

# Extraordinary Meeting of The World Motor Sport Council

## **Max MOSLEY**

Before proceeding with the meeting, I would like to ensure that you agree to the agenda.

*(No objections are voiced.)*

The McLaren team has objected to the presence of Ferrari. We will deal with that in a moment. The plan for the moment is that no one connected with Ferrari should vote on the McLaren matter: this means that Mr Isoart will not, on that matter, exercise Mr Piccinini's vote.

We must also bear in mind that no one on the Manufacturer's Commission may have a vote on Formula 1 matters. The fact that Mr Cornelis has given his proxy does not affect the vote, in that the vote cannot be exercised. Apart from that, twenty people are present today, including deputies. We have five proxies and two people joining by video and telephone. Is this satisfactory?

*(General consent is given.)*

Let us then proceed to Item II. Please bring in the various lawyers and people.

*(It is ascertained that Nick Craw has joined the event by teleconference and Garry Connelly by videoconference.)*

Two seats at the table have been set aside for McLaren, and two for Ferrari, for the time being. Other advisors and assistants are asked to sit behind them. Further members from the team may be seated at the end of the table.

## **Max MOSLEY**

McLaren has objected to the presence of Ferrari and, by implication, to the presence of other teams. We like to operate on the basis of complete transparency. If you wish to press that point, you are absolutely free to do so. We will hear your comments, then consider them in closed session.

## **Ian MILL**

Our position is the following: subject to the way you wish to handle the matter, we propose to present our case to the Council. For that purpose, we are entirely content for observers of other teams and representatives of Ferrari to be present. I do not plan, as part of my presentation, to say anything that would cause embarrassment with regard to McLaren's own confidentiality. In particular, thereafter, if you or other Council members have questions for myself, Ron DENNIS or Mr Neale that might involve going into issues of confidential information, then on a piece-by-piece basis, we may consider whether it is necessary to ask for certain people to leave the room. Our

papers include one document not yet handed out to everybody. It is highly-confidential and I would not propose to share that document with Ferrari, subject to the view of the Council.

**Max MOSLEY**

That fits perfectly with what we had in mind. It seemed clear to us that, should something arise that was confidential to anyone, we would have to request that those parties absent themselves. In most of what we are doing, however, the more open and transparent, the better.

**Ian MILL**

We are entirely in agreement with this.

**Max MOSLEY**

There was one another preliminary point: the jurisdiction. It is up to you to deal with the case as you wish.

**Ian MILL**

We do not wish to be difficult by any means. To understand the case against us, we had to look at this from the procedural standpoint and wanted to draw to the attention of the World Motor Sport Council that, as we perceive the terms of the International Sporting Code itself and the FIA statutes which we subsequently looked at, it is not entirely apparent where this Council derives its jurisdiction to charge my client in this matter.

Our thoughts with regard to the Code itself are by reference to Article 152, which in its second paragraph suggests that those who impose sanctions for breaches of the Code are stewards of the meeting or the relevant ASN. In that regard, we do not see anything in the Code itself. In the Statutes, we saw in Article 16.1 that one of the roles of the World Motor Sport Council is to enforce the International Sporting Code. It may be on that basis that the Council considers that it has the jurisdiction to deal with this. I read that to mean that the Council would be responsible for ensuring that it would be enforced in accordance with its terms.

We do not want to be difficult with the Council, but we do feel that it is appropriate, not only for today, but perhaps moving forward and generally, that there be clarity on this. If the Council has satisfied itself that it has jurisdiction, then we do not want to debate the point any further. We thought it appropriate to draw the point to everyone's attention because it was a matter of concern to us.

**Max MOSLEY**

That is very helpful. We rely on Article 27 of the Statutes, in the paragraph immediately under reads: "In addition, The World Motor Sport Council may directly impose the sanctions provided for in the International Sporting Code, and where appropriate, the World Council on Automobile. That is not actually relevant. This is found on page 291.

**Ian MILL**

This is fine.

**Max MOSLEY**

I should make two general points. We are the world governing body of the sport. It is inherent, in the jurisdiction of such a body, that we should enforce the rules of the sport. On that basis, we would claim that there is inherent jurisdiction in the World Motor Sport Council. Furthermore, the point is entirely academic, in the end, for if everyone wished to do so, we could simply seize the stewards of the meeting with the issue, then using Article 152, bring the matter before the World Sport Council if we were not satisfied with the action of the stewards. The point is completely academic in our view.

**Ian MILL**

I understand and do not want to debate the issue further.

**Max MOSLEY**

I completely understand why you wished to bring this up.

**Ian MILL**

I had one further preliminary matter.

The documents arrived with the FIA in three stages and I wanted to make sure that everyone had received them. Last Friday, we sent out our response to the international governing body, in the form of the Statement of Facts and supporting documentation. On Tuesday, we handed in our legal submissions with attachments. Lastly, yesterday, we sent in our response to what we have termed the "Ferrari Memorandum", the Ferrari document that forms part of the dossier which everyone has received. I hope that we can proceed on the basis that everyone has received all of those documents and, in particular, the document most recently promulgated.

**Max MOSLEY**

Yes, to the best of our knowledge.

Regarding the last document, the tone of which was somewhat outraged. Yet we must make it clear that the Council will not take particular account of either the Ferrari Memorandum or the response. On the one side, Ferrari is naturally very irritated that their documents have ended up with McLaren, and your clients are understandably irritated by the document that Ferrari produced. We will look solely at the evidence, i.e., regarding Mr Coughlan, etc.

**Ron DENNIS**

Excuse me, Mr President. The documents never arrived at McLaren. You stated that they did, but they have never been at McLaren. I am quite sensitive to this.

**Max MOSLEY**

This will probably be the main point in our discussion. Everything will be dealt with in due time.

I would also add that this is not a Court of Law, still less is it a criminal court. Our proceedings tend to be fairly informal, but we try to use every possible means to be completely fair to everyone. As part of this, should evidence emerge in the future or at some time, calling into question what we are told today, we would reserve the right – and have the right — to bring this all before the Council once again for further consideration. It is thus very important that, if there is anything else we ought to know, we be told it at the beginning. Clearly, it is much worse if such matters are unturned later, during the course of the proceedings or later..

**Ian MILL**

That is, obviously, understood. Your Question 37 specifically asked whether we felt that, in the interest of motor sport, something further should be disclosed. I hope that, from the documents that we filed, everyone has been able to appreciate the steps that McLaren has taken to be open and transparent and complete in its investigation of this matter.

The Council can take it that we have put everything before the Council which we felt was relevant and that we have not withheld anything that we consider to be material. If it is said that something might arise during the course of the proceedings (I am obviously not anticipating that any fresh allegations will be made against my client today, as that would be against any form of due process) but if something arises at some point in the future, your statement holds true and we have fully taken that into account today.

**Max MOSLEY**

One final point, before I invite you to begin.

I must apologise for the late arrival of the dossier. The plan was to distribute a complete dossier, including the McLaren submissions and the answers to the thirty-seven questions on Friday last. Some parties are as far afield as New Zealand and would have been able to read them before arriving. The dossier was sent to the Council, but someone in the office decided that, as we did not have the McLaren items, we should not address it to McLaren. There was a form of logical fallacy therein, for the only team not requiring McLaren items was McLaren itself. However, it was not until Tuesday that I found out it had not been sent out and we gave orders for it to be done immediately. I apologise for that, as it is very inconvenient to be given papers at the last moment.

**Ian MILL**

We apologise also, for having had to provide papers at various stages. You will appreciate that we had to do a great deal of work very quickly, in order to answer the 37 questions and complete our investigations. You will have seen, in particular, that the IT investigation, for which we called on an external consultant, was only concluded at a time that enabled us to put in our response when we did. It had not been possible to interrogate and access all of the relevant materials at an earlier stage.

**Max MOSLEY**

In such meetings, we usually state that Council has read all relevant documents, then invite the person appearing before the Council to make any further submissions, if so desired. It is up to you: do you wish that we stop you at any point during your presentation, if we have questions, or only at the end?

**Ian MILL**

I welcome any questions at any stage; that will facilitate the process.

**Max MOSLEY**

I give you the floor.

**Ian MILL**

Ron Dennis and Mr Neale are both in attendance. They have given you statements, but are obviously open to any questions you may have. I was going to suggest that questions of those two might usefully await the end of my submissions, but if it is more convenient to interrupt, then that may happen as well.

**Max MOSLEY**

I think we will wait until the end of your presentation, unless something unusual happens.

**Ian MILL**

It is entirely possible that, if a question is asked, it will more readily be answered by one of the other two gentlemen.

Might I start by suggesting that, in substance, we are considering two quite separate sets of events. The first has been characterised as events in the nature of "whistle-blowing" in and around the Australian Grand Prix; secondly, the unsolicited, unauthorised provision by Mr Stepney to Mr Coughlan of Ferrari's private documents, subsequently, at the end of April and potentially thereafter. Those matters are quite separate and we propose to address them in like manner.

I propose to take the whistle-blowing shortly, for reasons perhaps obvious to everybody; if not, I propose to make them obvious as I proceed. May I briefly tell you what we say the facts are. Mr Stepney provided Mr Coughlan with certain information prior to the Australian Grand Prix' taking place in March 2007, suggesting that certain breaches of regulation might have been committed by Ferrari, by reference to devices in its car, to be used at the Grand Prix in Australia. The details of what was provided are set out in Paragraphs 8 to 14 in the Statement of Facts, which I believe you have all read. You have also seen, in attachment to the Statement of Facts, the correspondence between McLaren and the FIA that occurred in consequence and, in particular, a letter from Mr Lowe to Mr Whiting. This is also something that Mr Coughlan himself refers to in Paragraph 18 of his affidavit, which you have. In summary, what Mr Coughlan was told about by Mr Stepney was a floor device which was indeed used by Ferrari in the Australian Grand Prix and subsequently held to be illegal by the FIA. The other matter to which Mr Coughlan had his attention drawn was a rear wing separator, apparent on the face of the Ferrari car from the moment it appeared in Australia. This issue was taken up by Mr Lowe with Mr Whiting, and subsequently, the FIA, through Mr Whiting, ruled that there was nothing illegal about it.

We say that Mr Stepney was bringing forward *bona fide* concerns he had that his employer was breaching the rules of the sport. He chose, for reasons known to him, but not to me or any other people in this room, to communicate those concerns via Mr Coughlan. He was in a whistle-blower, "telling tales" or reporting on his own employer. In short, we feel that McLaren's action in response to this was entirely the right course of action, as was that of Mr Coughlan, in reporting it within McLaren. The way in which McLaren dealt with it was the customary way. We did not point the finger at Ferrari, as we could have. Instead, a very gentle letter was written by Mr Lowe, pretending that this was something that McLaren was intending to do, requesting guidance as to whether this was permissible. We could have been far more confrontational about this, but were not. We would observe that neither the FIA, in response to what took place in March, nor Ferrari asked us for the source of the information. It is worth bearing in mind that, by that time, it was widely-stated in the press that Mr Stepney was the source of the information and was clearly disaffected with Ferrari. It is entirely possible that Ferrari at least suspected that Mr Stepney was the source of information. Be that as it may, even if the receipt of the whistle-blowing information forms part of the charge, it cannot sensibly give rise to any liability. The charge you have read is a charge of possession of material which could be used to design or enhance the performance of the McLaren Formula 1 Car. That is a broad summary; the detail is much more specific, but that is the sense of the assertion. How can this be said in relation to a floor device ruled illegal? How can this be said in relation to a separator that is hardly confidential, when it is apparent on the face of the car to anybody who looks at it. Furthermore, no criticism can be attached to McLaren in the sense of something that might support a charge under Article 151C of the International Sporting Code. How did anything we did constitute fraudulent conduct or conduct that might be prejudicial to the interests of motor sport? It is surely in the interest of motor sport that those who are tempted to breach the rules be found out. Whistle-blowing, at least in England, is something positively endorsed. There are specific protections for employees who blow the whistle, because it is thought that, under certain circumstances, where there are breaches of obligation or what is reasonably thought to be so, that those who choose to bring forward such matter should be protected, in particular by the non-disclosure of their identity. If there is to be any criticism, theoretical, the only possible one is that we did not tell the FIA or Ferrari that Mr Stepney had provided the information. With respect, that is not right, for that is not what McLaren ought to do. Mr Dennis thought long and hard about the right response. He did take action, but did not disclose Mr Stepney's identity. This was entirely consistent with good practice, certainly as a matter of English law. I would suggest to you that, if the FIA felt there was anything wrong with this, or thought it appropriate that the source be disclosed, they would have asked, yet they did not.

What action was taken as a result of the whistle-blowing?

- Mr Neale, present, instructed Mr Coughlan not to have any such further contact with Mr Stepney.
- Mr Dennis, secondly, sought and reached an agreement with Mr Todt on a way forward, as indicated in his statement, in the form of a non-binding agreement between the teams as to how to deal with possible concerns over regulations in the future.
- Subsequently, when Mr Neale found out that despite his instruction to Mr Coughlan, Mr Stepney was continuing to make contact, he installed a firewall on Mr Coughlan's computer at work.

In summary, where whistle-blowing did occur, we took entirely appropriate action. However, we did not want to encourage or facilitate it in the future, and thus sought to establish a limit. It was not necessarily appropriate for Mr Stepney to be whistle-blowing to another team. In this instance, it was McLaren, but it could have been another team. On the contrary, we took steps to ensure reasonably that it did not happen in the future.

There have been other instances of whistle-blowing this year, at least one of which I am aware of: Spiker launched a protest at the Malaysian Grand Prix, having evidence that the Scuderia Toro Rosso car contained at least one part designed or manufactured by Red Bull Racing. The evidence was a technical drawing which somebody had sent to them from Red Bull.. In the event, the protection failed, for there are procedural actions ongoing and it was not deemed appropriate. In another instance, a whistle-blower provided information and Spiker, the team involved, passed information to the FIA. Correct me if I am wrong, but I am not aware that Spiker has been the subject of any charge or inquiry as a result of their use of that confidential information. That is entirely consistent with our position: if whistle-blowing takes place, action is taken on it. It is more in the interest of the sport than contrary to it, so to do.

My final point is a technical one. As analysis of the charge, we took the view that it did not even cover this event and so wrote to the FIA on 13 July, stating that we were proceeding on that basis. We have had no response to this, saying that we were incorrect to act in that way. Irrespective of this and whether the FIA did form part of the charge, it is one that readily ought to be dismissed. May I now turn to a fresh chapter of events?

## **Max MOSLEY**

Other Council members undoubtedly have points to make. The first, immediate point is that, as the term "whistle-blower" in commonly understood, it refers to one who complains to the authority, not to a rival organisation.

## **Ian MILL**

That was the mode of communication. Clearly, Mr Stepney's purpose was that it should find its way to the authority. There was no other reason. I do not disagree with you, in that this was not the appropriate course, but it does not change his being a whistle-blower.

**Max MOSLEY**

This was, however, confidential information and the property of Ferrari, was it not?

**Ian MILL**

Yes.

**Max MOSLEY**

This was given to McLaren, which used it to alert the FIA, but thought it not appropriate to take any further step.

**Ian MILL**

I have just indicated the steps that it took: to ensure that this did not happen again. We thought that was the appropriate response. The only further step would have been to disclose to the FIA, and perhaps to Ferrari, the identity of the whistle-blower. I repeat: had it been deemed appropriate, at the FIA, to have the source disclosed, why did the FIA not ask us? If Ferrari had wanted to know... Ferrari knew that the information had come from us. When Mr Whiting circulated the decision to render the floor device illegal, he circulated, at our request, the letter that Mr Lowe had written. That letter contained a drawing that clearly showed that the person drawing it, Mr Lowe, had had access to the information. He could not have drawn it by looking at the car because part of it was behind the plate. Ferrari knew that the information must have leaked from Ferrari. They did not ask us. The only criticism potentially make is that we did not voluntarily disclose the identity. Is this seriously conduct that is fraudulent? Is that seriously conduct that is prejudicial to the interest of motor sport? What was prejudicial was the successful use of an illegal floor device, by Ferrari, in the Australian Grand Prix, which it won – and an illegal floor device in respect of which we did not lodge a protest.

**Max MOSLEY**

Do you not think that an honest person, particularly one who enters into an agreement with the other team that all will be open and transparent, would have said to the other team: "I think you ought to know that a senior member of your organisation has been giving us confidential information"?

**Ron DENNIS**

The whistle-blowing took place before the document. The document originated from a public argument between Jean Todt and Martin Whitmarsh. I witnessed this at a distance and thought it was not particularly good for Formula 1 or for either of our teams. I wrote to Jean. He ultimately came back to me, saying that it would be a good idea. The first document I submitted to Jean stated that the obligations within it should be legally-binding. Jean asked that it not be so, and the latter is the agreement we signed. One day or two after we entered that agreement, a cascade of inquiries came to us from Ferrari, in my opinion and my engineers' opinion, absolutely designed to



understand some aspects of our racing car. They were not challenging the legality of our racing car, but were rather on a “fishing trip” regarding the purpose of certain components on the car. Every one of those questions were answered by our engineers and we received a positive response from the FIA, thanking us for answering them. If we are looking at the honesty and integrity of our respective organizations, I offered a legally-binding document, without being asked to. It was struck down and became non-binding with respect to the law. As soon as the document came into effect, Ferrari went on a “fishing trip”, trying to understand a whole range of facts about our car. We answered every single question and they were satisfied with the answer. In the end, there are many examples of no one taking any action whatsoever when such occurrences come to light. I took action and did so as I felt was appropriate.

