to patrol, whenever it can. That is the reason that is the rationale, why the patrol Corvettes were acquired. My in my own view, is it will be, that the South African coast, South African coast, so South of the Namibian border and South of the Mozambique border should be almost permanently patrolled, by at least, one, one surface vessel, because we do not have really great maritime aircraft patrol capability. So, anyway, I would disagree with what Admiral Schoultz says here, to steam around outside, would be quite pointless, quite frankly. That just, those two points of view, do not accord, in my view. They, they are diametrically opposite. So, anyway, that, that comes into the point, first of all, of rationale.

25 ADV SIBEKO: Do you have evidence, perhaps, are you aware if the

23 MARCH 2015

PHASE 2

projected time that these patrol Corvettes are intended to spend at sea, are achieved at all? If not, do you have any evidence to the contrary?

DR YOUNG: Yes. I have done some calculations and I have, I have relied on some of the evidence, given by, by the Navy, with the DoD, through Admiral Schoultz. He has quite a vast number of annexures in his evidence documents, through his witness statement. I have done some of my own arithmetic analysis. I know exactly what dates, to the day, that the various of the four patrol Corvettes were taken into service. He, he provided a figure of days of utilisation, to a particular date. I think, I know it was a, I think it was the 13th of August or something, 2013. So, using, ja, sorry, the 23rd of August 2013. So, if one calculates the ship years in service and the ship days in service and the ship hours in service from the service dates, one can quickly do an arithmetic analysis, using his own table of, of actual utilisations. My own figure is approximately 19 per cent. It is fairly simple to work out from his days, days of 1 932 days, of actual duty days, compared to the, my calculation shows a figure of 10 057 days in service. That accords with an utilisation factor of 19.2 per cent. Now, carrying on his own evidence, he, he refers to a document that, that I refer to, in my previous evidence, the Naval staff requirement. In fact, I used his, his issue two, for my own evidence. But, clearly there, and the correct reference is in that, in that document. I think that I did paraphrase that, but, nevertheless. Ja. It is, it is, the, the specification, which he testifies, as being a valid document, to this day, the Naval staff requirement that was drawn up in 1980, the Naval staff requirement 6-80, or 6/80, the 80

23 MARCH 2015

PHASE 2

means the year, requires an availability of 260 days. Now, that accords with my 30 years' of experience. Those 260 days is about, about nine months of the year, where a ship should be available. That does not mean to say that it sails every day. But, it should be available and it is

5 also the reason why you own more than one of them, in fact, why you have four of them and not three of them or two of them.

ADV SIBEKO: If, if I may interrupt you, Dr Young, the point, which you seek to make, as I read your statement there is having regard to the evidence of the two Admirals, including also the evidence that was given

10 recently, by Admiral Green, with regard to the usage of the frigates. The point you wish to make is there is less utilisation of the frigates, as was originally set out in the staff requirement. Is that so?

DR YOUNG: Well, certainly, according to Admiral Schoultz's evidence, is not the availability time, which is 260 days per year, per

15 ship, but the, he says the ship should spend some 180 days per year, per annum at sea. Now, that is, as your 180 days out of 360 is about 50 per cent of the year. So, if my calculation is correct, then we are achieving 19 per cent. 19 per cent is a lot less than 50 per cent. In fact, if you take 19 per cent that is about I think, about 70 days per year. So,

20 in terms of utilisation, it would seem that we are achieving only about 70 days, per ship, per year, rather than the specified figure of 180 days per year. So, that is an enormous difference and it should be of interest to the Commission, if one of the legs of its terms of reference is utilisation. But, of course, [indistinct] one has to of course then addresses the issue

25 of why is this so.

23 MARCH 2015

PHASE 2

ADV SIBEKO: You are not able to gainsay the evidence that has been presented before the Commission that the utilisation of these armaments, especially the frigates, is a matter that is directly linked to the budgetary constraints of the, at least, the Department of Defence
5 and in this regard the Navy.

DR YOUNG: I do not think, I would like to gainsay that at all. I am 100 per cent on all fours, with that statement. Clearly, that is the reason. I think, the point I was trying to get before, there has to be a reason, why the operational budget, for a capital programme, a multi
10 billion, you know, this was acquired for R6.873 billion, in 2000 rands. That is typically a R15 billion acquisition, in 2015 rands. Of, if you require a major capital system for the Navy, or a critical strategic requirement, strategic defence packages, is if you do not have the running budget to support, what is operationally set out and as Admiral
15 Higgs said, to patrol, you want to patrol your coastline, as much as possible. More, more, okay, then there has to be a reason, why that, that budget is not available. It has to stem back, logically speaking, of the rationale. Why were these things acquired, at such great costs and such great effort, if they are not going to be used and if, if the, if the
20 budget is not going to support the operational use, [indistinct] it, with the outlay, you know, at the public purse.

ADV SIBEKO: And, and that is the point you make, actually, in your paragraph 800 of your statement, at 223. Do you agree?

DR YOUNG: Yes. I am in concurrence with that.

25 ADV SIBEKO: And that would then bring us, to dealing with the

23 MARCH 2015

PHASE 2

evidence of Mr Grobler. This is in relation to the internal audit that was ordered by Mr Esterhuysen, with regard to the acquisition processes, especially, in relation to the officials at Armscor. What point is it that you want to make, in this respect.

5 DR YOUNG: Well, actually, there are quite a number of points. I do not intend to elaborate on each of them, at great length. So, hopefully, I can cover this in a few, not necessarily minutes, but tens of minutes. Okay. The, the first point I wanted to make is that the acting general manager for Armscor at the time, was Mr Erich Esterhuysen, who has
10 been a witness at, at this Commission. As, you know, I think, it is common cause, that he held his position and I think, he left Armscor officially, in November 1998, which, as we know, is a month, or two months or so, after the preferred suppliers were selected, by the government, by the Minister's Committee in September of 1998. But, he
15 actually spent the last month or two or so, of his actual paid employment, on leave. But, I do know, that before he left, he, he issued an instruction, to his subordinates to do, in Armscor, to do an audit on the, on the process. The first, I think, I think this, my words, what I have said under 802, puts this in the correct contextual nutshell, is he says:

20 *"I hereby request."*

Okay. You know, well that is important, now he is, okay:

"Audit request, International Defence Offers, equipment offers. Since the evaluation of the different offers have been completed and as the results communicated, via the SOFCOM to the MC."

25 Now that is important, what I have said. SOFCOM and MC is the

23 MARCH 2015

PHASE 2

Minister's Committee, those are the two entities, which actually played the deciding role here. As he says, himself here:

*"I hereby request that an audit be performed to ensure that the recommendation to the Minister's Committee is based on accountable
5 tender evaluation process."*

Now, that in itself is actually quite telling, because, of course, as we know that, that process is in line with, in the 4/147, so rather than the correct process, which had been according to MODAC. But, anyway, I cannot see here, now as far as I am, I am understanding, although there
10 was a, Mr Esterhuyse had a superior, at this stage, even though he had been acting CEO, at one stage, before Mr Haywood came in. But, Mr Esterhuyse was like the main guy in Armscor, which is the main entity, in response, responsible for the processes. So, he was the main person. He is issuing a request for an audit. It does not say, as regards
15 to the Armscor, the Armscor employees, it says the process. That is the whole process. But, it is pretty clear and we will come onto that, of, you know, I do not whether we, I should go straight onto that, rather than, you know, the other sub aspects of what Fritz Nortjè is meant to have said.

20 ADV SIBEKO: I think, let us go to the nub of what you want to say, other than dealing with the sub aspects. I am sure, the Commissioners can go through those sub aspects that you want to deal with.

DR YOUNG: Yes. Indeed. Okay. At my 804 here, I think, the, the one report, there were, there were two reports here. I have got, this was
25 in Grobler's witness statement and evidence, so it was in his bundle at

23 MARCH 2015

PHASE 2

page 10, which is pdf page 12. I think this is on the record. But, here, they actually refer to a few examples, of instances, where Armscor's standard evaluation processes were not followed and the observations and recommendations of the auditing [indistinct]. I think, that is a, it is a clear inference of procedures not being followed. Okay. Now, so it was known, at this stage. In any case, at my 80, paragraph 803, I have there a fundamental conclusion of their first audit report, which I think, was dated in January 1999. Okay. It says here, at paragraph 2.1, I think:

10 *"During the execution of the audit, no evidence of improper conduct was found, on the part of any Armscor employees, involved in the evaluation, of the various proposals."*

That is at page 5 of 25 of that report, page 273 of the bundle and pdf page 20. So, okay, so that, that is, that is a fairly fundamental conclusion to make, right at page 5, under the executive summary. Then again, and then they repeat their audit, their audit, they come up with another report. I think, it is dated, I think, it is August that year. In anyway, I do not think we need to belabour it, but almost the same conclusion is, is made in their second audit report, at page 21 of 21. The last, it is obviously, the conclusion section. Okay. So, I think, that is, that is the context, at least, of a couple of things. That point I wanted to make, is regarding what Fritz Nortjè has said, regarding my particular evidence, regarding the SMS. That is the third paragraph of my, was it the third or the, one, two, three, four is it, of my paragraph 803, if we could just get there, while I take a sip of water. Okay. I have just

23 MARCH 2015

PHASE 2

repeated the first couple of paragraphs for the context and clearly, I mean, the rest of the report shows them interviewing at least, all the relevant Armscor people, programme managers and managers in charge of DIP and finance, et cetera. They say here:

5 *“The programme manager (who is Mr Fritz Nortjè) indicated, during the interview that the team had refused to accept modified offers submitted after the closing date for tenders.”*

Now, without traversing in great detail, this is, in response to the SMS. I went through this in great detail, in my previous evidence, where I
10 proved. There is no onus on me, but I proved, in terms of ADS’s own document, submitted a day, almost a whole calendar, well let us say, 23 hours later, that indeed, that the project team, that is the team, did indeed, accept ADS’s, what they say, modified offer. So, clearly, something is very, very incorrect here. One, you know, one can only the
15 only inference or conclusion I can draw, is that somebody is not telling the truth here, at least, to the Armscor audit committee. Okay. So, that was the point why, why I added in this 803. Carrying on, well, maybe I will just pause there.

ADV SIBEKO: So, the, the point you want to make really is that, if one
20 has regard to what Mr Nortjè’s response is to the audit team that the conclusions and what you have tendered, as evidence before the Commission. The conclusion that is set out in the second audit report and perhaps, in the earlier on, in 803, at page 225, can certainly not reflect the true state of affairs, as you know them.

25 DR YOUNG: Yes. Certainly, that is one point. But, maybe, in one or

23 MARCH 2015

PHASE 2

two minutes, I can conclude this whole, this whole theme is, I am sure, any reasonable person has to agree with me that two audit reports that are done, prior to the biggest strategic defence package, the biggest procurement package ever done in the history of the country, 5 commissioned by the most important person in Armscor and Armscor is not only the most, it is the body, responsible for acquisition. If they do two audit reports and they come up with certain findings that are relevant, in fact, some of them might be critical, then it is absolutely unexplained and inexplicable, why these, these reports never made it 10 into the JIT, the Joint Investigation Team, at all, at all, at all. I have done searches this weekend and before, on the names of Mr W Van Der Walt, Mr Dobta, BJE Van Tonder and Mr JG Grobler, who was the witness. These two documents, do not feature in the JIT's report at all, whatsoever. That has to be asked why. Okay. I have been told that 15 these reports disappeared in this relevant period of 1999, of when they were written to at least, 2000. The JIT report was finalised in last, the first week of November 2001 and actually handed to, to, not SCOPA, to Parliament on the 14th of November. So, they disappeared. But, clearly the report, the versions that, what I refer to here, that they are part of Mr 20 Grobler's witness bundles, are actually signed and by all three of the, the authors and actually dated. So, it would seem to me that these are, at least, a copy of an original signed copy. Okay. So, suddenly, after disappearing for at least, a couple of years, they came back and did exist all the time. But, it has, to be frank now I did not come to this 25 Commission of Inquiry, to be other than frank and to tell the whole, to

23 MARCH 2015

PHASE 2

give my view and to be, to tell the whole truth. Not only, is it unexplained and inexplicable, being frank, it is highly, highly suspicious that these two documents did not make it into the JIT investigations' work, because if it had, it would have made a fundamental difference.

5 In fact, so much so, that maybe we might not have a Commission of Inquiry here, 14 years later. That is my main conclusion. But, other than what, I mean, I did not cherry pick. I just looked for things, to support my evidence and things that relate to my evidence. Of course, one of them is Mr Fritz Nortjè. But, the other one is the legal opinion on
10 the GFC's DIP and there, I know, there were other legal opinions, regarding similar matters. But, I think, it has to be common cause, that Mr Johan Van Dyk, who was the DIP manager of Armscor, received, well, sorry, requested Armscor legal department's opinion. I have now seen, I have gone through that legal opinion. I see, it was written by Mr
15 Barry, no, it was adduced by Mr Barry De Beer in his evidence. I have read through that. The, the legal opinion is pretty clear. But, it is completely ignored, by Mr Van Dyk. But, the point is, that is a pretty fundamental omission of, on his part. Why is it not addressed at all, by these audit reports? You know, if you ask for a legal opinion of an
20 acquisition authority and they give one and then they ignore it, I mean, that is a pretty serious omission. Anyway I think ...[intervene]

ADV SIBEKO: I, I need to remind you that we are fast running out time, to conclude your evidence in chief. Would you like to conclude on this aspect, before we deal with the next witness, who is Mr Hlongwane,
25 before the Commission?

23 MARCH 2015

PHASE 2

DR YOUNG: Yes. I, in my own view, we are doing quite well for that. Okay. But, then, I kind of expected to get to this point at this time. Now, of course, is the trickier one.

ADV SIBEKO: Chair, will this be a convenient time to take the tea
5 adjournment?

