

ARMS PROCUREMENT COMMISSION

Transparency, Accountability and the Rule of Law

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HEARING ON 27 MARCH 2015

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

CHAIRPERSON: Good morning, by the way [indistinct] you also started the cross-examination?

5 ADV MOERANE: Chairperson, that was for yesterday. I had a commitment in Johannesburg at five o'clock. But, I have discussed the matter with my learned colleagues. I think, we can revert to the original arrangement. May I take this opportunity also, Chairperson, to apologise for being late? I was just caught up in very, very heavy
10 Gauteng traffic.

ADV CILLIERS: I am ready to proceed if you are ready, Mr Chairman. Dr Young, I am acting on behalf of Advocate Fana Hlongwane. So, my questions will relate to his position and your testimony relating to his position only. I will urge on you to please listen to the questions that we
15 can attempt to finish my cross-examination, at least in 20 to 30 minutes. If there is anything that you do not understand in the question, please do not hesitate to ask me and I will gladly clear it up. Now, Dr Young, I would like to, at least, attempt to get some perspective to your testimony, relating to my client and to give some structure to your
20 testimony. So, what I would prefer to start with is that we have a brief look at the sources of your information, relating to my client. I think, the best way to start this off, is to look at your own statement in this regard. I refer to paragraphs 11 to 13, where you dealt with the position of participants or advisors, which would include my client. In paragraph
25 11, you said:

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“Although my statement contains averments and allegations applying to all of the elements of the SDP’s, I have personal knowledge and specific knowledge of one component of the SDP’s in particular, namely the acquisition of four patrol Corvettes for the SA Navy due to CCII
5 Systems and my own involvement therewith.”

In paragraph 12, you said:

“However, since my initial involvement, it has become the nature of things, to become as familiar and knowledgeable with the other aspects of the SDP’s, such as circumstances allow. In this regard, I have come
10 into contact with many people, interested in the SDP’s, including official South African and official international investigators, medica
investigators and writers, book authors and whistle blowers.”

In 13 you said:

“Regarding these whistle blowers, many of them prefer not to come
15 forward publically and because of my already public profile, have approached me to hand over information and evidence to the authorities on a confidential basis.”

Would that be a description of your knowledge and where you obtained your knowledge, relating to at least my client?

20 DR YOUNG: Yes.

ADV CILLIERS: In your evidence, you in fact, refer to yourself, at some stage as a kind of a conduit, was the word that you used. Would that be a correct description of, of your position?

DR YOUNG: Yes. In certain circumstances, yes.

25 ADV CILLIERS: Well, if you are saying certain circumstances, what

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are the other circumstances?

DR YOUNG: Well, some of them, some of them are of my direct intention. Some of them are where people have specifically asked me to deal with a certain matter and some is on an anonymous basis.

5 ADV CILLIERS: What do you mean, by your specific intention?

DR YOUNG: Well, this is almost exclusively, regarding the Corvette combat suite.

ADV CILLIERS: No. But, you would recall that I said I am only concentrating on Mr Hlongwane and clearly, you do not try to suggest
10 that he was involved in the Corvette acquisition as well?

DR YOUNG: Yes. I do not want to get argumentative, but I understood this, as to be, as a general introduction. So, he, so anyway, certainly if you now clarify it, with regard to these three paragraphs, then, then it is only with respect to, as being a conduit for information.

15 ADV CILLIERS: You also described yourself yesterday, during cross-examination of Mr Kuper, as just a messenger, bringing the info that came to my attention. That would be a proper description, if I understand you properly.

DR YOUNG: In this context, but it is not just handing over a bunch of
20 documents. It is doing it in the context of this Commission, providing oral evidence, as to the context and allowing, and allowing myself to be cross-examined. So, it is not just, not just as simple as handing over. It is in this particular forum.

ADV CILLIERS: Well, if we can summarise it, it is clear, on your own
25 version that you have no personal knowledge, relating to any of the

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issues, with reference to my client, with reference to my client. You only, in your testimony, acted as a conduit.

DR YOUNG: What I do have personal knowledge of is his witness statement and his oral evidence and the evidence that he adduced. I
5 think, I have a personal knowledge of that.

ADV CILLIERS: Maybe, maybe you do not understand. In fact, my question, Dr Young, his statement and his evidence is before the Commission. I am now concentrating on what you brought to the Commission, relating to my client. In that sense, you are only a conduit.
10 Would you agree with me?

DR YOUNG: In that specific sense, yes.

ADV CILLIERS: Now, Dr Young, now that we have cleared that up, I think, let us move then on to what you, in fact, did say, relating to my client. Again, I think the main source of what you, in fact, testified and
15 or stated, relating to my client, we should go to the main source, being your statement. Would you agree with me?

DR YOUNG: Well, my statement very, very briefly addresses that. That is not the main source. That is just an introductory to the, the source of documents.

20 ADV CILLIERS: Well, you prepared an extremely lengthy statement, not so?

DR YOUNG: Yes, but, very, very little in regard with your client.

ADV CILLIERS: Why? Because you did not know much about my client?

25 DR YOUNG: No. There are a couple of reasons. One, is that your,

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okay, this evidence I am giving is only, only in response to, well, let us say two things, but mainly your client giving evidence, I think, on the 11th of December. I had no intention of traversing that before then. Of course, I was, I was also expecting other witnesses to, to traverse the

5 BAE leg and not leave it to me. I do not, it might, it certainly has been dealt with, in passing, but not very extensively. So, by December, January, February, especially after reading transcripts of the evidence on the 11th of December, I felt it incumbent upon me to, to at least, to bring to the attention of the Commission what I did know.

10 ADV CILLIERS: What, what is the purpose of you, testifying here, Dr Young? Relating now in general, not only to my client, would I be correct, if I understand it, that you came here in order to attempt to assist the Commission, with reference to the questions, asked from them in the terms of reference?

15 DR YOUNG: That is correct. Yes.

ADV CILLIERS: So, what you attempted in your statement and subsequent evidence, was to assist the Commission in for instance, the, what I regard as maybe a very important issue, in the terms of reference. That is, whether any person, within and or outside the

20 government of South Africa improperly influenced the award or conclusion of any of the contracts, awarded in the SDPP procurement process.

DR YOUNG: That is certainly one of them and probably the most important one, regarding your client.

25 ADV CILLIERS: So, would I be correct, if I would accept that you

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would have provided all the information that you had, relating to my client, in order to assist the Commission?

DR YOUNG: I provided as much as I could that I, that was relevant, within the very short time scales and resources that were available to
5 me.

ADV CILLIERS: Yes. Well, so then, let us look at what you have, in fact, provided now that we have cleared up what your intentions were. I have gone through your statement and dissected it. It appears to me and you must please correct me, if I am wrong, the first reference that I
10 could find, relating to my client was paragraph 517 of your statement and all that dealt with was to, to state that reference to young friend is in fact, a reference to Fana Hlongwane. That is the first reference that I could find.

DR YOUNG: That is correct.

15 ADV CILLIERS: Sorry, Mr Chair, would you like the opportunity to get the statement before you, before I proceed.

CHAIRPERSON: Thank you.

ADV CILLIERS: Do you have it? The second reference that I could find was in paragraph 664, in three of the subparagraphs. Am I correct?

20 DR YOUNG: I cannot go to paragraphs as quickly as that, unless, if you give me a page number possibly?

ADV CILLIERS: Let me see where I, ja, page 171.

DR YOUNG: Yes. This is regarding a response to General Meiring's memorandum. Is that correct?

25 ADV CILLIERS: Correct. But, what I am putting to you, as far as what

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I could find, this was, this paragraph was the second time that you dealt, in your lengthy statement, with my client.

DR YOUNG: Yes.

ADV CILLIERS: The first reference, we find in paragraph 664, sub 5,
5 where you said the following:

*“Meiring complains about the difficulty of obtaining evidence after years have passed, while admitting the existence of about 4.7 million pages of documents, secured in a 2008 raid on BAE, Fana and others. But, this positive aspect he turns into another negative, on the basis that
10 it could require further effort to peruse and analyse.”*

That is what you have stated in 664, sub 5. Am I correct?

DR YOUNG: That is correct. Yes.

ADV CILLIERS: Then, in 664, sub 7, you again, refer to my client, stating that:

*“Meiring claims that the three suspects in the BAE leg have all passed
15 away. Modise, Defence Minister, during the period of arms procurement and Richard Charter, one of BAE’s local agents, have indeed both died. But, the identity of the third dead suspect is a mystery. Certainly, Hlongwane, who was regarded as a suspect, because he could have
20 influenced the deal, as Modise’s official defence advisor and subsequently received more than R240 million in payments from BAE and its partners, is alive and well.”*

That is the third reference then, to my client.

DR YOUNG: Yes. That is correct.

25 ADV CILLIERS: And the last, or the next one is 664.8:

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“Meiring claims there is no prima facie evidence against any person in the BAE matter, even though a South African judge confirmed an offshore freeze on Hlongwane’s funds as the proceeds of crime, although he has denied wrongdoing. Hlongwane has not denied receiving payments from BAE.”

DR YOUNG: Yes. That is what my statement says.

ADV CILLIERS: Those are the only reference to my client in your initial statement. Then, subsequently, on the statement that we received, on Sunday, I think, you provided already, during the course of last week, we have paragraph’s 809 and 810, where you attached certain transcripts for the Commission’s attention. Am I correct?

DR YOUNG: That is correct. Yes.

ADV CILLIERS: Now, if we can just take a minute, on 664, sub 8, where you referred to the fact that a South African judge confirmed an offshore freeze on Hlongwane’s funds, as the proceeds of crime. I want to ask you a couple of questions. Do you know the legal principals, relating to a restraint order?

DR YOUNG: No. I cannot say I do.

ADV CILLIERS: So, you do not know what the evidential requirements are, for a restraint order, in terms of, what we refer to as POCA, the Act 121 of 1998? You do not know what the requirements are?

DR YOUNG: Well, just to, what is POCA?

ADV CILLIERS: It is the act, in terms of which restraint orders are made, that you are referring to in 664, sub 8. It is the Prevention of Organised Crime Act.

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DR YOUNG: Okay. I am not intimately familiar with it. I am just familiar that such an act exists.

ADV CILLIERS: Are you aware of the fact that, in order to obtain such an interim order, the prosecution or the Director of Public Prosecutions
5 approaches a judge on an ex parte basis in chambers?

DR YOUNG: I will accept your word for it.

ADV CILLIERS: You have not known that previously.

DR YOUNG: Well, I did know that one can approach a judge in chambers on ex part basis. But, I did not know that was, whether that is
10 an exclusive mechanism or their, you know, open court mechanisms. I do not know what all the mechanisms are. But, if you say that that is a relevant one, I will accept that.

ADV CILLIERS: Well, the fact is, if we can summarise it, Dr Young, and I do not mean it a derogatory manner, you have no clue of the legal
15 principals, relating to restraint orders.

DR YOUNG: Well, I think, saying no clue, would be putting it a bit strong, but highly, because I do have a clue. I am certainly not an advocate or a lawyer and I do not have working experience of this. But, I do have some clue.

20 ADV CILLIERS: Well, your clue is that a procedure of that nature exists. It seems to me that is the sum total of your clue.

DR YOUNG: Well, it is not quite the sum total of it. As far as I know, is that, not only that the procedure exists. But, a procedure in this particular context was actually used.

25 ADV CILLIERS: Yes. But, we are talking legal principals.

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DR YOUNG: Well, they are very closely related.

ADV CILLIERS: Would I be correct, if I say that you did not have any clue of the factual allegations, contained in the application that was brought before the judge that you referred to?

5 DR YOUNG: No. I certainly had some idea. I would not say I had no clue or no knowledge whatsoever. I mean, I had been following this, this matter for quite a considerable period of time. I certainly had, in as far as I know, is it related very directly to, even to a principal investigator, Gary Murphy's affidavit from 2008. I know that the, I have read
10 affidavits from, I think Billy Downer and a colleague of his, in the Asset Forfeiture unit, Carla Seller. So, I certainly have some background, it is not having no clue whatsoever.

ADV CILLIERS: You clearly have not studied the application.

DR YOUNG: I do not know what basis you can say that I clearly have
15 not studied. I have not, okay, I have not studied it as hard as though I am writing for an exam tomorrow, or even that I knew that I would be, be cross-examined, to this depth on this particular matter. But, as I, I am not saying that I have studied it. I certainly have read it, or whatever is available. So, if you mean, studying it from the rigorous, I would say,
20 no. But, I have reviewed it, if, on the less onerous meaning of the word study.

ADV CILLIERS: And do you know what transpired in that application, what the outcome was?

DR YOUNG: From what I can remember, I am now really, you know,
25 working from memory, because this, whatever I am saying is actually

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more in the context of the Directorate for Priority Crime Investigation Unit's abandonment to the, of the investigations. It was not specifically, regarding this issue or your client. But, of what I can remember and going, going back a considerable period of time now, is that an
5 application was granted. But, later, your client, I think, represented by yourself and your attorneys here, made a representation to the National Director of Public Prosecutions. I think, that that, or that application was withdrawn or abandoned or, but then, that is what I can remember.

ADV CILLIERS: Well, let me put to you, what the correct position was,
10 Dr Young. The application, the interim order was indeed obtained, on an ex parte basis. I can put to you. Do you want to comment on that?

DR YOUNG: Well, it is certainly a good foundation for, for, at least some of what my position is.

ADV CILLIERS: Well, I do not understand your answer. But, let us
15 proceed ...[intervene]

DR YOUNG: Well, over, the point that I want I make, is it was not based on nothing, whatsoever.

ADV CILLIERS: The question was, or what I put to you, Dr Young, it was obtained on an ex parte basis. That was the only question that I
20 asked or what I have put to you. You certainly do not dispute that.

DR YOUNG: No.

ADV CILLIERS: Do you know what ex parte basis means, in legal terms?

DR YOUNG: I think it means, like a unilateral approach, but one party
25 to the judge, without a bilateral opportunity for the other party to state

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their case. That is my lay person's understanding of that is.

ADV CILLIERS: Well, that is a good understanding, Dr Young. It is you approach court, without giving the other party the opportunity to put his case.

5 DR YOUNG: Yes.

ADV CILLIERS: Therefore, only an, only an interim order is granted. Then, it is postponed to a future date, in order to present the other party with the opportunity to answer to allegations. Do you understand that?

DR YOUNG: Yes. I can accept that.

10 ADV CILLIERS: And once that opportunity had been provided to my client and the National Director of Public Prosecutions had been approached and the answers given, they abandoned the order and in fact, withdrew the application. That was the factual outcome of this application.

15 DR YOUNG: Okay. I think, I am correct in saying, or repeating what I said before. It was done on a representation basis and not on, in a kind of an open court, bilateral basis.

ADV CILLIERS: Now, if that is the position, what assistance do you get, from the fact that a South African judge, on an ex parte basis,
20 granted an interim order, which was abandoned, when the other side heard the version of my client? What weight can this Commission attach, on your assumption, or on your view, to the fact that an interim order was in fact, granted?

DR YOUNG: It is only by way of introduction of the relevance of the
25 later, the later evidence. I think, what is relevant in my statement here,

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is saying Hlongwane has not denied receiving payments from BAE. It is really on that, that was the contextual introduction, you know, in all of those processes, ex parte or representations. I do not think that that was denied. So, I think it is relevant to say that the rest, well, what I
5 wanted to provide, not so by way of my own evidence, but as a, as giving material to the Commission, is the true, or at least, another view of the circumstances, regarding the receipt of these payments from BAE.

ADV CILLIERS: No. But, you will certainly agree with me, Dr Young,
10 now that we have the full picture of the objective facts, that the fact that a judge granted an interim order, under those circumstances, does not give any weight to any allegation or theory that my client received any money in an unlawful manner.

DR YOUNG: I think, that that might be true, certainly, in a court of law,
15 where there is a burden of proof. But, I think, at least, as an observation and hopefully a relevant one, and a sane one, is that very few judges that I have ever come to know, I do not know many, any personally, but grant interim orders or any other orders even an ex parte basis, based on the affidavits of practicing council, senior council, in the case of
20 Advocate Downer, that can be based on complete nonsense. It has to, there has to be, at least, some plausibility in those affidavits, submitted in that ex parte application. The fact that they get, that the actual application gets denied, at a later stage, I do not think, in my intuitive view, at least, or lay person's view, that means that the contents of those
25 affidavits that founded that application, also become completely

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irrelevant or untrue or with no sound basis, whatsoever. I think that is the point that I would like to make.

ADV CILLIERS: No. But, it seems to me that, in principal, you agree with me that, now that we have the full picture, based on the objective
5 facts. You agree with me that there should be no weight attached to the fact that a judge granted an interim order on an ex parte basis, as proof or any weight to any allegation that my client received any unlawful payment.

DR YOUNG: No. I think, there were quite a few sub themes in that, in
10 that question. My answer is, I think, no, to all of them. First of all, I am not, I am not stating here, it is not, I do not think it is my evidence, the written evidence that your client received unlawful payments. That is not for me to, also I have no burden of proof here. You used the word prove then. I am not sure. I am not trying to prove anything. All I am
15 trying to say is that there is relevant information that is both relevant, in its own context. It is relevant to the Commission. But, it is even more relevant to the point that I bring up, the points that I bring up and the documents that I bring up, at the end of my statement.

ADV CILLIERS: Let us move on, Dr Young. It appears to me, also on
20 the basis of what you have just testified that the high water mark of what you stated in your statement and in your evidence, is that we find, in 664, sub 7, in the words:

“Hlongwane was regarded as a suspect, because he could have influenced the deal, as Modise’s official defence advisor.”

25 That is the high water mark of allegations against my client, if I have

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regard to your statement.

DR YOUNG: No. That is also not true. The, certainly, this was the introduction part. The subsequent part is that my understanding of your client's testimony, both written and oral is that he never received any
5 payments whatsoever, from BAE, until 2003. I, that is the firm basis, for me, continuing that theme in the, what I call, my extended witness statement.

ADV CILLIERS: Please refer the Commission, to where my client said he only received, or entered into an agreement, only in 2003, Dr Young?
10 We have already actually, went through this and you withdrew this allegation previously. You will recall what happened on Monday.

DR YOUNG: No. I do not remember withdrawing that.