**Max MOSLEY**

Ron, you state that the document followed the whistle-blowing, which is undoubtedly so. Yet, there was a man working in an organisation with which you had just entered or were entering an agreement, and you did not think it appropriate to inform anyone.

**Ron DENNIS**

If it had occurred subsequently to that matter, I would have. But it did not; it preceded that matter. The matter had been dealt with by the FIA and professionally so. We did not accuse or protest Ferrari and did involve the FIA, at a very early stage. We did not question the fact that the subsequent ruling, after the Australian Grand Prix, was not brought to bear on the events of the Australian Grand Prix.

**Max MOSLEY**

At the time you entered the gentleman's agreement, you were receiving a flow of information.

**Ron DENNIS**

Not true. There was one piece of information. As far as I and my team were concerned, the information at that point was the singular piece of information. I have no knowledge of any other stream of information. Other than the actions of Jonathan, of which he kept me aware, we had no knowledge at all about what was going on between Stepney and Ferrari.

**Max MOSLEY**

I am referring to what was going on between Stepney and McLaren.

**Ron DENNIS**

There was nothing going on between Stepney and McLaren.

**Max MOSLEY**

Why did you need to insert the firewall?

**Ron DENNIS**

We took the necessary steps based on what had happened. Furthermore – we will come in detail to the IT – when the firewall as inspected, subsequently and in the last month, there was nothing upstream. Nothing had entered the company.

**Ian MILL**

The further communications from Mr Stepney to Mr Coughlan consisted of disparagement of Ferrari. There was no further confidential information. This is in Mr Neale's statement. There is no suggestion that any further confidential information was provided by Mr Stepney to McLaren other than as disclosed by us and by Mr Coughlan in its affidavit. What was of concern to Mr Neale, hence the installation of the firewall, was the clear disaffection on the part of Mr Stepney. Mr Neale had stated that there should be no further communication with him. When Mr Coughlan reported to him that Mr Stepney was still making disparaging comments about Ferrari, Mr Neale went further and had the firewall installed.

The question you posed to Mr Dennis, with all due respect, was unfair. You suggest, "Wouldn't an honest man have disclosed it?" That is not a question appropriate to ask Mr Dennis in this circumstance. The response to whistle-blowing must be a matter of judgement. For reasons I have sought to articulate, there is a tremendous amount of protection, under English law, for whistle-blowers, including their identity. In my experience, what Mr Dennis and McLaren did was entirely consistent with this, in not disclosing it.

If there were serious breaches of regulation taking place in another team and someone was planning to blow the whistle, yet knew that, earlier in that year, under similar circumstances, a team had blown the whistle on the identity of an informer, would that not discourage the dissemination of important information? If Mr Stepney had disclose the information to the FIA, would the FIA not have been obliged to tell Ferrari? Why should Ferrari be in a different position from McLaren? McLaren was simply the conduit for the information. If the FIA had thought it was appropriate for Ferrari to be told the source, the FIA could have told us and asked us to provide it. It did not.

**Max MOSLEY**

That is not exactly how the matter is being put. Clearly, the FIA would not reveal the identity of a whistle blower. In this case, confidential information flowed from Ferrari to McLaren, some used and some not used. This raises a very strong inference that this was not the only information. It would fit better with the suggestion that McLaren behaved impeccably, if Mr Dennis had, once the friendly relationship with Mr Todt had been established, told him, "I ought to warn you that you have a 'bad apple' in your organisation".

**Ron DENNIS**

As I pointed out, the first thing that happened when the agreement was put in place was a deluge of questions relating to performance aspects of our cars.

**Ian MILL**

I am not sure what you mean by the “strong inference”. If you are saying that there is a strong inference that McLaren is not telling the truth to this Council, then I protest most strongly. If you are suggesting that a detached observer might think this, then it has been rebutted. In the circumstances as they have been described, it is not appropriate to suggest that anything was wrong with Mr Dennis’ approach on this.

**Max MOSLEY**

Let me put this another way because I do not think I have been very clear. If information was flowing from Stepney to McLaren, the only piece of information that McLaren needed to reveal was the story of the floor and the wing. It is thus entirely understandable that those two matters would emerge. There was no hint of the problems with Mr Stepney, when the agreement was made. One wonders, then, whether Mr Stepney was not providing information of which that was only one part. The reason – and it would not be fair if I did not put this to you – for which Stepney was not exposed by McLaren was because he was useful.

**Ian MILL**

Well –

**Max MOSLEY**

Let me just finish the reasoning. His behaviour becomes erratic, according to Mr Neale’s statement. Mr Neale, in his discussion with Mr Coughlan, then said to stop the communication. A disinterested person looking at that would wonder whether there was further information. Would it not have been more consistent with the only piece of information being the whistle-blowing that Mr Dennis would warn Ferrari, considering their relations, that they had a very suspicious individual in their organisation?

**Ian MILL**

I do not see the distinction on how Mr Dennis should have reacted, depending on how much information had been disclosed or not disclosed. What did happen is that Mr Dennis instructed that there should be no further contact. That is the step he took, and it is appropriate to me. He said that there should be no further contact, and Mr Neale gave that instruction to Mr Coughlan.

**Max MOSLEY**

Several weeks later, and after Mr Stepney had become erratic.

**Ian MILL**

No. By all means, no.

**Max MOSLEY**

In April, according to Mr Neale's statement.

**Ian MILL**

No. Mr Neale refers to two stages: immediately after the Australian Grand Prix, he gave instructions to Mr Coughlan that there should be no further contact. It was only when he was told subsequently, after the Bahrain Grand Prix, that Mr Coughlan was still receiving communications from Mr Stepney disparaging Ferrari, that he installed the firewall. That was a second gradated response. The first response, requesting that there be no further contact, was immediate, after the Australian Grand Prix.

**Max MOSLEY**

Let us look at the statement.

**Ian MILL**

It is found at Tab 4 in the Initial Response and Statement of Facts, page 2, paragraph 7. Perhaps you should read together Paragraphs 6 and 7.

**Max MOSLEY**

"I recall being told by Mr Coughlan after" – it does not say immediately after the Australian Grand Prix – "that he was concerned about having received unsolicited information from Mr Stepney, about his having been unhappy at Ferrari. Having read press reports about Mr Stepney's increasingly unsettled relations with Ferrari and what appeared to be increasingly erratic behaviour, formed the view that no good could come from Mr Coughlan having any further communication with him. I did not understand or trust his motives and did not know whether his communications to Mr Coughlan would help McLaren deal with questionable conduct on the part of Ferrari, or would it deceive or set up or compromise McLaren. I wanted to be sure that Mr Stepney and Mr Coughlan were not communicating, technically or professionally.

**Ian MILL**

Please carry on.

**Max MOSLEY**

I accordingly asked Mr Coughlan to take steps to end contact with Mr Stepney and to tell Mr Stepney not to send him anything further. When in mid-April, after the Bahrain Grand Prix, Mr Coughlan told me that, despite his efforts to end contact with Mr Stepney continued to contact him to complain about his treatment at Ferrari, I also arranged for a firewall to be introduced on 17 April, to block potential e-mails.

**Ian MILL**

That is what I see as the two stages of treatment. As to precisely when, after the Australian Grand Prix, the instruction was given...

**Max MOSLEY**

Perhaps we can ask him.

**Ian MILL**

*(after asking Jonathan Neale)*

It was immediately after they landed at the airport from the Grand Prix.

**Max MOSLEY**

It does not say that in the statement.

**Ian MILL**

That is what Mr Neale is here to do: to assist the Council with any further questions that it might have.

**Max MOSLEY**

Another point, with regard to the Rules of Engagement. It is stated that: "Both teams are committed to the long-term health and well-being of the sport and wish to collaborate in a manner that fosters and encourages cooperation and demonstrates leadership to the other stakeholders"... "We wish to draw a line under matters of contention, signal a fresh start." Then, in Paragraph 1 "In the event that a team believes that the other team may be interpreting the FIA Regulations in a manner believed to give the other team an illegitimate competitive advantage, then it may either approach....".

**Ian MILL**

What it does not say is that they will disclose the source of the information. That was no part of the agreement.

**Ron DENNIS**

It was also entered into at the Canadian Grand Prix, after Jean had deleted the mention that this be a "legally-binding agreement". I was comfortable for this to be a legally-binding agreement.

**Max MOSLEY**

"Each team recognised the need to prevent an official protest and endeavours to apply to all possible extent the procedures, so as to ensure that the other team does not enjoy an illegitimate competitive advantage"... "shall disclose its concerns"... Perhaps I am seeing this in completely the wrong way, but it does seem that, at that point, had Stepney not been a useful source of information...

**Ron DENNIS**

Max, firstly, the document was signed at the Canadian Grand Prix. Secondly, it was not provided to Ferrari, with the latter then saying it would not be part of the agreement. It went back and forth two or three times between the companies. I took the initiative and the key fact here is that I wanted this to be legally-binding.

**Max MOSLEY**

Mr Todt wishes to say something, I think.

**Jean TODT**

Ron Dennis has called me into question on two or three quotes. I simply wanted to confirm for the World Council members that, if you see the letter, I answered about the cooperation between Scuderia Ferrari and McLaren Racing, I reminded him, in the last paragraph, that we already have an agreement with Williams and McLaren in 2003, with the same content. As I was not satisfied as it was not respected in the way I felt it should have been, when Ron approached me after the Australian Grand Prix, where I was unhappy about the heavy comments regarding Ferrari, he said we should make an agreement. I replied that we already had an agreement ongoing and that it was not upheld. Nonetheless, I prefer to have a healthy championship, and was prepared to make an additional agreement. He agreed to make a draft. He informed me of this, and I agreed. I stated that we already had an agreement, as stated in this letter. We communicated on this agreement, which was signed between McLaren, Williams and Ferrari during a meeting held in Parma, Italy. That is why I felt it was helpful to give you those details. The last point, concerning the deluge of questions, once the agreement was in place, we had a doubt about one technical device on the McLaren car. Rather than going to the FIA, we thought we would deal with this internally, as we

agreed together. That is why we sent the letter. It was addressed to the Head of the Chassis Technology, Patty Lowe. We were satisfied with the answer.

### **Ron DENNIS**

First of all, I think we should have a copy of the Williams, McLaren and Ferrari agreement. As Jean seems to have conveniently forgotten, the breach of that agreement was on Ferrari's part. If reference is to be made to that earlier agreement, it would be appropriate to have it in front of us and decide the circumstances under which it was breached. Secondly, it was notified to us by Ferrari that they did not wish to live under that agreement again. It did not exist because they did not want to function under it. Lastly, the question raised about the McLaren car was not one question alone, but five.

### **Ian MILL**

I will make two points. The first is the suggestion that McLaren may have found Mr Stepney a "useful source of information". We absolutely, categorically reject this, first because there is no evidence to support it and secondly, because it is completely inconsistent with the action that McLaren took.

Let us deal firstly with the evidence, for we are here to consider evidence, Mr President. Mr Coughlan does not say this. No evidence from the search of Mr Coughlan's house or computer has supported that. We have disclosed all the relevant e-mails we could find following Crawl's interrogation of the computer system and there is no evidence from Ferrari to support that. I will come back to this, but they must have made their own inquiries by now. It defies belief that they have not made their own internal investigation of what Mr Stepney has been doing. Hence, the evidence is not there. Rather, there is evidence (and I am sorry that Mr Neale's statement was not specific about the date) that, on the day that they landed after the Australian Grand Prix, Mr Neale issued the instruction that no further such contact was to be made. It was only after being told in April about Mr Stepney's continuing to contact Mr Coughlan, with a view toward disparaging Ferrari – not with a view to giving him confidential information – that the firewall was introduced.

Therefore, deal with this on evidence. There is no evidence to support assertions as the President has proposed. On the contrary, all of the evidence flatly indicates the opposite.

May I go on to deal with the other events?

### **Max MOSLEY**

Please.

### **Ian MILL**

Let us move forward, then, to the end of April. Apparently, some 780 pages of documents were given by Mr Coughlan to Mr Stepney, in Barcelona, on 28 April. Possibly, further documents were given to him a separate occasion. So far as we are aware, they were kept at his home and were shredded, but copied onto computer disks prior to this, also kept at his home. We have summarised

our factual response to this, in our document at the beginning of the papers. It is in Paragraph III and includes five propositions. I will read them out, then seek to support them with the evidence we have.

- Firstly, Mr Coughlan took possession of the documents for his own private purposes, without the authority of McLaren, and contrary to the specific instructions of his superior, Mr Neale, to cease any contact with Mr Stepney.
- Prior to the recent legal action taken by Ferrari, no one at McLaren except Mr Coughlan himself, was aware that Mr Coughlan had taken the Ferrari documents. No one else at McLaren received the Ferrari documents, nor any copies, nor any information derived from them.
- McLaren has made no use whatsoever of the Ferrari documents, or any information contained in them, either in its design or otherwise.
- So far as McLaren can ascertain at this stage, the most likely explanation, is that Mr Coughlan took possession of the Ferrari documents in order to facilitate a plan, initiated apparently by Mr Stepney, to move to Honda with Mr Stepney. He was accordingly acting not only in his own private interest, but also directly contrary to the interests of McLaren.
- Following Ferrari's legal action, Mr Coughlan has returned the Ferrari documents to Ferrari. He has been suspended by McLaren, pending disciplinary proceedings.

Those are the factual conclusions which we invite this Council to say are the correct factual conclusions on the evidence. I understand what Mr President has said: that you do not intend to take much account of the Ferrari memorandum and the inferences contained within it.

We would wish to draw to your attention, nonetheless, if only to dismiss a wildly inaccurate assertion made by Ferrari in its memorandum, to the effect that the totality of those documents were seen by four senior McLaren employees. That is the clear message that one gets from reading the memorandum. I hope, having read the response to it, that you will see that this is completely unjustified, not only on the facts that we have presented, but on the evidence from which they drew those conclusions themselves. They drew that conclusion from Mr Coughlan's affidavit -- the only material that they had. All Mr Coughlan's evidence indicated was that he briefly showed two pictures to Mr Neale and one diagram to Mr Taylor. I will come back to both these points. That is the totality of the evidence of contact between McLaren employees and the Ferrari documents, assuming that they are Ferrari documents. For today's purposes, we will do so, but you will understand that we do not know, because we do not know what is in them.

The reference by the Ferrari memorandum to Mr Whitmarsh and Mr Lowe having access to this information is completely immaterial, irrelevant and wrong. The totality of their involvement was in relation to the whistle-blowing matters, about which I have already spoken. As far as Mr Neale is concerned, his evidence is that he saw two images only, had no idea that they were Ferrari documents, was not told by Mr Coughlan that that is where they came from. He was not told by Mr Coughlan, nor did he think that Mr Coughlan had any such documents. He has stated and is here to explain why he did not take that matter seriously. In any view, he certainly did not derive any information from it, did not use the information and did not appreciate that Mr Coughlan had done what he had done, that action being flatly contrary to his instructions. So far as Mr Taylor is concerned, he saw one diagram, but did not know its provenance or age. He was asked by Mr



Coughlan whether this looked like the type of brake balance that Ferrari had been using when he and Mr Taylor had been at Ferrari in the 1990s. He said that it did and that was the totality of their conversation. They had been talking about brake balances, and then moved on. Mr Taylor did not appreciate that Mr Coughlan had received an entire raft of Ferrari documents from Mr Stepney and did not otherwise consider where that document might have come from. He did not discuss it with any other person at McLaren. Equally, Mr Neale did not discuss what had happened with Mr Coughlan with anyone else at McLaren. He has explained in his statement why that is so, and is here to answer any questions you may have about this.

So far as McLaren is aware, Mr Coughlan took those documents home, kept them secret from McLaren, had them copied at an outside copying facility – incidentally, how this matter came to Ferrari's attention – and made no use of them otherwise, certainly not for the purposes of McLaren's business. He acted contrary to his contractual obligations, which we have set out in our submissions, contrary to Mr Neale's instructions and effectively, in deceit of his employer. We say "in deceit of his employer" because we infer and state that it is a very strong inference, that on the information available the strong probability is that Mr Coughlan was doing this with Mr Stepney with a view to him leaving McLaren to join another team.