CHAIRPERSON: Let us take an adjournment for 15 minutes. Thank
you.

(COMMISSION ADJOURNS)

(COMMISSION RESUMES)

10 **RICHARD MICHAEL MOBERLY YOUNG**: (s.u.o.)

ADV SIBEKO: Dr Young, we, we are now at paragraph 808, of your statement. It appears at page 226. In, on that page, you make reference to your desire to deal with the evidence, tendered to the Commission, by Mr Hlongwane. At paragraph 809, you say that:

15 *“The essence of your evidence is that Hlongwane did not only conclude certain consultancy agreements with BAE, during 2003. He did so, prior to that, as early as 1998 and received substantial payments, via BAE systems, Red Diamond Trading LTD and other, even more indirect routes.”*

20 Is there something perhaps, before we deal with this aspect of your evidence that you wish to correct, in relation to when, you say, he started to receive substantial payments from BAE?

DR YOUNG: I do not think, there is anything I want to correct, regarding the receipt of payments. I have said here, that probably, he
25 concluded certain consultancy agreements, as early as 1998. I said,

23 MARCH 2015

PHASE 2

there are references to giving consultation with BAE, certainly in 1998. But, in terms of, in terms of the exactitude of the, of the facts, it seems as though that the first actual consultancy agreement, with him, with him was signed in September 1999.

5 ADV SIBEKO: Now, at paragraph 810, you say that the evidence you wish to tender, to this Commission, in respect of the evidence, submitted by Mr Hlongwane, you do so, in respect of, or by referring to the documents that are set out, at the end of your paragraph 8.10. I, I just may point out to you that after we received this statement, the
10 documents, referred to here, were copied and they run into approximately four arch lever files. Within the time that the Chairperson has pointed out, as being allocated to you, to conclude your evidence in chief, are you able to refer to the salient passages of these documents, so as to make the point that you say, is the essence of your evidence?

15 DR YOUNG: Yes. I certainly am able to do that. You know, I have got these documents in front of me, in digital form and I have book marked, highlighted specific references that both got to prove the essence of what I am saying, as well as, you know, the context in the, in the slightly wider context, which, which is relevant. But, I do have, you
20 know, the, the jest of what I want to say, in my head. Of course, I have to be frank here, you know, is that I did not, well, I have been preparing for this Commission, as one should know, since, you know, I wrote the original supporting affidavits, it was in 2011. So, of course, I have been, but I did not start off, by thinking that I would have to address this point
25 at all, because I wanted to concentrate more, on the Corvette combat

23 MARCH 2015

PHASE 2

suite and to a slightly less extent, the, the Corvette. But, also, it has to be known that Mr Fana Hlongwane was, I think, the last witness before me. I mean, I never, Admiral Green might have appear for a very short time. There might, but in most, the, the last substantial witness and I think that was only on the 11th of December last year. Of course, I had to finish my own primary witness statement and evidence documents. So, I just have not had the time to address this particular part, this in the same manner as the previous part. As you could see, the previous part is addressed in nearly 200 pages of witness statement, with almost paragraph by paragraph, relevant documents. This is going to be, have to be slightly different, just from the practical nature of things. But, saying that, having read Mr Hlongwane's witness statement, once it was published on the Commission's website. I think, it was around about the 17th of December, not long before Christmas and knowing that I would have to take an oath, to tell the whole truth and nobody else had addressed, seemed to have addressed this point, whatsoever. There seems to be only another two witnesses, coming up, after me, other than the companies, themselves. That is Major General Meiring and Colonel Du Plooy and of course, I have no idea, nothing, no idea whatsoever, what they are going to testify about, I thought it would be incumbent upon me, to, to at least, give this in a summarised format, to the best of my knowledge and to the best of my ability.

ADV SIBEKO: Now, while you gather your thoughts, as to how best, you will summarise the evidence you are about to give, having regard to the various documents that you will be referring to, I need to remind you

23 MARCH 2015

PHASE 2

of two things. Firstly, there is an issue of time. Secondly, the ruling that was handed down previously, with regard to how you use documents. So, having that in mind could you then proceed to deal with these documents? First of all, what they are, how you got them and their
5 relevance to your evidence.

DR YOUNG: Yes. Of course, I am mindful of both those factors, especially the ruling and it is, well, I am also mindful of my own intention, to go home, at the end of this week. So, I think, probably the best for me is to work mainly from memory, because I do have the
10 summary of this in my head. Of course, if I get stuck, I can, of course, turn to, to the relevant documents and I might, I might say, at this point that I am extremely impressed that the Commission has been able to copy all of these documents for the relevant number of parties, since I provided them, last Wednesday. Okay. So that in fact, that takes a
15 huge burden off me. I have, I am an engineer, but I have the slightest bit of experience of legal matters. I think, I was advised by my own senior council, in a private, a private litigation quite recently that once a document is adduced into evidence and I suppose identified correctly and its relevance is proven, then that document is part of the, you know,
20 the evidence record. If that, if that is, if that remains the case, but, of course, this is a Commission and not a civil trial, then I do not think it is necessary for me, to go through all of these documents. Because even if I went through all of the documents and all of the points, that could keep me here for a week, at least. I mean, just, just for example, an
25 extremely important document here, is the transcript of the equivalent of

23 MARCH 2015

PHASE 2

a Section 28 interview done with the Regional Managing Director, at the time, of British Aerospace in South Africa. His name is Alan MacDonald. I think that that transcript alone is 500 pages. In terms, with respect to the terms of reference of this Commission, I would say, 5 of the 500 pages, of Mr MacDonald's evidence, about 490 are directly relevant and slightly lesser than the others. But, I think, my point is made is, you know, even if I address one point on every second page, it could keep me here for a long time. That is neither my intention, nor I think, the wish of the Commission. So, it is probably best. But, of course, the same time I am meaningful, mindful of that and as mindful 10 as well, as that one should try not to cherry pick evidence, as far as possible. But, of course, I have to do that and that is said, not in a negative way at all, of just looking for the things, that certain, you know, of self serving to my, my point, but are relevant to a train of thought or a 15 train of evidence. I, of course, I am also mindful that I have got no burden of proof. I have no burden of proof in this Commission. But, I do need to make a rational, how can I say, foundation, for what I say.

ADV SIBEKO: Now, I take it, with that prelude, you will then get to deal with the specific references, which seek to support the statement 20 that you make in your paragraph 8.9, oh, 809 of your statement. Perhaps, for, for purposes of your evidence, I may point out, Chair and Commissioner Musi, that the, the various documents that are referred to, in just at the end of 810 of the witness's statement, are contained in five arch lever files that have been reproduced. They start at file eight 25 and go up to file 12. They, the majority are made up of transcripts of

23 MARCH 2015

PHASE 2

interviews. It would seem, held at the Serious Fraud Office, in the UK.

ADV CILLIERS: Mr Chair, if I can come in, at this stage. It is Cilliers, on behalf of Advocate Hlongwane. After listening to this long introductory speech, by this witness and having had regard to the
5 documentation that we only received last night.

It appears to me that this witness is, is absolutely and clearly going into, what you have referred to previously, when you questioned the evidence leader. Is that, it appears that he wants to deal with certain documents, that he introduced before you, which is of some, difficulty for
10 us, to understand, on what basis it is indeed, properly before you.

But, but, even if one does not look at that aspect, he, himself mentioned that he is making inferences and referring you to what he read in those documents, that has been adduced, before you, properly so, on his advise from his legal council. My difficulty is, that is clearly
15 not evidence.

That is clearly submissions that he wishes to make, based on the documentation that he presented you with. The reason why I, I refer to it at this stage, what in the end, will be expected from us, on behalf of inter alia, Advocate Hlongwane?

20 Should we now cross question this witness on the correctness of his submissions that he makes? That will purely go into an absurd situation and develop into an absurd situation, where we will not cross-examine him on factual issues, because he has no knowledge of any of the factual issues.

25 We will have to cross-examine him, on inferences that he draws and

23 MARCH 2015

PHASE 2

whether it is the correct inferences, whether it is in fact, all the inferences, to be drawn. It is thousands, it is running into thousands of pages.

We can spend here two three weeks in cross-examining him, on the
5 correctness of his submissions, which will not assist you, in coming to, to the conclusions that you will have to come to, in terms of the terms of reference. So, we really have a difficulty to understand the admissibility and or the assistance that you obtain from this witness's inferences and submissions that he will base on the documentation that has been put
10 before you.

CHAIRPERSON: Advocate Sibeko?

ADV SIBEKO: Chair, while I understand what my colleague Cilliers is submitting before you, I, I may point out that, on a previous occasion, again, dealing with a similar issue, a ruling was made. On the basis that
15 this, being a Commission of Inquiry, allegations are being collected, for purposes of making certain findings and perhaps, recommendations of investigations that will be conducted by the relevant authorities.

Now, it is the issue of admissibility of documents and what the Commissioners do, with the contents of the documents, going forward,
20 is a matter that would lie for the determination of the Commissioners, especially, having regard to the veracity and probative value of the contents of the documents. It is on the basis of submissions made, during the course of the week before last, that the Commissioners made the ruling, allowing the witness to give evidence, of allegations and what
25 he believes, support, or is proof of support of the allegations, or

23 MARCH 2015

PHASE 2

evidence, with regard to the allegations that the Commission is investigating.

That it is only at the appropriate time that issues, relating to probative value and so forth, with regard to the documents, will be determined.

5 But, for purposes of this hearing, it does appear that in terms of that ruling, for as long as the witness does not seek to analyse the documents, which he seeks to rely on, that he demonstrates passages that he relies on, in support of the evidence he is giving.

He would not be making submissions, as it is contended for, by my
10 colleague. For that reason, we would submit that, if regard be had to the ruling that was made, in respect of which, the witness has been cautioned, the witness is within his rights, to continue to give evidence, to the extent that such evidence would be complying with the ruling, previously made.

15 CHAIRPERSON: Possibly, maybe the civil course to take is that, you know, let us stick to the ruling that I have made. I am not going to change it now, as long as the witness can keep that in mind, when he testifies.

ADV SIBEKO: Certainly, Chair, it is for that reason that I thought it
20 appropriate that I must remind him of the ruling and, as clarified to the witness, by yourself. Dr Young, we, we, going forward, let us then deal with the summary of the evidence, you seek to bring, with reference to the specific passages, without analysing them. But, just dealing with them and what, demonstrating what is set out, in the relevant pages, of
25 the documents, after you have identified them.

23 MARCH 2015

PHASE 2

DR YOUNG: Yes. Of course, I have listened to this exchange and it has given me some food for thought and further direction of how, of how appropriate to proceed. If I may just start, that I think that, well, hopefully, that I will achieve something that is certainly not absurd, as

5 Advocate Cilliers puts it. It is certainly relevant, to the Commission of Inquiry and is certainly on all fours with every single thing that I have read, regarding the terms of reference and the evidence so far. Of course, I have also thought about it, slightly further, in terms of just the practicality of, of, in keeping a train of thought, going for myself. Okay.

10 But, now I think, you know, now that I am getting a bit more direction, I can simply start off, by putting this thing in an absolutely relevant context. Is the witness, whose evidence now, I am, I can say, I do not want to use the word rebutting and I do not want to say is analysing, but to which I am referring, started off his own evidence. It was pretty short.

15 It was only one day. I think, it was not cross-examined and but anyway, there is one fundamental point of departure and I am reading to extracts of it. The first one is the witness statement, which is on the record, as well as in the transcript. It is just, it is two short things. His paragraph 21, which is page, my pdf page 13, he says simply, one sentence:

20 *“On or about the 10th of September 2003, my company duly concluded the written consultancy agreement with SANAP.”*

Okay. The equivalent of that, in the recordal, the oral evidence is he gets led by Advocate Mphaga, I got the right, he says:

“Thank you.”

25 That is at my pdf page 32 of 47, but at line 18, 17, Advocate Mphaga

23 MARCH 2015

PHASE 2

says:

“Thank you, so it is common cause, advocate, that you concluded certain consultancy agreements with BAE, as you have already indicated, during 2000, where you [indistinct].”

5 As an advisor and in particular in their submission, BAE makes reference to the whole question of advisors and of course, BAE's own submission is an appended document to Advocate Hlongwane's own evidence. That is my point of departure. I can say, from memory and of course, whether I get, this comes up in my own evidence in chief, or
10 whether it is in cross-examination. I will point you to a whole range of documents, both Section 2, I think, they are, the equivalent of Section 28, transcripts of evidence, under oath, of all these British subjects and one, I think it is a British subject, but this interview in Switzerland, in Geneva. With in other words, Mr or Sir Alex Roberts as well as relevant
15 evidence, documents, which show that that just possibly, cannot be true. Okay. What may be true, is that the first consultancy agreements, directly, in fact, not between Mr, or Advocate Hlongwane himself and BAE, because they were done through his companies, SANAP and I think, there is one called Hlongwane Consultants, Consultants, or
20 something like that. It was certainly done in 2003. But, the point I wish to make is, it, as clear as night is from day, that Advocate Hlongwane was involved, not only with, as an advisor, a formal advisor to the Minister of Defence, in the, certainly the 98, up to January 1999 era. But, I think it was actually extended much before that, maybe as long as
25 94, but certainly, in the relevant period. Not only that, of course, by that

23 MARCH 2015

PHASE 2

token, had deep insider knowledge of this acquisition process. I mean so much so that he is a founder member of the whole MODAC work group that put together the MODAC policy for, for acquisition. But, nevertheless, there is evidence, at least under oath, of relevant parties
5 that Mr Hlongwane was meeting, meeting BAE people. From what I remember is that, in their own words is, he and Mr Charter, it is Richard Charter, were unashamedly or openly introduced to us, as BAE, as our consultants. That is the 1998, the 1998 period.