ADV CILLIERS: You have a very short memory, Dr Young.

DR YOUNG: I do not think so, at all. I just cannot, I do not think it
15 happened [indistinct] remember things that did not happen. I cannot remember, me making that statement.

ADV CILLIERS: Can you recall that I, at one stage objected to your evidence and that I invited you to refer the Commission to the statement and or evidence of my client, where he stated that he only entered into
20 an agreement with BAE in 2003 and that you then, actually, apologised. Can you not recall that?

DR YOUNG: No. I do not.

ADV CILLIERS: Well, I am not going to take you there. The record will speak for itself, Dr Young. If you say what I stated to you, what I could
25 find, in your statement, as the high water mark of your allegations

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against my client, can you please refer me to any portion of your statement, contradicting what I have said to you?

DR YOUNG: I am not relying on my, on my statement, except the reference, in my statement to both your, your client's written witness statement and his, the transcript of his oral evidence.

ADV CILLIERS: Dr Young, please listen again, to my question. What I could find, from your statement, as a high water mark, of allegations against my client, was what I could find in paragraph 664, sub 7, which I have read to you. If you do not agree with me and I am referring now to your statement, please refer me to a paragraph, or paragraphs in your statement, contradicting what I have said?

DR YOUNG: I am not referring, I am referring to my witness statement, at paragraph 809.

ADV CILLIERS: Well, let us read 809.

DR YOUNG: It says, I have only, I think I have only got two, two paragraphs, regarding this theme, in what I call my extended witness statement and 809 reads:

"The essence of my 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 even more indirect routes."

ADV CILLIERS: Let me ask you the question, then again. Or put it to you, what I could find, as allegations against my client, with reference to the terms of reference, more in particular, paragraph 1.5 and I do not want to read it again, unless you want me to. The high water mark of

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allegation against my client is to be found in paragraph 664, sub 7. If you disagree, please refer me to a paragraph.

DR YOUNG: No. My evidence is not direct, in terms of my own witness statement. It is only with reference to the documents, which I have adduced, which in my own view go the way, to prove two things. That is that your client received payments, indirectly from BAE long before 2003. Also, the BAE representatives are on the record, under oath, in terms of these documents that I have adduced is they were meeting, they, in the early, early stages of the selection process, certainly in the 1998, maybe in the 1997 period, is they were introduced to Advocate Hlongwane and I think, who has introduced them, unashamedly, or as BAE's consultant.

ADV CILLIERS: Dr Young, I am interested in the terms of reference. I want to restrict my cross-examination to what is relevant. I do not want to develop theories or suspicions, et cetera. So, I want to concentrate on the terms of reference. We have already cleared that up. As far as my client is concerned, we should look at paragraph 1.5 of the terms of reference. The one that reads:

"Whether any person or persons within and or outside the government of South Africa improperly influenced the award or conclusion of contracts."

Do you understand that?

DR YOUNG: Yes.

ADV CILLIERS: Now, what I am putting to you, in your statement, I could not find any allegation that my client, in fact, improperly influenced

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the award or conclusion of any of the contracts, awarded in this programme. Am I correct or am I wrong?

DR YOUNG: You are wrong.

ADV CILLIERS: Please show me, in your statement and read the
5 paragraph to us?

DR YOUNG: No. It is not in my, I did not say it was in my statement. It is in my evidence.

ADV CILLIERS: I am asking you, for the tenth time, we are dealing with your statement now.

10 DR YOUNG: Yes. My statement refers to the evidence documents. It is contained within the evidence documents. I have not seen the transcript, but I went through that, in some detail, in my evidence in chief. I have just explained it now, again, this is my oral evidence. My oral evidence supersedes. My witness statement is only a summary of
15 what I was going to address in oral evidence. I think, I did it adequately at the time. But, what I have stated, in terms of the terms of reference, if it is true, what is contained in the documents, which I have adduced into evidence, I know that everybody have been copied with every single page of those, I think, 19 or 20 documents. It is what is contained within
20 the documents, as we know, I am not allowed to and I am certainly, in this case, I would not have tried to traverse all 2000 pages, or whatever it is. But, what I stated then and I state now is that there is the clear evidence, oral evidence, at least under oath, transcribed into, into transcripts of those interviews under oath, of the relevant BAE people.
25 Where they talk about meeting Advocate Hlongwane, before 1999,

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January 1999, when he ceased to become the Minister's, or at least
officially ceased to become the Minister's ministerial advisor and was
communicating and giving advice to BAE and to all intents and
purposes, it would seem, or at least, on the face of it, he was doing that,
5 while still working for, well, as the, working as the Minister's advisor. If
that is true and this is not my evidence, it is just the evidence that I am
bringing to the Commission. It is the BAE person's evidence. If it is
true, now, we are allowed to make those kinds of presumptions for the
purposes of giving, if it is true, then the clear logic is that Advocate
10 Hlongwane was working for the Minister as a defence advisor and the
same time, giving advise to a competitor. That would fall directly into
the terms of reference, paragraph 1.5, in my own understanding and
view.

ADV CILLIERS: You will agree with me that in your statement, Dr
15 Young, there is no allegation that my client improperly influenced the
process. I am referring to the statement. Please do not favour me, with
a five minute answer again. I am only referring to your statement. We
will deal with it step by step.

DR YOUNG: Okay. In the statement, there is not directly, no.

20 ADV CILLIERS: What you say is that the Commission should have
regard to the couple of thousand pages that you have presented to
them. They should then, from that, make the inference that there may
have been improper influence.

DR YOUNG: Well, not purely, barely on their own, their own review of
25 the documents, but based on the introduction to it, which I gave, in

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evidence in chief, which was, it was not insubstantial. But, it basically contained all the jest of what was important and contained in those adduced documents.

ADV CILLIERS: You were invited, on a number of occasions, to refer
5 to specific portions of that evidence, which you chose not to refer the Commission to. Am I correct?

DR YOUNG: It was, that is true, but it was only because it was getting to, late on Monday morning and right at the beginning, the Chairman had said that I had undertaken, to only be in hour, or maximum of two
10 hours. As it was, I, it was getting towards, in fact, I was given until lunch time. Lunch time ended at 1:30 that day. The only way that I could meet that undertaking of completing by that time, was to, as I said, working from memory and indicating which of those witness statements and evidence documents was relevant, in each instance. But, giving a
15 oral summary from memory, of what my evidence was that would be borne out, by those adduced documents.

ADV CILLIERS: The fact is, Dr Young, as we sit here, we still do not know, on which portions, you are relying for this allegation.

DR YOUNG: No. Not specifically, but what I do, what I can vouch for
20 is that all of those documents are relevant. I need to be frank in saying, of course, I am in possession of, I mean, that is just a tiny fraction, of what was provided to me, regarding the BAE, but regarding, you know, your client and your client's evidence on the 11th of December. I extracted just, I think, it was nine transcripts of interviews with BAE, or
25 actually, it was actually eight transcripts with BAE employees, or former

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employees and just one with a, with a former BAE advisor, Alex Roberts. So, it was only nine, altogether. Then, there were about the same again, of documents, backing up what was contained in those transcripts. So, you know, all of those documents are relevant. It, it was
5 not practical, considering the directive, the ruling from the Chair, to spend hours, which would have, and it would have taken hours, to go through all of those documents and find the relevant paragraphs. So, I did that from memory and it was, as far as I am concerned, it was cogent enough. I cannot remember thinking back about it and saying,
10 well, I left anything important out or made any mistakes. So, certainly, the record of my oral evidence, I would believe, in my own view, for my own purposes and this is my evidence, for my own purpose, my own evidence, it does suffice.

ADV CILLIERS: Dr Young, I took some hours, spending on those
15 documents that you handed in and I can put it to you that I could not find a single allegation, in the bundles that you provided, stating or alleging that my client improperly influenced the award or conclusion of contracts. Not a single one.

DR YOUNG: No. That is my own conclusion, from the clear, you
20 know, one does not only make conclusions from conclusions. One makes conclusions from premises. That is the way logic works. Valid or cogent conclusions in natural logic, come from premises, not conclusions.

ADV CILLIERS: I am not interested in your theories, Dr Young. What I
25 am interested in is the objective facts. Must I take that you agree with

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my statement to you, that there is not a single allegation, in those five bundles, running into thousands of pages, alleging that my client improperly influenced the award or conclusion of any of the agreements that he was involved in?

5 **DR YOUNG:** You talk about facts. Thank you for that. The facts, contained in those documents, are the premises for the logical conclusion. Into, just two regards that are in this context, one is what your client's testimony was about, regarding only entering into contracts with BAE and getting payments from BAE in 2000, would be incorrect, 10 well, at least, seemingly on the evidence of those involved, including people who made the payments, including the companies. I have mentioned all of them. Well, from BAE head quarters, marketing services, to Red Diamond Trading LTD, to ARSTO, to West Unity and CIC. All of those are facts. In terms of logical argument, those facts 15 become premises, which eminently support the contention I am making, that it was not true that your client only received payments, directly from BAE emanating from contracts signed in this later time frame and directly from BAE. There is adequate evidence to show that he received several millions of pounds, from the, at least, from the 1999 to 2001 20 period. That is the one part. The other part is, I have said, on the statement, or answers to questions, under oath, from the Serious Fraud Office, BAE employees have alluded to them being in contact with Mr Hlongwane in the 1998, 1999 period, or 1997, 1998, 1999 period. I am not 100 per cent of the exact extent of it, but certainly in the 1998 25 period, when he was clearly working as the advisor for the Minister of

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defence. But, at the same time, they considered him, as their own advisor and certainly, in even more instances, as their source of information. In my view, that is adequate source facts, or premises, for my own conclusion is that would be a relevant, or valid. A cogent
5 conclusion would be that would be involved in the irregular awarding of the contracts.

CHAIRPERSON: I am sorry, Advocate Cilliers. Can you just put the question again, for the last time? Let us see if you can get an answer.

ADV CILLIERS: Yes. I, in fact, wanted to ask him, which question he
10 answered, because it is definitely not the one that I asked. Dr Young, you have a way of just talking, if you do not know what to say. Please listen to the questions. Then, we can finish the cross-examination. I said to you, I took the hours that you said you did not want to take. I went through the statements. I could not find a single allegation, in any
15 of these statements that you presented the Commission with, alleging that my client improperly influenced the process of awarding contracts. If you disagree with what I say, please refer us to the portion of any statement that you rely on.

DR YOUNG: Well, if, I cannot disagree with you. If you could not find
20 any, then, you know, that is your version and I will have to accept that.

ADV CILLIERS: Thank you. What I could, it is not my version. It is the objective facts, Dr Young. But, what I could find was very interesting. We, you have, inter alia, provided the Commission with a, let us put it in inverted commas, a statement of a Mr Irving, am I
25 correct?

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DR YOUNG: Niall Irving. That is correct.

ADV CILLIERS: Now, going through his statement, if indeed, you can call it a statement, but what you presented the Commission with, it appears that Mr Irving was only involved in the process, in the initial
5 period. Do you agree with that?

DR YOUNG: No. I would not have said it was, from my memory, is that he actually took over certain of the duties from Allan MacDonald. Specifically, I can remember Sir Kevin Smith replaced Allan MacDonald as the Regional Managing Direct and that now, he asked now Irving, to
10 approach all the covert agents, with a view to reducing these, these commissions. So, that would indicate to me that he was not only involved, only in the beginning. In fact, it would be more, more not necessarily at the very end, but certainly later than the beginning.

ADV CILLIERS: Well, I am referring to his own evidence. He said in
15 2000 he could not, there was something wrong with his, his visa, to enter South Africa. But, he was only involved until about the beginning of 2001. That is what he says in that statement that you present the Commission with.

DR YOUNG: You see, now you are confusing me, because he says,
20 he was only involved until 2001. That is the latter period. But, it, but 2001 is well after the contracts were signed. So, I am not quite sure what you, what you are getting at, or what you are asking me here.

ADV CILLIERS: Well, it does not matter. But, I want to put to you is a portion from his evidence, Dr Young, just for what it is worth, on page
25 3737 of the file nine, that you presented to the Commission. I can read

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it, it is short. We can maybe save time, if you want to check, whether I do it properly and fully, you can do so. What he says, top of page 3737 ...[intervene]

DR YOUNG: Sorry, could you just refer me to the actual page, of the interview? It is at the bottom in the middle.

ADV CILLIERS: The actual page, at the foot of the page is one, eight, 18. But, the paginated page says 3737. Do you have it in front of you?

DR YOUNG: I have got, I have got the correct page, as far as I know.

ADV CILLIERS: Let me read to you the relevant portion:

10 *“And there were also people, like Hlongwane, who had a, whose motives, in my opinion, were driven definitely initially, definitely by their beliefs that the ANC government had to succeed and things had to be right. They were motivated on those grounds, not on the ground of financial benefit and that I firmly believe.”*

15 Have I quoted correct?

DR YOUNG: I did not see it, but I can remember that.

ADV CILLIERS: That certainly does not suggest any unlawful influence, into contracts, if I understand that portion, Dr Young.

DR YOUNG: No. I would disagree.

20 ADV CILLIERS: Well, I am not going to land in the trap and ask you why, because I think, we have heard enough illogical answers from you, Dr Young.

DR YOUNG: No. Because it is not the ANC, he was, you know, clearly, just on your own version it is that he was acting on behalf of the
25 ANC. It is not the ANC, who drives military acquisition. It is Armscor.

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CHAIRPERSON: Okay. Just hold on, Advocate Cilliers. Can you read that paragraph again and let us get Dr Young to comment, if he can?

ADV CILLIERS: Certainly, Mr Chairman, because it actually refers specifically to my client by name. It says:

5 *“And there were also people, like Hlongwane, who had a, whose motives, in my opinion, were driven definitely initially, definitely by their beliefs that the ANC government had to succeed and things had to be right. They were motivated on those grounds, not on the ground of financial benefit and that I firmly believe.”*

10 Do you want to reconsider your non-sensical answer, Dr Young?

DR YOUNG: Only that it is, it is relevant. It is not even the ANC government. Sure, I would agree that it is, it is the correct thing to do things right. But, it is not the ANC government, who is responsible for acquisition. It is Armscor.

15 CHAIRPERSON: Just hold on, Dr Young. Are you saying that statement, the one that Advocate Cilliers is reading, is he reading it properly? Or are you saying that, even if that is what is contained in that statement, you do not agree with the sentiments, expressed therein?

DR YOUNG: It is the, it is the latter, not the, I agree that it is there.
20 But, it is the latter, which I disagree with.

ADV CILLIERS: The fact is, the evidential material that you put before the Commission, relating to my client, you have already agreed with me, or you did not dispute what I have put to you that there is not a single allegation of untoward conduct, by my client. To the contrary, I now
25 showed you a paragraph and or evidence, by Mr Irving, stating exactly

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the contrary, to what you want this Commission to further investigate.

DR YOUNG: Well, you have done the absolutely classic thing, is cherry picked one particular statement, out of 2000 pages and used that, to invalidate the bulk of the rest. You know, if it was necessary and
5 it took another week, I would have to do it and then I would spend the same amount of time and resources, of putting together another witness statement that led to the conclusions of all the facts that actually show the opposite of that.

ADV CILLIERS: I think, you had your opportunity, Dr Young. You were
10 making all sorts of allegations and statements for many years now. Up until now, you have prepared a statement and you did not even make a single allegation of untoward conduct, by my client. So, I think, you had your opportunity.

DR YOUNG: You know, if you are making a statement that is fine.
15 But, I, if you are giving me an opportunity, is it has taken me the best part of a couple of years and many thousands of man hours, to put together my witness statement, which did not include, well, certainly this aspect of your client's involvement. It was only, I only felt incumbent upon me, to introduce this to the Commission, because nobody else did
20 and of what I read in your, your client's evidence in December. There was certainly, if I had insisted, on dealing with this aspect, to the same degree of detail and depth, then it would have taken me another six months, or a year, to have done it in the same level of detail.

ADV CILLIERS: Dr Young, it seems to me, we can summarise your
25 testimony and I do not even want to refer to it as evidence, because it is

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clearly not evidence. But, we can summarise your testimony in the following manner. What you are actually tell this Commission is one, you, on a number of occasions, went out of your way, to emphasize that you have no burden of proof. Am I correct?

5 DR YOUNG: Yes. I think that is common cause. That is a fact.

ADV CILLIERS: You have further emphasized the fact that the legal principals, relating to the law of evidence does not apply. Therefore, you are entitled to present hearsay evidence. You are entitled to present copies of documentation, which we do not have an idea, where it
10 originates from, who the authors were, et cetera, et cetera. But, the fact is, you did not feel yourself bound by the legal principals, relating to the law of evidence. Am I correct?

DR YOUNG: No. That is also incorrect. If I may address those points, as I can remember them is you say that I have just presented
15 documents to the Commission, with no idea of, of the origin. That is incorrect, specifically as regards these documents. It is very, very clear, where they emanate from. They emanate from the Serious Fraud Office, in the United Kingdom, who did, who initiated this investigation. I do not think there is anything, the authors, the origin of any of these
20 documents, is entirely clear. That is the one thing. In terms of evidence, that was your other point that I can remember, was that, okay, I am, as a lay person, familiar with the best evidence rule. Well, not familiar, but I am aware of it, where, if that is the best evidence in any circumstances, even if it is hearsay, then it is, at least, provisionally
25 admissible. I would say that the, that the barrier to entry or the bar, the

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bar to entry is at all, in legal speak, is even lower, in a Commission of Inquiry as it might be, in a normal trial. The third thing, regarding hearsay evidence, in this trial does, well not this trial, sorry, these proceedings, also involve the other leg of bribery and corruption. As far
5 as I know and I am not an expert in the Prevention of Combating Corruption act, but that act specifically allows the use of hearsay evidence.

ADV CILLIERS: Dr Young, for instance, the documentation that you presented now, with your supplementary portion of your statement to the
10 Commission, if I look, for instance and it is true, to more than only one of the statements. But, if I look at file 10, the first transcript that you presented, was a transcript of the evidence, in inverted commas, of one Mr Macbeth. Am I correct? It is page 3997, of the paginated pages, it commences.