We now know, very recently, as a result of interrogating Mr Coughlan's computer that, as long ago as last September, one of the e-mail streams that we have found and produced is an e-mail stream with Toyota, in and after September last, starting off with an e-mail from Mr Coughlan. In it, he states: "I will be leaving McLaren" and requesting that Toyota employ him. We also know – for Mr Todt has stated this in an affidavit that is not before you, but which we have seen – Ferrari made him a job offer in 2006, though he did not accept. We have seen from Mr Frye's chronology and, indeed, been told by Mr Frye, what happened between Mr Coughlan and Honda. First of all, five days after the documents were handed over by Mr Stepney to Mr Coughlan in Barcelona, Mr Stepney made contact with Mr Frye, set up a meeting to discuss moving to Honda. At that meeting, on May 9<sup>th</sup>, he stated that Mr Coughlan would like to accompany him. Mr Frye met with Mr Coughlan on June 1<sup>st</sup>. According to what Mr Frye has told us, Mr Coughlan aspired to become Technical Director of Honda. You have far more experience in these matters than I do. I invite you nonetheless to accept that it is not beyond the realm of possibility that, where senior individuals from one or two teams are planning to go to another team, they might commit the sort of wrongdoing that these individuals have, that they might be doing it for this joint venture, and not for that of one or other of their employers.

We have a concern before us today and do not know what has happened, though Ferrari may be able to assist us with this. It is just as possible that Mr Coughlan has disclosed to Mr Stepney a similar amount of confidential McLaren information, for precisely the same purpose: why only take Ferrari information if it is going to Honda? We have not yet been able to interview Mr Coughlan, for reasons already stated. You can be certain, however, that that is one of the questions that we will be asking. We are not perpetrators, but victims, in the same way as Ferrari is. Yes, we know about the Ferrari documents and, even though we are not aware of McLaren documents having been passed on, why are we not victims, in circumstances where the purpose of obtaining these documents was to take them to another employer?

**Max MOSLEY**

Can I stop you for one moment?

**Ian MILL**

Of course.

**Max MOSLEY**

I don't think it is true to say that there is any evidence of a desire to take these to another employer. There may have been the intention to go to another employer, but not to take the documents. One can understand that, if Mr Coughlan was leaving McLaren to go to Honda, he would want to take McLaren information. One can understand that if Mr Stepney were going to Honda, he would want to take Ferrari information. However, this does not explain why Mr Stepney gave Ferrari information to Mr Coughlan, if the objective was to go to Honda.

**Ian MILL**

One simply does not know what the minds of these individuals were. However, for a person planning to cheat, steal or take information, would it not be a good idea in advance of that person's departure, to store that information somewhere, well away from the employer? And why not, if there is a co-conspirator, give it to the other person? We are in the realms of inference, Mr President.

**Max MOSLEY**

Just as you say that I should not infer that there was a constant stream of information, of which we have only seen a little peek, as necessary to reveal for these proceedings, I must ask you whether it is right for you to infer all of these intentions.

**Ian MILL**

What was the "little peek" to which you refer?

**Max MOSLEY**

The little piece of information is the Ferrari floor device.

**Ian MILL**

There is no evidence of a constant stream of Ferrari information.

**Max MOSLEY**

You object to the drawing of inference that there may have been a stream information. That one bit had to be revealed because it was necessary to stop the floor device. If we enter the realm of inferences, then there could have been a lot of other information.

**Ian MILL**

There is a difference, if I may respectfully submit it. Inferences are always open to be drawn in appropriate circumstances. Here, in relation to whistle-blowing, all of the evidence is against that. Here, the evidence is consistent with the inference. If it was intended to be used by McLaren, you would not have the picture of the events that we do. Unless this Council is ready to say that everyone at McLaren is lying through their teeth, that there has been wide dissemination of this information across McLaren, and that Coughlan is a hero and that this outcome is wonderful, then one must accept that he did not take the information with the purpose of using it with his employer. Otherwise, why did he not disseminate that information. Therefore, if he was using it for private purposes, it is right to try and consider what those private purposes might be. That, simultaneously, he and Mr Stepney were trying to enter another team, may be an inference, but one that has far more factual material to back it.

**Max MOSLEY**

I think it is a little bit difficult to say that either we say that everyone at McLaren knew or no one knew. This is perhaps not the moment to raise this. Mr Coughlan was working at McLaren from the end of April to the beginning of July. No one has told us what he was doing. We have asked but we have not been told.

**Ian MILL**

I beg your pardon?

**Max MOSLEY**

We have asked, but have not been told. We have been told that he was in charge of the Drawing Office. We asked a specific question.

**Ian MILL**

We have the confidential document which shows all of the changes made to the car, up to and beyond the time where Mr Coughlan was suspended. We have not disclosed that yet.

**Max MOSLEY**

That is not the question. The question, found in Numbers 4 and 5 on the list of 37 questions had to do with the projects on which he was working. We have been told only that he was in charge of the drawing office. All sorts of things may... We require an answer to that and have not been given it.

**Ron DENNIS**

Can we return to this matter? I am trying desperately to hold onto one particular question you asked: "why, if they were plotting, did the documents get passed?" A plausible explanation is that, first of all, Mr Stepney was under intense scrutiny in Italy. Secondly, walking into a photocopy

shop with Ferrari drawings in Italy would have been quite stupid. I think they were moved out of Italy for that purpose. I am trying to be a gentlemen in this situation, but the simple fact, supported by affidavit, is that the drawings were taken by Mike's wife to a photocopy shop ten miles from McLaren. They were photocopied onto disk. She paid with a personal check, took them home, shredded them at home and burned them in her garden.

During the course of our searches through the e-mail transmissions – 50 000 e-mails on Coughlin's laptop, interrogated under the supervision of lawyers, by the most recognised forensics electronic experts, Crawl – we found one e-mail confirming, from their home e-mail address, that she had picked up the drawings from the shop. Regardless of how one “spins” this story, can you honestly believe that McLaren – the company, the team – is naïve enough to embrace the concept of a wife of an employee, going through the actions she did?

Furthermore, this employee was contracted initially from September 2002 to 2007. One year before the end of his contract, he re-signed for a period spanning from March 2006 to 2009. Fully-contracted, why would he apply for a job at Toyota, as evidenced in the e-mails? Why did he negotiate, as is the subject of our evidence? Why did he entertain a job solicitation from Ferrari from latter 2006, denied by Ferrari, then subsequently confirmed? And why, when there was a “love-in” that the local health club, to try to turn his mind away from resigning, why after pledging allegiance to McLaren, seven days later, he was discussing new employment at Honda with Stepney, in Heathrow Airport?

Are these the actions of someone working in unison with McLaren? To exploit documents? That did not happen. These are facts, not spin: three job offers, his wife fully-involved in the process, all of this fully documented in legally-binding affidavits. This is not the action of a company spying on the industrial secrets of another company. This is the action of two rogue employees definitely looking to find a future for themselves and go where the money lies. There are more than those two people involved. If I had the evidence, I could assert that here were up to five people, some from other teams. There is far more than meets the eye. We are here to present facts: three job offers, full involvement of Mrs Coughlin – all of this is evidence. We were not involved in this process.

## **Max MOSLEY**

I understand. Thank you. Do understand that I must ask questions as best I can, because we want to reach the truth. You must not feel that we are having a go at you because we are not.

## **Ron DENNIS**

Max, I have experienced 24 days of hell. I have strictly adhered to the letter of the law. The court order imposed on me, on you and on Ferrari. My company has been dragged through filth, through spin and innuendo. It has not come from you, and it has not come from me. There are no facts supporting what we are accused of. I am an honourable person. I did not pick up on your saying that there were questions about my honesty. I am fighting for my own personal integrity and the integrity of my company. There is no evidence whatsoever that this company used any of the material. There is every evidence to support that these two people were acting in unison to secure employment for larger sums of money. If you want the Who's Who of highly-paid designers, I can tell you that there are only two who earn nought of USD 5 million. You have Mr Coughlin's service contract and know that we pay him GBP [REDACTED]

[REDACTED] There are USD +10 million designers on the market and that is their motivation. They, in

turn, claim to be able to solve manufacturers' uncompetitive ness problems. "Buy my package", they claim, "and I will deliver results". Two of the largest, most powerful companies in the world, in Formula 1, have consistently failed from the day they entered this sport. That is why this has happened. "Buy me, I will give you competitiveness."

**Max MOSLEY**

Before we continue, I think there is slight disagreement about what happened between Mr Dennis and Mr Todt. I think that Mr Todt would like to say something on that point.

**Ron DENNIS**

There is no affidavit from Jean in this statement. There are three basic statements from me in this document, including one about a conversation. As you well know, within less than one hour of learning of this affair, I telephoned Jean and told him, "I learned this, it has blown my mind, it is thrown and twisted." I suggested that we engage our press departments. He said, "No, let's do it through the lawyers". Within Jean's affidavit, he makes reference to one part of that conversation.. we discussed three matters, two of which are factually-wrong. The lawyers can verify that we engaged.

**Max MOSLEY**

I don't think this is helping us at all. I think that Jean wanted to make a point. I do not want an argument between you and Jean. I wanted to give Jean the opportunity to say what he wanted to say.

**Jean TODT**

It is just a clarification about contact we had with Mr Coughlan to hire him in 2006. Our former Technical Director had a conversation with him and offered him a position in our company while he was in discussions for the renewal of his contract to stay at McLaren. In other words, this was prior to March 2006. Ultimately, he informed us that he was refusing our offer and had decided to stay at McLaren.

**Ron DENNIS**

It is absolutely common practice for teams and people to solicit. That is not my point. When solicited by Ferrari, Mr Coughlan had a contract that ran to the end of 2007. Yet the solicitation took place in 2006. I am only saying that this individual's intent...

**Max MOSLEY**

He is not a nice person.

**Ron DENNIS**

What are the motives of this, Max?

**Max MOSLEY**

It could have been all sorts of things.

**Ron DENNIS**

It is not a motive involving McLaren.

**Ian MILL**

Could we return to the previous place in the discussion, namely evidence of any possibility of benefit being derived by McLaren. You have all seen and, I hope, read the report by Mr Lowe. Mr Lowe is well-known to you, Mr President, and his integrity, ability and intellect are not in dispute. He has given a detailed memorandum to Mr Neale, following an investigation carried out at the request of Mr Neale.

I will read his summary conclusion. This is not one that he would likely have written had he deemed the situation otherwise: "Having reviewed the material set out above, I have absolute confidence that none of the Ferrari documents or information from the Ferrari documents was or could have been used or incorporated in any way in the McLaren car or in modifications to that car. Specifically, as stated above, there is no aspect of the design of the parts of our car concerning origin, justification or performance, of which I am not aware. Accordingly, I know from my own knowledge that no information from Ferrari was used in any performance upgrade to the McLaren car. There is an electronic file, the Combined Technical Programme, distributed by e-mail periodically and widely within McLaren Racing and Mercedes Benz high-performance engines. The CTP is so pervasive a document within the individual and collective data archives of both companies as to represent a body of evidence wholly impractical to corrupt. Within the CTP exists the Current Performance Plan, which provides a schedule of the quantified performance developments brought to the Vodafone McLaren Mercedes race-car throughout the 2007 season. The CPP schedule is comprehensive, exhaustive and complete. There is no measurable performance upgrade not present as a line item.

I have attached a print-out from the CPP as an example. That is the document we have here. It is current as at the 19<sup>th</sup> of July. We are in a position to circulate it within this room. It is a highly-confidential document and we would ask to have the copies returned to us at the end of the hearing.

**Max MOSLEY**

With your confidential document, that is part of the...

**Ian MILL**

I was not going to give it to Ferrari, or the other teams. This is for the Council members to see what Mr Lowe is referring to. The print-out is verifiable against McLaren racing data archives as being complete.

**Ian MILL**

“The document clearly shows that no information from Ferrari was used in any performance upgrade to the McLaren car. I have cross-checked this position, by reference to all other relevant documents. They confirm that no information from Ferrari was used in any performance upgrade to the McLaren car. For the avoidance of doubt, I can also confirm that I and all my staff in Engineering were astonished at the revelations concerning the documents found at Mike Coughlan’s house on 3<sup>rd</sup> July and were absolutely unaware of that issue prior to that date.”

I would add two things. The first is that Mr Lowe is not here, for the very good reason that we are trying to win a championship. Had anyone thought, in particular the FIA, for him to be present to answer any further questions, of course, he would have been. Mr President, if you wish us to have him on a telephone speaker, so that you can ask him questions, of course, that will occur.

Secondly, and I hope this will dispose of any residual point that Mr Lowe’s result can be thought not to cover. We have made an open offer, which stands as of today and will stand hereafter. It is an open offer to the FIA’s Technical Staff to come to McLaren and inspect anything that they want to inspect that might help in persuading you that we have not used any Ferrari technical information in our car. That offer has not been acted upon, but remains and will continued to remain hereafter.

Of course, we have suspended Mr Coughlan, but if you wish to come, please do. We say this fully bearing in mind what the President said at the start of the session: that if information contrary to what we have indicated today were discovered, we would be facing serious consequences. We understand this and maintain our offer. Please take that into account in considering how transparent and straightforward we are being. I am sorry if we appear not to have answered all 37 questions. Had we been told in advance of this hearing, that there was failure to answer properly, we could have done our best and brought Mr Lowe to deal with this. I am not aware that there is anything material beyond what Mr Lowe says with which we could assist you. However, if you wish to ask Mr Lowe, we will make him available. Ask him any questions you wish. I do not want it to be even remotely thought that our apparent failure to answer even in part the question is because we have anything to hide. We have nothing to hide and wish to assist in every way. I think this is all that we can say.

**Max MOSLEY**

Thank you very much. At a quick glance, this is – and I will not say anything that could be useful to Ferrari – this is an analysis of all the elements of the car and engine...

**Ron DENNIS**

That is not true, Max. That is the document that is circulated at least once a month, perhaps twice a month within the entire engineering staff. This sets the goals. We are not now in a position, where

the driver can tell the difference between one of those components. I would like to draw your attention to the red squares. The green squares relate to the amount of lap time reduction...

**Max MOSLEY**

This is all in Patty Lowe's statement.

**Ron DENNIS**

I understand that. I would still like to underline that each of these individual components, as a single unit cannot be detected by the driver. The purpose of this document is not to demonstrate to the FIA World Council our transparency in respect of our lack of intellectual property incurred. Rather, this is a document that is circulated once or twice per month, every month, to determine the performance targets of each engineering group. This means that all of this information is embedded in the company's systems.

**Max MOSLEY**

This is all in Mr Lowe's statement.

**Ron DENNIS**

The statement contains many things. I want to ensure that the Council knows, with respect to whistle-blowing, that every single engineer in our company has this document twelve months per year and knows exactly what we are doing.

**Max MOSLEY**

This appears to be an analysis of every element of the car and the increase or decrease in lap time attributable to that element.

**Ron DENNIS**

And how it was achieved.

**Max MOSLEY**

That is what it appears to be, at a very quick glance.

**Ron DENNIS**

Moreover, it must be understood that, upstream from this is the concept's DNA: single engineers developments do not occur in a single burst. This represents months of research. The DNA goes back many months.



**Ian MILL**

That is what Mr Lowe has done and what enabled him to reach the conclusions he did. He has gone back and checked the origin, provenance, DNA, date of concept, etc., and has satisfied himself that there is no possibility of Ferrari information being used, by clearing that origin and provenance in his own mind. He would not have written what he wrote in his report had he not felt comfortable doing so, and he did, following investigation.

We are trying to prove a negative: that is very difficult to do. We have no evidence before us that we have used it, other than inference. All we can do is to try to rebut the inference. We rebut it by looking at the motive and saying that all of the evidence suggests that there is no actual use. We cannot do anymore, except invite you, as we have already done to come to our premises: put your technical staff on the job, invade the premises and interrogate us. You are welcome!

**Max MOSLEY**

We understand that.

**Ian MILL**

Good.

**Max MOSLEY**

Charlie Whiting, present today, already took a very good look at a similar document at an earlier date.

**Ian MILL**

Yes, he was shown that by Mr Lowe.

**Max MOSLEY**

We were suitably impressed by the detail. I do not think that any of us would expect to see, on the current McLaren, anything from the Ferrari. Even if McLaren were in the worst possible way complicit with Coughlin, these parts are designed through a very lengthy process. All of these bits fit with other bits. It is very unlikely that there will be a "eureka". There are one or two things that might be useful. For example, for someone moving from Michelin tires to Bridgestone tires, it might have been useful to know the Ferrari weight distribution. However, in all probability, it is not, for there would have been endless testing and they would have known that weight distribution. We would thus not expect to find anything there.

What concerns us is the following: first, there is an inference that more people than Coughlan knew. As you said, there is no evidence that they knew any technical detail other than what you refer to as the whistle-blowing in March. The question that arises is that: Mr Coughlan had the totality of the technical information on the Ferrari.

**Ian MILL**

I do not know whether this is actually true.

**Max MOSLEY**

We believe it to be true.

**Ron DENNIS**

Any F1 car falls between 10 000 and 12 000 drawings. That leaves out tooling and all of the other components. Just looking at the future, we will make available to Charlie Whiting any developments that fall onto our racing cars this year and provide him with a full understanding of the DNA. He will then be able to judge whether it originates in Ferrari. We have no fear of this at all. Max, we are just not involved in this. Please do not involve us on the basis of hearsay. There is no factual evidence whatsoever that we are involved in this and we are not.

**Max MOSLEY**

Let us look at page 109 of the FIA Dossier.

**Ian MILL**

Please do not go there. Is this part of the confidential information from Ferrari?

**Max MOSLEY**

No, because we circulated it to everybody.