ADV SIBEKO: When you say you have evidence to demonstrate that,
10 where do we find that evidence?

DR YOUNG: Well, probably this is an appropriate time to say that the evidence documents, to which I refer, after my paragraph 808, where I have just referred to advocate Hlongwane's witness statement and transcript. There are all the evidence documents, my evidence
15 documents under my paragraph 810. The first, I think, it is 10 of them, one, two, three, four, five, six, seven, eight, nine, nine of them are, or the first eight of them are transcripts of interviews done in the UK, by the Serious Fraud Office in, as far as my memory takes me correctly, around the time 2007. The last one is one, done by the SFO members,
20 under a, I think it is called a Commission, a Ragataire, a Commission of Inquiry in Geneva, Geneva in Switzerland with Mr, or Sir Alex Roberts, who lived there at that time. So, that is the basis of that lot and those are all the documents, which have been copied.

ADV SIBEKO: Perhaps, before you continue, how did you come into
25 possession of these documents?

23 MARCH 2015

PHASE 2

DR YOUNG: Well, if I am a whistle blower, then I am a, unfortunately a head above the parapet whistle blower. These were given to me, by a head below the parapet whistle blower, some years back.

CHAIRPERSON: I am sorry, I do not quite understand that answer.

5 Can you just explain what you are saying?

DR YOUNG: Well, very similarly to the other documents, which I referred to, in the first part of my evidence, two weeks ago, when I said many people have considered me as a kind of a conduit, for, for information of various types, regarding the SDP's. This is a similar
10 instance of this, where people, who have been involved in the processes have come into, possession of relevant documents, have in this particular case, again, I am not quite sure who, who exactly did this. Those are document that were also sent to me in digital format, on a digital storage medium. That is how I got into possession of them.

15 CHAIRPERSON: Dr Young, when were these documents sent to you?

DR YOUNG: From what I remember, it was some, some time in 2010.

CHAIRPERSON: Do you know, whether these are genuine documents or not?

DR YOUNG: Okay. I am 100 comma zero per cent sure that they are
20 genuine documents and without the slightest doubt, whatsoever.

ADV SIBEKO: Alright. We then proceed to deal with the, you wish to deal with, keeping time in mind.

DR YOUNG: Yes, I am will address the first of the nine documents. The second lot starts about halfway down that page with the number
25 0500 value rex. That is the first of it looks like another nine documents

23 MARCH 2015

PHASE 2

which is not transcripts of entries under oath. They are more the original course documents. Which basically how can I say, were almost surely used in those interviews. They are not appended to those documents the way [indistinct] works slightly differently.

5 They do not have a PDF printout of a transcript of interview under oath and append the annexure of it. They refer to documents which they have a dock man, they call him. A document management system which is clearly a computerised document management system.

10 Within the interviews you will see references to documents that they have used in these interviews and my educated guess tells me that the numbers like the 050000 and the 050930 are those particular as far as I know SFO numbers. Be that... I am basically just well partly to ensure that the documents are reasonably introduce for the purposes of the record. That is why I am describing them. Okay. I do not think that I
15 need to even, unless I get lost to at least introduce the theme that I am trying to introduce in this particular part of my evidence in these Commissions.

A certain statement was made under oath that me or my companies 'was only involved from 2003'. [indistinct] I will proceed. I hope I am
20 being recorded. Whereas it is absolutely clear that, that is not the truth from a couple of different perspectives. The first is the chronological one. The consultancy agreements which are complex because they are indirect they are using the delicate legal term special purpose vehicles or have more than one level of indirection and payment. However the
25 evidence that I have all shows that there were commissioned payments

23 MARCH 2015

PHASE 2

made based on consultancy agreements entered into and stemming back as far as September 1999.

There are also payments going back, it might not be September 1999 but it was I think October 1999 which is as we know is in the relevant
5 chronological period is after the approval of the SDP's by Cabinet was in that period and the at least the approval of the contracts in general had been done by September in 1998. Contracts got formally signed on 3 October 1999 and became effective, I think the BAE, Hawk and Gripen Contract was the first one to become effective.

10 I know it was around the second or third week of April 2000. If we just look in the chronological context of that you will see that there is a lot of value to be gain by just noting that. Be that as it may, for the purposes of my evidence here I think all that I need to demonstrate and as I said before, I do not think that I have a burden of proof. I think
15 however that I can proof or at least, I will not prove it today because maybe that will take me more than a day. I think that the documents that I adduced will actually prove beyond any doubt whatsoever that the averment that me or my companies only entered into agreements with BAE in 2003 are not true.

20 ADV CILLIERS: Mr Chairman, I am sorry to interrupt again. I can deal with this in cross-examination but he himself the witness said that this is the very basis of his evidence. He should not mislead you. I invite him now to show to this Commission where he read the words 'me and my companies only became involved with BAE'. Because that is blatantly
25 dishonest and it is a blatantly misleading of this Commission, either

23 MARCH 2015

PHASE 2

evidence before me I have the statement before me. I invite this witness to indicate to you where he found that phrase that he quoted to you.

DR YOUNG: As I said I was working from memory. I am maybe
5 ...[intervenes].

ADV CILLIERS: It does not mean that you can mislead if you work from memory.

CHAIRPERSON: Sorry Dr Young, are you in a position to refer us to that paragraph. If not, are you prepared to withdraw that statement?

10 DR YOUNG: Yes I am prepared to withdraw it as a word by word quotation. In my view it is a reasonable paraphrasing of the statement that was made. was that I provide a statement of my companies involvement with BAE as an consultant to assist them with the implementation of the NIP Programs.

15 On or about 10 September my company dually concluded the written Consultancy Agreement with NIP basically that is what I am trying to say. I will withdraw what might have come across as a word by word quotation which I did not mean, I am just saying what my interpretation of what was meant by what I have just read out here out of the witness
20 statement.

ADV SIBEKO: Dr Young my college Cilliers invited you to refer to a paragraph of the statement of Advocate Hlongwane or a passage in the transcript of his evidence where the statement that you have made that the Chairperson has inquired if you are prepared to withdraw. In those
25 documents are you able to refer the Commissioners to passages in the

23 MARCH 2015

PHASE 2

statement or in the transcript of evidence?

DR YOUNG: No, I am unaware of a statement with using those exact words.

ADV SIBEKO: What were you reading a short while ago?

5 DR YOUNG: It is clear that I need to read it again. There are two points of departure here where Advocate Hlongwane basically testifies that he was not involved with BAE prior to 2003.

ADV SIBEKO: Where are you reading what you have just read. If you could just give us a reference of the passage that you are reading it
10 might assist?

DR YOUNG: Yes I did actually read this into the record. I said that I am looking at his witness statement. I am looking at the top of PDF page 13/192 it is the paragraph 20 and 21.

ADV SIBEKO: Thank you. You can proceed.

15 DR YOUNG: I am going to read that again. Paragraph 20 says:
“I provide summary of my companies involvement with BAE as a consultant to assist them with the implementation of the NIP Programs. On or about 10 September 2003 my company dually concluded the written Consultancy Agreement with SAN NIP.”

20 That is what the witness statement says.

ADV SIBEKO: Right you can continue with the evidence now.

DR YOUNG: The equivalent in the oral evidence, transcribed which is my page, PDF page 32/47.

ADV SIBEKO: It have a reference number in respect of the running
25 record?

23 MARCH 2015

PHASE 2

DR YOUNG: This is yes, sorry. Page 8969, starting at line 14.

ADV SIBEKO: Yes Dr Young you can proceed with the evidence. Once again I must caution you that time is not on our side.

DR YOUNG: Yes well certainly with the objections, if this is going to be
5 my point of departure for the rest it is going to be a (how can I say) it is
going to be a difficult path for me if my foundations are not solid. I want
to at least start off with a solid foundation. I think this makes it solid
enough.

Advocate Hlongwane stated as saying:

10 “As my non involvement was canvassed before thee, (I presumes he
means Commission) and my non involvement is common cause I am
unable on the veracity of the statement.

Advocate Mpaga says, thank you. So it was common cause that you
concluded certain Consultancy Agreement with BAE as you have
15 already indicated during 2003?”

Of course I have also said before that in terms of logic and evidence
where there is not something you cannot find it, it does not exist. I am
unaware of where anywhere in the witness statement or the evidence
there are references to the Consultancy Agreement signed in
20 September or October or whenever they are 1999. That is the point that
I am trying to make.

Is that the evidence could not have been correct. Of course if I am
incorrect in saying ‘well okay this is just actually the post 2002 period
but of course we dealt with this in camera elsewhere or you missed it or
25 whatever. Then I will be prepared to make a concession on that basis.

23 MARCH 2015

PHASE 2

What I am saying is that I am unaware of any evidence given to the 1999 Agreements. Payments made from 1999 up to 2003 for involvement in this very same Alfa and Lift Process or that Gripen and Hawk Process. Of course if I am wrong if I am completely wrong then it
5 would be relevant to at least to get that behind me and then maybe I would stop giving my evidence or I would give it in a slightly different way.

COMMISSIONER MUSI: Advocate Sibeko, I really do not follow what the witness is saying. I wonder how long we are going to be moving in
10 circles in this fashion. I would rather suggest that maybe the witness should tell us that what these documents that he is relying on what do they prove Advocate Hlongwane would have done that contradicts his evidence.

DR YOUNG: Indeed that is where I wanted to go but I wanted to go
15 there from a solid foundation which I think I have just established. In the absence of there being any reference to the Consultancy Agreements regarding the Hawk Gripen Acquisition prior to say at least 2002 then I can prove I can just adduce the documents that prove themselves that there were payments made emanating from BAE as early as October
20 1999.

In fact by the time, I think 2001 comes along that Mr Hlongwane through two of his companies at least would as far as I can certainly see is not referenced at all in this documents, his evidence documents. He receives about £5 million (pounds) or £4.9 million through a company
25 owned by Sir Alex Roberts. Alex Roberts himself receive a Consultancy

23 MARCH 2015

PHASE 2

Agreement from BAE Systems in 1998.

There may be prior Consultancy Agreements with Alex Roberts but I have used the term Red Diamond Trading. In this period 1996/7/8 BAE or British Aerospace I think they realised the sensitivity of Commissions.

5 At this stage I can use the term overt and covert Commissions and overt and covert agents. The moneys paid to them are paid are either overtly or covertly. Now I am going to concentrate on eh covert ones.

I will of course reference from memory the overt ones because they put the whole thing into context. It seems that Sir Alex Roberts I am not
10 going to look through this couple of hundred page transcript right now. It would seem that he had a Consultancy Agreement with BAE directly British Aerospace but that was changed in 1998 not directly with British Aerospace but with [intervenes].

CHAIRPERSON: Advocate Sibeko, again please. This witness was not
15 there. He is trying to interpret this documents for us. This is exactly the point that we are trying to make. We have the documents before us. We can go through those documents. He was not there, he cannot sure that he know for a fact this is what happened. He can only say that this is what the documents are saying.

20 Now if he is going to go through all this interviews obviously we are still going to be here for the coming two weeks. What Dr Young is saying now is contained in this document. It is not what he knows. He read this documents. We have got the document and we have made copies of the documents. We will go through the documents ourselves.
25 We do not need him to interpret them for us. This is the difficulty that

23 MARCH 2015

PHASE 2

we had from the beginning with the evidence of Dr Young. Now are see that we are going to back to the same difficulty that we had last time.

What he is saying is, is contained in this documents. He was not in London, he was not with them when they made those agreements, if
5 ever those agreements were made. This is what is contained in these documents. We do have the document and we will read them for ourselves.

ADV SIBEKO: Dr Young you have heard the comments that has just been made by the Chairperson. I thought that I had asked you to in the
10 course of giving your evidence to refer to the specific passages in the documents that you have produced so that the Commissioners can read for themselves.

You were developing or giving evidence which sought to demonstrate as I understand that while Advocate Hlongwane states in his evidence
15 and in his statement that he concluded Consultancy Agreements only with BAE during 2003 you were able to demonstrate that there is evidence to suggest that he had some relationships with BAE prior to 2003. I was hoping that you would get to that point before the Chairperson interjected. Are you able to do that having regard to the
20 time available at this point and the ruling that was given two weeks ago.

DR YOUNG: Yes I certainly am mindful of that. If I may say so I think that the rules of this game, if it is a game are actually changing. I certainly was not referring to the document. I do not even have it in front of me.

25 Previously the ruling involved not reading from the document it was a

23 MARCH 2015

PHASE 2

40 page German Investigating Report. I do not even have that in front of me.

ADV SIBEKO: Can you take us to the passages that seeks to demonstrate that?

5 DR YOUNG: I certainly can but I do not intend to because I said that I think I could rather do this from memory. The Chairperson and Commissioner Musi seem to indicate that they can read the documents themselves. Of course I do not think that I can stand here, maybe I can. I will wait for a ruling on that. Say okay here are the documents and that
10 is my story.

That is the easy way out for me and I am not sure how much value it adds. I am not sure how it stands in terms of the oath that I took that I would swear to tell the whole truth. That is the easy way for me. I am mindful of the time and I noticed that it is 12:50. Quite often we started
15 lunch at 13:15 or even 13:30. I am pretty sure that I can get this whole thing over completely or at least adequately not completely by lunch time. That is my intention. I have to do it my way seeing that it is my evidence.

You know I have listened to a ruling is tell us what happened
20 ...[intervenes].

CHAIRPERSON: Dr Young as you said you can finish before we go out for lunch. I am prepared to sit to lunch to 13:30 and the floor is yours. Tell us what you want to tell and then from there we will go out for lunch.

DR YOUNG: That is very excellent I had breakfast this morning so I am
25 sure that I will last until 13:30. I think 13:30 is very fair because of

23 MARCH 2015

PHASE 2

course there is cross-examination and of course I am just as keen to have that done as well.