15 DR YOUNG: Okay. I do not see, it is a Mr MacBeith. He is not the first one. I think, he looks about, I put these in alphabetical order or ...[intervene]

ADV CILLIERS: Please, nothing turns on first or second. I am just referring to you, to the first statement in the bundle. Nothing turns on it.
20 I am just referring to that statement.

DR YOUNG: Okay. Well, then, I, in my own witness statement and all of these, of course, come out of my witness statement, of which you have got a copy. That is why I just said, it is not the first one, in my list here. There is a Mr MacBeith. So, I am aware of that one.

25 ADV CILLIERS: Well, have you seen that it is only a draft statement,

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or a first draft? Please have a look at the foot of the pages.

DR YOUNG: Yes. I can see that.

ADV CILLIERS: What does that mean, Dr Young?

DR YOUNG: It just means that that is the one that I have and that is
5 the one that I have had available, to give to the Commission.

ADV CILLIERS: That means it is, in inverted commas, a statement
that stands to be corrected, not so? Is that not what first draft means?

DR YOUNG: In that particular instance, maybe you are correct. I
have, as far as I know, I have copies of many other statements, at least.
10 As you can see in there, on my witness statement, they are all checked
versions. I am not aware that there was another version of the
MacBeith interview.

ADV CILLIERS: The fact is, Dr Young, some of the so-called
statements that you presented the Commission with, are only first drafts.
15 It is not even checked statements.

DR YOUNG: That may, that seems to me that that only applies to one
of the nine and that is the MacBeith one. All the other ones, I can see
as checked, checked, checked ...[intervene]

ADV CILLIERS: You have checked wrongly, Mr, Dr Young. Look at Mr
20 Irving's statement. Sorry?

DR YOUNG: I am looking at the file names and that one also says
checked. If I may, if I may just complete myself, complete my evidence
properly, without being interrupted. I am looking at my witness
statement. I do not have those evidence bundles before me. But, it
25 seeing this is my evidence, I should be allowed to traverse that. There

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are, as I said, eight SFO transcripts here, duly, all of each one is checked. The Hugh Dickinson one is checked. Nial Irving is checked. Kevin Smith it just says all I do not know, MacBeith also says all. MacDonald says corrected. MacIntyre says corrected. I know that the
5 transcript of the Alex Roberts ones was not done in the UK. It was done in Switzerland, with the Swiss prosecutors there, with the SFO people there and that is signed by Alex Roberts himself. So, that is a checked. So, possibly of the nine that I have adduced, seven of them are actually, indeed, checked.

10 ADV CILLIERS: Some of them are only drafts.

DR YOUNG: Possibly.

ADV CILLIERS: Well, let us not spend too much time on that. I just wanted to illustrate to you the point, Dr Young. Then thirdly, it seems to me, if one summarise your testimony, the third point is that you then,
15 after receiving certain information, as a conduit that is now referring to my client, you embarked on an investigation. Would that be correct?

DR YOUNG: All I did is I then started referring to the documents that have been provided to me, to see whether there was anything that would be of interest to the Commission.

20 ADV CILLIERS: Now, the information that you received, we are not in a position to identify the people, in all instances, who presented you with information. Because in some instances, it appears to me that you are not certain. In other instances, you are not willing to disclose the identity of some of these people, who provided you information with. Am
25 I correct?

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DR YOUNG: Yes. But, I certainly am aware of, well, in this BAE case, I am aware of all the identities. The, I think, the only thing was the German ones, which is not relevant here, of who the exact author, but I was aware of, at least, their organisation. If I may just say, I am sorry to
5 turning, but is the, just finishing off my, the previous point. In fact, the only other transcript here, which I thought there were two that were not checked, but in fact, the Sir Kevin Smith one, which is important, actually has the word checked, at the beginning of the file name, not the end. So, there is only, only the MacBeith one, does not seem to indicate
10 being checked, in terms of the file name, only one out of eight, one out of nine.

ADV CILLIERS: You are wrong, Dr Young, but I not want to spend time on that. In the bundles that have been presented to us, there are a number of statements from Irving and all of them are first drafts. But, let
15 us not waste further time. The record will speak itself. The, it is in front of the Commission. Let me go to my fifth point. The above information that you have received, then gave rise to your suspicion, or gave rise to a theory that you developed that my client could have influenced the deal. Am I correct?

20 DR YOUNG: Well, I put it slightly stronger than that. I would say that if the contention of these BAE witnesses is correct that they were treating Fana Hlongwane as their, their agent, or their, at least, their source of information, while he was acting as the Minister of Defence's, at the same time, then that would be irregular.

25 ADV CILLIERS: Then, the following point, it seems to me that we can

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gather from your testimony, Dr Young, is that you therefore request the Commission to further investigate this issue, or all issues that you have dealt with, in your statement, including the issue, relating to my client.

DR YOUNG: Well, I think, the answer is, yes. But, otherwise, I would not, if I was not asking the Commission to investigate further, then I do not know why I am here.

ADV CILLIERS: But, in this process, at least, by implication, you had urged on the Commission, to ignore the direct and undisputed evidence, under oath, by the people, who were involved in the whole process. I am referring to all the technical people, who testified under oath that there was no influence. The Defence Force people, in my client's position, more particularly the Air Force people, the decision makers, who testified, all direct evidence, all people, who were directly involved, not a suggestion of improper influence from my client. But, what you would urge the Commission on is to please ignore those undisputed evidence.

DR YOUNG: No. I would not say, well, there are two things. I would not say they should just, the Commission should just ignore it. But, what I should say, it is disputed, the very fact that I am here is, has to mean that that, some of that evidence needs to be, to be looked at. Just because I did not cross-examine, you know, every single, it does not mean to say that it is not disputed. What I am saying, you know, what I further say is the evidence of the South African officials, specifically DoD and Air Force and Armscor ones, that was from their perspective. Actually, all, only from a very early perspective, of going up to the, let us

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say the early 2000, you know, maybe 1997, no, 1997 to 2000, 2001 time frame, all of this evidence, derive out of completely different jurisdiction, jurisdictions, being the United Kingdom and Switzerland. It came much, in a much later time frame, I think, 2007, 2008 time frame. So, that the
5 witnesses to whom you refer, just would not have known this. So, they would not have, they, I do not think that they addressed this, because they did not know. If it is true that this evidence from the Serious Fraud Office is relevant, then I would just request the Commission to look at the situation in its entirety and not just from that, that one particular
10 sector of view point.

CHAIRPERSON: Advocate Cilliers, can you put that question again, because Dr Young gave a long explanation. I could not quite understand whether, whether he was answering your question or not. Maybe, let us try again. Put the question again and let us see how Dr
15 Young responds to it.

ADV CILLIERS: As you please, Mr Chairman. In this process that you urged the Commission to further investigate, by necessary implication, you urge on them to please ignore the direct, undisputed evidence of all the people involved in the process, who denied any improper influence,
20 by my client. Or there was no suggestion of even contact that my client had with any of them, in order to influence them, in the process. That should be ignored, otherwise, where will we go with further investigation, Dr Young?

DR YOUNG: Yes. Only one very, very brief response I can give to
25 that and it is only in Afrikaans. Ja, nee.

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ADV CILLIERS: I think, we should proceed in Afrikaans, Dr Young.

DR YOUNG: Jy mag as jy wil. Maar wat ek sê is, you know, I am ...[intervene]

ADV CILLIERS: This was an invitation for further comment, Dr Young.

5 It was just a joke.

DR YOUNG: Well, it takes two to make a funny joke. But, if I may say, I, you did ask me a question there. I think, I am just repeating myself. I did actually answer the question correctly, your question correctly. I am not, I am not asking the Commission, just to ignore all
10 the evidence. I am asking them to view it, in the balance. That is the way the law likes to work, is the lady with the scales, there has to be a balance. So, I am not asking them to put zero weight, or put nothing in that side of the scale at all. I am just saying, it is in the balance, to also be aware of more so, what the Serious Fraud Office has uncovered, in a
15 much later time frame.

ADV CILLIERS: Is that now a judicial balance or a Young balance?

DR YOUNG: It is only my little input of taking the small amounts of weights, to the relevant lady with the scale, to say, I would recommend that these little weights are worth putting on that side of the scale, as
20 well.

ADV CILLIERS: One thing that I agree with you, Dr Young, your contribution was indeed, a very little weight.

DR YOUNG: I would disagree with that. I think, it is, in terms of what has been brought so far, I think it is gigantic.

25 ADV CILLIERS: Further, Dr Young, the Commission should also

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disregard, for instance, the view, clearly expressed by somebody like Irving, that there was nothing untoward. That there was definitely no attempt, to obtain financial benefit, from somebody, like Mr Hlongwane.

DR YOUNG: No. You see, you are just cherry picking and it is just
5 completely, completely inappropriate. You know, I have, there is more aspects to just, well, in fact, let us just [indistinct] down to the one aspect. The most important aspect are, is that payments came, in this earlier time frame, in this 1999 to 2001 time frame. What Mr Irving does, in his multipage transcript of his interview, he might say that. I am
10 not asking for that to be completely ignored. I am not hiding, I did not tipp-ex that out. I did not redact that out, or hide the page, or fiddle with the, with the evidence. But, what is very important from Mr Irving's evidence is the aspect of covert commissions. He specifically refers to a very, very important player here, being Sir Alex Roberts, from whence,
15 your client, Mr Hlongwane, received a fraction less than 5 million Pounds of payments from BAE, through Mr Roberts' company, or, Sir Alex Roberts' company Astor and where now Irving is on the record. That is why his transcript is relevant, it is important, is that he refers to the covert commissions. He tried to reduce the covert commissions,
20 where Alex Roberts refused. It is the inference, actually, from the questions of the SFO, and it might be that, I cannot remember now, whether Nial Irving agrees or not, is it is a very strong reason for that, a probable reason. Is that, actually, Mr Roberts was actually acting as another agent, as an agent for an agent. Okay. So, that is the one
25 thing. The other, the, the ...[intervene]

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ADV CILLIERS: Which question are you answering, Dr Young?

DR YOUNG: I am answering the question, regarding the relevance of the one tiny bit of information, contained in Niall Irving's transcript, in saying why it is, you cannot just take one tiny, little thing out of Niall
5 Irving's evidence and say, well, that becomes de facto. That is the, well, let us say, the smoking gun in that context. There is the rest of his evidence that needs to be put in the scales, as well.

ADV CILLIERS: Dr Young, you should further, or the Commission should further on your attempt, ignore the undisputed evidence of Mr
10 Hlongwane himself.

DR YOUNG: Well, I am disputing his evidence.

ADV CILLIERS: Why did you not come and cross-examine him?

DR YOUNG: It certainly would have been impossible for me to do so, on the 11th of December. Just like all the other witnesses, that I once, I
15 was, only became aware of his evidence and his witness statement, after he actually stepped off the stand.

ADV CILLIERS: Well, the objective position is, Dr Young, his evidence, disputing any suggestion of untoward conduct, was completely undisputed, not only did you chose not to dispute that, but not any of the
20 other critics to the arms procurement process, in fact, turned up, in order to cross-examine him and give him then, the fair opportunity to respond to allegations.

DR YOUNG: No. I think, well, at least here, I cannot say, you are fundamentally wrong or I am. But, certainly, something that I have
25 traversed with other people, regarding advise is I am unaware of any

legal situation, whether it is a trial, or a Kwazi legal, where a witness, a person, who has been on a witness list for that, those proceedings, actually right from the beginning, where a witness is obligated of cross-examining another witness. I am a witness and I can adduce my own
5 evidence in, in my own evidence, in my own, yes, when my own evidence in chief, of course, cross-examined. There is no obligation for me, to cross-examine another witness.

ADV CILLIERS: Now, I do not understand, I understand you involved yourself, in quite a lengthy cross-examination yesterday. I was
10 fortunately not here, but I understand you did in fact, cross-examine yesterday, to a, to some extent.

DR YOUNG: Well, there are completely different circumstances. I was, completely different circumstances. Your client testified nothing, whatsoever, nothing, zero, zero regarding me. I think, that has to be
15 common cause. Secondly, of course, I was not aware that your, what your client was going to testify about and in, and of course, I was not, I was not in the vicinity. Yesterday, circumstances were completely different. First of all, it involves an entity, which I have referred to, in my own evidence.

20 ADV CILLIERS: But, you have referred to my client in your own evidence, as well.

DR YOUNG: No. You are not listening to me. I am saying is that your client never referred to me, whereas this witness yesterday, from Thales, did refer to me. Alright. It has to be, it, you do not have to be a
25 legal brain here, to know the difference. It is, this is completely,

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completely different circumstances. I had not finished what I was saying. Is as I was confronted in a situation, regarding your client, is he stepped off the stand and was released, before I knew what he was going to testify about. Yesterday, it was a big surprise to me. I only
5 found out that the witness, from Thales was going to be giving evidence, yesterday morning, around about this time, which is close to tea time. In fact, I had to interrupt, giving my own evidence, allowing her, politely, as the Commission allowed her to do, to finish. But, I was, at least, provided with a witness statement, at the beginning of lunch time. So, I
10 had an hour to peruse it. I was put in a position to ask some questions. So, the circumstances are completely, completely, completely different. If I could, if you want me to put it higher than that, I will try and do so.

ADV CILLIERS: I will not give you the opportunity, Dr Young. I want to put to you that my client emphatically denies that he was, at any stage,
15 involved and or has any knowledge of anybody, within and or outside the government of South Africa, who improperly influenced the award or conclusion of any of the contracts, awarded in the SDPP procurement programme, process.

DR YOUNG: Unfortunately, the evidence then shows, that your client
20 is prepared to give untruthful evidence to this Commission. So, unfortunately, he might state that. I would, I would contend that, by tint of logic, if the other evidence is true, then that evidence, what you have just stated now, has to be regarded in a, at least, putting it politely, in an inquisitorial light.

25 ADV CILLIERS: Mr Chairman, as far as I am concerned, I am finished.

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I see, I transgressed over in the tea time period. Can I, can we take the short adjournment that I just get a final instruction from my attorney?

But, as far as I am concerned, I am finished with the cross-examination.

CHAIRPERSON: Okay. Maybe, let us take a 15 minutes tea
5 adjournment. Thank you.

(COMMISSION ADJOURNS)

(COMMISSION RESUMES)

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

ADV CILLIERS: We are indeed finished, Mr Chairman.

10 ADV MOERANE: As the Chair pleases. Dr Young, I will just ask you a few preliminary questions, relating to your background. I believe, according to your statement, you joined the South African Defence Force, during 1976.

DR YOUNG: I was called up for national service, yes. I did not join it,
15 in the normal course. I was called up for national service.

ADV MOERANE: You became a member of the South African Defence Force in 1976.

DR YOUNG: Yes. That is correct.

ADV MOERANE: And in the history of this country, in 1976 is
20 significant.

DR YOUNG: There were, from what I remember, in my own life, it was fairly significant, because I served in the national, sorry, in the SADF in 1976.

ADV MOERANE: Yes. And it was also the time of the Soweto
25 uprising.

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DR YOUNG: Yes. That is correct.

ADV MOERANE: As a result of your interests in the Defence Force, I believe, you got interested in defence electronics.

DR YOUNG: Yes. I did some of my service in electronic warfare unit
5 Two Signal Regiment. During that year, I switched, from being interested in chemical engineering, to electronic engineering.

ADV MOERANE: And the following year, 1977, the United Nations Security Council passed a mandatory arms embargo against South Africa.

10 DR YOUNG: Yes. I know that from the, from the history.

ADV MOERANE: And that embargo was tightened and extended in 1986, by Resolution 591.

DR YOUNG: Okay. I will accept that. I have no personal knowledge of it.

15 ADV MOERANE: Were you involved in any activities, which were directed at breaking, or going around that embargo?

DR YOUNG: Not that I can remember.

ADV MOERANE: Are you certain about that?

DR YOUNG: Well, you know, I only, I only started working in the
20 defence environment in 1985. So, certainly I, certainly up until then, it is impossible that I could have been. Then, I was a, a fairly junior engineer or employee of a company. So, I cannot imagine that I was purposefully, or at my own volition involved in breaking the arms embargo.

25 ADV MOERANE: Let us move on, to the stage, when you were

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working on the information management system, that is technology development and technology retention. When was that? When did you start working on that?

DR YOUNG: From what I remember, technology development started
5 in maybe it was late 1993 or early 1994. That was under Project Diodon. Technology retention happened with Project SUVECS, from 1995.

ADV MOERANE: And that was at a time, when you had founded your company C Square I Square.

10 DR YOUNG: Yes. The information management system, as it, as it became as a proper, and how the system was developed, by our system, there, by our company and the previous project, when I worked at UEC Projects, probably in the small period, short period of 1990, we had been working on some thing, some technology aspects, related
15 aspects. But, not so much the IMS, but certainly related in, I think, it was the first half of 1990.

ADV MOERANE: Would it be correct to say, in general terms, that you were actually nurtured and sustained by the South African defence establishment, in particular Armscor, that is you and your company.

20 DR YOUNG: No. Not in the slightest. We might have got some contracts. But, it was not from the point of view that we were nurtured and sustained. As I have said, the, my evidence is, is that after I left my previous company, with UEC Projects, we were not in contact with Armscor, in the slightest, until, I think, it was September 1992, when
25 Armscor made contact with me. I remember the phone call from Anton

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Jordaan and he invited me to relook at, or to re-involve myself in this technology, because of my particular capabilities. It was nothing, it was nothing to do with, with nurturing. It was all to do with capability.

ADV MOERANE: At that time, did you not have close relationships
5 with Armscor and also with the South African navy?

DR YOUNG: We had normal working, collegial relationships, nothing more than that.

ADV MOERANE: Would it not be correct, to say that you were their blue eyed boy?

10 DR YOUNG: Not in the slightest, as said, in fact, if you say that now, I would consider that in a positive, or hopefully. But to be, other than the tiny little bit of knowledge that I had, of system integration that we had done in the 1985 to 1989 period, for a submarine and that really, six months' worth of work, on the forerunner of this local area network, I
15 was just a tiny squeak. I did not even know high level people in Armscor. The only people I really knew, were my immediate sort of colleagues, what they called ASDM's, Armcor Specialist Division Managers and fairly low ranking people in the Navy, from typically the rank of, of either Commander and downwards. So, I could not possibly,
20 if I was a blue eyed boy, I was a blue eyed boy at a pretty low level.