**Ian MILL**

No, we did not look at it. I understand that you deliberately circulated it. That may have been your decision and privilege. I took the view that it is not appropriate for McLaren to see that information. It is sensitive, technical information that belongs to Ferrari. I have prevented anyone from McLaren from seeing it.

**Max MOSLEY**

I think we are referring to two different things.

On page 109, there is a list of items on the CD. Do you consider this confidential?

**Ian MILL**

Yes.

**Max MOSLEY**

Thus, you have not shown it to McLaren.

**Ian MILL**

No, I have prevented them from seeing it.

**Max MOSLEY**

That makes it very difficult for them to defend themselves. On the one side, it is Ferrari's information. Ferrari has said that we can reveal it.

**Ian MILL**

I did not know that. I knew only that the FIA had decided to disclose it. If Ferrari says they are content for it to be revealed, then McLaren can look at it. However, this has not yet been done.

**Max MOSLEY**

As I understand it, that question was posed by McLaren's lawyers.

**Ian MILL**

We asked whether it had been included accidentally, and were told that it was intentionally included. I did not see any express statement that Ferrari had given its permission for that information to be disclosed to McLaren. For that reason alone, I did not think it appropriate for McLaren to see it. I am happy for Mr Dennis to look at it now, given that fact.

**Ron DENNIS**

I want to be absolutely explicit. Not one member of our staff has ever seen, save for that disclosed in our dossiers, one single Ferrari drawing. That is the truth and I do not want to see any Ferrari drawings. I want to be able to stand up in front of the world and say that neither I nor any member of my staff has looked at a Ferrari drawing or data.

*(having conferred with his legal counsel):* I am told it I not drawings, purely a list.

**Max MOSLEY**

It is attached to the Ferrari memorandum. There is a brief crude list of what Ferrari says is on the CD. Then, there is a detailed report of the Ferrari test.

**Ian MILL**

...which would clearly not be appropriate to see.

**Max MOSLEY**

I asked whether they would object, and they did not, but it would be better if they did not see it.

**Ian MILL**

Unless you think it is absolutely necessary that they see it?

**Max MOSLEY**

I do not think it is so. It is only in there because the test was concluded on 3 May and was therefore not included in the pack from the 28<sup>th</sup> of April.

**Ian MILL**

We are extremely grateful for this, as entirely justifies the approach we have taken in our treatment of Mr Coughlan, which was to wait to see how this pans out, before interviewing him. If there evidence to suggest that Mr Coughlan has not been full and frank in his affidavit to the English court, that is something we wanted to know.

**Max MOSLEY**

Although he mentions a subsequent dinner and the receipt of a brake diagram, as opposed to the sketch, which was inaccurate, he has never offered any explanation for presence of the third element.

**Ian MILL**

That is absolutely right.

**Max MOSLEY**

There is another inference there.

There is no difficulty with everybody seeing the list that Ferrari says is on the CD. That is a huge amount of confidential information, no question about that. Mr Dennis, with his expert eye, will see very quickly that there is a lot of information there.

When we asked the questions, we asked two particular questions: "what projects was Mr Coughlan involved with at McLaren in 2007", and subsequently, "apart from the projects listed in 4 above, did he have any involvement in any aspect the technical work or management, present or future and, if so, please provide details". The response to the first question was: "Mr Coughlan is the Manager of the Vehicle Design Department, which produces the engineering drawings in respect to McLaren's Racing Programme. These designs respond to the engineering specifications produced by the other engineering functions. Consequently, Mr Coughlan has overseen the production of engineering drawings in relation to the design and development of the 2007 McLaren chassis. Please not, however, that McLaren has submitted evidence that all of these projects were independently developed by McLaren employees. In response to second question, it was responded: "Please see the answer to Question 4".

We were hoping to be told what he did each day.

**Ian MILL**

That is a bit extreme.

**Max MOSLEY**

We were not expecting quite the details on each day, but simply the projects in which he was involved. We were not told that.

**Ian MILL**

A fair inference is that this is what he was involved in.

**Max MOSLEY**

That was all?

**Ian MILL**

That was perhaps not everything, but nothing that extended beyond that. If we had had this document and felt able to show it to Mr Lowe, that might have helped him give a more specific, targeted response. I do not know. I am sorry if this is not an adequate answer. I had thought that it was, because Mr Lowe told you that this is what he had been doing. If you wish to check whether he has been doing anything else, we can ask Mr Lowe. If you want this dealt with in this room, it can be done. Alternatively, as we proposed, Mr Whiting has access to him and can speak to him from another location. He has had the ability to speak to Mr Lowe at all times.

**Max MOSLEY**

The issue is that someone is designing the 2008 McLaren.

**Ron DENNIS**

Why don't you ask the question, Max?

**Max MOSLEY**

Someone is designing the 2008 McLaren. In all probability, the person doing this is not in charge of the 2007 car.

**Ron DENNIS**

I can answer.

**Max MOSLEY**

Let me be clear. When we asked about the projects, the answer could conceivably have been that he was working on some aspects of the 2007 car and some aspects of the 2008 car. We thought we would receive a list of these.

**Ian MILL**

I am sorry; we genuinely had not understood that was the sense of the question.

**Ron DENNIS**

We can give you a detailed understanding of it. This year's car was designed by Pat Frye and next year's car is being designed by Tim Goss. At the moment, the latter has access to a percentage of the engineering resource, focusing on aerodynamics and gearbox design, to accommodate the new gearbox rule. The aeropackage is purely due to the need to design the monocoque shape early enough to determine the wet surfaces. These are the parties responsible for the design of those cars. If we are fortunate enough to win the World Championship this year, the design credit will go to Pat Frye. They alternate, year on year.

**Max MOSLEY**

As chief designer, does he or did he have any input?

**Ron DENNIS**

“Chief Designer” is not the term used in-house, but it was deemed the easiest expression to convey the sense of his job. It is an orchestrating position. Once the car is conceptualised by the team leader, the development programme is controlled by Patty Lowe and his team. The role that Mr Coughlan played lied in reliability: he watched the programmes and acted more as an orchestrator, not a designer.

Mr Coughlan has had no involvement in next year's car because his responsibilities would have commenced at the point of construction. Mike signs drawings, he does not draw them. His role is to approve a drawing for production and have an orchestrating position. The design of next year's car will be Tim Goss' work.

I am sorry that this was not specific in the documents presented to you, but we did not understand the purpose. Again, if Charlie Whiting came to the organisation, the paper trail on who produces drawings and how they are steered, would completely and utterly support, both into the future and the past, that Pat Frye designed the 2007 car and Tim Goss the 2008 car. You would see a stream of drawings countersigned by Mike Coughlan, meaning he approved them for production, from the standpoint of reliability and safety.

**Max MOSLEY**

One of the difficulties is that no one has been able to cross-examine M Coughlan. There are things in his affidavit cry out for it.

**Ian MILL**

We agree.

**Ron DENNIS**

Crawl, which conducted the electronic analysis, trying to search not only what was there, but also what was obliterated and re-assembled, focused solely and exclusively on incoming traffic. They have now been switched, at vast expense: it will take four months to determine whether there has been any meaningful download from our systems to disk. That process is underway now. We, too, have a very keen interest in how this unfolds. Please do not feel that we will not fall into the victim basket eventually. We have no evidence to support that position at the moment.

**Max MOSLEY**

The difficulty from our viewpoint is as follows. We cannot cross-examine Coughlan. He says that, having been given hundreds and hundreds of pages, he looked at them for one and two hours. That is manifestly untrue. Even if I were given the documents, they would be sufficiently interesting that I would spend some time going through them. To him, it is his whole life; it is what he does. It is inconceivable that he did not go through those documents in great detail. I am not saying that this automatically implies that they were used by McLaren. That is not the matter. It is inconceivable that he did not grow through them in great detail, because they would have been

completely and utterly fascinating to him. It is what he has always done and, suddenly, he had Ferrari information, and in great quantities.

He, then, for more than two months, went to McLaren every day, working on the McLaren projects, with this information increasingly in his mind. One would reasonably assume that, during those two months, he would be making his way through the documents. We need to be sure that this information was not used by Coughlan to further the interests of McLaren, even without anyone else in the organisation knowing it.

### **Ian MILL**

Mr Lowe states that this not possible. He says that he has been able to satisfy himself as to the origin and provenance of the various developments in which Mr Coughlan has been involved. I am not a technical person, and can only tell you that Mr Lowe is satisfied that there is no Ferrari provenance. He and Mr Whiting can discuss this.

### **Max MOSLEY**

It is, indeed. I am probably less technically-versed than you.

It is certainly clear that, either Mr Coughlan has no input at all, which is improbable, or that what is in his mind has an effect on what is done at Mr Coughlan.

### **Ron DENNIS**

This is supposition. You say that he may or may not have done this, and you say that curiosity got the better of him. There were in my view more than two individuals, systematically purveying themselves of the database, to instantly make an uncompetitive team competitive. That database was not solely and exclusively the material that Ferrari had stolen from it. I believe that is the action.

The question is: if he is concealing it – he who, seven days after pledging allegiance to McLaren, sat at Heathrow airport, discussing a job with Honda – why would he bring things in and destabilise? He would have been stupid to do so, and he did not. Then, the question is: what was in his mind? If we must determine whether his knowledge was relevant to our car's performance, we must go back and determine who came up with ideas? How long have these ideas been in the company? How long have they been streaming onto the car? All of the ideas in that schedule have their DNA in the R&D Department of our organisation, run by Patty Lowe. The two senior designers responsible for the two cars do not solely and exclusively function on their own, but are guided by the R&D Department, because it is the research reflected in the future car. Some may ask why Mr Coughlan was even present, considering that. The response is that his job was to oversee and coordinate. There are examples, perhaps, of similar positions elsewhere: Ross Born, for instance, probably orchestrates the resources at Ferrari. This is not uncommon in organisations. Jean may comment on this, but these are the facts. The unusual characteristic of Adrian Newey is his occasional work at the drawing board. Nonetheless, he cannot be said to be the designer.

The World Council needs to understand that we have 136 engineers and designers, totally focused on chassis development. One bad apple is immediately apparent: it is impossible to contaminate the



work of 136 engineers and designers in that period of time. We have completely verified, for our own standards and our own satisfaction that there were no Ferrari drawings or ideas on our premises. Coughlan did not communicate into the system anything with origins in Ferrari intellectual property. I am totally convinced of that matter.

**Max MOSLEY**

Did he contribute anything?

**Ron DENNIS**

His contribution is the sign-off. His peak workload comes in November- December-January, when 10 to 15 000 drawings come in. Someone must deem them “fit for production”, or “under consideration for drawing”, “under consideration for structural properties”, etc. That is not the design process.

**Max MOSLEY**

You are thus saying that he made no contribution.

**Ron DENNIS**

There is not a single employee at McLaren who does not contribute to our winning races. It would be ridiculous to say that one person in the organisation made no contribution whatsoever. However, his role was not in creation of the racing car, in the sense of his creative DNA.

**Max MOSLEY**

You stated, then, that he “contributed no creative ideas”.

**Ron DENNIS**

I have ideas. Everybody contributes ideas. We truthfully believe none of the ideas in our car originate in what is in his head, in respect of Ferrari intellectual property.

**Max MOSLEY**

You do see, however, that if you do not know what is on the Ferrari disc, you will not be able to say whether there are any contributions from that disc to your current car.

**Ron DENNIS**

Exactly. However, as far as we know and as far as we can establish, using Patty Lowe, nothing on our car now or in the last few months, according to our R&D programme, have their origins, ideas

or concepts in Mike Coughlan. They all have other people. This is not difficult to understand. 136 engineers and designers can be tracked back to individuals.

**President**

Thank you, Ron.

**Ian MILL**

If he were here, Mr Lowe would tell us that any of the McLaren designers, if they wish to add an idea for development, must clear it with others, in particular with him. He does not allow any new development until he is explained, not only the rationale for it, but also the origins. He can say that, if Mr Coughlan had come along and come up with any ideas, he would have had to explain the origins to Mr Lowe's satisfaction before this was pursued. This is not because Mr Lowe was suspicious, but simply because he wanted to understand the origin of the idea.

**Max MOSLEY**

Surely Mr Coughlan would say, "I had an idea last night".

**Ian MILL**

One does not simply "have an idea". It must be provoked or promoted by something. All I can tell you is that is what Mr Lowe would say. If you wish to ask him the question, we can call him on the phone immediately. You can ask him the question. That is what he will tell you. That is what he has told me, in terms.

**Max MOSLEY**

If you think it would be helpful to your case, then by all means, contact him.

**Ian MILL**

As I said, we are here to try to prove a negative. It is very difficult for us. We are charged with possession. We have been completely transparent. You are being asked to draw an inference, by Ferrari that some use might have been made of it. All we can do is offer you our premises, undertake the best investigation that we can, then draw the conclusions that we have from it. In a sense, it is very difficult for us. Had I thought it absolutely crucial for Mr Lowe to be here, he would have been. I had hoped that his report would have been sufficient for your purposes. If you want to be satisfied and here more from Mr Lowe, we will interrupt his day and get him on the phone. I do not need to do that. You cannot find a chose proven against us and sanction us on a basis for which there is no evidence. For the moment, there is no evidence that we have used it. Mr Mosley himself has said that Mr Whiting has had conversations with Mr Lowe before Mr Lowe did this report, was shown the document and was impressed by the detail. If it were seriously asserted that any item on the McLaren car had emanated from Ferrari, that would have been at the

forefront of this hearing. The fact is that there is not. The reason for this is that it has not happened. If the FIA wish to take advantage of the offer, they are welcome to do so. We offer that in full knowledge that, if what I am saying today is found to be untrue, we will be very severely sanctioned in consequence. That is as far as we wish to go.

**Max MOSLEY**

Is that everything?

**Ian MILL**

That was the facts. I will make some brief legal submissions, in relation to the charge, then subject to any further questions, I will close.

The first legal submission is found in paragraph IV, sub-paragraph 2. page 8. After setting out the core facts of our submissions, we state that: "there is no breach of Article 151 C as a matter of law". The charge under 151 C is the commission of acts, be they fraudulent, or likely to damage the integrity of motor sport. Those must be acts of the charged person, meaning McLaren. There is no evidence of any use of any of the Ferrari documents by anyone else at McLaren, other than Mr Coughlan. If you convict my clients of this charge, you would have to do so, on the basis that the acts of Mr Coughlan are to be attributed to McLaren. That only has to be stated to be seen to be an absurd conclusion, whether under English law, French law or any other system of law. One does not convict an employer for all acts committed by an employee unless done in a manner sufficiently connected with the employment. You do not convict McLaren, if Mr Dennis commits a drunk driving offence, for that is not in connection with his employment, but Mr Dennis' personal responsibility.

What Mr Coughlan did was outside the scope of his authority, in breach of contract, and was contrary to instructions. It was done dishonestly, for his own purposes, own his own private time and to the detriment of his employer. Those are the conclusions if one accepts, our core facts. Under any system of law, these acts cannot properly or fairly be attributed to McLaren. That is doubtless why we sit here alone, charged in relation to this sorry affair. If the act of Mr Coughlan is to be attributed to his employer, so must you say that the acts of Mr Stepney must be attributed to Ferrari, yet Ferrari does not stand charged today. We do not say that they should be charged. Ferrari had been defrauded by its employee. But there is no material difference between the position of Stepney with regard to Ferrari and Coughlan with regard to McLaren. In legal terms, their position is exactly the same. Under English law, they would be termed as being "on a frolic of their own".

What does the International Sporting Code deem on this? Article 151 C does not offer help, for if a party is charged, it must be for its own conduct. The only other article that might be referred to is that cited by Ferrari in its memorandum. Article 123, headed "joint responsibility of competitor and driver", states: "the entrant shall be responsible for all acts or omissions on the part of their driver, mechanic and passengers, each equally responsible for any breach of this code, or of the natural rules of the ASM concerned." This is clearly concerned with activities during an event, not with activities of this kind. In any event, Mr Coughlan is not a driver, mechanic or passenger. Article 123 deals with what might happen during a race, be it rally or Formula 1. If it is outside the ambit of an event, then Article 123 is not engaged. It is not suggested that, under Article 123, if a driver of a team crashes on a private road on his own time, the employer is responsible. Suppose a

mechanic commits a criminal offence, but not as a mechanic. Does that fall within the scope of Article 123 as the responsibility of his team? Clearly not. Article 123 does not assist.

One is thus driven back to the broad legal proposition: under what circumstances is it fair to attribute the acts of any employee to an employer? In this case, it is clearly not fair to attribute them to McLaren for all of the reasons that we have given. If you conclude against that submission, and feel that Article 151c of the International Sporting Code is capable of being construed in such a way as to make McLaren responsible for Mr Coughlan's acts, then the FIA must, as a matter of general law, not discriminate between teams. And it would do so if it found McLaren liable, while not pursuing Ferrari, for the equivalent acts of its own employee. Mr Stepney's acts were at least as bad, possibly worse; we don't know, for Ferrari has not told us the product of its own investigations. Doubtless, Mr Stepney has acted very badly indeed.