Nevertheless, I am not going to start looking at documents because then which of the 18 or 19 documents do go too. I have for the
5 purposes of the half an hour that I had and the next three quarters that I am going to have I think I have sufficient between my ears to address this matter adequately.

So if I may and off course the more interruptions I get the less or the more I lose my train of thought that does not help on the time issue.

10 ADV SIBEKO: Just for purposes of clarity and the record. The evidence that you will be given going forward, this will be information that is contained in the various arch lever files containing documents that are referenced in your statement paragraph 810?

DR YOUNG: Yes of course I have not seen those documents but if they
15 are the 18 or 19 documents that I emailed to the Commission and my evidence leaders last Wednesday then I would agree with that statement.

ADV SIBEKO: Well I can assure you that they are the documents that you sent through now the Chairperson has granted you the permission
20 to carry on.

DR YOUNG: Very good thank you. Okay. I have only provided these nine transcripts of interviews under oath by the SFO with the BAE employees or ex... former employees in certain instances in alphabetical order as the appeared in my computer system alphabetical
25 order I copied them into my digital version of my witness statement and

23 MARCH 2015

PHASE 2

so there are no particular order. You will see it starts with Julia Aldridge and maybe it is relevant to spend half a minute or 30 seconds on each one. That will only take us four and a half minutes.

Just to state who was who and what. Right, Julia Aldridge is a
5 manager I think certainly British terms maybe a director of a division of
British Aerospace or BAE Systems by this stage. Its special division
highly covert called HQMS. Head Quarter Marketing Services. It is the
division that made all the agreements, managed all the agreements with
the consultants especially well all the consultants both the overt ones
10 and the covert ones. They managed the documents and kept all the
documents that so much so that all the documents the consultants were
not allowed to have signed copies of their own. You can see that from
the evidence documents. Also the original signed ones were kept in
another special purpose vehicle the name of the company called
15 Novalmite Limited in Geneva located not far from Lloyds' Bank. That is
according to the documents.

That was the sensitivity of the documents. I will say that at this point
this whole, okay of course what is also important is that this whole
system British Aerospace used the company Red Diamond Trading
20 based in the British Virgin Islands. At one stage it seems to be
registered in Panama. Also it is the vehicle by which all of these covert
payments were made whereas British Aerospace paid the overt ones.

Of course that is extremely interesting in itself. Julia Aldridge is the
manager who managed the process of making the payments on the
25 recommendation of the operational and the marketing people within

23 MARCH 2015

PHASE 2

British Aerospace itself. The main person in HQMS was I think her boss, Hugh Dickenson. Of course when one has sight of his interview under oath which is not that short it is extremely interesting because he does read a five or 10 page statement into his own evidence. Then I think there are something like 200 (I am just working from memory now) comments. The rest of his evidence is 'no comment, no comment, no comment, no comment.' There is several dozen or several hundred times.

So this was obviously a man who was not interested or had reasons not to collaborate with the Serious Fraud Office. He is indicated as a suspect by the Serious Fraud Office not only in the UK but in an MLA of which I only found a copy. I provided all the MLA's which I had to this Commission via Kate Painting nearly two years ago but I found yesterday in another, of course I have been given a lot of documents and they are not easy to find. Signed by Mr Wardall it might be under the same Christian name as me Richard Wardall or whatever and there was a request. A formal MLA letter of request and the it indentifies the suspects.

The next person is Mr Noel Irving. He was a British Aerospace I think a member of the marketing team but he was certainly based in South Africa and he had a lot to do with the commissions including the covert ones. In fact you might say it seems as though that more or less took over the day to day running of the projects and the negotiations and the agents when Alan McDonald left in January 1999. Now we know in the terms of the greater scheme of things that the preferred suppliers were

23 MARCH 2015

PHASE 2

announced by the Government in September 1998. The British called that Down Select. Where they down selected from the competitive offers for the systems down to one only. Alan Macdonald was involved he was the RMD the Regional Managing Director for I think the Middle East and Africa but certainly he was responsible from the British Aerospace side for managing the BAE Bid from within the country until he left.

His responsibility seems to be taken over by two people. The senior one is Sir Kevin Smith who negotiated the final deal or was certainly part of it. Then somebody slightly more junior was Mr Noel Irving and Mr Noel Irving's evidence includes reference to Advocate Hlongwane in covert or agency commission, Alex Roberts and also trying to reduce the total amount of the covert commissions down to a more reasonable figure. I need to pause maybe at this stage to say that I think it is from Alan McDonald's evidence from what I remember is that the matter of commissions were extremely important from the price that was being discussed at that stage down to down select.

He refers to Jyander Naidoo and it was seen that was saying your price is too high. Of course one of the ways that you could get the price down was to reduce the commissions. Now the obvious inference of that is that the commission is not something that has been paid out of British Aerospace and SAAB's profits it is added on to the price that the South African Government's Department of Defence and the tax payers are paying.

So I think that, that is an important point at least for this Commission of Inquiry. Of course as interesting is that now Irvin is given the job by

23 MARCH 2015

PHASE 2

Sir Kenneth Smith to try and reduce these covert commissions and he is successful to a degree. Of course they still end up quite high and I will tell you for the record contained within these documents.

The level of commissions in the Hawk was higher than for the Gripen.
5 But the Hawk commissions for its agents I think all together covert was 12%. I think for the Gripen was 8% and I think with the negotiating they reduced it down to 7.5%. As the regard the source of funding which Mr Hlongwane got who came from Alex Roberts he refused point blank to reduce his commission which was 1.5% for both the Hawk and the
10 Gripon. I think you will see, it is quite clear it is my evidence is that he was actually the indirect hand of further on payments to another agent but even more covert than himself, being paid by Red Diamond and that is Advocate Hlongwane. Not in his own name but in the name of two entities, two special purpose vehicles one called West Unity Limited I
15 think it is registered in Jersey and all the payments made through Jersey through the Standard Chartered Bank in Jersey.

Another company called CIC, Commercial Investments Corporations. It may be that only the West Unity ones came through Mr Roberts's company which is called Arsto Limited I think also based, I cannot
20 remember where it is based in Channel Islands or not. Nevertheless. Anyway there are documentary records which I have in my PDF in front of me and one click away... maybe that is a good place. I have a now this is not a... this is a document which I actually only added to my collection yesterday because that is when I found it in preparation.

25 I certainly will provide it if necessary and that is, it is headed

23 MARCH 2015

PHASE 2

Schedule 1. Okay maybe I need to pause for a drink of water and also to say something else going into my next, well carrying on with this point.

ADV SIBEKO: While you drink water Mr Young after you pointed out what the roles played by the people whose transcripts you have provided. How do we link these people to the evidence that you sought to put before the Commission that these documents demonstrate that commissions were paid to Advocate Hlongwane before 2003 and commencing from around 1998/9?

10 DR YOUNG: Well there are two ways. One is the documents. the source documents themselves. The records of bank transactions which as far as I know had certainly exists whether I have been able to find them and adduce every single one of them. They are also referenced in think in almost every one of the transcripts. So of course that would be
15 the secondary source of evidence. The primary one being the actual payments and the actually agreements. The actual Consultancy Agreements referred to what the Consultancy Agreements were about. They were in very specific terms for the Hawk Project 1.5% and for the Gripen Project 1.5%.

20 I am just using this as an example. For further Hawk or Gripen spares or further contracts or whatever it is. That is very specific with regard to the Hawk and the Gripen. In the same documents these are the Consultancy Agreements to which I am referring. It refers to the South African Acquisition Project, this Defence Acquisition Project.
25 There can be no mistaking what it is for.

23 MARCH 2015

PHASE 2

When the Consultancy Agreements come into play and when they end. As far as I know all of these ones end sometime in 2001. It certainly is in the documents. But there can be no mistaking of the following as to when they were paid and what it is for and the source
5 material being bank transfers into bank accounts in a jurisdiction from a company like Red Diamond to Arsto or from Arsto to West Unity or from Red Diamond to CIC you know it is... I think the legal way of explaining this is the documents speaks for themselves.

I am just speaking about the documents. For example this document
10 is headed Schedule 1. What I want to state at this stage. I do find it fairly interesting of course that Advocate Hlongwane refers to an affidavit deposed to by the principle investigator of the SFO for this particular investigation. His name is Gary Murphy as I said I have actually met him in my offices in Cape Town only once. It would seem
15 that only the main part of the affidavit is actually provided in annexure, to Advocate Hlongwane whereas the annexure to Gary Murphy's own are not supplied.

This could in fact and I am pretty sure now is that these schedules of payments actually are included in Gary Murphy's own affidavit. Now I
20 also probably need to state at this stage that I do know that Advocate Hlongwane seems to have taken issue with the (what is the right word) veracity is maybe the right word of Gary Murphy's affidavit. He refers to there being two different versions signed at the same day at different times or whatever. Be that as it may it would be the most surprising
25 thing I had in my short legal life that such an averment is made because

23 MARCH 2015

PHASE 2

it can only lead to one conclusion. It is either one deponents version is correct or the either one.

So either Gary Murphy's affidavit and or his annexure are nonsense which of course would leave a little bit of a hole, not a complete hole in
5 my own evidence or Advocate Hlongwane's statement that Gary Murphy's evidence cannot be treated with confidence... anyway that is an extreme or one of the most bizarre I think the term used was absurd legal situation that I have ever seen in my whole life. Unfortunately I do not have to confront him with it.

10 Of course the other important points is that Gary Murphy's affidavit was actually used for a number of section seizures and various as far as I can remember legal action in extra jurisdictional... what in places like Lichtenstein and whatever else. I have never seen any similar challenge as that. The other thing of course that is I think is relevant is
15 that a witness that is still coming to this Commission is Colonel Johan de Plooy. He was not in this particular matter but he was my case officer in my own case regarding not the BAE but regarding GFC. So of course I have taken an interest in what he has done.

He also adduced or deposed to affidavit also for search and seizure
20 in this country before a South African judge and he used Gary Murphy's affidavit as ANNEXURE 1 of his affidavit. Likewise I have never seen a challenge to that and the search and seizures were actually executed. Of course without me knowing it is not impossible that they were challenged based on Colonel de Plooy it might have been a senior
25 special investigator of at that stage. Anyway ...[intervenes].

23 MARCH 2015

PHASE 2

ADV SIBEKO: Dr Young before you continue on that line I was under the impression that you were dealing with the aspect of your evidence as you have described in paragraph 801 through the assistance of the documents that you have listed there under. You seem to be straying
5 now and digressing and dealing with other issues. Are you done with the documents that are referred to here and dealing with another aspect. What is the position really?

DR YOUNG: No I am not really diverging. I started off by going through in alphabetical order the importance of each of the evidence documents
10 which are transcripts and of you know why they are relevant and of course what to look for. What I was saying is each of the points that I have just made will be backed up in some form or another in either these transcripts or the actual evidence documents the second set of nine. So all my evidence is relevant.

15 There is a theme here. Of course I am working from my head and from memory this is something that I could have prepared because I did not know how. I am doing it to the best of my ability as this theme unfolds for me. I am still I am getting to this I think reasonably fast and reasonably cogently.

20 ADV SIBEKO: Do you then want to deal with these issues having regard to the time that is remaining?

DR YOUNG: Yes, I do not really have that much more. I just as a reminder pointed to ...[intervenes].

CHAIRPERSON: I am sorry Mr Young if you do not have much more do
25 you do not have to say anything.

23 MARCH 2015

PHASE 2

DR YOUNG: I will take that as a joke [laughing]. I want to use my last 15 minutes of glory gainfully. It was also only a joke. Believe me if I say to myself this is of no satisfaction to me whatsoever. It is just something that I have to do under my responsibility I had another look at the provisions of the requirement for the Prevention of Corrupt Activities Act, 5 2004 as well as my oath to tell the truth, the whole truth and nothing but the truth. I am trying to do all of that in an hour and a half.

I suppose I need to put a qualification of that is I tell the whole truth that I can in an hour and a half. If I told the whole truth I could actually 10 keep the Commission busy for the rest of the year.

COMMISSIONER MUSI: You are not going to keep us busy for the rest of the year, I can assure you [laughing].

DR YOUNG: Okay I will proceed as fast as my tongue will allow me. Just for the, this is just a reminder to me. This schedule which I am 15 pretty sure is attached to Gary Murphy's affidavit which is re-attached to Colonel or senior special investigating officer Du Plooy's affidavit. He has a summary of the payments from Advocate Hlongwane to Arsto's bank accounts. It is in all in the name of West Unity Business Limited. It comes to a total £4.903 million sterling pounds. Sorry I think I pulled 20 out my ... [intervenes].

CHAIRPERSON: Doctor what document are you reading there?

DR YOUNG: This is just a summary which I said it is something that I do not think that I provided to the Commission. It is a summary for my own purposes but I certainly will provide it at request during lunch time.

25 ADV SIBEKO: Thank you, please make sure that you provide that

23 MARCH 2015

PHASE 2

document.

DR YOUNG: It is a summary of seven payments, totalling £4.903 million the first one is, it looks like 6 October 1999 then there is one in May 2000. As I have said the times relevant because that is not long
5 after the beginning of the contract in May. This is just two weeks later. I think it was called the effective date of contract and round about the third week of April of 2000 then another one in 2001 and going to July 2001. So of course this is long before the period of 2003.

When the overt payments started happening directly between British
10 Aerospace or BAE Systems as they might have been then and either SANUP of Hlongwane Consultancy. There is a lot of documentary evidence of who the controlling mind of West Unity Limited is. Both in the transcript of the interview under oath with Sir Alex Roberts as well as other documents.