ADV MOERANE: Let us move on, to your activities, whilst investigating the special defence packages. You have been investigating them for the past 16, 17 years?

DR YOUNG: Well, I would not put it in the context of investigating
25 them. 17 years ago, I think the date was the 7th of July 1998, it came to

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our attention that there, that our IMS was likely to come under attack and that, so my interest in that aspect happened then. But, in terms of investigating, what went wrong, probably, when I was approached by the Special Investigating Unit, I think, it was May, May 2000, one could say, my interest escalated to an investigative mode. But, I certainly was not investigating externally, other than, you know, the records and then what happened in my company. I certainly did not start investigating it, until I realised that, well, I, first of all, I had to do something on my own. Secondly, I started collaborating with external investigating entities.

5
10 ADV MOERANE: You gave evidence before the Joint Investigating Team.

DR YOUNG: It sounded like a statement. If the answer is did I, the answer is, yes.

ADV MOERANE: If I make a statement, I intend you to react to it.

15 DR YOUNG: I appreciate that. But, I am waiting for, I thought that was an introduction part. So, if I may just ask, invite me to make the response, rather than just expecting me to do so.

ADV MOERANE: Is it correct that you walked out of that investigation?

DR YOUNG: Not entirely. That is not entirely correct, not in the correct way of looking at it, it is I completed my evidence, before the public hearings. The Joint investigation was a much, much wider thing, than just the public hearings. It involved, that was what was called the public phase. I gave my evidence very comprehensively, in terms of a 58 page aide-memoire, not dissimilar to what I have done here, in terms of my witness statement. I certainly did have a lot of documents

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available, which are referred to, in my aide-memoire. They were not, they were not referred to, but they were certainly made available by me. Then, I went through cross-examination until lunch time on the, on the Thursday. Only the previous day, my legal team advised me that there
5 were going to be rebuttal witnesses, in the form of two Navy admirals, Admiral Simpson-Anderson and Admiral Kamerman. Look, I know how long it takes, to give this kind of evidence and in any case ...[intervene]

CHAIRPERSON: I am sorry, can I interrupt. Dr Young, please answer the question.

10 DR YOUNG: I did, I did ...[intervene]

CHAIRPERSON: Just hold on. Advocate Moerane, can you just repeat the question? Let us see if you can get an answer.

ADV MOERANE: The question is a very short and simple one. Did you walk out of the JIT?

15 DR YOUNG: Okay. Unfortunately, one cannot, one cannot give a simple, I, my legal team and myself left the public hearings, not the JIT, just the public hearings at, after I had completed my evidence, including cross-examination. That, okay, that is the first, but it is important to put the context here. So, if you had to asked me simple, if I had to give a
20 yes or a no, and I do not think I am obliged, or obligated, or constricted, by giving yes or no's. I am allowed to give a proper answer. If I am not allowed to give a proper answer, then I will accept an interjection from the Chairperson, to tell me that I can only give yes or no answers. But, I completed my cross-examination. We listed to the evidence of Admiral
25 Simpson-Anderson and when the evidence of Admiral Kamerman

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started, my senior council, who is now a judge, said to the, excused
ourselves from the Chair. That is not walking out. He said, I have to be
in Cape Town tomorrow for, we did not know that this was going to carry
on until Friday. I have not been retained. I have got an unavoidable
5 commitment tomorrow. He excused ourselves. It is on the record. I can
find that in the transcripts of that. So, the sure answer is we did leave,
but after my cross-examination and it was not me. I would have stayed
there, if I had to, but my senior council could not be there and he
excused himself and the, and us as well, at the same time. So, the
10 short answer, if you have to have one, the bald one, is no, we did not
simply walk out.

ADV MOERANE: Is it correct that you left that hearing, before Admiral
Kammerman had given his evidence?

DR YOUNG: No. We stayed as long as we could. He had started
15 giving his evidence and it actually became clear, because we were only
handed his witness statement. In fact, I saw it, after we were already
sitting down that this was going to be very lengthy. We left, in order to
catch the aeroplanes. But, certainly, he had already started. I can also
tell you, in terms of practicalities, that Admiral Kamerman continued,
20 until mid afternoon, on the Friday and so, even if we had stayed, we
would not have been able to do anything about his evidence, unless we
came back the next week.

ADV MOERANE: The purpose of sitting and listening to the first part of
his evidence was to enable you and your council to cross-examine him.

25 Not so?

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DR YOUNG: No. It was actually, it was first of all, to see how long this would be. I just say that I think, my legal team only got handed a, a one page summary of his evidence, a very short one. A couple of minutes, before he sat down, I only started reading it. Well, a couple of
5 minutes after he started giving in his evidence in chief. It was just a matter that we were there, while we were and did not have to catch a plane. I do not say it was politeness. I was only a witness there. My, I had a senior council, a junior council, an instructing attorney and two or three legal assistants there. I was just a simple, a witness. I followed, I
10 followed, what I had to do. I was confronted by a situation. Sure, normally the client gives instructions. But, I could not give an instruction to, to Owen Rogers, to stay here, to stay there, when he had a plane to catch. So, it certainly was not, look, if it had been very, very short, for just a couple of minutes, may be we could have cross-examined. But,
15 as it turned out, it carried on. In fact, I think, it went on the Thursday and the Friday, until certainly after lunch, from what I can remember, it was mid afternoon, on the Friday.

ADV MOERANE: The upshot of this is that you did not dispute Admiral Kamerman's evidence.

20 DR YOUNG: That is not correct. The junior council, I remember his name is Guy Elliot, made a submission, as did many other parties, including the parties, who have not even attended, as witnesses, like the ADS representatives. So, we certainly did dispute it, in terms of that submission.

25 ADV MOERANE: I am talking about you and your council.

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DR YOUNG: No. It was impossible to cross-examine him in that way, because it had been put on the record as well, that Admiral Kamerman would be returning to Germany on the Saturday morning. You know, even if he had been there, even if, even if we had stayed, to listen to his, 5 his evidence in chief, there would have been no prospect, whatsoever, for cross-examination.

ADV MOERANE: There was a sequel to your walking out, which you deny, not so?

DR YOUNG: Well, I suppose there is the whole, there is the sequel 10 why I am still sitting here, 15 years later. So, if you would like to elaborate, which particular aspect of the, I would consider that.

ADV MOERANE: You know exactly what I am talking about. I am talking about the action that you instituted, against the Public Protector, Mr Baqwa.

15 DR YOUNG: Yes. I am aware of that.

ADV MOERANE: You sued him for defamation.

DR YOUNG: That is correct.

ADV MOERANE: Because of an allegation you attributed to him, that by leaving, or walking out of that hearing, that action could be 20 interpreted as cowardice.

DR YOUNG: Yes. Unfortunately, it would, it seemed certainly, for us, the only court case I have ever lost. But, it, that was the case. The only thing that I, I think, I realised later was that the attribution of cowardice was made, was not necessarily made by he, himself, but by a 25 spokesperson in his office. I did not, we did not realise that, at the time,

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when we drew up the action for damages, in the particulars of claim.

ADV MOERANE: Well, as you have backhandedly conceded, you lost that case. Your claim was dismissed with costs, including the cost of to council.

5 DR YOUNG: That is correct.

ADV MOERANE: Now, in your investigation of this arms procurement process, did you collaborate with certain people, who have given evidence, before this Commission?

DR YOUNG: I would be putting the word collaborate to high. I have
10 spoken informally, briefly, telephonically to a couple of people. But, certainly, the word collaborate would be putting it too strongly.

ADV MOERANE: Was one of these persons Ms Patricia De Lille?

DR YOUNG: No.

ADV MOERANE: Was one of these persons Mr Terry Crawford-
15 Browne?

DR YOUNG: We certainly discussed the matter. Well, being clear that is, that is common cause, because he asked, when he instituted the application to the Constitutional Court for a Commission of Inquiry, he then asked me to supply a supporting affidavit, which I did. So, the
20 answer to that is, yes.

ADV MOERANE: Was one of these persons Dr Gavin Woods?

DR YOUNG: There has been no collaboration. There has only been a discussion of, just discussion of the fact that we, that we are witnesses. But, there has been no collaboration, other than that.

25 ADV MOERANE: Did you not send him some documents?

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DR YOUNG: When would that be?

ADV MOERANE: You would know, if you had sent him some documents or you have not sent him documents.

DR YOUNG: Well, you know, this thing has been going on, this whole
5 investigation, as you refer to it, has been going on for 15 years. So, certainly, in the last 15 years, I have sent him documents. But, I cannot remember sending him documents, in respect of collaboration of, in the context of this Commission.

ADV MOERANE: Of course, you know you sent him documents,
10 relating to the arms procurement process.

DR YOUNG: Yes. Yes. I have. But, that is not necessarily in regard, regarding of this, of as witnesses, in this, in this Commission.

ADV MOERANE: Well, I will not dwell on that. Now, do you have any personal contact, or any personal dealings with President Mbeki?

15 DR YOUNG: No. I have never, I do not think I have ever seen him, in the flesh.

ADV MOERANE: Well, Minister Manuel?

DR YOUNG: Likewise.

ADV MOERANE: Minister Modise?

20 DR YOUNG: I shook his hand once, in London, at a defence show.

ADV MOERANE: And that is the sum total of your interaction with, personal interaction with him.

DR YOUNG: Yes. Well, he died not much longer, later than that. So, yes, I would say, that is the only time, I probably have seen him, and we
25 happened to be at the same exhibition together.

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ADV MOERANE: Mr Jeff Radebe?

DR YOUNG: No. I have never, no, I have never had anything directly to do with him.

ADV MOERANE: So, would it be correct to say that you actually do
5 not know any of these persons, personally.

DR YOUNG: That would be correct.

ADV MOERANE: I would like to refer you to what you say, in your website, about some of these people. I refer, in this connection to volume 1, the index of the bundle for cross-examination, Dr Young, yes,
10 that is the bundle that was handed in, by the Department of Defence.

DR YOUNG: I think, I ...[intervene]

ADV MOERANE: Page 4, I know you have been asked about some of these things, but with particular reference to President Mandela. Now, I represent the other people. The entry of the 16th of February 2014, that
15 was the day before Mr Alec Erwin gave evidence, before the Commission. You referred to, the first one you referred to is:

“Erwin and his Grand Larceneers, Mandela, Mbeki, Modise, Manuel and company had this golden goose well and truly plucked, stuffed, perieried, drawn and quartered.”

20 DR YOUNG: Yes. I see that.

ADV MOERANE: What evidence did you have, to describe Mr Alec Erwin, Mr Mbeki, Mr Modise and Mr Manuel as Grand Larceneers, in other words, as grand thieves?

DR YOUNG: Because my view is that this whole Armsdeal is, well
25 not, let us say, it, this Armsdeal in the main, is irrational and a fairly large

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strain on the public purse. There are clearly, to me, at least, and I have, hopefully, I have brought some of that evidence that substantial amounts of the covert commissions that were paid, went to people in the ANC. This was a scheme. The Armsdeal is a scheme. It is my view, whereby
5 there would be beneficiaries, other than the arms of service and the public, who were paying for it. These particular people were in charge of the Minister's Committee, who were responsible for the Armsdeal.

ADV MOERANE: Well, let us first deal with the idea of, of larceny. Larceny means theft. It means robbery. It means stealing. It means
10 thieving, pilfering and embezzlement. It has all those connotations. Do you agree?

DR YOUNG: Well, to be precise, I did actually respond to that. My own understanding is that it meant fraud. I said, I think, it is an American, an American term and maybe I, maybe I got it wrong. But, in
15 my view, the Armsdeal has a constituent element of fraud and I will, if I, if it does not, if it only means robbery and thievery, and I am wrong, that it only means, that it means, then I would apologise for that.

ADV MOERANE: Well, this is the first time that you are apologising for that. You were cross-examined about this, extensively, by my learned
20 colleague. There was not a single apology. Do you agree?

DR YOUNG: I am, all I am saying is that, I said at the time, that my understanding was that it was fraud. He said it was theft. Now, you are introducing all kinds of far more aggravating things, like robbery and which is of, you know, robbery is theft with violence and whatever. If it
25 means all of those things, if it really does mean that, then I would, and

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not just a, a more benign form of, such as fraud. If it does mean those more violent things, to which you refer, then, and I am wrong, then I would apologise in that context.

ADV MOERANE: I see. So, you are prepared to refer to late
5 President Mandela, President Mbeki, Minister Modise, Mr Manuel, Mr Erwin as grand fraudsters.

DR YOUNG: I am, in the context of them, being responsible and Mr Mandela only, as I have said and I maintain that, as, it happening on his watch. You know, the president of countries, chairman of, of Cabinets
10 are responsible for what happens on their watch. I am only making that statement as a, you know, it is, it sounds so terrible, in, you know, these things. But, it was made on a website, which, to be honest, and to my own detriment, is not really viewed by many people. It is at least, half in a kind of a, okay, an ugly jest, I would concede that. But, on the other
15 side is that it is my view that somebody had to be, if this Armsdeal is wrong and is illogical, which is my view, then somebody has to take responsibility. If there is a collective responsibility, it has to be the members of the Minister's Committee.

CHAIRPERSON: I am sorry. I am sorry. Dr Young, up to now, I do not
20 quite understand, why you refer to Mr Mandela as a, as a fraudster. The fact that he was a, the President of the country at that time, and the head of Cabinet and something wrong happens. Let us assume you are right, something wrong happened. Does that make him a fraudster?

DR YOUNG: No. I think, I very clearly explained what, what my use
25 of his name in the context was, is if the Armsdeal contained elements of

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wrongdoing and fraud, then it is just a matter of it happening on his watch. That is what I explained and that is my view. I maintain that view. I am not, I am not suggesting that he himself, was the chief of the fraudsters, other than, he was the chief of the process. Well, the, let us
5 say, he was, you know, responsible for what happened on his watch. That is all I am saying. It goes no, it goes no higher than that.

ADV MOERANE: What I do not understand about your attitude, Dr Young, is that you are prepared to apologise, if the connotation of larceny involves robbery. But, you are not prepared to apologise, if it
10 involves fraud. I do not understand you.

DR YOUNG: Well, you see, well, you see, you are not even thinking about your own question now, because you took me back to what I have said, in, in my, regarding my response, to Advocate Kuper. You are basically are want to know why, you know, why my answer is different.
15 That is the reason why I am, my answers are slightly different now. Because he, I only used the term fraud, Advocate Kuper used the term theft and theft is maybe worse than fraud. But, it is not nearly the same as robbery and all the other, the other things that you talked about. So, if, if the inference of larceny is so much worse, so much wider than, than
20 mere fraud or even theft, then I would apologise that my understanding of the term larceneer, larceny gave rise to my use of the term larceneer, which does not exist in the English language. It is just kind of my, unfortunately, say negative sense of humour, when I wrote this on my, that was posted on my website.

25 ADV MOERANE: You cannot be serious. Sense of humour? Calling

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President Mandela a fraudster, a great fraudster, there is nothing funny about that.

DR YOUNG: Okay. I see, I did not call him a giant fraudster. I did not call him a giant thief. I just called them the Grand Larceneers. It is the same as the three musketeers. That is my own let us say, you know, this context is a negative one, the sense of humour that was meant to be. Certainly, other people, looking at it, would see it differently and I am prepared to accept that.

ADV MOERANE: Let us go to the next matter. On the same page, 14th of February 2014:

“But instead, Mandela, Mbeki, Erwin, Modise, Manuel, Radebe and others sacrificed this golden goose, on the alters of avarice, gluttony, greed, conspicuous consumption and dynasty construction.”

You obviously know, what those words mean, avarice, gluttony, greed, not so?

DR YOUNG: Yes, I do.

ADV MOERANE: And you seriously attribute those qualities to President Mandela, President Mbeki, Minister Erwin, Minister Modise, Minister Manuel and Minister Radebe.

DR YOUNG: Exactly in the same context. It is just as the group of people, who would be responsible, at the Minister’s Committee level for in my view, allowing something to happen, which at least, I think, I have at least, tried to prove, regarding the overt, sorry, not so much the overt, the covert commissions, has a very substantial element of wrongfulness attached to it.

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ADV MOERANE: The next entry I would like to refer to is one of the 13th of March 2013:

“The real accountable persons are Mandela and his useful fool, Mbeki. Their Armsdeal chief spokesman was yet another useful fool, Alex Pinocchio Erwin.”

You, do you confirm that this is what you put out to the world?

DR YOUNG: Yes. I did.

CHAIRPERSON: Just hold on. Were you really serious, when you put these types of things on your website?

10 DR YOUNG: Not, not really. I mean, there was an element of seriousness to it. But, it was not really meant to be for total worldwide consumption on a serious basis. As I said, it might seem warped now. Maybe it is warped. But, it is a, it is a sense of, well, the use of the terminology, like Pinocchio, for example, certainly would convey some
15 element of it, not being that serious. If it was that serious, I would have taken out adverts in the Sunday Times, or whatever. This is just, this is just little, actually, scribbling at the end of press articles, which get posted on the website. It is not, it is not 100 per cent deadly serious. There is an element of it to it. It might sound all that wrong now. But, it
20 was not meant to be, it was not meant to be, well, you used the words, you say that serious. And it is ...[intervene]

CHAIRPERSON: Dr Young, to be honest, I do not quite understand you. You insult people in such a manner. You call them these types of names, that you have on your website and you want to tell us that you
25 were not serious about it. To be honest with you, I do not quite

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understand that attitude. It appears to me that you are prepared to call anybody with any name, irrespective how insulting that name is. You want to tell us that you are not serious about that. To be honest with you, I do not quite understand that attitude. But, in any event, Advocate
5 Moerane, you can continue.

ADV MOERANE: Thank you, Chair. I am informed that, since 2002, there have been 63 339 views of this website. Are you able to accept that?

DR YOUNG: It is interesting that somebody else has got that
10 calculation, because I have not, I have not seen that. But, if that is what a bona fide determination is, then I have got no reason to dispute that.

ADV MOERANE: And would that not appear on the website itself, that number?

DR YOUNG: At one stage, there was meant to be a counter. But,
15 from, I have not even, I do not think, I have even looked at this for a considerable period of time. But, when I remember, at one stage, that counter had stopped working, or was wrong, a long time ago.