The obligation on any sports body not to discriminate between competitors is of fundamental importance to the integrity of that sport. Otherwise, one creates an unfair competitive imbalance between the teams, which undermines the whole credibility of the competition in which they are both concerned. While Ferrari remains uncharged, you cannot in fairness and without discrimination make McLaren liable in materially-similar circumstances.

When Angelo Santini, an ex-Ferrari aerodynamicist, stole confidential information, apparently on a CD-Rom containing data files and technical drawings and took them to Toyota, resulting in his conviction with another for industrial espionage, no charge was brought against Toyota, despite the apparent similarities between the Toyota 2003 car and the Ferrari 2002 car. It is not my role today to ask why no charge was brought against Toyota; but you discriminate against McLaren if you find us liable in circumstances where you did not even charge Toyota – circumstances where you had not just allegations, not just limited admissions, but a criminal conviction.

Could I then turn, lastly – I was going to deal with aspects of the Ferrari memorandum, but in light of your comments, I will glide seamlessly over that – to the final section in my comments, which has to do with sanctions. I am ready to deal with this as you wish. Sometimes it is thought appropriate for a decision to be made on liability and any decision on sanctions to be made thereafter. Alternatively, you may hear my submissions now.

### **Max MOSLEY**

It might be easiest for us to deal with the “yes or no” question, then if there is a decision on sanctions, we would first tell you what we have in mind, then ask for your submissions.

### **Ian MILL**

I am ready to answer any questions that anyone may have. Then, subject to what Ron DENNIS is about to say, those are my submissions.

### **Ron DENNIS**

Might I ask something?

**Max MOSLEY**

You appear to be saying, on page 8 of your documents, that we cannot attribute Mr Coughlan's conduct to McLaren, based on English law.

**Ian MILL**

I was not planning to take you to those.

**Max MOSLEY**

It does seem to me a curious proposition that one can escape vicarious liability merely by telling the employee not to do it.

**Ian MILL**

That was not my submission, quite to the contrary. The issue of attribution depends on whether the acts were within the scope of the authority. The classic pronouncement in Morris and Martin is to draw a distinction between what is outside the scope of what was meant to be done and what is inside the scope, but in a way not authorised. Mr Coughlan is authorised to design and do all the things described by Mr Dennis. If he did so in an unauthorised manner, including the use of someone else's information, thus infringing copyright, that would be actionable. That is not the matter in this case; there is no evidence of that. At hand is the receipt of another team's confidential information for whatever purpose. That is why, under English law, we are not liable for his acts.

**Max MOSLEY**

In page 90 of the Dossier and Paragraph 5 of Mr Coughlan's affidavit, he describes what he does at the Drawing Office. Later, he states that "Formula 1 teams closely monitor competitors and routinely and extensively study photographic, onboard-camera, and other visual and sound evidence to examine whether the performance of the team's own racing car can be improved. From this information,, I am closely aware of specific design features of other teams' cars and am able to make very accurate estimates of other design and performance features as other teams are with my team's car. In other words, he has a very good look, whenever possible, with help, at the other teams cars and uses this in the course of his work. It is entirely within the scope of his work to study the cars of the other teams. On this occasion, he did so with the assistance of illegitimately-supplied information;

**Ian MILL**

No, he was in possession of stolen Ferrari technical documents. His possession of those is the only feasible basis for any charge against McLaren. Therefore, it is not a matter of looking at what he was authorised to do and determine whether he was doing so in an unauthorised manner. He had no authority to take possession of any other team's intellectual property.

**Max MOSLEY**

That is not what is being suggested. He had the authority to find out as much information as he could about other teams' cars, and did so in an illegitimate way.

**Ian MILL**

You have conflated the first part of the paragraph, in which he describes his job responsibilities, with a general statement about what Formula 1 teams do. I am instructed by Mr Dennis that it is no part of Mr Coughlan's role to closely monitor the activities of competitors, routinely or extensively.

**Ron DENNIS**

Max, I fully appreciate the importance of trying to understand the legal position. I very much appreciate the relevance of your question. I am not a lawyer. Everyone walks up and down the Grand Prix grid, looking closely at other cars. Everybody commissions photographers to take pictures of cars. I had the amusing experience of locking another person's designer in the back of our truck, as he scrutinised one of our cars, and leaving him there for an hour. There are so many instances of people moving from team to team. There is a constant stream of exchange, with people taking what is in their heads. I can tell you comfortably where materials originating from McLaren sits on many other cars. Mr Coughlan, like many others in the organisation, is expected to be aware of what goes on in Formula 1. However, from my own deep involvement in the last 24 days of this programme: there is nothing there. There is simply nothing in our organisation. You may ask what was in his head. I can tell you about the DNA and about what is in other people's heads. We are not guilty of these crimes.

**Max MOSLEY**

We are on a fairly narrow point. The very learned counsel acting for you has suggested that this information is not within the scope of Mr Coughlan's employment. I suggest that it was. Everything you have just said tends to reinforce the suggestion that a certain legitimate form of industrial espionage is standard practice in Formula 1. The only difference between what Mr Coughlan and Mr Coughlan would normally do and what was done on this occasion was the presence of stolen goods.

**Ian MILL**

That is quite an interesting difference.

**Max MOSLEY**

Indeed. It is precisely your point: that he was acting within the scope of his powers, but did so in an illegitimate manner.

**Ian MILL**

You have inferred, from the second part of the paragraph that such was Mr Coughlan's role. He does not even go to the Grand Prix. He does not commission the photographers.

**Max MOSLEY**

I think you are splitting hairs. In that case, what can be said is that part of his work is the receipt of information resulting from the activities that Ron has just described. Even more, then, is the receipt of information of this within his duties. The only thing that occurred on this occasion was that he received something stolen. I cannot escape from that.

**Ian MILL**

It was not the information he was authorised to receive. It was not within the scope of his employment to look at stolen document, but rather to consider design features. If he is provided with information, then he will look at this, but only under circumstances, where that is done by someone in McLaren, because McLaren wants him to consider it an improvement for the car. That is what Mr Coughlan's role is. It does not embrace meeting a Ferrari designer in Barcelona, not telling his employer, not being instructed to consider it and doing what he will with it. This is not within the scope of his authority or employment at all. It is quite different.

**Max MOSLEY**

I will try once more, then give-up. Is the receipt of information about other teams' cars within or outside the scope of his pet.

**Ian MILL**

It does fall within the scope if it is the receipt of information from within McLaren, with a view toward using it to develop improvements to the McLaren car. It does not fall within the scope if it is contrary to McLaren's instruction, and not intended for use for those purposes.

**Max MOSLEY**

We have understood what you are saying on this point.

On Article 123, you say it relates to an event. Where does it say this?

**Ian MILL**

It is inferred: there is mention of the driver, mechanic and passengers.

**Max MOSLEY**

Yes. But it refers to an entrant. McLaren is surely an entrant in the World Championship and is thus responsible for everybody connected to it. There is no mention that this applies only to events.

**Ian MILL**

It is inferred. Looking at the scheme, is it really suggested that the driver's acts are the responsibility of the company even when he is not driving?

**Max MOSLEY**

Absolutely.

**Ian MILL**

Which acts of a driver?

**Max MOSLEY**

For example, if the driver does something when not actually driving at the event but behaving in a manner contrary to the interests of the sport, the entrant is responsible. We have had drivers in front of the World council for saying rude things about the championship.

**Ian MILL**

That would be the driver.

**Max MOSLEY**

Yes, but if we wished, we could also call in the employer.

**Ian MILL**

Yet you do not do so.

**Max MOSLEY**

We do not have to, for he has a license. The difference is that a mechanic or designer does not have a license. This is an old clause that has been expanded. Likewise, there is a clause stating that the regulations may not be changed after the entry has closed. We take this as meaning the World Championship. We would never change the regulation of the World Championship after the entries were closed, unless everybody agreed.



That is quite clearly intended to mean that they are responsible. Even on your legal argument, I do not see. Even the French text is very similar to the English. In response to Ron's point, it is one matter to say that McLaren is responsible for the employee, it is another to say that they are to be sanctioned for what he did. We will probably take the view that what your employee does, as we would see it, is your responsibility. But the circumstances make an enormous difference. That was the first point.

There is a second legal point, after which we will embark on the more general discussion with the Council members.

It is what I term your "Alice in Wonderland" argument, under which Ferrari is somehow liable. Imagine two banks, where the employee of one bank steals from the first bank and gives the money to the employee of another bank. You are saying that the police should prosecute the first bank, and this does not make a great deal of sense to me.

### **Ian MILL**

The question is: in what circumstances is an employer liable for the acts of his employee. Let us take Article 123, with the broad meaning you have given it. Is Ferrari an entrant? Yes. Is Mr Stepney a mechanic? If we take that to include design, yes. Has he committed an act or omission that is fraudulent, or such as to bring about an act prejudicial to the interests of any competition. Where does the distinction lie?

It is not "Alice in Wonderland" at all; it is the reason why we should not be liable in the first place. Mr Coughlan was no more authorised to receive this information than Mr Stepney was to steal it. Mr Coughlan did that for his own purposes, unconnected with his employment. It is, with all due respect, not Alice in Wonderland, but rather the reason why we find ourselves in a thoroughly unjust and invidious position. We are as much victims of this as is Ferrari. He acted directly in contradiction with his instructions and, for all we know, took McLaren information to other teams. Why are the two situations so materially different that it is "Alice in Wonderland" to prosecute Ferrari, but probable or proper and fair to make us liable? I am sorry, but I totally disagree with this.

### **Max MOSLEY**

Could you explain on what basis the police would prosecute the bank from which the money was stolen?

### **Ian MILL**

This is not about a criminal prosecution. It is being suggested that, under an International Sporting Code, a team is responsible for the acts of its employees. It is not a matter of prosecution or criminal offence, but rather whether it is right, in the industrial espionage discussed here, whether a charge can be found against the employer of a transmitter or recipient of the information. If I may respectfully say so, in the circumstances you posited, neither bank would be prosecuted, only the employees would. They are the parties responsible. I am the employer, the victim. Why should I be responsible.

**Max MOSLEY**

Ferrari are the victim of somebody stealing something.

**Ian MILL**

Yes.

**Max MOSLEY**

They have given it to your employee.

**Ian MILL**

Yes.

**Max MOSLEY**

Your employee has had possession of it for two months.

**Ian MILL**

Yes.

**Max MOSLEY**

Your employee and company have used it –

**Ian MILL**

Sorry?

**Max MOSLEY**

Your employee and company have used it-

**Ian MILL**

Our company has used it?

**Max MOSLEY**

Do you want to listen, or ask questions?

**Ian MILL**

I'll listen.

**Max MOSLEY**

Your company has used it to pursue as complaint with us.

**Ian MILL**

We are back at whistle-blowing, then.

**Max MOSLEY**

Yes, what you term "whistle-blowing". In the meantime, the employee has had the information for an extensive period of time.

**Ian MILL**

Not to our knowledge.

**Max MOSLEY**

Possibly not.

**Ian MILL**

Not.

**Max MOSLEY**

Possibly not. We have no evidence one way or another.

**Ian MILL**

You have a great deal of evidence that we did not. You have no evidence that we did.

**Max MOSLEY**

This is true. The information has been with your employee for all of that time, and for some reason, you think that Ferrari has committed an offence under the Sporting Code?

**Ian MILL**

Yes, absolutely. They are just as responsible for the acts and omissions of their acts and employees as we are. He was no more authorised to do what we did than we authorised Mr Coughlan to do what he did. These are two rogue employees. Why discriminate between the employers? It makes absolutely no sense to me at all. It is the employees who are responsible.

**Max MOSLEY**

If it makes no sense to you at all, I am afraid I cannot help you any further.

**Ian MILL**

I fear not.

**Max MOSLEY**

That is everything. You have finished.

**Ron DENNIS**

I would like to add something, Max.

As Jean referred to the Ferrari, Williams McLaren agreement, I would like to read something in reference to a meeting held about it. The attendants were Luca Montezimilo, Jean Todt, Frank Williams, John Healy, Ron Dennis and Martin Whitmarsh. I can read all of this, right?

Ferrari stated that it had, in general many of the same concerns and issues as Williams and McLaren. Ferrari felt that the governing body was acting in an extremely autocratic manner and was disappointed by the manner in which the FIA had implemented changes. In particular, Ferrari felt very strongly that it accepted the concept of a one-engine. The text goes on and on, finally reaching my point: "we agreed a common position on various things". It talked about cost reduction. I can read it all, but it does get more embarrassing. It talks about Ferrari's philosophy, then concludes: "it was agreed that the meeting had been worthwhile and that more of them would be appropriate in the future to ensure that the three teams present were able to provide a more unified position and resist external attempts to create external division between them." That was the meeting. I can promise you that, if I read it all out, there would be even more embarrassment.

**Max MOSLEY**

There is no embarrassment, Ron; read it all.

**Ron DENNIS**

It is irrelevant to this case, but it was a cherry pick. We did not actually formulate an agreement. It was a behaviour. You and I both know, Max, that this has been unfairly spun. We presented our

case. This is clearly, as supported by the evidence, two individuals who operated independently, solicited two jobs and offered a third. We were not involved. There is not a shred of evidence to say that we were involved or incorporated intellectual property. We have been completely open and will continue to do so in the future. To inflict any penalty on our organisation, which is ultimately represented by me would be grossly unfair. We have nothing to hide; we did nothing wrong. Perhaps one can criticise aspects of the last few months, but I took all of the decisions that I deemed appropriate, and did not, under any circumstances, know of anything in relation with this affair until 3 July. I took all of the necessary steps, as contained in my statement. Our behaviour has been, I believe, exemplary. That is not the way it has been portrayed to the media. I have been slurred personally and my company has been slurred, on nothing by hypothetical conjecture. There is not one fact.

### **Max MOSLEY**

I understand what you are saying and have a certain amount of sympathy. We cannot escape, however, that at 7:30 one morning, lawyers acting for Ferrari or for the court on behalf of Ferrari, turned up at your Chief Designer's house to find information from Ferrari. You cannot expect nothing to be said.

### **Ron DENNIS**

It is not a question of what was said. We were involved in a process. The process was laid down by the British High Court. It was very clear what each party to the process had to and could do. I know that the FIA performed impeccably. I believe I have performed impeccably on this matter, and I will go out of this World Council Meeting and my behaviour will continue to be impeccable. I have values that I instil in our company and they do not entertain the use of other people's intellectual property. I am very measured, though I have occasionally lost my temper. We have had differences of opinion in the past; we are not always of the same mind. But I know that you respect me and believe that I am a truthful individual. We were not involved in this and should not be penalised. The facts are there: the rogue employee did it. You have pulled my company into a position where I could not defend it. I have defended it today, with passion, but I could not defend it until today.

### **Max MOSLEY**

Usually, at this stage, we invite members of the World Council, to ask any questions that they may wish to pose.

### **Bernard ECCLESTONE**

My question is for Ron Dennis and Jean Todt. Both employees presumably had contracts with their companies. Under those contracts, were they allowed to leave and work for somebody else?

### **Jean TODT**

Nigel Stepney had contract until the end of 2007.

**Ron DENNIS**

Michael Coughlan had a contract from 2002 to 2007, renewed the contract at the end of 2006 through to 2009. The contract is an extremely detailed one and the World Council has been informed of the constraints and guidance to which he was subject under the contract and of which he was in clear breach.

**Bernard ECCLESTONE**

In other words, he could not have gone to Honda, or another company, to work.

**Ron DENNIS**

Unfortunately, life is not quite as one would like it to be. There are huge quantities of people who have comfortably and intentionally remained idle in organisations, dedicating their time to complaints, criticism and whining about their employer. With Michael Coughlan, the constant argument was directed at what we call the matrix system. Though not designed specifically for that purpose, it is one of the mechanisms best-suited to preventing the use of others' intellectual property. Rather, it is designed to ensure that no one individual can bring down the organisation. It happened with Jean Barnard, when he left the company, or other technical staff. The world has seen that even with the loss of people like Adrian Newey, individuals poached from the company do not collapse the technical group. Nonetheless, everyone needs to know what is going on and be part of the process. In essence, the individuals come in one day, normally on a Monday, and hand in their notice. When reminded that they have a contract, they retort that they are so unhappy and cannot work, etc. His argument was that he wanted to be a Technical Director. It is important to understand that we do not have technical directors at McLaren and have not, since Adrian Newey moved from the organisation. Prior to the end of his contract, Mr Coughlan did try to do so, but that is another matter.

**Graham STOKER**

On page 40 of the McLaren bundle, paragraph 11, Mr Neale, in his affidavit refers to the 25 May 2007 meeting with Mr Coughlan. I am asking these questions because I wanted to learn more about the meeting, which might have been the opportunity for the Ferrari documents to enter the McLaren organisation. Could Mr Neale tell us about paragraph 11? You tell us that you had sight of some documents.

**Jonathan NEALE**

During the month of May, Mike Coughlan had become increasingly emotional and acerbic and felt frustration in his role. In particular, he was reacting to instructions from the various chief engineers, competing for resources and pulling their cars in different directions. One of Mike's roles is to balance resources between the two cars – that of Pat Frye and that of Tim Goss. He felt an erosion in his authority within the organisation.

