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Closing submissions by MR HORWELL .....1

Thursday, 30 July 2015

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(10.00 am)

THE CHAIRMAN: Yes, Mr Tam.

MR TAM: May it please you, sir. The last two days of the hearing this week have been set aside for closing statements to be made. Two of the core participants wish to make closing statements to the Inquiry. They are Mr Horwell for the Metropolitan Police and Mr Emmerson on behalf of the family. Sir, they have been kind enough to indicate the estimates of the time they will need for that and as a result the plan is for my learned friend Mr Horwell to make his closing statement today and for my learned friend Mr Emmerson to make his tomorrow.

THE CHAIRMAN: Yes.

Yes, thank you. Mr Horwell.

Closing submissions by MR HORWELL

MR HORWELL: Sir, we have remained silent during this Inquiry because in the absence of any representation for Lugovoy and Kovtun, or for the Russian state, we did not want to be seen to be having any influence over the evidence called. We have done our best to assist you whenever required. But this independent Inquiry has assessed the evidence and it has decided what evidence to call. It has done that without any interference from

1 the Metropolitan Police Service.

2 That objective having been achieved, the time has  
3 now come for those we represent to comment on the  
4 evidence and to draw together the various threads.

5 The Metropolitan Police Service want Lugovoy and  
6 Kovtun to be tried in this country for murder. But as  
7 such a trial now seems unlikely, it is important that  
8 the investigation by and the conclusions of the  
9 Metropolitan Police Service are made known.

10 We may not have asked a single question during the  
11 Inquiry, but our silence must now end, and I fear that  
12 this closing statement may take the best part of today.  
13 It is perhaps a small price to pay for our limited  
14 contribution so far.

15 The old form inquisition setting out the facts as  
16 found would have been straightforward for a coroner to  
17 complete. It would simply have read as follows:

18 "Alexander Litvinenko died of acute radiation  
19 syndrome having been poisoned with polonium-210 on  
20 16 October 2006 and again on 1 November 2006.

21 "He was killed unlawfully."

22 That would have met the legal requirements in times  
23 gone by. But it would not even have begun to tell the  
24 story of this man's extraordinary life and the equally  
25 extraordinary circumstances of his death.

1           The remit of this Inquiry has been wide and you have  
2           heard evidence from many witnesses covering a multitude  
3           of issues.

4           In this closing statement we will adopt the example  
5           of the investigating police officers and our sole  
6           purpose will be to follow the evidence wherever it  
7           leads. We will not be distracted by speculation,  
8           rumour, irrelevant issues and conspiracy theories  
9           articulated by people who are driven by malice and who  
10          plainly have too much time on their hands.

11          The Metropolitan Police Service's investigation has  
12          always had at its central core the science. It is the  
13          scientific evidence that condemns Lugovoy and Kovtun,  
14          and no matter how many state honours Putin may pin to  
15          Lugovoy's chest for "services to the motherland",  
16          however meteoric Lugovoy's rise in politics has been and  
17          may become, however many conferences Kovtun may hold, or  
18          how many times Kovtun promises to "blow apart" this  
19          Inquiry, Lugovoy and Kovtun have no credible answer to  
20          the scientific evidence, and to the trail of polonium  
21          they left behind.

22          The science is the principal evidence against them,  
23          and prejudice for or against Russia plays no part in its  
24          presentation or value. It is as untainted as it is  
25          damning.

1           Where should you start? The cause of death is  
2 clear. But in any investigation, especially one with  
3 such an unusual cause of death, the first question,  
4 however quickly answered, must always be: was the death  
5 unlawful?

6           Lugovoy and Kovtun and indeed others have suggested  
7 that Litvinenko died as a result of an accident. Some  
8 have even postulated that it was suicide.

9           As to accident, sight must never be lost of the fact  
10 that polonium is an exceptionally rare substance which  
11 in soluble form in particular is very difficult to  
12 acquire. The simple fact is that there is no evidence  
13 that Litvinenko had handled polonium or had ever had the  
14 opportunity to handle it. There is no evidence that he  
15 had anything whatsoever to do with polonium. The  
16 examination of his home revealed widespread  
17 contamination, but the only item which gave  
18 a significant reading for alpha radiation was the right  
19 sleeve of the jacket he had been wearing in the Pine Bar  
20 at the Millennium Hotel.