ADV MOERANE: I am informed that the counter is in perfect working order.

DR YOUNG: Well, that must mean that one of my IT people as
20 resurrected it. The person, who used to manage it, a woman, has not been there for a while and only very recently has, has one of my engineers, and he may have resurrected it. But, I have not, I have not seen any, in fact, that figure is very surprising for me. But, I am also
25 wanting, saying, I will not either dispute that it is correct and I will not

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dispute that it is recent. I do not know.

ADV MOERANE: Dr Young, why did you decide to use vituperative language?

DR YOUNG: Because there were so many reasons, why I should feel
5 disaffected. The whole process in itself, the particular, let us say, what I
would personally mean, my subject, my company was subjected to the
fact that the, at least, it seemed pretty clear to me, after my own
investigations into the joint report, were specifically manipulated, by
these very same people, to whom you refer, other than Mr Mandela. I
10 do not think Mr Radebe had anything to do with it. But, it is clear that
there was interference of the JIT report, by these very people. Basically,
I suppose, it upset me, and this was, this was the way that I responded.

ADV MOERANE: I think, now we are getting the truth. You were
angry. You were hitting back. You were revenging, in this manner, not
15 so?

DR YOUNG: It was just a response. I mean, my anger is, you know,
if it was all that strong, it is certainly much, much tempered, more lately,
15 years down the track. But, certainly, at certain times, you know, this
what happened to be in the Armsdeal has not only taken up a huge,
20 huge portion of my adult life. But, it actually came very, very close to
destroying me and bankrupting my company.

ADV MOERANE: Dr Young, but this was last year. It is only last year.
It is not that long ago.

DR YOUNG: I did not say that. I said that my level, certainly, the
25 volume of my responses, the number of them, has reduced substantially,

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more lately. Certainly, you know, let me say it was last year, okay, we are going back, I mean, you can, you know, it looks as though we can only find two, well, there seemed to be two here, from 2014, in February and then, a couple here, of two in 2013 and one in 2012. That is not
5 that many, lately. Of course, it also, you see, this is something that is arbitrarily, I think, well, I am going to get up very upset one morning and I wake up and I make, and I posted something on my website. These are all in responses, to articles, to press articles. I do not, I write very little. I think, there is only one or two postings on this whole website,
10 consisting of, you know several thousands of press articles and other relevant documents. But, they are just responses, where a press article has incorrectly quoted something else, or has not taken, you know, found another view point. So, it is not as though, it is just a reaction to something that I am reading myself, appending a comment of mine and,
15 and letting those [indistinct] and you can see, just from the date, there are not that many, more, in the more recent times.

ADV MOERANE: Will you agree with me that these remarks of yours are abusive and they are offensive?

DR YOUNG: They may be offensive. I am not quite sure how abusive
20 they are. But ...[intervene]

CHAIRPERSON: Just hold on, Dr Young. Are you serious though, to say that they may be abusive, but you are not sure how, when you say that they might be insulting, but you are not sure, whether they are abusive or not?

25 DR YOUNG: No. I said, I said they are offensive, but I am not quite

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sure how abusive they are.

CHAIRPERSON: Are you serious by that, you know, by saying that? You know, if you look at, for instance, about your, what you have written on page 6. You call other people robbers.

5 **DR YOUNG:** I have never called anybody a robber.

CHAIRPERSON: Can you look at page, turn to page 6 of that same document?

DR YOUNG: Sir, I was only, the evidence that we are talking about, we talked about larceny, yes. If there is something else, that is
10 something else. But, you know, in any case, you know, it is offensive. But, I am not sure exactly, what, you know, what the context of abuse is here. There is a right of response. There people can ask me to remove this. So, I am not quite sure, at least, well, I have said it is offensive. I accept that. But, how far does on go with abusive. You know, abusive
15 is something, in my, at least, my own book is something far more direct.

CHAIRPERSON: Okay. Advocate Moerane, you can continue.

ADV MOERANE: Dr Young, you are accusing former President Mandela, former President Mbeki and the others of theft or being major fraudsters. You are accusing them of greed. You are accusing them of
20 piggishness. I put it to you that these remarks are slanderous and they are outrageous.

DR YOUNG: They are slanderous in the normal, in the normal sense. But, they would be outrageous, in my own view, at least, if there was nothing whatsoever to precipitate such a response. Leaving aside
25 President Mandela now, because I think I have explained, explained

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that. But, there, if the others are responsible for the Armsdeal and the Armsdeal is wrong, then certainly, in my own view, it is not, it is not as though it is precipitated by nothing. It is being precipitated by something. It might be a view that you do not share. It might even be a
5 view that I no longer hold. I do not know this. At the time, it did not come from zero.

ADV MOERANE: Well, the one that talks about President Mandela and Mr Alec Erwin being great fraudsters, as you understand the expression, was published the day before Mr Alec Erwin gave evidence.
10 In other words, he gave evidence on the 17th of February, last year and this article appeared on the 16th of February last year. What is your comment?

DR YOUNG: It was in the context of what had happened in the past. If I may say so, I do not think that Mr Erwin's, but of course, it is a, let us
15 say it is a post, let us call it, it is a post facto argument. He gave his evidence afterwards. So, my observation was only in the context of what, of the way I knew or thought that he had handled the Armsdeal from the year 2000. So, it was made in that regard.

ADV MOERANE: Dr Young, you knew that he was going to give
20 evidence on the 17th, did you not?

DR YOUNG: I certainly cannot remember knowing that now. I might have known it, at the time. But, I cannot remember now.

ADV MOERANE: Well, you remember that this is at the time, after you had made application to cross-examine certain witnesses, the, the, at
25 the end of the previous years, 2013.

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DR YOUNG: Look, I can accept that. All I am saying is that I do not remember the exact dates, of that various things happened and whether they happened before or after.

ADV MOERANE: Well, I put it to you that you utter these words, so
5 that there could be maximum effect, when Mr Alec Erwin comes to give evidence.

DR YOUNG: I certainly do not remember that way.

ADV MOERANE: In any event, why did you not come to the Commission and cross-examine Mr Alec Erwin?

10 DR YOUNG: Well, you know, the point is, where does it stop? I could, should I have cross-examined every single witness? There have been, there have been, I do not know, 40 or 50 witnesses, so far. If I was a retired guy, with Bill Gates' kind of money and I was prepared to spend all this time in Pretoria, maybe I would have liked to do so. But, I
15 did not do so. I have got no obligation to do so. I am another witness. So, it just was not practical to do so.

ADV MOERANE: You see, Mr Alec Erwin was the first witness that gave evidence on behalf of the Inter-Ministerial Committee. So, it would have been important for you, in the light of the allegations that you had
20 made, appears to be present, when he gives evidence, hear what he was going to say and cross-examine him.

DR YOUNG: No. I was expecting other people to do that. I was quite disappointed in the fact that they did not seem to, to get very far. I certainly was concentrating on my own, my own aspect of this. As I
25 said, I am another witness. There was no obligation for me to do so. I

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do not think my summons, summonses me, to cross-examine other witnesses. It only says to appear as a witness, myself. So, it is in that context that I have, my conduct has been what it has.

ADV MOERANE: In fact, as you probably know, nobody wanted to
5 cross-examine Mr Alec Erwin. Do you confirm that?

DR YOUNG: I, that may have been the upshot of it. I certainly was, or my understanding from before that is that people wanted to do so, but were not able to do so.

ADV MOERANE: You are also aware of the date, when Mr Mbeki was
10 due to give evidence, not so?

DR YOUNG: No. I am not. I just know that it did happen. I am not aware of the date of it.

ADV MOERANE: No, no. My question is, before Mr Mbeki gave evidence, I am putting it to you that you were aware that he was going
15 to give evidence on a particular day.

DR YOUNG: I was aware that he was going to give evidence. But, what I do remember is that that particular day changed whether it was once or more times. I thought it was actually a number of times. So, I am not, I am not exactly sure, of when, when it was going to happen and
20 when it did happen. I cannot remember that.

ADV MOERANE: I put it to you that there was great public interest. Firstly, there was great, extensive publicity of the fact that he was going to give evidence on a particular day. There was great public interest in that. Can you dispute that?

25 DR YOUNG: I will accept that. I think, there was a bit of a [indistinct]

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because he did not appear on the original date that was set.

ADV MOERANE: I am talking about the day, on which Mr Mbeki appeared. It was well known, particularly people who were interested, in the work of the Commission and who had a contribution to make. They
5 all knew the day, on which Mr Mbeki was due to testify.

DR YOUNG: Yes. Look, I am thinking back now. I do remember, actually, that his, his testimony was delayed, due to the death of his mother. That was by, it was not just a day or two, it was the longest, but certainly, by the time it did happen, certainly for me, it was, it, my
10 understanding is that a great deal of interest had actually been lost, by the time it did happen.

ADV MOERANE: In any event, the question I wished to ask you is why did you not come and cross-examine?

DR YOUNG: Well, I, as I it may be, may I plead guilty of a, maybe of
15 a fallacious argument. But, I, but anyway, it is post facto, I, but, I personally realise, as a lay person, I do not want to cross-examine any other witness, ever again, myself, when they are represented by legal, professional legal practitioners. But, certainly, was a consideration. There is absolutely no way, after the time and effort and the money that I
20 have spent, just on giving my own evidence that I have wanted to retain equivalent senior council. I have considered it. If I, look, just to do this myself, with a legal team, I have calculated, it would have cost me over R1 million. If I would have, that was just myself. If I also had to get a senior council, who do not operate on their own, very often, and a legal
25 team, then if I had had to cross-examine, just the witnesses that I

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wanted to, I am talking about a handful, three or four or five, that might have cost me R2 million. If you are saying that I should have cross-examined every single person here, then it might have cost me R50 million of legal fees and so, again, I had no obligation to do so. I have
5 had to restrict myself to watching what other people might do and reading the transcripts of their evidence. Then, if there was anything relevant, then I would deal with it, when I was called, as a witness.

ADV MOERANE: Let us talk about the so-called De Lille dossier. Did you see that document?

10 DR YOUNG: I have seen that document.

ADV MOERANE: Did you study it?

DR YOUNG: I have certainly read it a couple of times. Not necessary all at once or studied it, deeply. I have scanned it, various, probably three or four times, in the last 15 years.

15 ADV MOERANE: You must have come to the conclusion that it was a bizarre document.

DR YOUNG: No.

ADV MOERANE: And you must have come to the conclusion that it was lacking in substance.

20 DR YOUNG: No.

ADV MOERANE: Mr Terry Crawford-Browne gave evidence before the Commission on the 9th of October this year, last year, I beg your pardon. At page 8609 of the transcript, this is what he said:

25 *"As Patricia and I well know the importance of the De Lille dossier was not its content but the hysteria it evoked in the government and the*

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witch hunt that followed. Patricia has brilliantly used that bizarre document for 15 years to fashion her political career, including her present position, as Mayor of Cape Town.”

Would you, would you like to comment on that evidence?

5 DR YOUNG: How long have I got?

ADV MOERANE: Do you agree with the sentiments expressed by Mr Terry Crawford-Browne?

DR YOUNG: No.

ADV MOERANE: He further says:

10 *“The De Lille dossier was revealed as lacking in substance.”*

DR YOUNG: I certainly would not take the position or the evidence of Terry Crawford-Browne as the gospel, according to St Terry.

ADV MOERANE: Well, unfortunately, those, instructing me agree entirely, with Mr Terry Crawford-Browne on that particular aspect.

15 DR YOUNG: You see, I, if you want me to elaborate on just one aspect, the, in fact, even in the words that you read out to me, do not necessarily mean precisely what some people might think. What is bizarre about that document and, well, at part of it, is not so much, what he meant its contents. It is the hysteria that it created. I mean, think
20 logically, if it created hysteria in the government, and it was completely bizarre in its own right and its own accord, people would have just written it off, would have just rubbished it, would have just laughed about it. But, people took it extremely seriously. So much so that, from what I know is that Patricia De Lille was receiving death threats. I think
25 that she put that on the record. Okay. It does not make any logical

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sense, if I may say so for myself, I am fairly deeply [indistinct] in logic, other when it comes to the correct choice of words, for writing on my website. I will say I need a serious re-education camp on that. But, nevertheless, the simple logic is that much of what is in that report is not
5 absolutely bizarre. I have worked out, more or less, where that came from. Certainly, there are things that are wrong or maybe illogical or maybe bizarre. But, you cannot write it off, or, I cannot remember, whether it is 20 or 30 pages. I know there are annexures and things. You cannot write off that document, in its totality as bizarre. I do not
10 think that Mr Crawford-Browne meant that every single aspect of it was bizarre. I certainly know that certain aspects of it are true and certain aspects of it are relevant.

ADV MOERANE: I put it to you very bluntly, Dr Young, that that document, the De Lille dossier is just a load of rubbish and Mr Terry
15 Crawford-Browne, confirmed that it lacked substance.

DR YOUNG: It is not a load of rubbish. It might contain some rubbish. It might, I do not say, I am just, arithmetically speaking, it might be 50 per cent rubbish. It might be 70 per cent rubbish. But, it is not complete rubbish. It certainly might have lacked substance. But, I tell
20 you what, for its date, now this is long after, it was long before that I started investigating, as the way you start off this cross-examination. I only started investigating things, related to me, a year or two later and from what I can remember that that document was in the era of September 1999. I think, that is when, when Patricia De Lille used her,
25 her rights of absolute privilege to stand up in Parliament and I do not

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know whether she waived it around. But, it was a typically, a 1999 era document. For what was known and reported in that document, for that stage, is actually quite substantial. In fact, just using the, a pointed example, it took what the JIT report, which you have referred to yourself, 5 the JIT investigation initiated in the middle of 2000, for, let us say in the preliminary stages. It ended in December 2001. Yet, it took the overseas investigators in the UK and Germany, until 2007, to actually, to find relevant information, regarding irregularity, of bribery or fraud. It was just a general, the general term of wrongfulness that had initially 10 been indicated, at least, maybe without substance, in that De Lille report. So, it could not have been rubbish. It is, it had to have some substance, in that the SFO and the German investigators found a direct evidence of that, all those years later. So, I would say, it is not, in fact, what I can say, is having written a couple of documents and thesis and 15 [indistinct] myself, it is certainly not the most well written document that I have ever seen. Knowing a little bit about documents, it is actually authored by a whole bunch of people. Some of them, their stuff is more rubbish than others. Some of them, their stuff in there is, is not rubbish at all. You have rubbished the whole report. It is not rubbish, well, not 20 complete rubbish.

ADV MOERANE: Let us move on. Dr Gavin Woods, how well do you know him?

DR YOUNG: I have met him in the flesh, maybe four times, four, five times in the last 15 years. I have spoken to him on the phone, maybe 25 two dozen times, in the last, in the last, let us say, in the same period. I

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do not know him. He is not a house friend. He is just a, unfortunately, we now seem to be in the same boat of whistle blowers, at least, as far as the Armsdeal exists, at this stage of, in 2015.

ADV MOERANE: I take that you accept that he would be more familiar
5 with President Mbeki, Mr Manuel, Mr Erwin, Lekota and Kasrils, than you are, having worked with them, in Parliament.

DR YOUNG: Sorry. I did not, I did not get that at all.

ADV MOERANE: What I am asking you and putting to you, is that Dr
10 Gavin Woods would have been more familiar with, he would have better known, President Mbeki, Minister Manuel, former Minister Erwin, Lekota and Kasrils than you, having worked with them in parliament. That is the question.

DR YOUNG: If your question is, do I know Gavin Woods better than
15 those others, I would say, yes. Well, I do not know the others, at all. So, the answer has to be, yes.

ADV MOERANE: No. That is not what I was asking you. I was asking
you whether you can accept that he, that is Dr Gavin Woods, knows them, better than you know them.

DR YOUNG: Yes. Well, I do not think you explained that clearly, it is
20 certain I did not understand. Yes. I am sure he would know, well, clearly, I said I do not know them and I was not in Parliament, like Gavin Woods was. I would certainly hope he knows them better than me.

ADV MOERANE: At page 8098 of the transcript, Dr Gavin Woods
gave this evidence, on the 2nd of September last year. He was asked:

25 *“President Mbeki, Mr Manuel, former Minister Erwin, Lekota and*

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Kasrils. You are not saying that any of those persons were involved in corruption.”

Then, his answer was:

“Of the names you mentioned, I think I heard you correctly. They are
5 not saying that in fact I have defended President Mbeki. I observed him
for many years, and not that I am the ultimate judge of character, but
self enrichment has never been a part of his make up, as far as I could
observe. That would surprise me and I would say the exact same for
Ministers Manuel and Erwin and Lekota.”

10 Do you have any comment to make on that?

DR YOUNG: No. I would agree. There does not seem to be any
indication of self enrichment in, regarding those people.

ADV MOERANE: Then, why did you describe them as sacrificing the
golden goose on the altars of avarice, gluttony, greed, conspicuous
15 consumption and dynasty construction?

DR YOUNG: Because of two reasons. One, is my theory is that a
large proportion of the covert commissions went to the party and these
are all party people. Much of what was done was not necessarily for
self enrichment, but for the good of the party. The other is that
20 somebody, if again, if the theory is correct that things were wrong, it has
to be those people, who have to be accountable for what went wrong. It
is purely in that context.

COMMISSIONER MUSI: You know, I personally wonder, why we
should be wasting our time with theories. We need facts here.

25 DR YOUNG: Well, I am being asked facts about my position. That is

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my factual position. It, I am not, I do not have facts. I have just said, I do not, I do not have facts, regarding self enrichment. But, there are certainly indications that the party was a recipient or a beneficiary, or party related structures were recipients of what one would call, or let us
5 just say funding.

COMMISSIONER MUSI: Is that theory or fact now?

DR YOUNG: It is my understanding.

COMMISSIONER MUSI: Thank you.

ADV MOERANE: My problem with you, Dr Young, is that you are now
10 admitting to telling a deliberate lie. You knew that these people were not avaricious. They were not gluttonous. They were not greedy. But still, you labelled them as such and these people being President Mandela, President Mbeki, Mr Erwin, Modise, Manuel. But, you labelled them as such.