15 ADV SIBEKO: Has that document that you are looking at been provided to the Commission?

DR YOUNG: No I think that all of these four they are just summaries of payments, I do not think that any of them... first of all I did not actually realise the importance of it. If I was directed to work from memory I
20 realised yesterday that I needed summaries rather than going through the documents themselves which was my original intention. I am now using just summaries so that I can meet the 30/30 deadline.

ADV SIBEKO: So these summaries are summaries of the various document that you have provided to the Commission?

25 DR YOUNG: That is true yes, that is true. It is a summary of evidence

23 MARCH 2015

PHASE 2

of documents that has been provided to the Commission. Here is another one. It is payments to BAE to Arsto Commercial Corporation that is Sir Alex Roberts's company. Information sourced from the bank vouchers.

5 There are half a dozen payments and as I have said before the original payment seem to have come out from BAE directly. There are two here that says 'not known'. The third one says BAE Marketing Services. Then it starts from Red Diamond Trading Limited and the rest are all to or from the manager of the covert scheme of payments being
10 Red Diamond Trading Limited and there is a total amount of £34 million it looks like of which some £5 million or £4.9 million was on paid to Advocate Hlongwane.

Then there is a payment (it is an extremely poor photo copy here) again there are information sourced from the documents it is payments
15 from BAE to Commercial International Corporation and it is again the company doing the paying is Red Diamond Trading Limited. All of them all nine of them I guess it is not such a huge amount of money but is still in today's rand exchange rate is not a small amount. £290 thousand and all is paid to CIC that is Commercial International Corporation
20 Limited in Convey Street Saint Hellaway Jersey. There are other documents which are provided with prove that I think the sole employee or director is Advocate Hlongwane but is certainly seem to be the controlling mind of it.

All of these documents, sorry these payments are made between 2
25 October 2000 and 17 April 2000. Okay. So that was pretty much

23 MARCH 2015

PHASE 2

summarise the payments. I have dealt with now Irving and I have dealt with Sir Kenneth Smith and I have dealt with Allan McDonald and I have not dealt with Mr J McBeef. Mr J, John McBeef I believe he still is a employee of British Aerospace.

5 He is not an engineer or an aircraft person. He is a financial person and his speciality is counter trade and he still deals with counter trade and Mr McBeef is on oath saying that from his memory is Mr Hlongwane provided BAE or him or whatever with very little (I am working from memory now) very little of value regarding the offset contract. The
10 offset deals. So that again goes to what Advocate Hlongwane said about his only involvement was with respect to the National Industrial Participation angle and not the you know the supply contracts and the defence industrial participation.

I think Mr Mcbeef's evidence is relevant there. Another person second
15 last from the BAE side is Steward McIntyre he also worked in South Africa in the latter days of the project and his insights there are relevant. There are relevant bits of information contained within his evidence. After his I got Sir Alex Roberts that is of course that I would say other than Steward McIntyre is the primary one.

20 He never worked for BAE. He had a fairly interesting background and he used to be a very high person in another arms company called Shorts Brothers I think these days owned by Thales in Belfast in Ireland. He actually retired but is quite clear that he became a consultant to BAE and the evidence of himself and I think Alan McDonald show that he
25 was extremely close to a really important person in this whole scheme of

23 MARCH 2015

PHASE 2

things who was the Chairman of British Aerospace his name is Sir Richard Evans and his full name is Sir Richard Harry Evan. That is clear from one of the documents here.

Why I say that is in one of the documents that I come up to and that is
5 I am pretty sure it is the document BAR_Policy_Advisors certainly one of those is a reference to RHE and that is obviously Sir Richard Evans and it was he who instigated this whole thing of the covert payments. Red Diamond getting the documents off shore through the special purpose company Novalmite Limited.

10 This came right from the top. That is that. The last document I think that I referred to is the transcript of Lenard Dye who was basically an administrator of the accounts the relevant accounts involving at least Advocate Hlongwane's accounts and Arsto's accounts that is Sir Alex Roberts's ones. Lenard Dye was based in Jersey and his evidence
15 under oath gives a lot of the detail of the dates of payments and the means of payments et cetera.

So I think those documents more or less completely traverse certainly my knowledge of the way that I had, from memory when I have not opened one single one of these documents except for the summaries of
20 payments. I have been working from memory here. If I may just finally say that those documents as voluminous as they may be of 2000 pages are extremely interesting to the terms of reference in the work of this Commission.

ADV SIBEKO: I believe that would conclude the section of your
25 evidence dealing with Advocate Hlongwane is that right?

23 MARCH 2015

PHASE 2

DR YOUNG: There is one more note that I have here. I have talked about the level of payments sorry of commissions. I have talked about the 12% for the Hawk and it look as though of that 7.5% of that was covert and the other was all overt. The amount slightly reduced for the
5 Gripen. Just remember that the total value of the Hawk was about R5 billion and the Gripen was about double that. I think together it was about R15 billion and it would certainly make sense to me why the percentages would be different.

They amount to an enormous amount of money. I think the total
10 amount of commission is something like £112 or £120 million and the covert commission part of that is £103 million. I have only addressed the part of Advocate Hlongwane in there. In the document that I have adduced there is references which I think is relevant to the part played in this goes to the whole irregularity of the process.

15 It goes to for terms of reference it goes to whether any parties played a irregular part in the process or (I cannot find the exact words) but of value looking there are the people, John Breedenkamp and his company. A whole lot of individuals and their companies. An extremely interesting one to look at is a individual by the name of Nabil Hayahaza
20 he received £8 million and would also seem that from the evidence contained with all the documents that I have adduced is for no apparent reason other than maybe putting it politely, political connectivity.

I am may say maybe ending of completely is certainly an Alan
McDonald's evidence there is reference to the overt payment and I think
25 there are two references that I can remember and Alan McDonald talks

23 MARCH 2015

PHASE 2

about the level of acceptable overt commissions. I think finally it was agreed that a level of 2% was accepted by Armscor specifically said in the context of Armscor what was acceptable. The commissions had to be divulged and there had to be transparency to Armscor. I think the
5 amount of 2% was kind of finally agreed at with Armscor.

All that British Aerospace did was that they took their 12% in the case of the Hawk and they made 2% of it overt and 10% of it covert. Now that has to be interesting to the terms of reference of this Commission.

ADV SIBEKO: That should conclude your evidence in chief at this
10 point?

DR YOUNG: I am going to get a couple of lashes for being two minutes late.

ADV SIBEKO: That is the evidence of the witness Chair.

CHAIRPERSON: I think we are going to adjourn for about 30 minutes. I
15 see that it is 13:30. Maybe let us come back at 14:00 for cross-examination. If it is possible can the legal representatives who are interested in cross-examining Dr Young agree among themselves who is going to start. I think in the mean time the legal times can agree on who is going to start with the cross-examination. Thank you. We will
20 come back at 14:00. Thank you.

COMMISSION ADJOURNS

COMMISSION RESUMES

FEMALE: Do you confirm that you are still under oath say I do.

DR YOUNG: I do.

25 ADV KUPER: Mr Chair if I may, subject to your approval, the batting

23 MARCH 2015

PHASE 2

order that is suggested is that first to cross-examine will be the Department of Defence, then counsel for Adv Hlongwane, followed by counsel for Armscor, and followed by counsel for the presidency. Thank you, can we start then?

5 **RICHARD MICHAEL MOBERLY YOUNG**: (s.u.o.)

ADV KUPER: Dr Young you have described your motivation in coming forward to the Commission in these words, I am going to remind you of them and ask you to confirm them. I am reading from an answer you gave recorded in the transcript at page 9393 where you said in answer
10 to a comment from Commissioner Musi:

ADV SELLO: Thank you, Chair and Commissioner Musi. At the outset, can I start with tendering an apology to the Commission for the late start? This was occasioned by two factors. As I shall shortly explain to the Commission, the witness for SAAB will not be taking the
15 stand, the stand today.

It was necessary for us to confer with the representatives of SAAB, before we address the Commission. Secondly, and a, I guess less forgivable excuse, Chair and Commissioner Musi, is I got myself lost for various reasons in Pretoria and that delayed my arrival, here at the
20 Commission. For which I, I apologise, Chair. Thank you.

*"It is important to realise that I am, I am doing this because I have been requested in terms of a summons to do this. I, to be frank, I have no satisfaction whatever in doing this. Unfortunately I think it is my duty in terms of my responsibility to the Commission, and also my
25 responsibility to the greater scheme of things regarding combatting of*

23 MARCH 2015

PHASE 2

corruption. So I am not, I am not doing this for my own purposes. I have nothing to gain from doing this. I know it is fraught but I would not, I certainly would not be doing it if I had any reason to believe it was not genuine."

5 ADV KUPER: Does that correctly describe your motivation in coming forward?

DR YOUNG: I would say yes.

ADV KUPER: And I take it, it describes your motivation not only in giving evidence to this Commission but in general in your work as
10 whistle-blower or investigator of the arms deal.

DR YOUNG: Generally speaking yes, but this has been I think 16 or 17 years so things have certainly changed from the 2007 period when there was a settlement agreement with the Armscor and the DoD and ADS and some others to now, so things have changed since then.

15 ADV KUPER: would it be correct to say that prior to 2007 you did have motivations which were in your own selfish interests, and I regard you and C²I² interchangeably for this purpose, that until 2006 you had at least mixed motivation, part of which was your self-interest, but since 2006 you have had no axe to grind.

20 DR YOUNG: Yes, you used the terms selfish, I think that is the completely incorrect word in the context but generally speaking I had, before a fiduciary duty to my company, I also had a duty in respect of combatting corruption, especially where things were brought to my attention, I needed to at least deal with it. Things of course have changed in that regard, regarding the
25 company interests and my own interests since the settlement agreement.

23 MARCH 2015

PHASE 2

ADV KUPER: And I take it whether we talk of the period before 2006 or whether we talk of the period after 2006, you have never been motivated by a desire to have revenge on those whom you may believe have wronged you?

DR YOUNG: Sorry could you just say that period again? From what
5 particular period are you referring to now?

ADV KUPER: I was saying that throughout all periods I assume your motive has not been the motive to get revenge.

DR YOUNG: Your assumption is correct.

ADV KUPER: And I take it through all the period you have not regarded
10 your work as a whistle-blower, or even your work as a litigant, as an opportunity to vent abuse and malice on those you believe have wronged you.

DR YOUNG: Generally no.

ADV KUPER: What do you mean in general?

DR YOUNG: You know in general I am not doing this because I am going
15 out to – yes in retribution, I am going about this because I have to. Okay I had some involvement in the way that this Commission was set up, and of course from then it has become an obligation and a duty. But from the period of around about, let us call it the middle period, the 2006, 2009 period it came
20 to my attention, the evidence came out of Germany involving the Corvette and the conduct of Chippy Shaik and it is on the record that I was, that I requested an investigation, first of all via the, I think it is the director for special operations and the NPA. Again that is to do with combatting corruption, it is nothing to do with me or my company personally.

ADV KUPER: So the short answer, and the direct answer to my
25

23 MARCH 2015

PHASE 2

question is that you have not, at any time, indulged a wish or desire to abuse or a desire to be malicious as against any persons you think might have wronged you?

DR YOUNG: No I have not.

5 ADV KUPER: And it has not been a motivation of yours to bask in the public spotlight and to enjoy the publicity of a foremost arms critic?

DR YOUNG: Certainly not, this has been one of the most time-consuming, effort consumption, difficult periods of my life and I certainly would not wish it on anyone.

10 ADV KUPER: So we can now proceed to test your evidence on the basis that your only motivation has been the patriotic and selfless motivation of the true whistle-blower would that be fair?

DR YOUNG: Well certainly up until there was a settlement agreement I was still pursuing an action for damages. So things did change.

15 ADV KUPER: It would certainly be true of all the period after 2006, after the period of your settlement when you were no longer a litigant, you were merely a whistle-blower.

DR YOUNG: Yes, in general yes.

ADV KUPER: Now you accept also I take it that in the capacity of the
20 selfless whistle-blower, which you tell the Commission you have been certainly since 2006, you would accept that you have a responsibility not to make reckless or scurrilous accusations and also not to pass on allegations made by others which may be reckless or scurrilous.

DR YOUNG: I am not quite sure where that obligation comes from. I
25 am fully aware of the legal principles of libel and defamation, so you

23 MARCH 2015

PHASE 2

know, well I have been involved in a couple of cases where I have sued for defamation and I have never been sued for defamation. So it is certainly not my, it has never been my want to open myself up for allegations of defamation.

5 ADV KUPER: My question to you had to do with whether you would be party to make or to repeat reckless and scurrilous accusations, and I am just waiting for an answer.

DR YOUNG: Well in general, unless possibility there is a good reason for and theoretically speaking there can be good reasons to provide that
10 kind of response, but you know certainly in the face of no offensiveness then it would be inappropriate to respond in that kind of way. So in general, no.

ADV KUPER: Think about the question and perhaps answer it in this way, have you been party to the making or the passing on of scurrilous
15 or reckless accusations?

DR YOUNG: Not that I can remember.

ADV KUPER: And you are fully aware that when you take the responsibility of making accusations of corruption and dishonesty and irregularity against men who occupy high positions in the state, and men
20 and women who have served through the armed forces, you are taking a real responsibility on your shoulders?

DR YOUNG: Certainly as you say there is a responsibility but there is the other side of the coin of responsibility, and that is to do ones duty and answer the summons and to tell the truth and to – this is not a court
25 of law, this is an information gathering exercise, and where that

23 MARCH 2015

PHASE 2

information that has to be passed on through my evidence, if that has you know unfortunate references to undue behaviour unfortunately you know that comes with the territory. And you know as you say there is a responsibility but I have tried to handle that to the best of my ability.

5 ADV KUPER: You have told the Commission repeatedly that you have no burden of proof in regard to the allegations you are making but I take it you will accept that you have a burden and a duty to be rational and sensible before making any such accusations or denunciations.

DR YOUNG: Yes I accept that.

