

# Airbus affair

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The **Airbus affair** refers to allegations of secret commissions paid to members of the Government of Canada during the term of Prime Minister Brian Mulroney, in exchange for then-crown corporation Air Canada's purchase of a large number of Airbus jets. The Chairman of Airbus (a European consortium) at the time of the contract competition was Franz Josef Strauss (b.1915-d.1988), a high profile German politician in Bavaria.

The order in question had long been pending, and both Boeing and Airbus Industries had been competing heavily for the contract. Both offered shared production in Canada, and Boeing went so far as to buy de Havilland Canada to further strengthen their bargaining position, as well as gain access to the feederliner market where they, at that time, had no presence. The contract was eventually won by Airbus in 1988, with an order for 34 Airbus A320s, as well as the sale of some of Air Canada's existing Boeing 747 fleet. Boeing immediately put de Havilland up for sale, thereby putting that company in jeopardy, but the blame for this was generally placed on the government.

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## RCMP allegations

In 1995, the Royal Canadian Mounted Police (RCMP) accused Mulroney and Frank Moores of accepting kickbacks from Karlheinz Schreiber on the sale of Airbus planes to the government-owned airline during Mulroney's term as Prime Minister of Canada. The allegations were made in a letter sent by the RCMP to the government of Switzerland seeking access to banking records. Schreiber had earlier raised money for Mulroney's successful 1983 bid to win the leadership of the Progressive Conservative Party.

Mulroney denied the allegations, and launched a \$50 million defamation suit against the Canadian government, alleging that the newly elected Liberal government of Jean Chrétien was engaging in a smear campaign against its predecessor. The government settled out of court in early 1997, and agreed to publicly apologize to Mulroney, as well as paying the former prime minister's \$2.1 million legal fees.

Although there is no evidence that Mulroney accepted kickbacks while prime minister, it was acknowledged in 2003 that shortly after stepping down in 1993, Mulroney accepted \$225,000 over 18 months from Schreiber, in three cash payments of \$75,000 each. The characterization of these cash payments as *not* a bribe would be the way out. Mulroney was still a member of the Canadian House of Commons when one of the payments was made. Mulroney claims that this money was paid to him for consulting services he rendered to help promote a fresh pasta business, and to develop international contacts for Schreiber. Mulroney had not previously admitted accepting any commissions from Schreiber, especially during his lawsuit process against the Canadian government. The trouble so far is that Mulroney has not yet provided another living person other than himself that could substantiate any actual work Mulroney performed for that money. Schreiber described their dealings in pasta-macaroni as nothing more than being sent a single flyer.

## Media/journalistic coverage

Journalist Stevie Cameron wrote about the Airbus scandal, and Schreiber's links to the Mulroney government, in her 1994 best-selling book *On the Take: Crime, Corruption and Greed in the Mulroney Years*. CBC's *The Fifth Estate* produced a documentary in March 1995 which revealed, for the first time, a secret side agreement between Airbus Industrie and a

Liechtenstein shell company, International Aircraft Leasing, or IAL. The fifth estate reported that IAL received millions of dollars in secret commissions after the sale of Airbus aircraft to Air Canada in 1988. William Kaplan responded to Cameron and the CBC programme in his 1998 book *Presumed Guilty*, criticizing journalists for the paucity of evidence. Then, in October 1999, CBC's the fifth estate obtained new Swiss Bank Corporation records which revealed that Karlheinz Schreiber had set up a secret bank account in Zurich with the code-name "Britan". The fifth estate programme revealed there had been three cash withdrawals out of the account, in 1993 and 1994, for a total of \$300,000. Two years later, in 2001, Stevie Cameron and fifth estate producer Harvey Cashore, wrote a book about Karlheinz Schreiber *The Last Amigo*. In 2004, William Kaplan clarified his position in a further book *A Secret Trial*, by criticizing Cameron for her role as a confidential RCMP informant on the Airbus matter, and Mulroney for not disclosing the fact that he had received the \$300,000 from Schreiber.

On February 8, 2006, *The Fifth Estate* reported that the \$300,000 payment came through a Swiss bank account code-named "BRITAN" from another named "Frankfurt", linked with the Airbus affair. Karlheinz Schreiber said in an interview with the program that the money came at the request of a Mulroney aide, who told Schreiber the former prime minister was short of funds. Schreiber mocked Mulroney's claim that the money was a consulting fee for help given in a pasta business Schreiber had invested in. The programme also reported there was no evidence that Mulroney knew of the source of the funds.

On October 31, 2007 *The Globe and Mail* and *The Fifth Estate* reported new information about the cash transactions between Schreiber and Mulroney, revealing that Brian Mulroney filed a Voluntary Disclosure with Revenue Canada several years after accepting the cash envelopes from Karlheinz Schreiber.