15 DR YOUNG: Again, you are getting it wrong and you are putting words in my mouth, is I have not called them those, those terms. Is I have said, I have used the term very specifically, is sacrifice on the altar of those things. It is the other, it is other people, who where the, the beneficiaries, the major beneficiaries of the money. It was, you know,
20 okay, just to use an example, there is the term dynasty construction. It is certain individuals, who used gains, financial gains from the Armsdeal in that context. That is not those specific people. I am just saying it is, they, effectively, those people allowed this thing to happen. They have to be accountable or responsible. It is others, who are the more
25 conspicuous beneficiaries of it. You know, if my theory is correct, that

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people like Chippy Shaik and a group, represented by others and Fana Hlongwane would have, if they are the recipients some person or group of people have to take responsibility for allowing that to happen. That is the only point I was trying to make there.

5 CHAIRPERSON: I am sorry, Advocate Moerane, do you not think that we have sufficiently dealt with this, with this document? We all know what the document is and what the intention of Dr Young was, when he published this on his website.

ADV MOERANE: Chair, actually, the intention was not to deal with the
10 document. The intention was to deal with particular people. In the light of evidence that has been given, by so-called whistle blowers, et cetera. This was just a reference to the document, because it seems to indicate something that the witness does not believe in, at all. But, he decided to publish it. For that purpose, I am done with the document. Okay. I
15 think, at this stage, it is appropriate, just to put it to you that the whole edifus that you have constructed here is based on theory. It is based on hypothesis and it is not based on hard evidence.

DR YOUNG: Are you saying that in respect of those, this particular
20 portion of evidence? Or you are saying that that is with respect to all of my evidence, written and oral, over the last three weeks? Are you saying that, you were asking me a question, so what, exactly what does your question mean? Is it specific to these people, who have, I have bad mouthed, in terms of my website? Or is it all of my, all of my evidence that I have given, over the last three weeks?

25 ADV MOERANE: Well, that is a fair question. I represent Inter-

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Ministerial Committee that dealt with reports and recommendations that came from below and transmitted, whatever deliberations they had made and decisions that arrived at, or recommendations to Cabinet, for Cabinet to take the final decision. Now, the point I am putting to you, is
5 that any allegation that that Inter-Ministerial Committee was guilty of any corruption, firstly is not true.

DR YOUNG: I am not aware that I have made direct allegations of corruption against the members of the, what I call MINCOM. I am not aware of that. I, what I have made allegations, is that there are
10 allegations of impropriety. I will give you two examples. Impropriety, regarding the changing of the JIT report, when, okay, you have, okay, another specific one is and to show that, I will deal with this as honestly as I can. I used the term Pinocchio Erwin. Pinocchio means liar, a person, who is inclined to lie. Unfortunately, I use it in the context of
15 Alec Erwin. But, as an example, there have been so many statements, on behalf of this Inter-Ministerial Committee, the Cabinet, the government that the government has nothing to do with subcontracting. That, I think, the GCIS has published that, on behalf of them. I have heard it said, from his own mouth, when I was at this, as a public
20 member of SCOPA, Alec Erwin saying that. Yet, I am using it as just a simple example. But, if you go to my evidence, that I have given the last three weeks, I have adduced documents that with, beyond any doubt whatsoever, not a reasonable doubt, any doubt whatsoever, the government was responsible, or, well, no involved in many, many
25 elements of subcontracting. It is simple. He has stated, we are not, he

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said, in fact, [indistinct] at one stage, there was the Minister's meeting that they had here, at the Johannesburg International airport. I am going back. I think, it was the 12th of, the 12th of January 2001 that the Auditor General does not understand procurement. The government
5 does not involve itself in subcontracting. Yet, the evidence shows otherwise, even on this, and I had to bring some of that evidence. That is why I call him Pinocchio, because it is just not true. He would know it is not true. Or if he did not know it is not true, unfortunately, he is not given that leeway, if he is actually representing the Cabinet and
10 MINCOM and making that statement, because it was known. This is from what I can remember, during the investigations, that evidence would have been known, by then. So, what I am saying is, is that, in certain instances, there is good reason why I am not just complaining about corruption. That is another leg. I am complaining about
15 irregularity of decisions, undue influence and impropriety, as simple as that. I think, if I may say so, in those specific instances, I have proven my case, beyond any doubt, whatsoever.

ADV MOERANE: Well, as far as Minister Alec Erwin is concerned, he gave his evidence here and he was not cross-examined. So, we are
20 going to ask, at the end of these hearings that Mr Alec Erwin's evidence should be accepted in its entirety.

DR YOUNG: [Indistinct] response to that? Well, I would certainly, okay, I understand, well, I have read from the website that a ruling was made, that witnesses with legal representatives may make submissions,
25 for argument. I would certainly, in that context, request that I, that I also

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be allowed to make submissions in argument, to counter that kind of stuff, even if I have to retain legal professionals to do it. But, I would certainly like to be able to make my own submissions, to counter those and specifically what I think, is common cause is that no witness has an
5 obligation to, to cross-examine another witness.

CHAIRPERSON: I am sorry, Advocate Moerane. Dr Young, I do not think you are right, by saying that only people with legal representatives will be allowed to make submissions, closing submissions ...[intervene]

DR YOUNG: I have read that on, on the transcripts.

10 CHAIRPERSON: Can I, can you give me a chance to finish? Thank you. Any person, who has an interest in these proceedings, whether with or without legal representation, will be entitled to make submissions, if they so wish. So, in other words, if you want to make a written submission, at a later stage, you will be entitled to do so.

15 DR YOUNG: Thank you, for that.

ADV MOERANE: I further put it to you that at the submissions stage we shall submit that witnesses, Mr Mbeki, Mr Manuel, Mr Kasrils, Mr Lekota and Mr Erwin's evidence should be accepted, in its entirety as being credible and as evidencing no indications of fraud, corruption,
20 impropriety, or any irregularity. What is your comment?

DR YOUNG: I suppose I would not expect anything less of you.

ADV MOERANE: And finally, we shall also submit that the decision, which is finally taken by Cabinet, in respect of the arms acquisition process, is not tainted by any irregularities, corruption, improprieties.
25 What is your comment?

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DR YOUNG: Well, it may not be at the MINCOM, at the MINCOM or let us say the Deputy President or Presidential level. But, if you mean that, from, in respect of the government, then if any of my evidence, regarding the Chief of Acquisition is found to be correct, then that would
5 certainly show that the process was tainted by irregularity and impropriety.

ADV MOERANE: And finally, I put it to you that your evidence is based on speculation. It is based on hypothesis. It is based on rumour. It is based from, it is based on information or documentation of unproven
10 providence and is inadmissible.

DR YOUNG: No. You might be correct, if this was a court of law and then, my burden of, oh, well, first of all I would have had a burden of proof and maybe the bar, might have been set higher. But, if that had been my burden, then I would have approached this Commission
15 somewhat differently. I would have been here, with a battery of lawyers and advocates. I would have spent, for example on the BAE, Fana Hlongwane aspect I might have spent three or four weeks alone, doing that. I might have, if I was allowed to, because of a court of law, of course, I would have been allowed to, to bring the witnesses, from
20 Switzerland, from the United Kingdom, from Germany, from France, I would have brought them here, at my expense, if I had to, if it was a court of law. So, unfortunately, the comment that you are making is completely irrelevant in my own view, of my understanding of the workings of, and the reasons of this Commission. I had no burden of
25 proof. If I had one, I should have been told that in advance. I certainly

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canvassed, canvassed that very aspect, a number of times, with my various evidence leaders. So, unfortunately, of course, you may try, what you may try. You might try what you may, in terms of your submissions. But, I would certainly hope, to be able to counter them. I

5 think, that they would fall on fallow ground, if they are in respect of the proper terms and conditions and my obligations, as regards to my, giving of evidence, before this Commission.

ADV MOERANE: And to be fair to you, we shall submit that the quality of your evidence, the manner in which it was presented, is such that it

10 has very, very little weight, particularly because, it is based on a desire to revenge. It is based on considerations of malice and abusiveness. Your comment please?

DR YOUNG: Well, you see, you are wrong. There is an element of abusiveness and maybe malice and anger, as is only borne out, only

15 borne out on comments, made on my website. In general, almost throughout you know, I have been interviewed and quoted, very extensively in this Armsdeal. I have been interviewed live, on tv, specifically regarding your main client, Mr Mbeki, Mbeki's involvement, where I got accused directly, of making these accusations, based on

20 racism. I kept my cool, very, very, very cool. I have appeared on Carte Blanche. I have appeared on many things. The only, the only instance that you have, is regarding these small snippets, which might look a lot together. But, over 15 years, they actually are not. But, otherwise, all of my evidence has been cool, calm and collected, as it has been, mainly

25 in the face of a bludgeoning by questioning, in certain, in certain

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regards. So, unfortunately, you are asking me for my view. So, I would say that whatever personal issues there might be, that is only a very small sector of it. The rest of my evidence has been very substantial, without me, being able to call other witnesses to corroborate my
5 evidence, regarding the German investigations, regarding the British Aerospace investigations. But, my reference, to DoD documents, to Armscor documents, in fact, very, very little of my evidence has actually used anything that I have created myself. I made that a mission for myself. I have proven a lot of things, based on DoD and Armscor and
10 Thomson, encrypted faxes, all kinds of things. With the bar set as it is for this purpose of the Commission, in fact, I think, I am not a high jumper, but I have cleared the bar, quite adequately.

ADV MOERANE: Thank you, Chairperson.

CHAIRPERSON: Thank you. I was made to understand that your
15 view today is that you are not going to cross-examination?

ADV TSATSAWANE: Thank you, Mr Commissioner. We are going to be putting a few issues to Dr Young, for his comments. It should not take more than hour, Mr Commissioner.

ADV SIBEKO: Chair, I beg your pardon. While the Commissioners
20 ponder on the way forward, I would make a request that take a short adjournment. I need a body break. The water is just making it impossible, for me to continue.

CHAIRPERSON: Maybe, let us take a 15 minutes break. And then, I am sure you are going to consider very carefully, whether you need one
25 hour or 30 minutes.

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ADV TSATSAWANE: Indeed, I am going to do that, Mr Chairman.

CHAIRPERSON: Thank you.

(COMMISSION ADJOURNS)

(COMMISSION RESUMES)

5 ADV SIBEKO: Thank you, Chair, for the indulgence.

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

DR YOUNG: My apologies, Chairman. I was just standing outside. I was not aware.

ADV TSATSAWANE: Thank you, Mr Commissioner. I, Dr Young, I am
10 going to be putting a few questions to you, on behalf of my client,
Arm Scor and the people, who gave evidence on its behalf. But, just
before we get to that, I just want to establish with you that I heard you
correctly that you deposed to an affidavit that went to the Constitutional
Court in a, in support of an application for this Commission to be
15 established, is that right?

DR YOUNG: That is correct, yes.

ADV TSATSAWANE: And why exactly, did you support the
establishment of this Commission?

DR YOUNG: Clearly, the issue of the Armsdeal was carrying on in the
20 public domain. The new investigations were happening overseas and
some of them, in fact, had extended into this country, what is known as
the BAE leg and the GFC leg and of course, then that was closed down,
in September 2010. Of course, the JIT and its report did not adequately
put the issue of the Armsdeal to bed properly, way back in 2001.
25 Certainly, my understanding is that Terry Crawford-Browne decided that,

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after the Scorpions had been closed down and the investigations moved to the Directorate for Priority Crime Investigation, the police and then those were inexplicably closed down. The only way, moving forward to, to put this issue of the Armsdeal finally to bed, was by means of a Commission of Inquiry. Much to my, let us say to my, how can I say, I was not very happy about it. Actually, my lawyers, and advocates were not all that enamoured about it. But, I decided just to submit a factual affidavit, in support of his main application, for those reasons, as they, the issue of the Armsdeal had not been adequately put to bed.

10 ADV TSATSAWANE: So, will it be correct then that, to say that you must have been happy then, that the President established this Commission?

DR YOUNG: I think, that might be putting a bit strongly, as well. I of course, I was happy that, you know, the Commission of Inquiry had 15 happened. But, I will not say, well, okay, let us leave it at that. The fact that it was established, I was satisfied with that.

ADV TSATSAWANE: So, that being the case, why then, do you not assist this Commission, in finding the sources of the theories that you have been putting before this Commission?

20 DR YOUNG: Those two propositions have got nothing to, nothing whatsoever to do with each other. I have first of all, assisted the Commission, extremely, greatly, other than the thousands, literally, literally thousands of man hours that I have put into my witness statement, my discovery schedule, the discovered documents 25 themselves, the whole preparation of my evidence. But, if one is mindful

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and maybe you are not, but the Commission should be, if one goes back to the early days, of the first, I think, about six months after the Commission was established, going, I think, I am going back to early 2012 now. I was visited by the Commission in a number of times, specifically Advocate Mdumbe and Kate Painting. If one is aware of the information that I gave them, it is extremely, extremely extensive. They asked me and I put time and effort into it, providing them literally hundreds of contact names, of people, including the boss's boss, of the German investigating authority, responsible for those reports. I gave them the contact deals, the email addresses, phone numbers, where I had it, of them, of prosecutors in Germany, of the investigators in the Serious Fraud Office. I have actually given just one page of that. I gave them literally hundreds of names of potential witnesses, at their request. It is not as though I am the chief [indistinct] here. It was at their request. At Kate Painting's request, I gave copies of all the MLA's that I received. At their request, I gave the entire transcript of the Schabir Shaik trail, of several thousands of pages. I have got a record, sitting in my computer here, of all the assistance that I have given the Commission. So, your contention that I have refused to assist the Commission, is wrong. The only thing is, unfortunately, a higher duty that I have is the highest duty that a human being can have, other maybe, than to protect his children, human being children, is to protect the whistle blowers, or the sources of evidence in any, any kind of circumstances, such as these, but, especially, a Commission of Inquiry.

25 ADV TSATSAWANE: Dr Young, yesterday, you were asked, by the

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Chairperson of the Commission to identify certain sources that you say are employed by the Navy. You refused to disclose those sources. Is that right?

DR YOUNG: Yes. I do.

5 ADV TSATSAWANE: Then, I put it to you, Dr Young, that the reason why you refused to disclose those sources is simply, because you know that those sources are not going to support the theories that you have been propagating, before this Commission.

DR YOUNG: I certainly do not know that. They certainly did not say
10 that. You know, if I had, or I spoke this, you know, this stuff was spoken not over a telephone. What, is they certainly did not tell me, okay, I will tell you this, but I will never tell the Commission, so I will tell them the opposite. So, unfortunately, in that contention, it is a simplistic one, of course. But, it is not true. What I do know is that they would not like to
15 be, to be embroiled, if that is the right word, in a Commission of enquiry, such as this.

ADV TSATSAWANE: You repeated many times, when you were giving evidence in chief and in cross-examination that you do not have any onus of proof. Is that right?

20 DR YOUNG: Yes. I have said that. It is not said in a bald manner. Not only has it been told to me, but I will tell you that you maybe do not know that a letter submitted by Advocate Skinner SC, who has been an Acting Judge before, he was my former evidence leader, submitted a letter. In fact, it was a letter of resignation to this Commission. As far as
25 I can remember, it is on the record. I think, it was in that letter, what,

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where he says, from an advocate's point of view that witnesses bear no onus of proof.

ADV TSATSAWANE: Yes. Then, you also indicated that you consider your function as that of simply putting facts, before the Commission. Is
5 that right?

DR YOUNG: Well, you have used the word simple, simply. I do not think that I have said that it is simply putting facts. It is putting facts. But, I have not done it in a simple way. So, I have done this in a very comprehensive way, which certainly was not a simple undertaking. So, I
10 think, what I have said is, is that my, my obligation here, is to assist the Commission, with the information, at my disposal. It is not even, it is not even my obligation, my onus to know, you know, whether it is absolutely true, or it is weightiness or otherwise, of evidence. It is what I have and what I believe is to be, to be relevant, to the terms of reference. More
15 so, I have not, other than in the case, unfortunately of the Advocate Hlongwane, is where I gave a lot, either half an hour or, no, sorry, it was much more than an hour, an hour and a half of oral evidence. Is that all of my giving of evidence to the Commission has been, you know, in the context of a detailed, at least, plausible and mainly credible explanation
20 of what that evidence is and what it means specifically, within the terms of reference.

ADV TSATSAWANE: Yes. Then, in addition to placing facts before the Commission, you have actually gone beyond that, in the sense that you have tried to create an impression that the facts that you are putting
25 before the Commission are true. Is that not right?

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DR YOUNG: That is one of the most ridiculous propositions that I have ever heard. Could you rephrase that? Would you expect me, whether it was directly, or indirectly, to be making a proposition, where I would submit incorrect facts to the Commission?

5 ADV TSATSAWANE: What I am putting to you, Dr Young, is that you have gone beyond just putting facts, before the Commission. You have gone to the extent that, to say that the facts, which you are putting the Commission, before the Commission are true and correct. Is that right?

DR YOUNG: Well, I, again, that is painting all 238 of my documents
10 and with the several thousand pages of, sorry, the 238 pages of my witness statement, plus the several thousands of pages, of got in one simple brush. I have, let us say, this is to the best of my knowledge true. I have got nothing to indicate otherwise. Certainly, there might be parts of reports that have, carry less weight than others. But, where
15 those exist, I have specifically not traversed those. But, they have only, in certain circumstances, been brought up in cross-examination. So, it would be untrue to say, that I have testified that every single item of information that I have put is in my own knowledge and is absolutely true and correct. So, unfortunately, your question is actually based on
20 an incorrect premise or contention.

ADV TSATSAWANE: Dr Young, in paragraph 5 of your witness statement, you said the following:

“The facts stated herein are within my personal knowledge and belief, unless the context indicates the contrary and are true and correct.”

25 Do you confirm that?

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DR YOUNG: Where they are within my own personal knowledge, then, as far as I know, they are true and correct. Where the contact and my contact has been pretty, the way I have dealt with contacts is pretty, let us say, not elaborate in a complex way, but it has been an extensive
5 way, is I have always indicated the context of the evidence that I have. You know whether it is my own, or whether it is another party's.

ADV TSATSAWANE: And some of the evidence that you gave, was based on documents, which were not created by yourself. Is that right?

DR YOUNG: That is correct. Yes.