10 ADV KUPER: Dr Young I am going to test some of the answers that you have given in order to see whether they match the reality as we know it, but before I do that I want to get from you some more details about your involvement with the arms deal package as a bidder or would-be aspirant contractor. And what I am going to do is I am going
15 to ask for a volume of documents, they are volume 1 Mr Chair and Mr Commissioner, to be put before you, and I am going to refer you to some documents which may facilitate both my questions and your answers. So will you bear with me just for a moment please. Will you please turn to the first page in that bundle, you will find it is marked A.
20 Do you have it?

DR YOUNG: I have got volume 1 here.

ADV KUPER: And turn to the first page of volume 1.

DR YOUNG: Okay I have got a document marked A.

ADV KUPER: Now in this document what we have sought to do is to
25 summarise the contracts which you were awarded prior to 1999 by

23 MARCH 2015

PHASE 2

Armcor in connection with the IMS and its technology development, and thereafter we have sought to summarise the bids that were made by C²I² in regard to what might be called Sitron Part 2, or the arms package.

Now I just want to go through it quickly with you to check that it is accurate

5 and that you accept it. Will you look at the first table please, that is headed

pre 1999 contract awards, and do you see it lists the contracts that were awarded to C²I² between 1994 and 1998? It sets out whether there were

competitors, but there were not. It sets out their monetary value and it sets

out the person who granted the contract, in each case Armcor, and it

10 identifies, under remarks, those particular details of the contract sufficient to

identify them. Will you look through that table and satisfy yourself that it is

correct?

DR YOUNG: I presume you are talking about the top table right now?

ADV KUPER: Yes.

15 DR YOUNG: That looks reasonable to me.

ADV KUPER: So we draw from the top table the following points, that the

IMS technology development and technology retention were the main, in fact

were the exclusive subject of the contracts that were granted to C²I² in those

four years.

20 DR YOUNG: Sorry I did not quite get your question there?

ADV KUPER: The question is this, if you will look at the description under

work in the top table you will see that the work was exclusively technology

development and technology retention in regard to the IMS.

DR YOUNG: Possibility that is not 100% correct because certainly in the

25 case of Servex technology retention I think would be the correct, but under

23 MARCH 2015

PHASE 2

Sitron technology development I do not think is the correct word. It might be technology or development but for a particular project.

ADV KUPER: Dr Young the top table does not deal with Sitron, Sitron Phase 1 are you talking about?

5 DR YOUNG: That is correct yes.

ADV KUPER: And what do you want to say about Sitron Phase 1?

DR YOUNG: The very fact that it is project Sitron means that it is development for a project rather than just technology development. Technology development was done under Project Deodon, maybe Project
10 Garfield but certainly it would be incorrect, in my view, to say that those Project Sitron contracts were technology development. They were development of a particular subsystem for a goal which was a patrol Corvette or frigate or whatever is starting in.

ADV KUPER: Well Dr Young I will speak to my advisors here, and if you
15 are right I will come back to you and say that but for the moment we can proceed on the basis that these were the contracts which were awarded to you prior to 1999. We know what they dealt with and we know that you had received, by way of payment, you, C²I² had received amounts in payments equivalent to R22 million for those contracts is that right?

20 DR YOUNG: Yes.

ADV KUPER: We know also that in that period no contract was awarded to you in excess of R6 million.

DR YOUNG: I think that is correct.

ADV KUPER: Let us now look at the position that developed once the
25 SDPPs were involved. According to this table you or C²I² made bids for six

23 MARCH 2015

PHASE 2

different contracts is that right?

DR YOUNG: Yes that seems to be correct.

ADV KUPER: Of those bids you are shown as having won three and having lost three is that right?

5 DR YOUNG: That is correct.

ADV KUPER: And in each case there is a rand value attributable to each of those contracts, whether you won them or lost them, and under the line totals of work gained or lost on SDPPs it appears you won contracts to the value of R63 million and you lost contracts to the value of R84 million is that
10 right?

DR YOUNG: Well that is what the table says, that does not mean to say it is true in fact.

ADV KUPER: Of course.

DR YOUNG: No it was not, the figures are not true.

15 ADV KUPER: Of course it does not mean to say it is true, that is the reason why I am asking you. Now if you have any corrections to make please do so.

DR YOUNG: Okay the NDS, from what I remember, of course one has to, I suppose be a bit careful about inclusive of VAT but what I can remember
20 the NDS one was more like about 12 million rather than 17 and the software for the submarine Project Wills was far closer to between 6 and 8 million than, I do not know if this says 20 or 26. My eyesight in this light is not, with the small text is not that great.

ADV KUPER: The figure shown on the table is R26 million, you say it
25 should be R6 million to R8 million?

23 MARCH 2015

PHASE 2

DR YOUNG: It should be much closer to 6, it might be 7 it might be 8 I do not know but it certainly was not 26.

ADV KUPER: Thank you, again I will refer the matter and see if there are corrections to be made. But now I want you to look at each of those
5 contracts. In regard to Sitron you will see that it is said that the competitor was Detexis, that is right is it not?

DR YOUNG: Yes, in general speak, yes.

ADV KUPER: And in regard to the SMS, the competitor is shown to be ADS, that is also right is it not?

10 DR YOUNG: That is correct yes.

ADV KUPER: Now in the case of the IMS you would have told the Commission that C²I² was the nominated or candidate supplier is that right?

DR YOUNG: That is correct yes, up until a certain time.

ADV KUPER: Who was the nominated or candidate supplier in the case of
15 the SMS?

DR YOUNG: ADS was.

ADV KUPER: When we come to the navigation distribution system, there ADS is shown as the competitor, and I take it that is right as well.

DR YOUNG: That is correct yes.

20 ADV KUPER: Who was the nominated or candidate supplier for the NDS?

DR YOUNG: There was not one.

ADV KUPER: Then we come to the tracker consoles for Project Sitron, and the competitor is said to be ADS is that right?

DR YOUNG: No that is not right either.

25 ADV KUPER: Who was the competitor?

23 MARCH 2015

PHASE 2

DR YOUNG: There was not.

ADV KUPER: Then we come to software and MMI adaptation and there the award of the contract is made, I take it, under the DIP provisions, and there is no competitor.

5 DR YOUNG: That is correct yes.

ADV KUPER: Then we come to the IPMS simulator, and there as I understand it, the competitor was Siemens?

DR YOUNG: That is correct yes.

ADV KUPER: Was there a nominated or candidate supplier?

10 DR YOUNG: That is fairly difficult to answer with just a yes or no. I do not think that there was, up until a certain stage, then there was and that was Siemens and then their price was too high and the instructions seemed to be to the GFC to replace it with [indistinct]. So I do not want to get overly complex but I do not think it is a simple answer there.

15 There was not, put it this way in terms of the element costing and description with the 97 one and then the request for offer, I do not think that there was either a nominated contractor or a candidate supply for the IPMS.

ADV KUPER: So on balance it seems you tendered six times and you
20 won three times.

DR YOUNG: Okay, I will accept that yes.

ADV KUPER: Each time you lost you have told the Commissioners there was an irregularity or unfairness which resulted in your losing is that right?

25 DR YOUNG: Yes certainly that is my evidence regarding the IMS, that

23 MARCH 2015

PHASE 2

is my evidence regarding the SMS and the IPSM later, a little bit more complicated, I went through that. But in general what my evidence was there is that we were selected and then we were not awarded the contract. So there was something of significance regarding that particular subsystem.

ADV KUPER: Yes, each time you lost a bid the process was either unfair or irregular or manipulated is that right?

DR YOUNG: Yes.

ADV KUPER: And each time you won a bid was the process unfair or manipulated or irregular?

DR YOUNG: Look at this slightly statistically, with regard to, there were three and starting off at the beginning, the NDS was a true competitive bid and our price was lower, and we won it, substantially lower. So there, well at least on the face of things from the competition aspect there does not seem to be anything wrong with that. But with regard to the tracker consoles we had been involved with Reutech since 95, and we had invested a lot of our own money. So we had, for want of a better term we had got ourselves involved and had worked our way into this so there could not have been any irregularity because we already had the consoles. We had had the consoles for about five years. So there was not a bidding process. So nothing could have been untoward with it. And as you have just correctly said with the software for the submarines, that was a DIP process where we were approached by ST and Atlas and we were basically brought into their fold to do that work without a bidding process. So there could not have

23 MARCH 2015

PHASE 2

been anything that had gone wrong with that process.

ADV KUPER: So let me summarise, there are complaints to be made in each and every case in which you lost the bid, there are no complaints to be made in respect of the contracts that were awarded to
5 you?

DR YOUNG: Yes, in the normal scheme of contracting one does not normally complain or even look for problems where you win. In this particular case the position is true, where we lost I have investigated and given evidence to show why that assertion or averment is valid.

10 ADV KUPER: Yes, one of the things that I will be exploring is whether you are such a person to whom, whenever things do not work out as you would hope there must be dirty work at the crossroads, or whether you have a more mature and balanced judgment, but that the Commissioners will decide in due course.

15 DR YOUNG: May I, sorry is that a question or a statement or may I respond or not?

ADV KUPER: I am putting to you a theme that I am going to explore. If you wish to answer it before I explore it please do.

DR YOUNG: Yes, I have been in business for our own self since the
20 3rd of February 1992 and I have bid on many, many projects, some which make even these ones look like absolutely small potatoes, and we have lost, for various reasons, and I have never taken them to court or even complained. I have, colloquially speaking take it on the jaw, taken the punch or the loss or whatever it is. So it would certainly be a
25 completely unreasonable and unfair assertion to make that every time I

23 MARCH 2015

PHASE 2

lose I institute a Commission of inquiry into that problem.

ADV KUPER: Now in regard to two of the contracts that you won there appears nonetheless to have been problems, and that, let us start with the tracker consoles, where you were awarded the contract and you
5 were going to supply these consoles to Reutech Radar Systems. Was there a problem that developed in the execution of this contract?

DR YOUNG: Yes there was.

ADV KUPER: Did it lead to litigation?

DR YOUNG: Yes, the litigation was in the terms of a thing called an
10 expert determination, which most legal people here will know what that means.

ADV KUPER: In the result was an order obtained for Reutech to take the consoles which you were refusing to give them?

DR YOUNG: Well it is far more complicated than that because at the
15 end of the day, it is quite an amusing thing because six of their senior managers arrived before official opening time at my company premises. I was not even there, at that stage I lived 200 kilometres away and not 300 kilometres, and uplifted I think six of the eight consoles without, certainly without our knowledge. So that certainly was not part of an
20 order. But what I think I can say is that at the end of the day Reutech, who had precipitated this whole problem, completely threw in the towel halfway through the expert determination, and an order was made based on their own legal team's proposal that they pay us every single cent of the original, let us call it a capital amount of costs. And when
25 those, and the awarding of costs, how that means, you know what party

23 MARCH 2015

PHASE 2

was at fault, interest. So of course we initiated that expert determination in terms of an agreement that we had, and we won it in every single respect. And what is more from a technical point of view Reutech got its eight consoles formally tested and working from us.

5 ADV KUPER: Did it or did it not get those consoles from you under a court order?

DR YOUNG: Not the, well certainly not a court order. Look this is a bit complicated because there was a thing called an expert determination, which is like a private court as you know, but it is all very complicated
10 because we had built and qualified two consoles and then there was a settlement agreement. There was some dispute about whether or not they had been properly qualified. As it turned out a finding was made that they had been properly qualified. But at the end of the day we were allowed to continue that contract, build the other six consoles, deliver
15 them all to Reutech, which we did, not under court order, delivered them, and then they complained about problems again and they were found to be wrong. But then they delivered them back to us to fix, and the before we could fix them they came and took them away again. But they had done an interesting thing, is they had declared a certain
20 laboratory of our premises as their own sublet premises. Of course the fact that they gained access to there at 08;00 in the morning, where our working hours only start at 08:30, and they gained access via say dubious methods. Those six consoles were their property in their own sublet property so to speak. So there was no necessity to get a court
25 order to come and get their consoles. So, and that is a complicated

23 MARCH 2015

PHASE 2

answer but you are giving me a question which I could, I suppose just say no and I do not think it will be sufficient under the circumstances.

ADV KUPER: Now in regard to the contract that was awarded under the navigation distribution system there was also trouble was there not?

5 DR YOUNG: Was there? Please tell me about it.

ADV KUPER: Just answer whether there was or there was not.

DR YOUNG: Not as far as I know.

ADV KUPER: And the software and MMI adaptation, was there problems with that?

10 DR YOUNG: No there was not problems with that particular aspect of it. There certainly were problems of a much larger magnitude regarding ST and Atlas, and if you want me in one minute to ask me about that I will respond but as far as the smaller amounts of, the sort of R6 million, R8 million contracts that we got, they were all executed perfectly well to
15 ST and Atlas' satisfaction.

ADV KUPER: Was there no litigation in Germany that involved you?

DR YOUNG: Certainly not.

ADV KUPER: I will check into that and come back to you. So the overall picture we have is of a contractor who had bid for six contracts,
20 won three but who, according to its own views had suffered injustice on each occasion it lost a contract, and did that result in a sense of injustice suffered on your part?

DR YOUNG: No, the losing in itself never engendered or precipitated any sense of an injustice, only when I found out the circumstances did
25 that in itself precipitate the injustice, my feeling of injustice.

23 MARCH 2015

PHASE 2

ADV KUPER: So they came, the feeling of injustice, at a much later time?

DR YOUNG: No I would not say much later time, certainly regarding the IPMS simulator, in fact my knowledge of what actually happened
5 has only developed. In fact it took maybe the best part of a decade for me to actually find out all the whyfores and the wherefores.

ADV KUPER: So tell me then, tell the Commission at what date did you develop a sense of injustice in regard to having lost these three particular contracts?