## Cash payments

*The Globe and Mail* reported on November 1, 2007 that Mulroney, who had by his own admission received \$100,000 of Schreiber's \$300,000 in cash in New York City on December 8, 1994, should have declared those funds when he crossed the border into Canada several days later, if he had not already spent the money. The story quoted retired RCMP inspector Bruce Bowie, who had played a role in preparing the original Canadian legislation, requiring that large cash transactions be reported, which was passed through parliament during Mulroney's own prime ministership. Internal United States rules also require that large cash transactions be recorded, and whether Mulroney did so for this transaction was an open question, according to the *Globe and Mail* article.

On November 8, 2007, an affidavit, including further allegations by Mr. Schreiber, was filed with the court. The following day, Prime Minister Stephen Harper announced that a third-party independent inquiry would be launched to review the dealings between Schreiber and Mulroney, in the light of the additional allegations raised by this new development.

On November 13, 2007, Prime Minister Harper announced that a full public inquiry would take place. The next day, Harper announced that the probe would be headed by David Lloyd Johnston, president of the University of Waterloo. Johnston will advise on the terms of reference for the inquiry, and will report by January 11, 2008. The RCMP announced on November 14, 2007, that they would also open a review process into these matters; the RCMP had been involved in an investigation of these matters from the late 1980s onwards. In June 2008, the Government of Canada established the "Commission of Inquiry into Certain Allegations Respecting Business and Financial Dealings Between Karlheinz Schreiber and the Right Honourable Brian Mulroney"<sup>[1]</sup>

On November 15, 2007, Schreiber lost his appeal of extradition to Germany, and he remained confined in the Toronto area, pending further developments. Extradition proceedings against Schreiber, launched by German authorities, began in 1999; Schreiber is wanted in Germany to answer for several criminal charges, including fraud and bribery, which had a role in bringing down a government there, and which damaged the legacy of former German Chancellor Helmut Kohl. Schreiber stated on November 16, 2007 that if extradited, he would not cooperate with the inquiry.<sup>[2]</sup> Minister of Public Safety Stockwell Day said later that day that the inquiry would be structured to allow witnesses to testify regardless of their location, and that Schreiber would have to testify. Opposition parties in the Canadian House of Commons called for Schreiber's extradition to be delayed, to allow him to take part in the inquiry. Minister of Justice Rob Nicholson promised to delay the extradition until at least December 1, 2007, to allow potential appeals to be filed by Schreiber's lawyer Edward Greenspan.

## Ethics Committee testimony

Schreiber was summoned from jail by a Speaker's Warrant issued by Commons Speaker Peter Milliken, and was transported from Toronto to Ottawa on November 28, 2007. He testified before the House of Commons Ethics Committee on November 29, December 4, and December 6, 2007. Schreiber obtained a stay of his extradition from the Ontario Court of Appeal on November 30, and obtained bail on December 4 by posting \$1.3 million. Schreiber explained that the

\$300,000 he paid to Mulroney in three cash installments of \$100,000 each, in 1993 and 1994, did not come directly from Airbus, but was drawn from 'success fees', money Schreiber earned in commissions for his lobbying work on behalf of Airbus, MBB, and Thyssen, in the late 1980s and early 1990s. Airbus and MBB had concluded large contracts, for airplanes and helicopters respectively, with the Canadian government while Mulroney was prime minister. Thyssen's project, a prospective new factory for manufacturing light armoured vehicles, had gained initial government approval, but was never built. Schreiber explained further that the money he paid to Mulroney was not for any work Mulroney did while he was prime minister from 1984-1993, but was a retainer for future work Mulroney would do for Schreiber after he left political office, as well as a reward for Mulroney's support for German reunification, which was achieved in 1991. This amount was originally set for \$500,000, but was reduced because Mulroney did not in fact perform the work, according to Schreiber, who is suing Mulroney to recover that money. Mulroney refused to comment in advance of his scheduled appearance before the Ethics Committee on December 13, 2007<sup>[3]</sup>. However, six weeks following his appearance, Mulroney's lawyers submitted a letter to the Ethics Committee chairman, Paul Szabo, indicating that their client would not be willing to appear again before the committee because of the "unfair" treatment he encountered on December 13.<sup>[4]</sup> On February 26, 2008, CTV News reported that Mr. Mulroney, through his lawyer, had reiterated his refusal to reappear before the Committee, scheduled for February 28.<sup>[5]</sup> After mulling the possibility of issuing a subpoena, the committee decided the next day that it would wrap up this activity without further testimony.<sup>[6]</sup>

On February 14, 2008, Mr. Schreiber's Swiss accountant told the Ethics Committee that he did in fact set up a Swiss account for Mr Mulroney but that he had no knowledge of any transactions made on that account by or for the former Prime Minister.