10 ADV TSATSAWANE: And as far as those documents are concerned, which were not created by yourself, you cannot tell this Commission that the contents thereof, are true and correct. Can you?

DR YOUNG: You see, again, your question is simplistic. It is broad. I have used dozens of, dozens of different documents. The only
15 documents, which I, I, okay, let me just make sure. Can you just repeat that, just so I make sure that I am getting it right?

ADV TSATSAWANE: Yes. I am putting it to you that you have relied, in your evidence in chief, on documents that were not created by yourself. You accept it that is correct. So, what I am putting to you is that, as far
20 as those documents are concerned, i.e. the documents, which were not created by yourself, you cannot tell this Commission that the contents of such documents are true and correct. Can you?

DR YOUNG: I certainly can, in most instances. Or that, you know, that is my, my belief. I mean, many of the documents that I did not
25 create myself, were sent to me, by ADS, or Armscor, or the DoD, or

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whatever. So, those are certainly, you know, in every respect, known to me and what the, you know, what the meaning of their context is. So, you know, in that respect, which is actually a fairly large volume of my evidence, is in that category. So, you would be incorrect in that

5 category. Another vast amount of documents has come to me, for through bona fide legal, or Kwazi legal processes, like, various trials and has been, is what I would call, in certain instances, court quality evidence. I have used that category. So, again, that would not accord with your contention. The other one, is the [indistinct] the Promotion of

10 Access to Information application, the successful one I did, against ones, plural, against the Auditor General, which yielded vast, multi hundred thousand pages of documents, against Armscor, your own, or the organisation that you represent and the Department of Defence. I think, there were even documents that came from the Public Protector's

15 office. Those are the ones I can remember. But, those were certainly vast. I would imagine that those documents, I never created myself. I would imagine seeing that, being supplied to me, by those organisations. In many circumstances are actually declassified and have stamps of Lieutenant Colonel BJ De Waal, et cetera, et cetera. I

20 would imagine that those are true and correct documents. So, that is another category. Documents have been produced to me by, by Armscor, your own organisation, as I will call you, in a kind of a mini, a mini discovery and quite a substantial number of them and important ones, specifically the Project Control Board minutes. I think, the Naval

25 Board minutes are all produced to me by Armscor, at my request,

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through this Commission. The same with DoD. All of these documents are the vast, vast, I would say, in terms of certainly, not necessarily in terms of number of pages. But, to a number of documents, is well over 95 per cent, of documents have come to me in those ways. It is only the
5 three German reports and the Fana Hlongwane material that is what I can remember. There might be a couple of others that have come to me, well, that have not come to me, in those ways and which have used. I very, very clearly, at least, responded to questions. In fact, I think, even before I responded to questions, I have noted how they came into
10 possession. So, I would say, other than that last category, you are basically being completely incorrect. Even the last one, my bona fide, I think, my bona fides are in tact, in that regard.

ADV TSATSAWANE: Dr Young, you do accept that my clients and people from DoD came to testify before this Commission, about these
15 documents, right?

DR YOUNG: I do understand that Armscor had several representatives here. But, I, they certainly did use certain documents. But, I am not talking about, when you are talking about these documents, are you talking about the ones that they used, the ones I,
20 but, certainly, they did refer to certain documents, yes.

ADV TSATSAWANE: In paragraph 295 of your witness statement, you testified about the Germans taking, turning to political methods:

“Direct bribery of the relevant political role players.”

So, what I want to know from you is whether or not, it is correct to
25 conclude that these political role players that you are referring to in

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paragraph 295, do not include Armscor's employees, at the time.

DR YOUNG: Ja. I think, from my memory, I cannot think of one single Armscor employee, who I implicated in that kind of wrongdoing.

ADV TSATSAWANE: I think, that is going to reduce the time of this
5 cross-examination, Mr Commissioner.

CHAIRPERSON: I thought that you will say that that is, maybe your cross-examination to come to an end then?

ADV TSATSAWANE: Dr Young, in paragraph 322 of your witness
statement, you concluded that the Corvette contract was swung from a
10 Bazan to GFC and I quote you:

"On the basis of a combination of calculation errors on the DIP and on the irregular change in the scoring formula."

What I want to know from you is just to confirm that you did not testify that this irregular change in scoring formula was done, by any of the
15 people, employed by my client. Is that right?

DR YOUNG: No. I think, I do not, I did not testify that it was done specifically by them. The only thing for the, and of course, I do not want to avoid, and of course, I want to keep this cross-examination short enough, so I catch my plane, because I have checked out of my hotel. I
20 have nowhere to stay tonight, except on the, the airport [indistinct] if I miss my plane. But, for the, because my style is slightly on the side of more, rather than less, it cannot be avoided that that calculation was in respect of DIP and the responsible, the organisation, responsible for DIP was Armscor. That is all what I am, I am not pointing any specific
25 fingers at Armscor, other than, just to show that I am trying to tell the

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whole truth.

ADV TSATSAWANE: Then, Dr Young, do you remember how many reasons, you gave this Commission, as to why Byrall Smith was removed from the project?

5 DR YOUNG: Yes. I can remember that was actually quoting another Armscor employee Kevin Hanafey.

ADV TSATSAWANE: Is it correct that you gave, at least, three reasons, why Byrall Smith was removed from the project?

10 DR YOUNG: Working from memory, there were, probably, at least three.

ADV TSATSAWANE: And which one is the correct one?

DR YOUNG: They all are. That, this is not my own evidence, it is quoting evidence on oath, of Mr Smith's, Mr Byrall Smith's superior, Kevin Hanafey. So, and if I was, I, as far as I am concerned, those were
15 all reasons.

ADV TSATSAWANE: Then, in paragraph 447, of your statement, you stated that you believe that Byrall Smith was removed from the project, because was not working and I quote you:

"For the best interest of the client and the national interest."

20 Do you confirm that?

DR YOUNG: I cannot remember. You know, you are going through this, well, I like the speed. But, this style is actually prejudicial to me, because you are not, you know, you mention a paragraph. You do not give me a chance, to actually go there. But, I work from memory, and
25 either I will reject, or maybe my evidence leader will raise an objection,

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once it becomes severely prejudicial. But, my remembering of that was that was a quotation, out of the preliminary PCB meeting, or the special meeting, of the, typically of what became the PCB later, of September 1998. That was a quote, directly out of there.

5 ADV TSATSAWANE: Then, in paragraph 447 of this statement, you then drew this conclusion that I have just put to you now. That he was removed, because he was not working for the best interest of the client and national interest.

DR YOUNG: Well, again, I say clearly that somebody, you know,
10 there was a warning, in terms of those minutes of that meeting that this was happening. You know, if I may use my own intuition for a second, clearly, this is not something that one normally record in a meeting, at all. I have, I do have 30 years of experience. Not, certainly, maybe not at this level. I have never been a member of the Project Control Board.
15 But, certainly, I have never ever seen such a reference to something, unless, it is not a premonition. This is Nostra Dames talking here, that there is potentially a problem. The fact, the very fact that it happened, not that long after, to me, at least, showed that there was a problem. Then, it was actually implemented and that is recorded, by, by Mr
20 Hanafey. It is my conclusion, or sub-conclusion that, at least, on the face of it, maybe prima facie, okay, not in a Kwazi legal term, prima facie basis is that, that is a reasonable ground to believe that that actually must have happened.

ADV TSATSAWANE: Dr Young, in paragraph 448 of your witness
25 statement, maybe you want to go and, you want to go into it.

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DR YOUNG: If I may asked, it will make it easier for me and quicker, if you can just, I cannot jump the paragraph numbers here, without going to the [indistinct] and that will take longer. If you give me a paragraph number and a page number, I can jump or go to a page number.

5 ADV TSATSAWANE: Paragraph 448 of your witness statement and you will find it on page 110 of 214.

DR YOUNG: Okay. Just remind me of the paragraph number again, I have got the ...[intervene]

ADV TSATSAWANE: 448.

10 DR YOUNG: Yes. I have that.

ADV TSATSAWANE: Mr Hanafey said he was asked if there was a reason for the removal of Mr Byrall Smith as programme manager. He said:

15 *“Ja. He was removed from Project Sitron, as a project, as the programme manager, due to a request from the Navy. There was a lot of conflict between him and Kamerman and the Navy came and requested that we remove him for a number of reasons. Firstly, the conflict was there. Secondly, the fact that Byrall was located in Simon’s town, living in Cape Town and Kamerman was in Pretoria, which led to a*
20 *lot of breakdown in communication between the two project members.”*

That is what Mr Hanafey said, do you accept that?

DR YOUNG: Well that is not all he said.

ADV TSATSAWANE: What else did he say?

DR YOUNG: Well, the witness statement says it, in front of all of us.

25 It says:

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“Do you know what the nature of the conflict between him and Kamerman was?”

And Mr Hanafey replies and these are the reasons. So, there were actually four of them. I knew there were at least three:

5 *“Process, procedure, involvement, personality, I think that is essentially what it was.”*

ADV TSATSAWANE: Yes. Then, a, you, as far as Mr Fritz Nortjè is concerned, you tried to create doubt on his evidence, in the sense that you said his evidence is made up. Is that right?

10 DR YOUNG: In certain instances, yes. Now, again, you are just, you are painting one broad, I, certainly, I think, if this was a trial and I had one of my normal senior council is that that would raise an objection straightaway. You know, what are you, are you referring to all of my evidence, regarding Fritz Nortjè? Or what are you specifically talking
15 here, or talking about here?

ADV TSATSAWANE: I am talking about instances in your witness statement, where you said the evidence of Mr Fritz Nortjè is made up. I do not know if you want me to refer you specifically to that?

DR YOUNG: Well, I want you to refer me specifically to the
20 paragraph. Then, I want you to refer me to the instances, either one by one, if we have to traverse all of them, or at least, one of them, the first one, or the most important example. But you cannot just leave it as bald as that.

CHAIRPERSON: I am sorry, I thought you had said 30 minutes. I see
25 now, you are already in the 35th minute now. Are you just about to round

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up now?

ADV TSATSAWANE: I am about to conclude.

CHAIRPERSON: Thank you. Thank you.

ADV TSATSAWANE: For example, Dr Young, if you go to paragraph
5 683, of your witness statement. You will find that on page 176.

DR YOUNG: Yes.

ADV TSATSAWANE: At the end of that paragraph, you draw your own
conclusion from Nortjè's evidence and you said, alright, the last
sentence there:

10 *"The second problem that I have is if it was so important, then it
should have been stated in the SMS report, but it was not and so clearly,
this is something that he is just thought up now."*

Do you see that?

DR YOUNG: I, but, I do not see that, but I will find it, but the, my
15 answer to your question is, yes. I, that is what I stated.

ADV TSATSAWANE: Well, I put it to you that Mr Nortjè has read your
statement and he persists that the version, which he gave to this
Commission is the correct version. What is your comment on that?

DR YOUNG: I, well, that was not your original question. Your original
20 question was in the context of the SMS report, not in terms of the, this
evidence. What I am saying is, it might, it might have been correct now
and I do not know, because you are not allowing me to look at that.
What I am saying is, I am, well, familiar, as well as my memory can take
me, of the SMS report, that was written. I do not think it was written by
25 Fritz Nortjè. I think it was written by Lewis Matheson, on Fritz Nortjè's

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instruction. But, it certainly was the, it was the SMS report. I do not know, because it is, what, again, it was a document. The, provided to me under [indistinct] with missing its cover sheet, including its date, et cetera. So, it is another item of missing evidence. But, from what I can
5 remember, that SMS report did not traverse these, these matters, which came up in evidence. Well, in fact, maybe that is, maybe that is the exact, correct response. What Fritz Nortjè gave, before this Commission and I will grant that, and I can kind of remember, is different to what was in the SMS report, which was a report to the new General
10 Manager of Armscor, the General Manager of Acquisition, Mr Siphon Tomo. I do remember that. All of those things, in, back in 2001, were not traversed, when they should have been. So, what I am saying is, now, 15 years later, they are coming up with different, with different reasons. That is the contention that I am trying to make.

15 ADV TSATSAWANE: Then, Dr Young, can I take you to the concluding paragraphs of your witness statement, paragraph 775?

DR YOUNG: Please give me a page number first?

ADV TSATSAWANE: Page 196.

DR YOUNG: Yes?

20 ADV TSATSAWANE: In your conclusion, you ask the Commission to conduct further investigations into the possible involvement of certain people in wrong doing. Is that right?

DR YOUNG: That is correct. Yes.

ADV TSATSAWANE: I want to put it to you, Dr Young, that the reason
25 why you want further investigations to be conducted, is simply on the

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basis that you, yourself, in your own book. In your own world of reality and logic, you do accept that the evidence that you have given to this Commission, does not establish the involvement of these people, listed in paragraph 775, on any of the wrongdoing, that you accuse them, in
5 your statement. Is that not right?

DR YOUNG: If I may just ask, the book, to which you refer, is that just, a genuine book. Or are you talking about the book I am going to write in 20 years time, when I retire? What book are you talking about, for a start?

10 ADV TSATSAWANE: You have yourself, in giving evidence, referred to in my book, well, this cannot be right and so on. So, I am referring to that very book.

DR YOUNG: May do a search through my evidence? It will only take about a second and on the word, on the search term book.

15 CHAIRPERSON: I am not going to allow that. You understand exactly what the question is.

DR YOUNG: No. I certainly do not.

CHAIRPERSON: Can you then rephrase the question? Because I am not going to allow you to start searching for things that I do not
20 understand. Can you just rephrase the question, so that he can answer it?

ADV TSATSAWANE: Dr Young, I am putting it to you that the reason why you ask this Commission to conduct further investigations is simply because the evidence, which you have placed before this Commission
25 does not establish that these people have committed any of the

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wrongdoings that you refer to, in your statement.

DR YOUNG: It might, well, I think I have gone through this before. It might not establish, on, beyond a reasonable doubt. But, that is not what I set out to do. It establishes at least, in prima facie terms, that

5 there are grounds, based on the, on the documents. Of course, some of them, most of the documents have not, their admissibility has not been challenged. Okay. There might be some. But, certainly on many, many documents and regarding many people, there are, is at least, a prima facie basis for the suspicion of wrong doing. I do not, I am only a

10 bringer of not only the documents, but a cogent theory, or complex theory, or whatever theory, conspiracy theory, or whatever you might like to call it, that this below water mark might be plausible. The high water mark might be proven. The middle might be credible. What I am saying is that in between plausible and proven, there is a good basis, for the

15 Commission, if that is what its intention is to do. I do know that its mission is to write a report. I am not quite sure. That is not my, that is not my, of course, I can, I suppose, in my submissions, I can beg that it writes a report and in fact, that is what these conclusions are about. But, I would suggest that these are reasons and areas that are

20 deserving of further investigation, as an outcome to this Commission, based on the evidence that, or the information that I gave it.

ADV TSATSAWANE: Thank you, Mr Commissioner. I have got no further questions for this witness.

CHAIRPERSON: Any further cross-examination? Thank you.

25 Advocate Sibeko?

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ADV SIBEKO: Thank you, Chair. There are a few matters that I would wish to clarify with the witness, which arose, during cross-examination. Firstly, during cross, his cross-examination in his capacity as a witness and in his cross-examination of a witness, who gave evidence. Perhaps
5 that would be an appropriate place to start. The witness informs me that during the course of cross-examination of the witness, who was giving evidence, on behalf of Thales, he was invited to produce a French document, which, whose English translation, forms part of his RMY 67, which the witness had commented on. I think, it appears at page 1344
10 of the bundle. Apparently the witness would not accept the authenticity thereof, accept if there was a French version thereof. The witness has produced the French version of that document and I beg leave to hand up copies of that document. Chair, I believe the documents have been included in the bundles, because they have been sent by email. I just
15 have hard copies thereof. Dr Young, during your cross-examination, by council for the DoD, Advocate Kuper, there was an issue that he raised, regarding a settlement agreement that was concluded between yourself and the DoD, Armscor and so forth, amongst others. Do you recall that?

DR YOUNG: Yes. I do and I think it was raised by someone else as
20 well. I think, maybe it was the Thales people. But, certainly, the settlement agreement was raised, by Advocate Kuper.

ADV SIBEKO: Perhaps, just for purposes of clarity, that settlement agreement was concluded, pursuant to what action?

DR YOUNG: Well, the settlement agreement refers to, I think, it is
25 four claims. The most important of which was an action for damages,

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against the DoD, Armscor and ADS, regarding, I have referred to it before, so I do not need to avoid it and that is a legitimate expectation, regarding DoD and Armscor and unlawful competition, regarding ADS. It was a fairly major financial claim.

5 ADV SIBEKO: And this claim, just for purposes of completeness was, would have been in relation to the ISM. Is that correct?

DR YOUNG: The IMS and the SMS, actually.

ADV SIBEKO: Now, you say there were four claims that formed part of that action. Correct?

10 DR YOUNG: Yes. That is correct.

ADV SIBEKO: Now, can you recall when the claim was instituted and when it was finally settled?

DR YOUNG: The, the initial particulars of claim I think, was served in 2003. So, that is basically, when it initiated, yes. It was settled, I am
15 just looking at a document here, the settlement agreement, where there is a fax. The date, the signature dates are hidden at the end. But, there is a fax, a date of the 28th of March 2007.

ADV SIBEKO: So, some three years later, after the claim was instituted, it was settled.

20 DR YOUNG: I would say more like four years. 2003 to, no, it might be three, but anyway.

ADV SIBEKO: Now, I believe from the questions, put to you, by Advocate Kuper that there was a payment of an amount of money that was made to you, pursuant to the tender of the settlement agreement.

25 Is that correct?

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DR YOUNG: That is correct. Yes.

ADV SIBEKO: Now, I believe also, that part of the terms of that agreement related to a prohibition that there shall be no disclosure or publication of the issues, relevant to that matter. If, if, and you can
5 correct me, if I am wrong.

DR YOUNG: No. It is, it is, well it will be slightly. It is probably worth, it does allow disclosure, I think, you know, if, some people might interpret your, what you said there is that there is a prohibition on disclosure. But, it says here, at paragraph 4, disclosure/publication:
10 *“The parties undertake that in making any statement, relating to this agreement to any third party, or in publishing any of the terms or conditions, contained in this agreement to any third party. The disclosing party shall not act so as to infer any admission of liability, by any of the parties, in respect of the Claims (capital, there are four
15 claims) and shall respect the good name and dignity of the other parties, to this agreement.”*

That is what that clause is.