10 DR YOUNG: Well you know it is not as though everything comes to you as a eureka moment, or in fact the opposite of a eureka moment. The picture builds. If you want me to address each of these separately I will try to do so very shortly for the purposes of the Commission.

ADV KUPER: [Indistinct] should do it shortly.

15 DR YOUNG: Sorry you have asked me a very complicated question.

ADV KUPER: It is a very simple question Dr Young. I have asked you when a sense of injustice developed in regard to the losing of each of these three contracts. If you do not know say so, if you can say so please do.

20 DR YOUNG: Look I certainly know that the sense of injustice developed but it did not develop in one particular meeting or with one particular letter, it developed over a period of time, and they are all quite different. As far as the IMS is concerned I know that the first time I knew something was going wrong was probably on the morning of the
25 7th of July 1998, but it probably took me until towards the end of 1999 or

23 MARCH 2015

PHASE 2

2000 to actually realise that something seriously had gone wrong here, which like formed my sense of injustice. As far as the SMS is concerned things worked out and were completely different. It was completely different circumstances, there was a competitive bid, short
5 period of time. We never won it but within several weeks or months when we even asked so what came of our bid, we were not even responded, they never even said. It took several months to even get an idea of that it had not been awarded to us or whatever. So that there was completely different. With the IPMS, again that probably, I did not
10 take, it was not such a serious sense of injustice, it was a much smaller thing for us, it was a couple of million rand and that took, well documents actually only started coming to me out of the [indistinct] process, probably between 2000 and 2006, which showed me what went wrong. So they are all quite different and there were no days
15 where I woke up in the morning and said I am feeling as though justice has let me down today.

ADV KUPER: In respect of each of those three which of them, if any, do you point a finger at the DoD as the wrongdoer?

DR YOUNG: I cannot point a finger at the DoD, I do not think, in any
20 respect, certainly not with documentary evidence.

ADV KUPER: Very well.

DR YOUNG: Sorry with regarding the SMS, sorry not the SMS, the software for the submarine. That was something in the realm of the submarine and the ST and Atlas. So I would say with the IMS, again it
25 is not exclusively the DoD, in fact if I had to apportion blameworthiness

23 MARCH 2015

PHASE 2

you know, it was basically the combination of Thomson and ADS which had a scheme and it implemented a scheme, and we fell by the wayside. But the people who were administering the process at the highest level was the DoD, and certainly I think they allowed Thomson and ADS to get away with all of that. And I would have a, let us say if I had an apportionment I would say it is 55% to blame on Thomson and ADS and 45% to blame on the DoD and Armscor and the processes. As regards the SMS I would say it is far more in the realm of the DoD. I think my evidence is fairly clear there was a competitive bid, we had a lower price, ADS was allowed to reduce its price the next day. It might have been opportunistically, it might have been *mala fides*, I do not know, but the point is a process was initiated and being administered, well it was being administered by the GFC but the DoD was overall in control of this thing. And I would say that I would blame the DoD 95% or maybe 100, but anyway the upper reaches of blameworthiness.

ADV KUPER: Yes, I will come back to those since you have identified them but I want to press on, if I may for the moment, just in going back to the propositions I was putting to you, and I just want to know whether it is fair for the Commission to accept that when you learnt of the reasons for the loss of one or more or all of the three that you lost, you developed a burning sense of injustice, would that be right?

DR YOUNG: Well my levels of burning were all different, it never burnt so badly with the IPMS simulator. It burnt me quite badly with the SMS because it was just so clear you know, a lower price and you know the process was, to me at least was just so non-transparent, wrong

23 MARCH 2015

PHASE 2

etcetera. But it certainly, I got over that pain a little bit quicker because the SMS, we had not been working on for you know, at that stage most of my you know working life. But it was, you know the IMS which we worked on for so long. You know we talked about the amount of money
5 that we received from Armscor for this, you know 22 million, but we had put in a huge, huge amount of effort and investment in terms of man-hours and even money. And so yes, the level of heat was much higher with the IMS than the other two.

ADV KUPER: And would it be true, would it be correct for the
10 Commission to see the picture as one of a contractor who had developed a sense of injustice and that in regard to you personally that sense of injustice has subsequently become an obsession?

DR YOUNG: No I think making it an obsession would be putting it far too highly.

15 ADV KUPER: You do not believe you are obsessed with the experiences that you underwent in regard to the arms deal?

DR YOUNG: No not at all. I, for the first period, if we divide this into three periods, that is up to the settlement, one can put that as a person sense of loss but more a fiduciary duty where there was a loss, where
20 there seemed to be malpractice, or for want of a better word, that was more of my obligation as a director of a company that lost out. From the 2006 to 2010 period, once I got information from Germany regarding the involvement of Thyssen, and at least according to the documents, evidence documents I produced of the way that they had won the, what I
25 call Sitron round 2, phase 2, the so-called alleged bribe of the 22 million

23 MARCH 2015

PHASE 2

dollars through a Liberian company and the 3 million dollars through Chippy Shaik and a group who represented him then it certainly was not an obsession. Then it became an obligation and prevention of corruption duty, and then possibility as well, is I have to be honest we
5 never traversed this in my evidence, but I think the way the JIT report handled, or at least the final version of it handled this thing was extremely disappointing. And when the possibility or an opportunity came of what legal speakers called a second bite of the cherry regarding a Commission of Inquiry into the same matter, then again I did
10 my duty. Well especially after what is known as the GFC leg by the Project [indistinct] team of investigators in South Africa called the GFC leg and the other one was BAG leg, both of those were closed down, in my view for no apparent ...[intervened]

CHAIRPERSON: I am sorry Dr Young, are you still answering the
15 question or are you adding some other things?

DR YOUNG: I am answering the question.

ADV KUPER: The question could be answered with a few words, that such description of your sense of injustice as you would wish to give the Commission, and that you were not obsessive.

20 DR YOUNG: I am afraid in this case there are 50 shades of grey.

ADV KUPER: There is only one honest answer.

DR YOUNG: Yes, and that is my answer.

ADV KUPER: Let us see if we can press on a little. So if, allow me to wrap it up, the Commission should not see you as obsessive, it should
25 have seen you as suffering a sense of injustice done but not one that

23 MARCH 2015

PHASE 2

has perverted your sound judgment and the *bona fides* of your approach.

DR YOUNG: That would be a fair way of putting it.

ADV KUPER: I was interested to hear you talk of your fiduciary duty to
5 C²I² rather than to talk about a sense of money loss. Who are the
shareholders in C²I²?

DR YOUNG: Well up until around October 2000 I had three fellow
shareholders, one with an equal shareholder of mine, that was
Mr Gerhard Kruger, and two more minor but still substantial, that was
10 Shaun van der Wald and Louis van Elfin, but actually the arms deal caused
them to get cold feet and I bought out their shares and since that, if there is
any other shareholding other than mine it is through an employee share trust.

ADV KUPER: Yes, I do not want to leave things hanging in the air, you
say originally there were a number of shareholders, how many shares did
15 each have?

DR YOUNG: What I can remember is that Gerhard and myself both were
equal shareholders and I think it was something like 42% each, it might have
been 42 and a half or 43 but as close as damn it, and the other two had the
balance, so they had something like between 7 and 8% each.

20 ADV KUPER: And thereafter you became the 100% shareholder?

DR YOUNG: I did until I instituted an employee share trust with at least a
potential allocation of, I think it is 5%.

ADV KUPER: So it is true to say throughout the period that if C²I² lost a
contract unjustifiably, the financial loss, although to the company, would
25 nonetheless have a consequence to your own pocket.

23 MARCH 2015

PHASE 2

DR YOUNG: That would be correct.

ADV KUPER: Now we have looked for a moment at the bids that your company made and the fate of those bids, and your accusations in regard to those bids, I want to broaden out now and confirm with you that you became
5 a self-appointed investigator regarding the arms deal.

DR YOUNG: I think that would be putting it too highly, I certainly appointed myself to investigate the C²I² issues. Of course I took cognisance of the other aspects and through the effluxion of 16, 17 years I have become knowledgeable about the other aspects, but I never appointed, I was never
10 self-appointed to become an investigator in the whole arms deal other than the corvette and especially the combat suit part.

ADV KUPER: Did you not make reports to police forces in various countries, and offer them information?

DR YOUNG: I certainly offered a report or reported and then offered a
15 report in this country regarding what became as the GFC leg. I have never made any other report to any other police force or investigators in any other jurisdiction as far as I can remember, other than say with Gary Murphey requesting a meeting with me and sitting in my office for two or three hours, and me feeding back to him answers in response to his questions. But other
20 than that kind of reporting I have never done any other kind of formal reports, any formal report.

ADV KUPER: I never used the word formal, I never used the word reporting. Were you not involved in supplying information to the German police force?

25 DR YOUNG: Yes there were certain instances where I did so, yes,

23 MARCH 2015

PHASE 2

involving the GFC leg.

ADV KUPER: Apart from the various police forces did you not collaborate with persons who were writing books about the arms deal?

DR YOUNG: The short answer to that is the only time, I have never
5 collaborated in writing any book about the arms deal, the only time I can remember some involvement in a book at all is when Andrew Feinstein sent me a, maybe it was a half a page or a page where he was referring to my IMS and he asked me to proofread and just to check his facts on that one small, that one tiny aspect.

10 ADV KUPER: What was the tiny aspect?

DR YOUNG: It was basically I think my IMS and how, of course as I had ventilated and in various other format, I felt that we had been nominated to be identified as a candidate supplier but were unfairly deselected. I think that is the tiny aspect that he asked me to, just to
15 proofread, and I say that is tiny because I think I only remember one book that Andrew Feinstein wrote and I think it was, it think it was 450 pages long of text that I cannot read anymore. So it may be my aspect might have taken up half a page to a page of his 450 page book.

ADV KUPER: Yes Dr Young try will you not, to confine your answers
20 to the questions without going into side considerations. Now apart from dealing with the various police forces, apart from supplying information to authors of books, you also, did you not, give constant and plentiful interviews to the media from 2000 through to today?

DR YOUNG: Well there were certainly some interviews in the 2000 to,
25 well let us say, let us call it the first period, maybe not even as far as

23 MARCH 2015

PHASE 2

2006, but certainly in the latter say two periods they were extremely few and far between.

ADV KUPER: And you also became a repository for ...[intervened]

CHAIRPERSON: I am sorry Adv Kuper can Dr Young just repeat the
5 answer, I did not quite follow what the answer was?

DR YOUNG: Yes, the question as far as I remember it was that I have given plentiful and numerous interviews to the media, and my answer was, and the question included over the period starting in 2000 right up to this day and my answer is that certainly in the year 2000 and a few
10 years after that, maybe three or four years after that I did give a number of interviews to the media. But certainly my recollection in the latter period, those interviews have been very few and far between.

ADV KUPER: And you have served as a repository for persons who wished to pass on information but apparently feared doing so in their
15 own name and for themselves, and instead passed it on to you.

DR YOUNG: Well certainly people have given me that information. I mean I have used it extensively in my evidence here. I cannot tell you exactly what their motivations are but certainly whether it was fear of not doing it themselves or I could handle it better or more appropriately I do
20 not know. But the short answer is yes, people have given me information related to the arms deal in its entirety.

ADV KUPER: Yes, they are people whom you describe to the Commissioners as not wishing to put their head above the parapet.

DR YOUNG: Yes that is true but you know I cannot tell you whether it
25 is due to, you used the term fear, I do not know whether it is fear or

23 MARCH 2015

PHASE 2

because they are not in a position to do, or they are not in this country and they do not want to appear before this Commission themselves. I do not know what their motivations are, I have just accepted the document, made sure that they are relevant and *bona fide* and where
5 appropriate I have used them.

ADV KUPER: And over and above all of that, and I will revisit some of them in due course, but over and above all of that C²I² opened up a website which was devoted to the arms deal did it not?

DR YOUNG: Well it might be more correct to say that I opened up the
10 website. I do not think, you know C²I² may have something administratively to do with it but effectively I say it is my website.

ADV KUPER: Well as I said earlier I do not distinguish between you and C²I² for these purposes so I am perfectly prepared to accept that. And if you would turn to page 1 of the bundle you will find what I understand is a picture
15 of the first page of the website in question, and it is called the arms deal virtual press office is that right?

DR YOUNG: That is correct yes.

ADV KUPER: And if we look at the explanation for this website we see the words, the paragraph at the top of the page, left-hand side:

20 *"The arms deal towards the end of 1999 the South African government signed contracts totally 4.8 billion dollars, 30 billion in 1999 rands, to modernise its defence equipment, which include the purchase of corvette submarines, light utility helicopters, leader and fighter trainers and advanced light fighter aircraft. The purpose of this virtual press office is to follow the*
25 *thread of certain questions being raised and investigations being undertaken*

23 MARCH 2015

PHASE 2

into this controversial arms deal."

That is the rationale for setting up this website is it?

DR YOUNG: That is correct yes.

ADV KUPER: And we see at the foot of it a photograph of yourself, and I
5 take it a cartoon caricature of whom?

DR YOUNG: I have got no idea, I do not manage the website myself. I, for
the last three or four years it has been outsourced to somebody else and it is
their responsibility to go through things that are published in the press and
any article relating directly or indirectly to the arms deal. They upload it onto
10 the website.

ADV KUPER: Very well, would you turn to page 1B because I want to
show the Commissioners and confirm with you a typical page as rendered on
the website, and you will see there a picture of former minister Alec Irwin, and
an extract from a publication of the City Press of the 16th of February 2014,
15 which is then shown on the website is that right?

DR YOUNG: Yes, I think it is important for me to say that this is not an
extract of a press article or what the press, media call stories, it is a rule of
our website basically to reproduce, in digital form, the press article verbatim,
word for word, with the relevant information like publication and if possible
20 any photographs that are available. But basically this is not an extract, it is
the whole article.