## Oliphant Commission Report

In April and May of 2009, the next episode ensued as the Oliphant Commission inquiry began. Chaired by Mr. Justice Jeffrey Oliphant, Associate Chief Justice of the Court of Queen's Bench of Manitoba, it was specifically mandated to focus on the dealings between Schreiber and Mulroney. While the inquisitors and their questions were different, the answers by Mr. Schreiber in April and Mr. Mulroney in May were essentially paraphrasings and expansions on those of the Ethics Committee proceedings. Notable new revelations in Mulroney's testimonies included his explanation for the delay in declaring the cash payments as income (he considered them as advances on future activities, to be declared only when drawn upon), and that his accountant, without his knowledge, had arranged to pay tax on only half the amount. This was in accordance with a Canada Revenue Agency amnesty incentive, now discontinued, that was intended to encourage delinquent taxpayers to submit late declarations, thus garnering funds which would otherwise have been lost or, at minimum, require costly legal action to be collected.<sup>[7]</sup>

The Commission completed its hearings phase in the last week of July 2009. The following weekend Mr. Schreiber, after a last-ditch effort to find another means of avoiding extradition, was ordered to appear at the Toronto Detention Centre pending his return to Germany.<sup>[8]</sup> Within three hours, he was escorted onto a Europe-bound aircraft by two RCMP officers, and designated "surrendered to Germany."<sup>[9]</sup>

The Commission's report, released on May 31, 2010, included the following findings:<sup>[10]</sup>

- That Mulroney entered into an agreement with Schreiber while Mulroney was a Member of Parliament, but not while still prime minister
- That Schreiber retained Mulroney to promote the sale of military vehicles in the international market (not within Canada), that three cash payments totaling at least CAD \$225,000 were made by Schreiber to Mulroney in person, and that no services were ever provided by Mulroney for the monies paid
- That these business and financial dealings were *inappropriate* given Mr. Mulroney's position and that Mulroney repeatedly acted inappropriately in disclosure and reporting of the dealings and payments

The report intentionally avoids "expressing any conclusions ... regarding civil or criminal liability" based on the Commission's mandate<sup>[11]</sup> and Oliphant wrote that he was "careful not to use language that would even hint at such a finding"<sup>[12]</sup>.

## See also

- Lockheed bribery scandals

# References

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- <sup>3</sup> ^ *The Globe and Mail*, November 29, November 30, December 1, December 5, December 7, December 8, 2007
- <sup>4</sup> ^ Probe 'Unfair': Mulroney (<http://www.nationalpost.com/story.html?id=261289>)
- <sup>5</sup> ^ CTV.ca | Mulroney won't appear before committee: lawyer ([http://www.ctv.ca/servlet/ArticleNews/story/CTVNews/20080226/mulroney\\_parliament\\_080226/20080226?hub=TopStories](http://www.ctv.ca/servlet/ArticleNews/story/CTVNews/20080226/mulroney_parliament_080226/20080226?hub=TopStories))
- <sup>6</sup> ^ globeandmail.com: Ethics group backs down in faceoff with ex-PM (<http://www.theglobeandmail.com/servlet/story/RTGAM.20080227.wmulrr0227/BNStory/National/home>)
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- <sup>8</sup> ^ [http://www.ctv.ca/servlet/ArticleNews/story/CTVNews/20090802/karlheinz\\_schreiber\\_090802/20090802?hub=TopStories](http://www.ctv.ca/servlet/ArticleNews/story/CTVNews/20090802/karlheinz_schreiber_090802/20090802?hub=TopStories)
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- <sup>10</sup> ^ Oliphant Commission Final Report (<http://epe.lac-bac.gc.ca/100/206/301/pco-bcp/commissions/oliphant/2010-07-20/english/reports/reports.php.htm>)
- <sup>11</sup> ^ <http://epe.lac-bac.gc.ca/100/206/301/pco-bcp/commissions/oliphant/2010-07-20/english/terms%20of%20reference/terms.php.htm>
- <sup>12</sup> ^ Oliphant Commission Final Report, Volume 1: Executive Summary (<http://epe.lac-bac.gc.ca/100/206/301/pco-bcp/commissions/oliphant/2010-07-20/english/reports/oliphant%20commission%20vol%201%20english.pdf>) , p. 50

## External links

- Oliphant Commission (<http://epe.lac-bac.gc.ca/100/206/301/pco-bcp/commissions/oliphant/2010-07-20/default.htm>) - Official Site (Library and Archives Canada)
- Money, Truth and Spin (<http://www.cbc.ca/fifth/moneytruthandspin/>) a CBC *Fifth Estate* investigation
- Mulroney was the real story (<http://www.orwelltoday.com/mulroney.shtml>) by Stevie Cameron

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