At that meeting, I sought to take him to a relaxed environment in which I could seek to address those issues. For those of you who know him or people like him, he is a creative individual in spirit

and can be an emotional individual. I have, on many occasions, settled him time. That is one of my roles in the organisation. During the meeting, I pointed out to him the changes made at McLaren over the last three or four years, emphasising that he had been material in deciding some of those, particularly in the structure of the organisation, and that the pursuit of strength and depth inevitably meant that there would be tensions between some of the creative staff. On strength, we had backed Mike, with regard to the development of the resources and processes he wanted to run, and I personally valued his judgement on technical risk, as he oversaw a number of components put before him.

The meeting took place in a public location and went very well. I felt that, 90 minutes into the meeting, we had arrived at a point where he was settled enough. At the very end of the meeting, he began to describe to me that he wanted to tell me something "in strict confidence". Given the nature and history of the individual, as well as things that had gone on previously, I naturally expected that he was about to divulge a potential offer or threat of any offer from another organisation. At that stage, I did not know that he had solicited employment with Toyota, and was unaware that he had received an offer from Ferrari, though he had alluded to contact or an approach from other teams, during the previous twelve months. It was not possible for me to determine whether this was a cry for help or a real matter, but I was concerned enough to try to settle him down.

In saying that he wanted to tell me something "in strict confidence", he put a bag on the desk and sought to pull from it two pieces of paper. You will see in my statement that I was able to focus a bit on one of the pieces of paper, but as he was seated at the table across from me, it was not possible for me to know or determine what he had. At that point, whether we were going to get into a detailed technical conversation or otherwise, it was not relevant to our discussion, and I did not want to get into a strict conversation about anything at that stage. I had met my purpose, which was to meet him and settle him down.

I stopped him, put up my hands and said, "Mike, at this stage, wherever this conversation is going, I do not think it is material, and if, as I suspect, you are about to tell me something that I wouldn't want to know, then I ask you not to do so and to destroy anything that you have. I said in my statement that what I saw in know way reflected something that I would recognise as being a Ferrari or any team's livery. It was not that kind of image. I have tried as best I can, from recollection, that image. We can only speculate as to where that conversation was going. I honestly believed it to be an insignificant issue and at no point did he give me any reason to believe that it was either Ferrari material, or part of a greater bundle or dossier.

## **Graham STOKER**

In March of that year, you had been aware of some information arriving from Ferrari. When you held that meeting in May, did it cause you to suspect that he, in fact, had Ferrari documents. Could you tell us more about the bag being put on the table?

## **Jonathan NEALE**

Obviously, I have reflected on this only after the event. I am aware, having seen Mike's affidavit, of what he says. My speculation is that he was about to ask me for additional resource, as one subject about which I am constantly badgered is providing additional money for various priorities in the organization. It is my role to resolve those priorities. Mike had, for one year and a half, been

nagging me to go down a digital mock-up route, as do some other teams. I did not feel this was an investment priority at that point and this was a point of difference between Mike and me. I certainly did not want to get into the conversation and upset him, after we had just spent an hour settling him down and were backing him.

**Graham STOKER**

How easy would it be to shortly hear from Mr Lowe? Is that technically possible.

**Jonathan NEALE**

It is technically possible. If, on the other hand, there is a specific question you have, perhaps we could answer it.

**Max MOSLEY**

Could we see if we could get Mr Lowe on the phone? In everybody's interest, it might be better to have a word with him.

*(A ten-minute break ensues, during which the phone connection with Mr Lowe is established.)*

Is this Patty Lowe? This is Max Mosley. You are speaking to the entire World Motor Sport Council, Ron Dennis, Jonathan Neale and other luminaries from McLaren and Ferrari. We were wondering if you could answer a few questions for us.

**Mr LOWE**

Certainly.

**Graham STOKER**

Mr Lowe, I am reading from your memorandum, in which you express your confidence that none of the Ferrari documents or information could have been used by McLaren. You also, on the last page, discuss the astonishment of the staff, in Engineering, when the information was learned of. Can you please tell us about this, to bring it to life? It is always a bit difficult to read such information in a letter; it is better understood orally.

**Mr LOWE**

I will explain a bit about the way we work. There are 150 engineers working in the same office, which may sound frightening in terms of size, but the arrangement works very well. We are a very close community and everyone knows what is going on. That is an important point. If there is input into the pool, the source of which were not clear, the community would know that. We are a very analytical organization as well, and work by analysis and logic. If there are spurious inputs that do not appear rational with regard to the development process followed, these would stand out. That is a general comment as to how we work as at team.



As regards specific roles, we have what we refer to as a matrix structure. There is a Chief Engineer for each car, and this alternates each year. We have a two directors, myself and Neale Oakley. We are the core technical leadership team. Mike reported to me as Chief Designer and therefore managed the Design Team, itself one of five or six engineering teams. His role was essentially to be in charge of the implementation of a car (i.e., the design of the parts, sign-off of the drawings, approval of the drawings). That brought into play his great experience of designing Formula 1 cars, whether with regard to the weight, stiffness or safety of each part. I put my trust in him for that.

I did not use him for the generation of a great deal of ideas; that falls within the scope of the chief engineering domain. That did not mean that Mike could not have ideas. He was able to contribute them to the pool, but his principal role was not the performance agenda. He was much more involved in delivering the agenda that we defined. I believe you have been given a schedule today. Mike was responsible for delivering the components represented by the programmes in the performance schedule. He in fact did not design himself, either. He had a CAD station for viewing designs, but his day-to-day work consisted of talking to engineers, reviewing what they were doing and signing off on their drawings. At his level, he did not have time to actually design a component himself.

### **Graham STOKER**

You performed an audit in order to produce your memo. I wanted to understand the degree of confidence one can have in that.

### **Jonathan NEALE**

Could you expand on that?

### **Graham STOKER**

In your memo, you have set out a systematic audit, where you looked for the potential influence of Ferrari information on McLaren operations and at the end, reach the conclusion that there is none. I wanted to know the degree of confidence we can have in that.

### **Jonathan NEALE**

I am fully-confident that there is no influence on the car we have. I am confident because I know Mike's sphere of influence. He did not have control of the whole company. His influence was finite within the company and even within engineering. I know what he was working on, where it stands now, what stage it is in and I am confident in the originality of its derivation, having looked at all of the examples either delivered to the car this year or applied to those to follow.

I am 100%-confident of that and have had a similar conversation with all of my colleagues and Mike's team. We all know what is going on, what is in the office, what is being worked. We are 100%-confident that this is our own work. This is something on which we pride ourselves greatly, as you can imagine. We have achieved a good car this year, achieved through our own work and ingenuity. The last thing we would want is to feel that this has been arrived at improperly.

**Max MOSLEY**

Was Mike Coughlan working, at any stage, on the 2008 car?

**Jonathan NEALE**

He had started to look at it and get involved, most particularly on the transmission. That is a part that we must get started on earlier than anything else, particularly with the challenge of ensuring that it lasts for all four races.

**Max MOSLEY**

Can you be sure that nothing he may have learned from Ferrari documents could have had an influence on what he did for the 2008 car?

**Jonathan NEALE**

I can be totally confident in that, using the same rationale that I gave earlier: everything we do is based on an analytical approach, in progression from what we have today. That is how Formula 1 cars develop, even though they end up at very similar performance levels, separated by only fractions of a second. They are all different and come from quite independent strands of thinking and development. I know how we have made each decision, in terms of thickness, weight or mechanism. That has come out of our own original process.

**Max MOSLEY**

In his affidavit, Mike Coughlan mentions the extensive surveillance of other cars and the use of information from other cars, which takes place in the pit lane. How is this information used in McLaren, when it comes in?

**Mr LOWE**

Much of that pertains to aerodynamic surfaces. Teams are always looking at what other teams have done on the bodywork, for that is the visible portion. Aerodynamicists may view the new shape on a Honda and this may promote thought, for instance that a given shape is more focused on airflow rather than bodywork itself. This subsequently promotes new ideas for them, and that may promote tests of their own. That is very much how the aerodynamic teams work in each company on the pit lane. I think that is reasonably clear. Although I said earlier that the cars are different, they do obviously take ideas where those are obvious from each other.

**Morrie CHANDLER**

Nick Craw sent me some questions. Do you want to ask them?

**Nick CRAW**

I will pick them up later.

**Garry CONNELLY**

In the confidential memo that you wrote on March 16 to Charlie Whiting, you state, in the fourth paragraph, that “we would like to consider the installation of a mechanism on the front of our floor consisting of springs and pivots, as illustrated below”. Could you explain: were you actually intending to install that on your car?

**Mr LOWE**

No, we were not. We wrote the letter in line with a protocol we have followed for some years, and I believe that other teams take the same approach, adding a certain neutrality and objectivity to the request. We were seeking an opinion from the FIA's Technical Department. The protocol which I follow is to ask whether we can do a specific thing, expecting that the answer will be in the negative. We had no intention of putting that on the car. It is an approach we use. I do not want to go to Charlie Whiting and report the action of a given team, stating that we feel it is wrong. The protocol keeps matter neutral and objective. After all, we want an objective opinion from the FIA. We respond accordingly: hence, if the action or mechanism is deemed acceptable, we can take that opinion and proceed.

**Nick CRAW**

Mr Lowe, were you aware of the fact, in writing that letter to Charlie Whiting, that the information had come from an e-mail from Mr Stepney into McLaren?

**Mr LOWE**

I did not know at all in what format the information had come in, but I did know that it had come to Michael Coughlin via Nigel Stepney.

**Nick CRAW**

Who else was aware of that input, to your knowledge?

**Mr LOWE**

Martin Whitmarsh knew about it.

**Nick CRAW**

Thank you.

**Max MOSLEY**

As there are no further questions, we thank you very much. You are entirely welcome to stay and listen if you wish.

**Jean TODT**

I would like to ask a question of Mr Neale.

**Ian MILL**

Could I step in? McLaren has real difficulties with the concept of Mr Todt, who is not counsel for these purposes, but rather present for Ferrari and hence with certain concerns, interrogating one of my witnesses, here to answer questions from the Council. Of course, if Mr Todt wishes to subject himself to similar questions from me, because there are all sorts of things I would like to know from Ferrari which might be of assistance, then that is fine. Unless there is that parity, I do not think it would not be appropriate.

**Max MOSLEY**

Would you be happy if he asked me the questions?

**Ian MILL**

Only if you are similarly happy for me to ask you to ask questions of him.

**Max MOSLEY**

Do we want to know what is going on or do we not?

**Ian MILL**

That is precisely my point. I am happy to have questions asked, if Ferrari is willing to field some as well, for they have information to tell us that is relevant to this matter.

**Jean TODT**

I have no problems asking questions.

**Ian MILL**

Perfect.

**Max MOSLEY**

Please go ahead with your question, then.

**Jean TODT**

Shall I ask you or Mr Neale?

**Max MOSLEY**

Please ask Mr Neale.

**Jean TODT**

I understand that, through the person you call the “whistle-blower”, you learned of information about our car, at the beginning of the season. I understand that communication was becoming embarrassing and you decided to put a firewall between the computers to stop the influx of information. Then, a meeting took place at a restaurant where, Coughlan stated he had something important of which he wished to inform you. Once, he had stated that he had private information from a competitor. Considering the values of the company that Ron Dennis mentioned earlier, why did you not take any action after that to ensure that your Chief Designer would not be involved any further with this matter, which would still be ongoing if we did not have the support of a commercial person from an IT company, who informed us about this.

**Jonathan NEALE**

There are several pieces to this. Mr Todt appears to be trying to link whistle-blowing to the activities that occurred between Mr Coughlan and myself during breakfast. This has already been dealt with here, by Mr Mill.

Secondly, Mike did not say that it was “important”. I had no way of knowing where the information came from. I did not know what I was seeing. To say otherwise is to stray from the truth. He said, “In strict confidence, I want to show you something”. I did not know what I was looking at. It was not material to my purpose of being there.

**Max MOSLEY**

Was that your only question, for I have a few as well?

**Jean TODT**

I am surprised that there was no further investigation to find out about these documents that were in the hands of the chief designer.

**Max MOSLEY**

It is a bit difficult to picture. You say that he showed you the documents. You say that “I suspected from the manner in which Mr Coughlan produced them that he should not have had them. I stopped him from proceeding any further with the conversation. My reaction was that I did not want to inspect further or know anything about this”. You did not, as he was your Chief Designer, ask him: “What are those documents and where did you get them?”?

**Jonathan NEALE**

With the benefit of hindsight, which I did not have at the time, many things might have been done. He did not hold out his arm with the documents, as you just did in your example. He tried to take a couple of pictures out and I stopped the process. I did not know what it was. I did not want to know what it was. It was not material to our purpose at that time. Nothing about what I saw led me to think that it was labelled or technical. There was a quick flash of an image and I stopped it.

**Max MOSLEY**

But you knew – and I think this is the point that is trying to be made – that he was in touch with Coughlan, and you knew he had confidential information from him earlier in the season and that you had put the firewall up.

**Jonathan NEALE**

I understand the point that is trying to be made and I dispute it. Mr Coughlan came to me the week after Australia with some concerns, and I gave him some instructions. I thought I had dealt with it. He then came back to me after the Bahrain Grand Prix and said he still had some concerns, so I took additional steps to deal with it, as you see in my statement. I thought the matter to be dealt with. I did not link the two with the breakfast meeting at that time.

**Max MOSLEY**

It did not enter your mind at the breakfast meeting that this may have been more Ferrari material?

**Jonathan NEALE**

No, not at the breakfast meeting.

**Max MOSLEY**

Why did you tell him he should destroy it, if you did not know what it was?

**Jonathan NEALE**

Because the manner in which he produced the material gave me concern. I did not want to know about it. I was in firewall mode.

**Max MOSLEY**

You wanted to turn a blind eye.

**Jonathan NEALE**

Not at all. That is an inference. That is not the case.

**Max MOSLEY**

What did you want to do?

**Jonathan NEALE**

I wanted not to infect McLaren with anything that he may or may not have had. But I did not know.

**Max MOSLEY**

You did not think that it might be better, rather than infect McLaren – because that would not necessarily have been the outcome – to find out what he had, then take the appropriate steps.

**Jonathan NEALE**

At the time, I did not think so.

**Max MOSLEY**

You did not think you should perhaps mention to Mr Whitmarsh or Ron Dennis that he had some suspicious documents for you to say or to tell him he should destroy them?

**Jonathan NEALE**

Nothing about what had happened alerted my suspicion to that level, so I considered the matter to have been dealt with.

**Joaquin VERDEGAY**

*[transcription based on simultaneous interpretation – subject to correction by original Spanish-language speaker]*

In your statement, under oath, you mentioned that at the end of the luncheon in the country club, you were seated at either side of a round table. Right after the lunch, Mr Coughlan showed you documents. Did he show you documents, or he whole package of 780 pages? What did he actually put on the table: just two pages with a few drawings, or the entire package of 780 pages.

**Jonathan NEALE**

Let me be clear. At no time did Mike Coughlan show me 780 pages or give me reason to believe that he had that. He flashed two images. Nothing that I saw connected him to Ferrari or Stepney, from that conversation. I did not know what I was looking at.

**Joaquin VERDEGAY**

*[transcription based on simultaneous interpretation – subject to correction by original Spanish-language speaker]*

However, you also declared that he pulled those pages out of a bag that was on the floor. You could not check that he had further documents. You assumed that he had only the two pages which he flashed at you. Is this correct?

**Jonathan NEALE**

You are making two points. The first point is that they came from a bag; rather, they came from a brown envelope folder, that was about this size *[indicating with hands]*. Lately, learning the information that I have, I have gone back to think about what 780 pages might look like, and believe them to be about this big *[indicating with hands]*.

**Joaquin VERDEGAY**

*[transcription based on simultaneous interpretation – subject to correction by original Spanish-language speaker]*

Thank you. Indeed, I was thinking of a bag, but your answer is very clear.

**Nick CRAW**

If the breakfast meeting between Mr Neale and Mr Coughlan was primarily focused on discussion of his future at McLaren and his desire, possibly, for more resources for his projects, is it at all possible that the document he pulled out was related to that, and could have been a McLaren document?



**Jonathan NEALE**

There are two answers to that. The purpose of the meeting was not to discuss additional resources. It was only to settle Mike down and reaffirm his role. Anything beyond that is but speculation on my part. I am unable to give a clearer picture.

**Nick CRAW**

But you had a suspicion of some sort sufficient to direct him that that document should be destroyed?

**Jonathan NEALE**

By the way in which he produced the document, I was unsure as to where the conversation was going, and wanted to be absolutely sure that, at that stage, he knew I did not want to become involved in a conversation.

**Nick CRAW**

Yet you were not at all curious as to what the document was?

**Jonathan NEALE**

I was curious, but I deemed it to be a sufficiently low-level issue that I dealt with it at the time.

**Nick CRAW**

Thank you.

**Max MOSLEY**

I do not understand how, if you did not know what the document was and only the manner in which h produced it raised suspicion, why was the document to be destroyed?

**Jonathan NEALE**

I did not say that. I said he prefaced this with, "in strict confidence" and this was bound to alert my suspicion, given that I thought he was going to produce a contract.