ADV KUPER: Very well, you could have answered that in a word or two,
but at the end of the article there appears and addendum in magenta or
crimson, do you see that?

25 DR YOUNG: Yes, that is correct.

23 MARCH 2015

PHASE 2

ADV KUPER: Who is the author of the material which is rendered in magenta or crimson?

DR YOUNG: That is me.

ADV KUPER: So that the habitual practice on this website is to publish a
5 complete article from the media and for you then to comment and elaborate
on matters you think relevant arising out of that particular article?

DR YOUNG: That is correct yes.

ADV KUPER: And all of these articles are devoted to the arms deal,
and all your comment relates to your understanding, your viewpoints,
10 your judgments and your accusations regarding the arms deal.

DR YOUNG: Yes that is correct.

ADV KUPER: And your magenta comments are given in that same
spirit of selflessness and the duty to fight corruption. It has nothing to do
with malice or vindictiveness or a wish to take revenge?

15 DR YOUNG: Generally speaking no, it is basically my responses,
where I see things that are wrong more than often correct them, the
press often gets things wrong. If the people who have been quoted
make absurd or ridiculous or whatever, then I will make an observation.
But there is no particular agenda for retribution or malice, you know sure
20 if I say something negative you know, that is because the arms deal
involves negative things, that is why were are sitting here 15 years later.
But you know that comes with the territory.

ADV KUPER: Dr Young you are not a fool. When I say to you
malicious I am talking about the spirit with which you write something or
25 express yourself. When I talk about taking revenge I am talking about

23 MARCH 2015

PHASE 2

motivation. Now for some reason you responded to my question by saying that generally you are not motivated by malice or by a wish to take revenge. That rather implies that from time to time you will confess that you are motivated by malice or a desire to take revenge.

5 DR YOUNG: No, I would not say that, just because I make a sarcastic comment or maybe introduce a fact that should have appeared in that article, that does not mean to say I am motivated by malice. It is part of adding value to the greater picture of the arms deal, in my view, things went wrong in many, many, many, many other people's views went
10 wrong and that is why we are sitting here, whether it is 15 or 17 years later. But it is no, I do not have a malice to go out and, well you know maliciously you know, get retribution against people like Alec Irwin. I mean, but you know sometimes there are negative comments that I might have made, I am afraid to say that just comes with the territory.

15 ADV KUPER: Dr Young I am perfectly content to have your answer that you are not actuated by malice. It is an answer I can test, and the Commissioners will make up their mind. I want, in particular now to refer to former President Mandela, and there the Chairman, in the course of your evidence, remarked on the fact that you had overlooked a
20 reference to President Mandela when that appeared in one of the documents from the German investigators, as you would say, and you responded at page 9395 of the transcript to say, the Chairperson said:

25 *"No. I it is just that, you know, I was a bit surprised that you mention now that you did not mention him, because they are contained in the same document."*

23 MARCH 2015

PHASE 2

And you replied:

"As we, I, there is 40 page document. There is nothing, at this particular stage, at least, that I want to traverse, regarding Mandela and Nelson Mandela himself. I am not sure, quite why he is mentioned in this
5 *document, in his own name."*

And then you said:

"But, we will come to a reference to the Nelson Mandela Children's Fund."

DR YOUNG: That is correct yes.

10 ADV KUPER: That was your response, and I think it is fair to say that throughout your statement and your evidence to this Commission you had nothing at all to say about President Mandela and his role in the arms deal.

DR YOUNG: That is correct yes.

15 ADV KUPER: And now I want to contrast that with what you say on the website, and in order to facilitate that Dr Young, what has been done, if you will turn to page 4, is to collect quotes from your comments on the website. And of course you are free to tell the Commissioners that these quotes are not quotes that have been made up or invented. On
20 the other hand you may accept that these quote are indeed your own writing. I am going to take you to specific ones, and I am going to ask you to deal with them. So each time I take you to a specific comment you are free to say that it is untrue, that this is made up, that you did not say this, and we can then check into it or you can deal with it on the
25 basis you are indeed the author. Will you be so kind to look at the very

23 MARCH 2015

PHASE 2

first extract, and I am not interested at the moment on anyone other than President Mandela. So what is said in that first extract, by you, is:

"His grant larceners Mandela had this golden goose well and truly plucked, stuffed, peri-peried, drawn and courted."

5 What I want to ask you is what did you mean by the description grand larceners?

DR YOUNG: Well I think the greater theme that went through my evidence, we did not address the conclusions, is that the arms deal in general was something that was together for reasons other than pure
10 military requirements in terms of rationale and utilisation. So clearly to arrange such a giant scheme of things then, well that is the part of the, you want the explanation of the term grand larceners, that is the grand, and the wrongness of it is the larceny part. I do not think it is a term commonly used in South Africa, it is something used in America more,
15 where it provides an indication of wrongfulness in the implementation of a scheme such as this.

ADV KUPER: Dr Young you know as well as I do that the word larceny means theft.

DR YOUNG: Well I actually thought it meant fraud but in any way if it
20 is theft that is good enough for me.

ADV KUPER: So you are describing President Mandela as one of the grand thieves?

DR YOUNG: There can be no avoidance of the fact that he was a president of this country, he was the chairman of the cabinet. He was
25 not the chairman of the Mincom but this deal, this arms deal, if it had any

23 MARCH 2015

PHASE 2

wrongfulness, happened on his watch as they say. So that was the point of the observation, which I will claim, I will acknowledge as my own one, that is not a quotation from somebody else, that is one of what the press referred to as my magenta comments. That is one of them as far
5 as I can remember, but it was said in that context yes.

ADV KUPER: Dr Young, a person upon whom theft occurs during his watch is not the same as the thief. You are accusing President Mandela as having been the grand thief. I am asking you to explain that.

DR YOUNG: Well if they had a team of them and there is a leader of
10 the team, and the team is responsible for the fraud or the theft or whatever it is, then it is normally logical to include the team leader.

ADV KUPER: So your accusation, which you were happy to put on a public website, was that President Mandela was the lead thief among the grand thieves?

15 DR YOUNG: I think you are trying to extend my evidence, I said he is the leader, and in terms of my evidence in the last what, we are going on eight, nine days, I have not developed a theme with respect to President Mandela specifically because, well because there are limitations of time, there are limitations of documentation but there are simple references to
20 him as being a person of interest regarding the Germans, and I think that, certainly at that particular time was good enough for me to include in, as the team leader, maybe that is good enough for now.

ADV KUPER: Yes, I am just suggesting to you it is a fairly obvious example of malice and recklessness on your part. But let us go on to
25 page 6 where we see the second reference to President Mandela, that I

23 MARCH 2015

PHASE 2

call to your attention.

"The government of Mandela, the robber barons of himself."

What did you mean by that?

DR YOUNG: Sorry I do not look as though I have got page 6 and I
5 would like to see it before I comment.

ADV KUPER: Do you not have it?

DR YOUNG: Sorry it was stuck to a, again as in the context of being
the team leader of a government that allowed such a massive expensive
and wasteful expenditure happen.

10 ADV KUPER: Was President Mandela a robber or was he just a
passive spectator?

DR YOUNG: Well I like your use of the word spectator because if he
was a genuine spectator then he would have had a duty, well a much
higher duty than me to stop this. So if he was a spectator unfortunately
15 he becomes involved by inference. But I think one cannot be the
president of the country and the Commander in Chief of the Defence
Force and the Chairman of the Cabinet when this goes on, without
taking some kind of, well in fact taking ultimate responsibility.

ADV KUPER: And that is what entitles you to call President Mandela a
20 grand larcener and a robber baron?

DR YOUNG: Well certainly in terms of the evidence that I have given
over the last eight days. Unfortunately it is not only that but you know
there are references to himself, there are references to the Nelson
Mandela Children's Fund, to Graca Machel, who is his wife. There are,
25 whether or not I have traversed them I do not know, there are references

23 MARCH 2015

PHASE 2

to receiving of money, of the ANC Women's League headed by Winnie Mandela, who was his wife at that stage. I am not quite sure whether they were married or separated or whatever it is but there actually are many references or inferences that he was not merely a simple, I would
5 not say spectator but he was not merely, merely a bystander, he had sufficient to actually control or to stop this wrong. If according to at least my own theory, if it was a wrong then he had the capacity to put an end to it.

ADV KUPER: Dr Young you must not attribute anything to me. I was
10 merely pointing out the difference between the words you actually used and the explanation which you now try and give to the Commission. The words you used was that the president was a grand larcener and he was a robber baron. The words you gave to the Commission was well perhaps you see he deserves this because it happened on his watch. It
15 is you who was trying to draw the distinction not me, and what I am asking you is that if you are just trying to say it happened on his watch then why on earth would you call him a grand larcener and a robber baron?

DR YOUNG: You are incorrect. You used the term, your own word
20 that came out of your own brain, he was a spectator. So I started from that premise, your premise, not you reading some other people's document. I do not see any other even word spectator, that was your own.

ADV KUPER: We can leave the record and the transcript for the
25 Commissioners to read. Do you hold President Mandela responsible

23 MARCH 2015

PHASE 2

because things happened on his watch or do you hold him responsible as the thief and the robber baron?

DR YOUNG: In the context of my evidence over the last eight days I hold him responsible because things happened on his watch. I have not
5 developed a theory in my evidence which holds him personally and directly involved in the shenanigans which I claim transpired.

ADV KUPER: I do not know why you refer to your evidence because as we have already noted your evidence is entirely innocent of any reference to President Mandela, whether as a spectator or bystander or
10 whether as a grant thief. So why do you talk to the Commission about your evidence in this regard?

DR YOUNG: You know I can only surely be cross-examined on my evidence so I am saying my evidence has not been with him being an involved person other than being the president and the chairman of the
15 cabinet. So it is with that point of reference that I am saying that my evidence has not implicated him. This here that you are referring to me, first of all I have to be very blunt and frank, is this is a little bit of a cross-examination by ambush, in my view these documents should have been put to me long before they are now. But be that as it may I do not see,
20 or in my own view I do not see a direct correlation to my evidence and the cross-examination of that and what I may have said on my website.

ADV KUPER: Dr Young the next, it is on page 4 again, the next reference to President Mandela, and again I am only referring to him for the moment, but instead, it is the second one:

25 *"Mandela sacrificed this golden goose on the altars of avaricious,*

23 MARCH 2015

PHASE 2

gluttony, greed, conspicuous consumption and dynasty construction."

What did you mean by that?

DR YOUNG: Exactly what the words say.

ADV KUPER: So the Commission can infer then that your *bona fide*
5 judgment of the matter, your mature assessment of the matter is that
President Mandela sacrificed a golden goose, whatever it might be,
because he was avaricious, gluttonous, greedy, involved in conspicuous
consumption and was building a dynasty.

DR YOUNG: Well he was the president you know. Okay if you want to
10 know what the context of that is in my own view, and in fact in the view
of many others, the arms deal is probably the cuss of the slippery slope
of corruption, which is so problematic in South Africa, of course we know
it is problematic in the rest of the continent and elsewhere of course.
But what I am saying is the innocence of South Africa that we had
15 hopefully gained or regained after the elections in 1994 right up until say
the 97 to pre 99 elections, that, what do they call us, there is a specific
international term for South Africa, the rainbow nation and whatever, all
of that was sacrificed, in my view, for those purposes. I mean a lot of it,
you know I am now having to digress, you asked me for an explanation,
20 digress from my evidence, but a lot of the arms deal was to do with
funding the party. That is where you know, where the individuals and
organisations, they are the recipients of money. Of course, okay that is
what I am saying now, and whether it is something like the Deputy
President Mr Thabo Mbeki who is responsible, I am not so sure, it has to
25 be the chief, and I wrote that in that context of it happened on his watch

23 MARCH 2015

PHASE 2

and the innocence of South Africa and transformation was sacrificed for other reasons. And that was my response, it is not malicious, it is just an observation.

ADV KUPER: Let us talk of malice as we look at the next quotation.

5 Now the next quotation was written when President Mandela had fallen ill and was dying. You publish on the website:

"If the former Commander in Chief were not so ill he should call his brethren to account. He might even look in the mirror at the same time."

What did that mean?

10 DR YOUNG: It meant that if he looked in the mirror he would have seen who was the leader, who was the person who could have called all of these people to account and said stop this, this is not the way that we have achieved this new nation, this rainbow nation.

ADV KUPER: You are saying he was complicit and had knowledge of
15 any irregularity in the arms deal?

DR YOUNG: I am pretty sure he was yes.

ADV KUPER: You are pretty sure he was. And if we go onto the next quotation:

"The real accountable person are Mandela."

20 Accountable for what?

DR YOUNG: For wrongdoing, for anything that under [indistinct] you know he was the deputy president, Mbeki and the ministers underneath is, unfortunately that is the way things work, he is the boss, takes responsibility, he is accountable for whatever wrongdoings they do.

25 That was my, that is my view and that was what I was trying to

propagate there.

ADV KUPER: And let us look at the foot of that page:

"Nothing or little will come out of the South African arms deal investigation until Nelson Mandela has rebounded with Joe Modise."

5 Now Mr Modise had died, and I suppose what you were saying in this flippant way, was that nothing will happen until President Mandela dies.

DR YOUNG: Yes, it is my view that the ventilation of the whole what happened in the arms deal would not gain as much momentum as it needed until he died, because the clear inferences are, at least in terms
10 of accountability, lead back to him.

ADV KUPER: And what do you think President Mandela was trying to prevent any investigation into the arms deal?

DR YOUNG: I do not think that. I think that there are two reasons, you see now I mean you are asking for my opinion, expert opinion.

15 ADV KUPER: Not expert just your opinion.

DR YOUNG: Well then why am I being ...[intervened]

01:34:03.1