ADV SIBEKO: Now, I, the, that term in the contract, a suggestion has been made, during the course of cross-examination that the testimony
20 you have been giving, in the last couple of weeks, before this Commission, may have been, or in fact, was actuated by vengeance or revenge against some of the officials at, who were involved in the project that you were particularly involved in. What is your comment thereto? I mean, regard being had to the settlement agreement and the
25 suggestion being made, during the course of these proceedings, that

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you are actuated by revenge, among others.

DR YOUNG: Certainly, it is definitely, definitely not and nothing from my conduct in the last few weeks or lastly several months, can give such an indication. As far as I was, or, as regards, giving evidence before this
5 Commission, my disappointment may be too weak a word. My very strong unhappiness, as borne out by my website, was as far as the loss of the IMS, the business, the very, very fundamental loss was effectively extinguished as regards this, or, at the settlement agreement. So, that is not a motivation, that malicious or the malice that was referred to, or
10 retribution, it has got nothing to do with that. The only thing, which happened after this, in 2007, was the exposure of wrong doing in Germany in 2007. In fact, this thing is dated, it said the 28th of February or something, 2007. The German investigations reports are dated within a month or two after this, then of course, the closure of the investigation
15 in this country, in September 2010. That is my motivation for my involvement in this Commission. It has got nothing to do, nothing whatsoever, for malice, maliciousness and malice, seem to be different things. But, retribution, it has really, really got, it is actually a duty. I may have had some hand, in getting the Commission established. But,
20 certainly, that was, that was not the reason. It was really a public interest one. Many people in this country will acknowledge or even say that I am the most knowledgeable person. I will say that. It might have been true. I am sure the people in the Commission probably know more about the Armsdeal than I do now. But, at the time, in 2011, I do not
25 think anybody knew more than me. They have pushed me forward. It is

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a public interest duty. I have to be very honest, if there is corruption and I certainly, is that I would describe it, as my little part, of lancing the boil of corruption, which may have been involved in the Armsdeal, because of my knowledge. I am the, I do not know, I am not aware of any other
5 corruption, other than the one I read in the newspaper. But, where I was involved, I have no, I am not a legal expert. I have not read the Prevention of Corruption, the Combating of Corruption Act at all. But, I do know there is an obligation to public offices of companies, to members of the public, who have, are in receipt of such information to
10 do the correct thing. That is what I have, that is what has motivated me, to do, to undertake this extremely onerous endeavour, of appearing before this Commission.

ADV SIBEKO: Now, in relation to the evidence that, or you, you have submitted before the Commission, an issue was made, or raised, about
15 you, in your role as an activist, as you point out, in the Armsdeal that you have been in the cause of this activism, been in touch with investigators locally and abroad and on the basis of which you have received information. Is that correct?

DR YOUNG: That is correct. Yes.

20 ADV SIBEKO: And the information you have received from the investigators, abroad, relates to investigations that they, themselves have undertaken. Based on the allegations received, which allegedly implicate citizens from their jurisdictions in some unlawful conduct or improper conduct, relating to perhaps corruption in activities, relating to
25 the acquisitions?

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DR YOUNG: Without any doubt, whatsoever. Now, we, at least, it appears from some of the evidence that you have presented before this Commission that the investigations, conducted, among other places, in Germany and the UK, that such investigations were closed.

5 DR YOUNG: Yes. I am aware of that.

ADV SIBEKO: But, that, notwithstanding, you have been furnished with copies of these investigations. Or reports prepared, towards, in respect of these investigations and transcripts of interviews, conducted by the relevant authorities, with regard to the investigations, conducted
10 by them.

DR YOUNG: That is correct, yes.

ADV SIBEKO: Now, the documents, such as transcripts, you have provided and the reports, that you have provided to the Commission. Do you have any reason to believe that they contain information that is
15 incorrect and not truthful?

DR YOUNG: It is, again, it is not maybe just a simple, yes or no. I personally, intuitively, believe, verily believe, across the board, the spectrum of that is that it is, at least, bona fide. They may have made mistakes, or they may, it may have drawn conclusions prematurely, in
20 certain, in certain very, very small instances. But, unfortunately, in terms of the best evidence rule, to which I subscribe, that is what we had. So, if there were mistakes made, regarding say, Vice Admiral Simpson-Anderson, or even Vice Admiral Putter, or whatever, there could be things that are not correct. But, I am 100 per cent sure. I mean these
25 people, these German investigators have got no idea who these people

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are, whatsoever. They bear no malice against them. But, they also do not just pull names out of the newspaper in Germany, of who these people are. They came up with some other names, as well. All of these people are involved and these, all of these names. The inferences
5 came from their own, extremely extensive and expensive, I think, 18 company, or whatever, multi city search and seizures. So, these people just did not conjure this up from nowhere. So, I am pretty sure that those reports, even though they might have been work in progress reports, at least the German ones. The other ones are far more
10 substantial, the British ones, is that they are certainly bona fide and they are certainly not mala fides.

ADV SIBEKO: Now, an issue was taken with you, by council, representing Advocate Hlongwane, with regard to the documents you submitted in substantiation of your paragraph, of paragraph 809 of your
15 statement. Do you recall?

DR YOUNG: Yes.

ADV SIBEKO: Now, he made the proposition that he read, at least, he spent some hours, reading some of the transcripts and he found no evidence, implicating Advocate Hlongwane of any involvement or
20 impropriety, regarding any influence, he may have had, in the award of your contracts. The question then is, did you read these documents, before you submitted them to the Commission?

DR YOUNG: I read them very extensively. Unfortunately, because of the practicalities and the shortness of time, I made an undertaking to the
25 Chairman that I would be finished in half an hour, which was at one

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o'clock and I finished two minutes late. But, I have already taken an hour and a half. I decided to work from memory. I think, as I said, my memory is, was fairly accurate. But, that, whatever I came out of memory in my evidence in chief, did not come from the ether, as they

5 say. It was gleaned from those documents. I spent several weeks in December, after Advocate Hlongwane appeared as a witness and I think, I only received the transcripts about the next week. I think, I remember it is about the 17th, when he appeared on the 11th. I remember spending most of my time, until Christmas. Then, once I had

10 done my own witness statement, regarding my main themes, and as you will be aware, I spent two weeks, including a weekend here. I worked on it there and then I was away for a week. I spent the best part of a week, on that. I certainly, I cannot say that I have read every single word. But, there is, I have probably read 60, 70 per cent of it. I am well

15 aware of, at least, the most substantive part of the, the contents. I possibly need to, I can say, is that I am pretty sure, other than the one case, that these are the checked versions, all accept for one. I cannot remember, it was the MacBeith one. But, I will, can also say in four, five instances that the SFO is very good, because they provide summaries

20 of these witness statements, which might not be [indistinct]. I think, the Irving one, sorry, not the Irving one, the MacDonald one, is something like 500 pages. But, they provided about a 50 page summary of it, which I have not, you know, because I do not want to give digested information. But, it summarises ...[intervene]

25 **CHAIRPERSON:** I am sorry, Advocate Sibeko. I do not want to

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interrupt you. But, I am not quite sure, what the question was and what Dr Richard Young is answering to.

ADV SIBEKO: Well, the question was, whether Dr Young had read these documents, because a proposition was put to him that council for
5 Advocate Hlongwane had read these documents and he found no evidence. So, I am, I have asked the question if he has read these documents, and I am building to ...[intervene]

CHAIRPERSON: And what is the answer to that question?

ADV SIBEKO: He has answered to the effect that he has read the
10 documents. He has read about 60 to 70 per cent and he was elaborating on what it is that he has found in that thing.

DR YOUNG: Sorry, if I may just say, what I was saying there, is that, in at least, for each of the most important of those witnesses, they also produce a summary. Okay. So, if one can read 50 page summary much
15 quicker, without reading all the superfluous stuff as you know, happens in interviews. Possibly, even there was a lot of superfluous stuff, even in my own evidence under oath here. But, anyway, it allows one, in a, quickly to draw down and home in, to the relevant portions of those transcripts. I can tell you that I certainly have read all of the, he
20 summaries. Then, I have, whenever there is a relevant section, I have traversed that, in more detail than, just as of a cursory review. So, it is a pretty substantive two, three week exercise that I spent on those documents.

ADV SIBEKO: Now, having read the documents, in the, in the light of
25 the evidence you have had, as well as your understanding of the terms

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of reference. Is it your view that the documents, you have provided to the Commission would be of assistance, in, to the Commission, in making findings, with regard to the terms of reference, especially 1.5?

DR YOUNG: Without any doubt whatsoever, with, as much emphasis, I could possibly muster, even on this Friday afternoon. It is really, very, very, very relevant to those terms of reference, regarding impropriety, in regarding of bribery and corruption. It does not only just involve Mr Hlongwane. The briber there was British Aerospace and intermediaries of it. It is, it points to that, as well as, well, I suppose, irregularity, impropriety and bribery and corruption is as far as one really needs to go, at this stage.

ADV SIBEKO: Dr Young, in an effort to try and ensure that you will catch your flight and go to Cape Town, later this evening, I will rest my re-examination at this point, unless there is anything else you want to add.

DR YOUNG: Regarding my evidence, re-examination, I do not think there is further, anything further that I need to add. As long as though, but I do not want to just walk out of here, without saying anything further.

ADV SIBEKO: Chair, no further questions for the witness.

CHAIRPERSON: Thank you. Just two questions from me. I just want some clarity from you. [Indistinct] Dr Young to say that somewhere along the line, I heard you saying that you never alleged that any member of the Inter-Ministerial Committee is corrupt.

DR YOUNG: No. I do not think I said that. There, the names were read out to me. I said, in this context of that, is, I was unaware of any of

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those, those particular persons, being involved in self enrichment. But, I do not think that I said that, in respect of every single member of the Inter-Ministerial Committee, in its total existence.

CHAIRPERSON: Are you aware of any member of the Ministerial
5 Committee, who could have received a bribe and you know, if it is so, do you have evidence to back that up?

DR YOUNG: No. The way you put it, evidence of receiving a bribe, then I am, then I would not have such evidence. I have got evidence of impropriety. But, not necessary, and, and ancillary matters, or certainly,
10 indications or information, but, not of direct bribery or corruption.

CHAIRPERSON: do you have any evidence or which proves that any of the members of the various evaluation teams, were involved in evaluating bids from the various bidders, was ever bribed or not?

DR YOUNG: Other than, regarding the Chief of Acquisitions, then I do
15 not think so.

CHAIRPERSON: So, it is fair to conclude that, from your evidence, you are not suggesting that any of the, any of the members of the various teams, accept the Chief of Acquisitions were, was bribed.

DR YOUNG: That is in terms of names. Unfortunately, there is the
20 open inference of the German 3 million Dollar bribes of Chippy Shaik and a group, represented by him. But, to be honest and to fair, one would not know, who that group is. As I sit here and that is why, you know, my, my burden here, is to bring that to the attention and, if that group did represent members of the evaluation teams, then that is a, I
25 think, solid grounds for further investigation, but, hopefully, by people,

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other than myself.

CHAIRPERSON: Lastly, this follows that question of the alleged 3 million Dollars, which was allegedly paid to the Chief of Acquisitions. Do you have any other evidence to back that up, accept the allegation as
5 contained in the, those three reports that you earlier referred to?

DR YOUNG: No. I think that those, those three reports, or those three reports did not include the, what I call the Teutonic memorandum. They might refer to it, but I, but that was provided to me completely, completely separate, separately. So, I would say, so, yes, it is the three
10 reports themselves, plus and from a completely independent source, did I receive that, what, the Notiz document. Of course, referred to in the reports, are their own references to other, to other bribery agreements, the bribery agreement that they had, regarding the Merian one, the Chippy Shaik one and then the bribery agreement with, the Tony
15 Yengeni one. So, those are indirect references. But, that would be the, that would be the sum total of it.

CHAIRPERSON: Thank you. Any questions arising from that? Thank you.

ADV MOERANE: No questions.

20 **ADV TSATSAWANE:** No questions, Mr Chairman.

COMMISSIONER MUSI: There is just one little aspect and I call it little, because I do not know how important it is. The company, you used to work for, before you started your own business is EUC. Is that correct?

25 **DR YOUNG:** No. UEC, which used to stand for United Electronics

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Corporation.

COMMISSIONER MUSI: UEC. In your evidence, you talk about Armscor, not wanting this company to be known, to be associated with them, in relation with the conference, where you presented the paper,
5 something to that effect. Do you remember that?

DR YOUNG: Yes. That is correct.

COMMISSIONER MUSI: What would be the reason for this?

DR YOUNG: You see, I was in the Cape Town branch and there was some kind of ring fencing, amongst projects. There was a very definite
10 principal in those days, even if we had secret clearances, of the need to know. Not so much in my, well, it was not my branch, the branch where I worked, but the head office, which was in Mount Edgecombe, which had four, four, five hundred, or maybe even seven hundred employees at one stage, is there were projects going on there that are referred to
15 as dark projects. I am, I have got, only later, have I surmised really, some of them. But, there were projects going on there, which, and not only projects, but sources of supply that were extremely sensitive. It involved national, genuine national military security. That is why UEC always came across actually, in those days, when I joined, it was owned
20 by the Tongaat Hulett group. It was so we, you know, were kind of a bunch of electronics engineers, working for some sugar farmers. That was the, the image that the company and Armscor wanted to keep. It would not have been appropriate to divulge that UEC was actually far more, or almost exclusively a military company.

25 COMMISSIONER MUSI: What do you mean? You mean it was a front

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for the military?

DR YOUNG: No. It was not a front for the military. The way, I will not belabour this point. But, the way things happened, when serious development of technologies came about, is Armscor looked for
5 electronics companies that had some capacity. They went with them, and let us say for example, UEC became a specialist in sonar for submarines. They were a very small company, at one stage, before I joined there and they said can you develop sonar? I said, well, everybody says, yes, if you give me, whether it was R1 million or R100
10 million. A lot of companies, in those days, were completely private companies, but developed, well I was familiar with the electronics side only. So, we are talking about the electronics side, electronic systems and technology, for military application. But, there were certainly not front companies. They were independent companies that did bona fide
15 work. But, there were certain other aspects. They are doing some of this work, sources of supply and use of certain sensitive computers, for example, was a major issue, at that time.

COMMISSIONER MUSI: Does it appear that this company was involved in some clandestine military operations?

20 DR YOUNG: I wonder if my terms of the settle agreement regulate my, what I say in that regard? But, if I am given, if I request absolute privilege, not just qualified privilege, then I will answer that.

COMMISSIONER MUSI: I will leave it there. Thank you.

CHAIRPERSON: Dr Young. Thanks a lot for coming to give evidence.
25 I am sure Advocate Mdumbe will invite you, when we start receiving

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closing submissions and I hope you will find the time to, to prepare some closing submissions.

DR YOUNG: Thank you, Chair. I will certainly brush up on my, my legal capabilities, my legalese before then. But, unless I have another
5 opportunity, I think, that I could just clear. I would like to thank the Commission and everybody else, for listening to me for so long. I know that talking, talking is a really tough ask. But, I am sure that doing most of the talking is probably a lot easier than doing most of the listening. So, I would like to thank everybody in that respect. But, I would also
10 like, specifically to thank my evidence leaders, Advocate Sibeko SC and unfortunately, my evidence leader Mahlope Sello is in Cape Town on business today. But, I would like to thank the two of them, for assisting me and leading me so much in the last three to four months. My, this is very interesting, from a lay persons view, giving this kind of evidence. I
15 have a little bit of experience in a standard court. But, they have helped me a lot, to actually, to, to at least, legally wise to, well, no, not legally wise, let me say, physically wise, to survive the last three to four weeks. Thank you very much.

COMMISSIONER MUSI: One, one last thing from me, Dr Young, you
20 indicated, in relation to the very foul and vulgar language, used in your website against people. You indicated that, if people lodge a complaint, you will be happy to remove the offending remarks. Correct?

DR YOUNG: That is correct.

COMMISSIONER MUSI: I wanted to asked you, to remove those
25 remarks against the Commission that you have in your website. Would

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you do that?

DR YOUNG: I will certainly do that. But, normally these things are done on a reciprocal basis. There were allegations made, in the terms of the Commission against me. I suppose I can clear that up, by saying
5 many, the whole thing of me, not bending, or not, not assisting the Commission. I have probably been able to clear that up. So, now that is on the record. As long as that is a reasonable acquittable understanding, then I can, I can certainly reciprocate from the other side.

10 COMMISSIONER MUSI: Are you going to remove the offending remarks that you made against the Commission? We would not insult you, you must remember that. You may have been offended, by whatever we did, but we did not insult you. Are you going to remove those insulting ...[intervene]

15 DR YOUNG: Yes. I will do so.

CHAIRPERSON: Thank you. I think we are going to adjourn now. Unfortunately, we do not have a date of the next sitting. But, then, it is probably in the next ten days. We are still trying to, evidence leaders are still trying to consult with the two witnesses, which are coming.

20 Maybe I should mention, at this stage, that I am withdrawing the statement that I made, the other day, to the effect that I will never ask for an extension. Apparently, it appears to me now, that we might be forced to go back to the President, to ask for an extension.

Probably of one month and the main reason is that there are still
25 about two, three witnesses, we are still trying to get. Thereafter, you

know, we will already be in April. We thought that maybe, in all fairness, we should give at least, three weeks to a month, to people to prepare their closing arguments.

5 Unlike, you know, the initial programme, where we thought that we will give them a week or two. At the time, when we said that, we never thought that you know, Dr Richard Young's evidence and cross-examination is going to take so long.

10 I think, in the light of all that, we might be forced to ask for an extension of about a month and make arrangements to the effect that you know, the closing arguments should be presented some time in May, instead of April. From the date of the testimony of the last witness, it will give parties three weeks to a month, to prepare their closing arguments.

15 I just thought that let me mention this now that I am withdrawing the statement that I made, the last time. So, we are going to adjourn to a date, to be announced at a later stage. But, then, I suspect it is going to be some time this month, failing which, then it will be early, early in April. Thank you.

(COMMISSION ADJOURNS)