**Max MOSLEY**

But why did you say the document was to be destroyed? What was it necessary to destroy it?

**Jonathan NEALE**

I only said that *if* it was something that he should not have, he should destroy it. I am not trying to pick a point of detail, just to provide a clearer answer.

**Max MOSLEY**

Are there any other points?

**Bernard ECCLESTONE**

Something strikes me as a bit strange, and I am sure that you have the right answer: why did Coughlan want to give that document to you?

**Jonathan NEALE**

I do not know. I have not had an opportunity to have that conversation with Mike. I have speculated as to what it might be and suspect that it was a pitch for resources. It would be unlikely for Mike to have technical conversation with me as I am not "technical" in Formula 1 terms.

**Bernard ECCLESTONE**

It is simply strange that someone unhappy at McLaren would want to give something to McLaren that would be helpful to it.

**Jonathan NEALE**

We are speculating, but if it is helpful to do so, he may have been seeking the opportunity to persuade me again to pitch for additional resources, as he had done over the previous eighteen months. However, this is just conjecture.

**Ron DENNIS**

Could I add something?

Our process has been very carefully explained by several people here. You have also spoken to Patty Lowe. It would be inappropriate to feed this information through Jonathan Neale whatever the case. He would not be the right conduit into the organisation. Jonathan's position is administrative; he does not have any technical responsibilities.

Secondly, I am watching this person trying to answer questions and being subjected, effectively, to scrutiny of his integrity. You should know that I headhunted him from BA Systems. He headed one of the most important military programmes in our country. He has been with my company for over ten years. He has the highest level of integrity. He has a most senior position in our organization. He has a budget available to him approaching £ 1 million. I know that he would not embrace this situation. He has not done that. What he tells you is the truth. Appreciate the

background of the individual giving you these answers. This is not some whimsical individual. This is a person who has come from a very prominent position in a very important project and we are lucky to have him in the company.

**Max MOSLEY**

That is quite clear from the beginning of his statement.

**Ron DENNIS**

I watch him being intimidated and do not like it.

**Max MOSLEY**

Ron –

**Ron DENNIS**

I am just being defensive.

**Max MOSLEY**

Please do not think that we are intimidating anybody.

**Ron DENNIS**

I feel intimidated!

**Max MOSLEY**

He is not intimidated. You may be, but he is not.

**Ron DENNIS**

I know that we want to reach the truth. I appreciate that it is difficult to understand, when we now know the importance of the document, or what he may have been, how it might have been a trivial moment, but it was at the time.

**Max MOSLEY**

You need to understand that, on the one hand, the document was sufficiently sensitive for Mr Neale to have told him to put it away, stating that he did not want to see it, and saying that it should possibly be destroyed. On the other hand, it was not sufficiently sensitive for Mr Neale to have any curiosity as to what it was or to report it to Mr Whitmarsh.

**Ron DENNIS**

If you knew the nature of this beast, you would understand. I can tell you that what he says happened is exactly what happened. This was not a situation where Mr Neale had awareness of Ferrari involvement in the affairs of our company. I was not there, but that is what I believe.

**Max MOSLEY**

Have we finished on the breakfast and the breakfast document.? If so, I and others probably have questions about what transpired between you, Mr Neale and Mike Coughlan.

In Paragraph 6, you say that "having read press reports about Mr Stepney's increasing unstable relations with Ferrari, and what appeared to be increasingly erratic behaviour on the part of Mr Stepney, I formed the view that no good could come from Mr Coughlan's having any communication with him".

When did the press reports appear, if you can remember more or less?

**Jonathan NEALE**

I can be specific. The first articles started to appear in early February, perhaps on February 1<sup>st</sup>. However, as you will recognise, in Formula 1, such matters escalate quite quickly. I was aware of a background in January, but it was not until around the Australian Grand Prix that I became as concerned as I said in my statement.

**Max MOSLEY**

You were concerned enough to stop the communication, but not concerned enough to receive the information relating to the reports.

**Jonathan NEALE**

No, that is not what I am saying. Mike came to me, expressing some concern. If a person comes to me from my team and expresses concern, it is natural that I will respond to that. Against the backdrop of what was happening in Formula 1, and I was aware of this through the press cuttings, which I see every day, learning of Mr Stepney's dissatisfaction at Ferrari and his actions relative to whistle-blowing, I was naturally concerned.

**Max MOSLEY**

Then comes the moment when you put up the firewall.

**Jonathan NEALE**

After the Bahrain Grand Prix.

**Max MOSLEY**

What exactly was that? For normally, if the aim is to reject e-mails from a specific person, the computer can be programmed not to accept them. Is that what you mean by a firewall?

**Jonathan NEALE**

After the Bahrain Grand Prix, when Mike said he had been unable to stop the unsolicited information from Mr Stepney, I considered what other steps I could take. It seemed natural to install a computer firewall. The firewall sits on our servers and prevents any information entering and reaching as far as Mr Coughlan's laptop. It is trapped by the central part of the system before arriving at Mike's computer.

**Max MOSLEY**

Did you have any conversation with Mike about his personal computer or personal e-mail?

**Jonathan NEALE**

No, I was not party to a conversation about that.

**Max MOSLEY**

Surely, if you were helping him to stop communication from Mr Stepney, you would also want to arrange his personal computer so he could not receive personal e-mails from Stepney. Otherwise, Stepney would follow the route that we know he has followed.

**Jonathan NEALE**

I understand the point you are trying to make, but dispute that. It is very difficult to stop someone, if they are really determined, from making contact. I took the steps I felt were necessary to protect McLaren, having given a clear instruction to Mike to cease contact. I have to accept, at some level, that the individual takes responsibility for that as well.

**Max MOSLEY**

You could have offered Mike Coughlan that your IT teams go in to sort out his computer, yet you did not.

**Ron DENNIS**

May I point out that the contact was made through his wife's computer? We now know that because of the search. I understand the point, though.

**Max MOSLEY**

Ron, if you want to cut someone off, you do so. I must ask this question, because it is on everyone's mind. If you want to stop the communication, there is the computer at McLaren, then there is the computer at home. There might be five of them, for all we know. When asked the question as to whether you also did something there, then, the answer is no.

**Jonathan NEALE**

The answer is no because Mike was not specific as to how this contact was being made. It was a secondary level of defence, in response to Mike's second warning that Mr Stepney had come back and made unsolicited contact.

**Max MOSLEY**

When he said to you, "I think I need to go to see him". I was immediately struck by the idea of the trip to Barcelona. Why not say, "Nigel, we are old friends. This is too embarrassing; I do not want anymore information." There is no need to go to Barcelona.

**Jonathan NEALE**

One would assume so. However, on several occasions, Mike told me that he had tried and was unsuccessful. That appeared, at the time, the next logical step.

**Max MOSLEY**

Going to Barcelona is much more consistent with going to pick up 700 pages of documents than to ceasing communication.

**Jonathan NEALE**

I dispute that.

**Max MOSLEY**

OK.

Do you think it fits the pattern, when according to his affidavit, Coughlan called Stepney to arrange the meeting, he solicited and obtained information about the brake balance at that point?

**Jonathan NEALE**

Again, that is speculation. However, since you mention Mike Coughlan's affidavit, you will see that he mentioned he was told to cease communication with Stepney at that meeting. That is a more valid piece of data.

**Max MOSLEY**

Are you saying that it is speculation that he asked Stepney for that information about the brake balance?

**Jonathan NEALE**

No. I am saying that, if it is so stated in his affidavit, then one would believe it to be true.

**Max MOSLEY**

One would assume this.

Having arrived in Barcelona, for the express purpose of saying that he no longer wants any information, he sits down and has lunch with Stepney – again, according to the affidavit – and they have a nice discussion about slides and drive shafts, and what not.

**Jonathan NEALE**

As I said, we look forward to having our conversation with Mr Coughlan.

**Max MOSLEY**

Then, of course, he takes the documents and comes home with them. Somehow, it does not look right. Imagine you are not McLaren, but rather the Council, and are trying to see what is happening. You would expect that someone would be able to pick up the phone, rather than pay the fare – or have the fare paid -- to Barcelona. Using the phone, he could simply say exactly the same thing, programme his computer to receive no e-mails and not take calls from any associate of Mr Stepney. Why the journey?

**Jonathan NEALE**

That was at Mike's instigation, after what I presumed to be a series of unsuccessful steps.

**Max MOSLEY**

You did not ask him, "Do you really need to do this? Can't you just pick the phone up and say this must stop?"

**Jonathan NEALE**

At the time, Mike said that his relationship had spanned some years, and felt it more appropriate to see Nigel to stop it, and felt he would be more successful this way, as he stated in his affidavit.

**Max MOSLEY**

Did you know, as stated in his affidavit, he had not heard from Stepney for five years, until 1 March?

**Jonathan NEALE**

No, I did not know that.

**Max MOSLEY**

That is all from me. Any further questions?

**Bernard ECCLESTONE**

I am curious as to why this person kept insisting on talking or giving information. If you insisted on talking to me and I did not want to talk to you, you can be assured that I would not talk to you. I am not saying that something is wrong; I am curious. Here is a person continually saying he has information and offering it to another, when that other has already said he does not want to listen.

**Jonathan NEALE**

Presumably, Mr Ecclestone, in order to have two people to stop talking, it takes willingness on both parties to do so.

**Bernard ECCLESTONE**

I was simply wondering why they kept talking.

**Jonathan NEALE**

This is something over which we can speculate now, now that all of the facts have emerged. At the time, I made the decisions I thought were correct.

**Bernard ECCLESTONE**

Possibly, Coughlan was indeed going to leave McLaren, as I believe he had said. Perhaps he wanted to keep the information flow up, in case he should go somewhere else.

**Jonathan NEALE**

That is entirely plausible, as we have said earlier in our statements: that these were two rogue individuals acting to tout themselves around the Formula 1 paddock. Once again, I look forward to having that conversation with him.



**Max MOSLEY**

This is clearly only within Mr Coughlan's knowledge, but it is curious that, if he was plotting with Stepney to go to Honda – all speculation on our part – why was he so anxious to cease communication, at least officially? You are entitled to say that you do not know, but do you see that it does not fit?

**Jonathan NEALE**

Many things about this that are strange. We have not had the opportunity to question him about this. Suffice it to say that we have no knowledge of this material. It has not been used, and I firmly believe that the two individuals were acting for their own interests.

**Max MOSLEY**

It is now five minutes past one. Shall we adjourn for lunch?

**Ian MILL**

Before Mr Stoker asked questions, resulting in Mr Lowe's being contacted, I thought we had drawn proceedings to a close. You were suggesting that you did not want to hear from us on sanctions. If the position is still the same, that might be a logical place at which to stop.

**Max MOSLEY**

I think there will be questions for Ron Dennis, then a few more for Mr Neale.

**Ian MILL**

Oh, that is fine then.

**Max MOSLEY**

You did also say that you wanted to ask questions of Jean Todt.

**Ian MILL**

My questions for Mr Todt will be quick. However, if there are questions for Mr Neale and Ron Dennis, then we do not want to keep everyone waiting.

**Ron DENNIS**

Can we continue? I would like to get this over with.

**Max MOSLEY**

This may take some time. The next phase is that we will have to consider the matter within the Council, then we will ask you to come back in.

**Ron DENNIS**

I appreciate that, but wanted to only finish with our own portion.

**Max MOSLEY**

Why not have lunch, then we will all reconvene at 2:15 PM?

**Jean TODT**

I had a question related to the last part, about the firewall. We were in the process of signing a protocol of conduct with McLaren. McLaren was bothered by this contact with Stepney. Why was the simple response not to inform us about it, and stop any kind of communication. It was completely related to the type of conduct we wanted to take and would have stopped aggravation of this case. Why was this not pursued?

**Ron DENNIS**

The only contact the Stepney had made as far as we were concerned was the whistle-blowing. I was completely oblivious to any other contact with Stepney, other than the whistle-blowing.

**Max MOSLEY**

Jonathan Neale, on the other hand, was not.

**Ron DENNIS**

Jonathan Neale knew nothing about the negotiations I was having with Ferrari. It was not within his remit. He was running the company. He had no knowledge of the Ferrari situation. That was conveyed by myself and the Ferrari Legal Department.

**Ian MILL**

Mr Mosley, if the members of the Council have finished with our confidential document, we would have it back.

*(The session is suspended from 13:10 to 14:10.)*

**Max MOSLEY**

We were in the process of posing questions to Mr Neale. We can now ask whether there are more questions for him, and ask him whether he has any further comments. It is fair to say that not everyone is terribly happy about what happened at the famous breakfast meeting.

**Jonathan NEALE**

I do not have anything further to say at this time.

**Max MOSLEY**

Does anybody have a question to ask Ron Dennis?

I have one or two very brief questions.

Do you accept that, when it came to your knowledge that a senior employee in another team was feeding information to yours, you should have alerted the other team?

**Ron DENNIS**

Are you referring to the time of the Australian Grand Prix?

**Max MOSLEY**

Yes.

**Ron DENNIS**

To be honest, I believe that my behaviour in this circumstance was absolutely impeccable. First of all, I came into the process at quite a late stage. I was totally supportive of the actions being taken, namely to inquire of the FIA. I made it explicitly clear to those who needed to know that the process would not lead to protest against Ferrari, regardless of the outcome, and that they should stop pressing me for that action. I felt that the exchange of correspondence between Charlie and our people was productive. I was very agitated by photographs that were taken of the device on Saturday. The device is, if you wish to see it, not just one installed for a specific purpose, but also one with an electrical lead going to it, such that it was clearly measuring and putting into the car of the knowledge of how much is moved.

**Max MOSLEY**

Are you referring to the floor device?

**Ron DENNIS**

The pictures we have shows that this device has a cable leading to it with a plug. If something is rigidly fixed, its movement does not need to be measured. I can only believe, then, that it was an active device or measuring. That wound me up.

Then I considered what the right course of action was, regarding the fact that Stepney had done this. Did I feel it was appropriate to blow the whistle on the whistle-blower? I did not believe that to be the appropriate course of action. I saw – and did not hear – an argument that took place in public, between Jean Todt and Whitmarsh, which looked seedy and made me uncomfortable for our team. I did engage with Ferrari to find a more disciplined and gentlemanly approach to react together. The next time we knew of anything involving Stepney was the 3<sup>rd</sup> of July.

I fully appreciate what has gone on and feel I was pretty well-disciplined in the affair. I controlled the team from being outspoken about it.

**Max MOSLEY**

And you did not feel, when you signed the so-called gentleman's agreement, that this may be the moment.

**Ron DENNIS**

I thought the matter was over and that Stepney was no longer a part of Ferrari. Clearly, from everything being said, he was not a particularly stable individual whatever the case.

**Max MOSLEY**

If no else has further questions of Mr Dennis, or more generally, of the McLaren legal team, then Mr Mill, you may make a comment.

**Ian MILL**

I would like to take up the opportunity to which Mr Jean Todt has very kindly agreed.

Mr Todt, has Ferrari conducted any investigation within Ferrari as to what Mr Stepney was in fact doing from March of this year?

**Jean TODT**

Let me go through the different events. About one week before the Monte Carlo Grand Prix, we had suspicions about Nigel Stepney's tampering with a machine. This was the first time we had clear evidence that he could be damaging the team. From that point, he was questioned by the police and denied any form of negative action against Ferrari. We did not see him anymore in the company thereafter. Over the following days, he abused of the Ferrari credit card he had and the next time we heard of him was through Mr Coughlan's affidavit.

**Ian MILL**

Thank you.

Once you had ascertained that Mr Stepney had apparently stolen a number of Ferrari documents, did you then conduct an investigation within Ferrari to determine what he had taken?

**Jean TODT**

Once we heard about the documents, we tried to understand what they were, investigated whether he could have had support from Ferrari employees, but did not find any positive conclusion.

**Ian MILL**

Have you interrogated, through Quest, the Ferrari computers used by Mr Stepney to ascertain whether there were any relevant e-mails, downloads or relevant computer information that would tell Ferrari what Mr Stepney was doing?

**Jean TODT**

I would like to ask Massimiliano Maestretti, who has been following the matter very closely from the outset, to answer.

**Massimiliano MAESTRETTI**

The computers were taken by the Italian police, which is investigating the matter, looking precisely for what my colleague just asked.

**Ian MILL**

Is it correct to state that, because the Italian police are investigating, then Ferrari does not know what information there is?

**Massimiliano MAESTRETTI**

The computers were immediately seized by the Italian police, hence we are not in a position to assess them.

**Ian MILL**

Are you not entitled to ask for an image copy of the computer, so that you may study it? That is what takes place in England.

You have not asked to do so. Is it correct that you are not able to tell this council whether Mr Stepney might have been in receipt of any McLaren international property, from Mr Coughlan. You do not know one way or the other. Is this the true position?

Mr Todt?

**Jean TODT**

I am going to answer. I am simply digesting the question, if you do not mind.

**Ian MILL**

Not at all.

**Jean TODT**

Thank you.

I must say that I find the question very funny, if I may so in this kind of circumstance. What is certain is that, from early March, information has been leaking from Ferrari to McLaren: some definitely so, and some perhaps transferred to McLaren. We know that the person supplying information was Mr Stepney. I would be very surprised if Mr Coughlan was giving information to Ferrari.

**Ian MILL**

I was not suggesting that he was giving it to Ferrari, Mr Todt. I was suggesting that it was given to Mr Stepney. It is not the same.

**Jean TODT**

I cannot answer. How could I know?

**Ian MILL**

Exactly. Thank you.

If it subsequently emerges that Mr Coughlan did provide McLaren information to Mr Stepney, do you accept that because Mr Stepney was your employee, you should be disciplined and punished by this Council for receiving that information?

**Jean TODT**

I will not answer this kind of speculation, because it is not a proper matter.

**Max MOSLEY**

This is an entire hypothetical question, is it not?

**Jean TODT**

To be more precise, if you ask what I would do: most definitely, if I were signing an Agreement of Conduct, I would not be able to face my partner, ask him to sign and at the same time, have knowledge that we were receiving information. My approach would be to inform and explain what is happening, for the health of the sport and the business.

**Ian MILL**

Are you able to help with this? You have, through the Court Order in England, had access to four computers at Mr Coughlan's home. You have had the computers and access to them since 3 July. Have you found any document on those computers suggesting communication of information from Mr Coughlan to McLaren of Ferrari technical information. I ask this because, once again, we have not had access to these computers and do not know.

**Jean TODT**

I want to be precise and will ask Mr Maestretti or Duncan

**Duncan ALFRED**

The checking of materials on the computers has not been completed; nothing has been found of the nature that you described.

**Ian MILL**

Thank you very much.

**Ron DENNIS**

I would like to point out that Crawl carried out the investigation within a period of six days.

**Max MOSLEY**

I thought you said it would take four months.

**Ron DENNIS**

The four months are required to check the servers for any possible download from them to hard disk. We will pursue this. We do not believe this is a one-way street. The analysis of Coughlan's personal computer was another matter entirely.

**Max MOSLEY**

Fine.

Are there any further points?

**Ian MILL**

Could I make one further point on the subject of vicarious liability, which has been suggested as applying to my client in this case?

I would ask the Council to remember that the search order was at Mr Coughlan's home, not at McLaren. I would ask them to bear in mind that McLaren is not a defendant. If it were thought that, under English law, McLaren were vicariously liable for the actions of Mr Coughlan, or that McLaren were acting other than in a way stated, it would be a defendant to those proceedings, but it is not. The reason for this is that, despite what the President has said, an action against McLaren for vicarious liability under these circumstances, would fail. That is why there are not defendants. If it would fail before an English court of law, with the greatest of respect, you should not make us liable before this tribunal.

**Max MOSLEY**

Are you not getting ahead of yourself in saying that McLaren is not a defendant? It is not at the moment, but it is not for you to say whether it may become so in the future. This is not an assumption that you can legitimately make.

**Ian MILL**

I can address the current position. Normally, if proceedings are commenced against one party, they are commenced against all relevant defendants. The basis on which you would suggest that we are liable, was one available to Ferrari when it started the action. It did not rely upon anything else. All they needed to know, in order to found liability against us, was that Mr Coughlan had gained possession of the documents and copied them. That was the information with which they went to court. That is the information on which McLaren has been sued. Particulars of the exchange have been drafted, served and exchanged all over the world's press, but no allegations were made against McLaren. If, on the other hand, it was thought by the English lawyers that, in order to found liability against McLaren it was necessary to show something more than what Mr Coughlan had done, I could understand why, at some point in the future, we might be joined. That was not the case on the basis of what I understand to be the concern of this President and this hearing, today.



**Max MOSLEY**

Mr Mill, though I do not have your legal insight, it might be that, having made a complaint to the FIA; Ferrari may wait for the outcome of that before commencing any other proceedings. Certainly, your point is noted as is your opinion on the matter. It is also well-known to the Council that, whenever a case goes to court, there are two counsels often leading, and one is invariably wrong.

**Ian MILL**

You also have the benefit of Mr Stoker, who is entirely independent, but also an eminent English barrister. I do not know his opinion and do not wish to know, but am sure that you will take that into account as well.

**Max MOSLEY**

He mentioned to me, seeing as you bring this up, a case involving the Post Office at the beginning of the last century, in which the Post Office was held liable for the theft by the postman. No doubt he had been instructed not to thief from the post bag.

**Ian MILL**

Happily, the jurisprudence of the English courts has moved on since the beginning of the 20<sup>th</sup> century, and we rely upon a case slightly more current, namely the House of Lords in 2002

**Max MOSLEY**

We all rely on cases. It is better not to speculate as to what Ferrari might do, certainly not as an element to be taken into account here.

**Ian MILL**

So be it.

**Duncan ALFRED**

I would like to make a short point, to explain the history of the litigation thus far in England.

Ferrari learned from a third-party, outside Formula 1, that documents had been scanned at the request of Trudi Coughlan. Thus, from the very beginning of the case, it was not a case wherein Ferrari has information enabling it to sue McLaren, but rather Ferrari wanting to safeguard its material. This began, then, with a search order to seize Ferrari's property wherever it was. That is why both Trudi and Mike Coughlan are defendants. The points of claim were built by what Ferrari learned through the legal process thus far. Those points are a public document in London. Though Ferrari has not been giving the points of claim to other people, they are available at the court in London.

From this point, it is open to Ferrari to decide what action it wishes to take.

**Max MOSLEY**

Thank you.

**Henry PETER**

This body applies the rules of the international federation, and Sporting Code, not the laws of England. It is understandable that, if my learned colleague believes that the latter govern these proceedings, he can reach the conclusions he had. Yet they do not apply here. Here, the sporting regulations apply. In addition to what has been mentioned so far, I would remind you that three provisions of the International Sporting Regulations apply here: Article 3 of the 2007 regulations, stating that drivers, competitors and officials participating in a championship undertake on behalf of themselves, their employees and agents to observe all provisions, as supplemented and amended by the International Sporting Code, the Formula 1 technical regulations, etc. Article 6 states that it is the competitors – in this case, McLaren – responsibility to ensure that all persons concerned by its entry observe all the requirements of the agreement, code, technical regulations and sporting regulations. Article 13.2 states that application to take part in championship shall include confirmation that the applicant has read and understood the agreement, including the schedule, code, technical regulations, etc. This suffices to indicate that McLaren, as a competitor, is responsible for the actions of its agent, and in this case, top agents, even if they are unknown to McLaren or the CEO.

**Max MOSLEY**

Mr Mill, would you like to make a few comments?

**Ron DENNIS**

I would like to say a few words.

I have sat through a very painful process today, and for the past 24 days. There is inevitable jostling over what regulations or laws apply here. I try to apply common sense. I am unaware of any hard evidence that, in any shape or form, involves my company. You may feel that you wish to criticise the actions of some of the people in my company and, perhaps my own. We have been very clear about what has taken place, and about our conduct. How I can be challenged on my conduct leaves me in awe of what has taken place in the last 24 days. These have been painful days: I have seen most of my life's work dragged through the newspapers – mostly the gutter newspapers. The Council, I believe, is composed of fair sporting-minded individuals, not an assembly of lawyers. They are people who care about the sport and want to help it advance. I want to put this behind me, I want to look ahead and experience a great world championship. I do not want it to be under a cloud, which says that McLaren did something wrong. No one is perfect. I am certainly not perfect. Our behaviour in this matter, today and in the past 24 days, is the correct behaviour of a Grand Prix competitor. I could have done far more damage to the sport in not staying quiet. I took steps, and thought they were the eight steps. I was ready to work with Ferrari in this matter. Ferrari rejected this and chose its own path. I am comfortable with my actions and

with the company's actions. I ask you, please, to put the sport first. This has done nothing for Formula 1, for our team or for Ferrari – as it should not. Please use your hearts as well as your heads.

**Max MOSLEY**

Thank you very much. Thank you for your submissions. If you wish to wait outside, we will now deliberate.

**Henry PETER**

We want to make a number of points. There are a number of facts and we have not had a chance, Mr Chairman.

**Max MOSLEY**

Quickly, then.

**Henry PETER**

I just want to discuss the brake system issue. The newspapers and the chronology show that this is a very relevant issue. Ferrari's brake system, presented here as being of no interest in that it goes back to the old days of Ferrari's FDD subsidiary in England, ten years ago. Mr Almondo can confirm this, if needed, but as everybody knows, the brake systems are entirely different today.

**Max MOSLEY**

Are you disputing the evidence that the brake system shown by Coughlan to Taylor was, for all practical purposes, the same hydraulic brake system that he played a part in designing ten years previously?

**Henry PETER**

Yes, we are. This is why we need to address it. The brake system from ten years ago is a mechanical system.

**Max MOSLEY**

I may have inverted the two: one is hydraulic and one is mechanical.

**Henry PETER**

The brake system developed in the old days was mechanical, now, it is hydraulic. The previous system was not progressive, as we can explain if necessary. Since 2006, we have adopted a

progressive system. This is very important: on the braking system, McLaren did not simply receive information passively from Mr Stepney, but requested additional information and drawings from Ferrari and received it.

**Max MOSLEY**

That is not quite fair.

Mr Coughlan asked Mr Stepney on the telephone whether the movements of the Ferrari driver's right hand were adjusting the brake balance. He received the reply that they were. He subsequently gave the drawings of the brake balance system.

**Henry PETER**

We then agree that Michael Coughlan asked for information or confirmation and received it. That is a valuable piece of information. Then, explanatory drawings were given to him, and we can only imagine that Mr Stepney did this because he was required to do so. This is in April-May. It was an ongoing process. This shows that additional people at McLaren were involved in collecting information. This information, if requested by McLaren and therefore presumably used, was indeed important then.

**Max MOSLEY**

That is not quite fair. The information requested by Coughlan related to whether the system was adjusted. Nothing in the document suggests that McLaren for further information; rather, the evidence shows that Stepney volunteered the drawings subsequently. Then, according to the evidence, they were shown to Taylor, who dismissed them. This may or may not be true, but such is the evidence.

**Henry PETER**

Our point is that, on the braking system, information was actively sought by McLaren and this occurred in April-May. It shows that there was an ongoing flow of information, part of which was requested. Moreover, it did not go only to Mr Coughlan, but to other parties at McLaren.

**Max MOSLEY**

It is a pity we did not have a statement about this.

**Henry PETER**

Perhaps. We have one further point.

**Max MOSLEY**

*(in response to signs of impatience from McLaren)* They are entitled to make their points; there is no use in huffing and puffing.

Henry PETER

We listened to you for three hours.

**Ron DENNIS**

They had every opportunity to ask questions.

**Max MOSLEY**

They are not asking questions, they are making statements, and we will give them whatever value we think appropriate.

**Henry PETER**

The material point is as follows. We describe this as a “poker player” situation. McLaren knew what Ferrari’s game was, because all of the information was in the hands of their top designer – a person at the head of a 156-designer team. He knew Ferrari’s car in full. When playing poker, such an advantage is huge. Using information is not only about applying it to one’s car directly, but about knowing the main competitor’s strengths and weaknesses, and then adjusting your own plans and actions on that basis.

**Ian MILL**

Everybody has heard, from Mr Lowe, the exact extent to which there is any degree of possibility of influence on the McLaren car. He has told you that he is 100%-confident. I ask you to accept that as the relevant material, not an inference that Ferrari would ask you to draw, based on inaccurate assumptions. Secondly, as far as Mr Taylor is concerned, it is extremely invidious that, at the very end of this process, someone has seen fit to challenge Mr Taylor’s evidence. Had we known, he could have been here to answer why he did this. The McLaren braking system is a mechanical one, not a hydraulic one, like Ferrari’s. Mr Taylor is not here, unfortunately, and I cannot say what caused him to be unable to say whether the document was of old or new provenance. You have his evidence as to what he believed the case to be. He looked at the document only briefly and dismissed it from his thoughts. It had nothing to do with McLaren’s brake systems, whether in the past or the present. I am very sorry that Mr Taylor is not here to assist. Had we known it would be relevant, we could have done something. We ask that you take no account of what Ferrari has just said.

**Max MOSLEY**

There is no question as to a hydraulic system now being fitted on the McLaren.

**Ron DENNIS**

This is one topic on which Charlie is knowledgeable. He could, I believe, confirm to the World Council that our braking system is entirely different from that of Ferrari, with regard to both design and concept.

**Max MOSLEY**

I do not think that this is in dispute. Charlie, the two systems are indeed different, and both quite clever, I believe.

**Charlie WHITING**

They are both quite clever, yes, and completely different.

**Ron DENNIS**

That is the point. They are completely different.

**Max MOSLEY**

Does anyone have any further comment whatsoever?

**Morrie CHANDLER**

So much remains to come out. We have heard statements and comments on many issues from both Ferrari and McLaren, but in myself, I do not feel that we have reached the bottom

**Max MOSLEY**

Ron actually said that, indicating that there is far more here than meets the eye.

**Ron DENNIS**

I believe that is true. I do not believe that this is a conspiracy that involves either Ferrari or McLaren. I truly do understand Ferrari's position. This issue and what may unfold in the future will only confirm that these are actions of parties that may have worked for our company and other companies, with the specific intention not known to either of our companies. We are in a fiercely competitive world. I understand exactly where Ferrari is coming from and the beliefs or suspicions they have. Yet I hope that everyone here, including Ferrari, can understand that we are not involved in this – nor is Ferrari. We have problems with our employee, as do they, and as may others in the near future. There will undoubtedly people clamming up, and we may never learn the truth. I do not believe that there is any data on computers that will let us know any more than these do today.

**Morrie CHANDLER**

Both companies have stated that they are carrying out investigations on the matter and interrogating of their systems. Could they both undertake to provide to this Council anything they may learn that is of interest to the sport?

**Ron DENNIS**

Absolutely.

**Max MOSLEY**

I kindly ask you then, to withdraw for a few minutes, after which we will give you our conclusion.

**Council Decision and Conclusion**

**Max MOSLEY**

It is the unanimous view of the World Council that Vodafone McLaren Mercedes were in possession of Ferrari secrets or Ferrari information, by virtue of Mr Coughlan's possession thereof, irrespective of certain other elements. We therefore find Vodafone McLaren Mercedes in breach of Article 151c. However, the evidence of any use of this material in a manner calculated to interfere with the Formula 1 World Championship is insufficient for us to impose any penalty. Should, in the future, evidence emerge showing that the Formula 1 World Championship was prejudiced in any way by the possession of this information by Vodafone McLaren Mercedes, either in 2007 or 2008 or any years subsequent to that, we reserve the right to invite the team back in front of the World Council, where they would be faced with the possibility of exclusion, not only from the 2007 World Championship, but also from the 2008 World Championship.

We will invite Mr Stepney and Mr Coughlan to show reasons why they should not be in effect banned from international motor sport for a lengthy period. The World Council has delegated authority to deal with that matter to the Legal Department of the FIA.

We will issue this precisely in those terms.

**Ron DENNIS**

I very much appreciate exactly what you said. I understand what you said and why you said it. The reputation of McLaren has been badly damaged over the last 24 days. I would ask the World Council and yourselves to avoid, in the subsequent press conference the word "guilty". I understand that there may be a desire to use that word, but I would appeal to the World Council for it not to be used. Whilst I recognise what you have said, I still strongly feel that McLaren's integrity as a whole unit or as myself, does not need to be further blamed for the action of one

employee. I would ask for moderate or accurate positioning in subsequent communication to the media; I think it is in the interest of the sport and in the interest of fair play.

I only ask this. I do not need a response. I am appealing to the fact that I understand what has been said, but I also believe that nobody or very few people in this room feel that we are guilty of anything other than having a rogue employee. I simply want to put this matter behind our company and fight for the world championship. It is very important for Formula 1 and for us. I want to contain my emotions.

**Max MOSLEY**

It is very difficult for you to see this from any other point of view, obviously. Imagine that you have a tip-off from a shop in Italy. On that basis, court officials raid someone's house and nearly 800 papers of McLaren information are found in Ferrari's possession. The world would say what it would. Imagine that exactly this hearing took place and the same conclusion reached. The reaction from the press and the outside world would be that, once again, the FIA has been overly lenient with Ferrari – it is "Ferrari International Aid".

**Ron DENNIS**

I do not suggest for one minute that the findings of this World Council are based on that premise. I only ask for the word "guilt" to be left out of your press release. I am comfortable with "found against" or something similar. Otherwise, all of the newspapers will head their articles that way: "McLaren Guilty". I do not think that would be fair.

**Max MOSLEY**

I appreciate what you are saying and we will discuss it within the Council.

**Jean TODT**

Of course, we respect the decision, but I think we should respect it from the first to the last word. It is completely irrelevant to come and try to change the decision of the World Council.

**Ron DENNIS**

I am not asking for the decision to be changed.

**Max MOSLEY**

I can understand what both of you are saying. We will look at it, but I am not making any promises.



**Ron DENNIS**

I understand.

**Max MOSLEY**

Thank you very much. I hope that we were not too confused or incoherent as a tribunal. If I may so, Mr Mill, you did an outstanding job of keeping to the relevant issues and keeping your excellent client under control.