21           All other contamination at his home was at a very  
22 low level.

23           The principal sources connecting Litvinenko to  
24 polonium and to the accident hypothesis are none other  
25 than Lugovoy and Kovtun. When Lugovoy was interviewed

1 by the BBC in September 2011, he said this:

2 "Litvinenko was an opportunist. We may presume that  
3 he was involved in the polonium trade with the intention  
4 of staging an act of provocation or an act of terrorism.  
5 We can presume that he was handling polonium without  
6 enough care and died as a result."

7 Said, of course, with neither conviction nor  
8 supporting evidence. "We may presume that Litvinenko  
9 was involved in the polonium trade". We submit that you  
10 will presume nothing of the sort because there is no  
11 evidence to support this fanciful theory. It is the  
12 claim of a desperate man and must be rejected.

13 Apart from anything else, the medical evidence  
14 establishes that Litvinenko ingested the polonium that  
15 killed him and how anyone in the "polonium trade",  
16 whatever that might mean, could accidentally ingest  
17 polonium is beyond comprehension.

18 As for suicide, this again is principally the theory  
19 of Lugovoy and Kovtun and again there is no evidence to  
20 support it. The evidence in general and especially that  
21 of Mrs Litvinenko, Goldfarb, Reilly, and Attew, is that  
22 Mr Litvinenko had everything to live for. He was in  
23 good health, he was not depressed, he had a passion for  
24 life, he had business opportunities ahead of him, he was  
25 devoted to his family, immensely proud of his son, had

1 a very happy and loving marriage, and he was settled in  
2 this country, and was relieved and delighted to be  
3 living here, especially after he had so recently, on  
4 13 October 2006, acquired British citizenship. In any  
5 event, as we have just submitted, there is no evidence  
6 that he had access to polonium with which to kill  
7 himself.

8 To his family, this is a particularly spiteful and  
9 insensitive accusation to make. But much more  
10 importantly, as far as this Inquiry is concerned, not  
11 only is it one made without evidence, but all of the  
12 evidence is the other way. This theory too must be  
13 rejected.

14 We note that Kovtun, never bashful, has more  
15 recently plummeted to new depths and has attempted to  
16 combine the two theories into one. At a press  
17 conference he held in Moscow on 8 April 2015, he claimed  
18 that Litvinenko's death was "an inadvertent suicide",  
19 new terminology for all of us, no doubt. Perhaps his  
20 message was lost in translation.

21 He then offered this extraordinary explanation:

22 "I am more than certain he dealt with polonium  
23 without even knowing it. It might have been a leak and  
24 polonium was accumulating in his body gradually."

25 To an inventive mind like Kovtun's, anything is

1 possible save for the truth.

2 On the evidence, therefore, there can be no doubt  
3 that Alexander Litvinenko was unlawfully killed and the  
4 science is such that the finger points unwaveringly at  
5 Lugovoy and Kovtun as having administered polonium to  
6 him on two occasions.

7 The two attacks on Mr Litvinenko were an outrage.  
8 They led to great suffering on his part and eventually  
9 to his demise. We will never know how dangerous the  
10 exposure of polonium to the public at large will be and  
11 what long term effects will be visited upon Londoners.  
12 Anyone who arranges for polonium-210 to be brought into  
13 a city centre does so without any regard for human life.

14 Mr Emmerson has said, perhaps it was more than once,  
15 that this was a nuclear attack on the streets of London.  
16 That comment is justified. London was plunged into  
17 crisis and the scale of the  
18 Metropolitan Police Service's response was considerable,  
19 and its investigation has been painstaking. It involved  
20 at times about 100 detectives and about 100 uniformed  
21 police officers. This work led to the police report to  
22 which reference has been made throughout this Inquiry.

23 I am not here to seek plaudits for those  
24 I represent, but we suggest it is worth observing that  
25 the approach and conclusions of that report have



1 survived the intense scrutiny of this Inquiry. We are  
2 here today because of the work of Scotland Yard and the  
3 courage and, above all, the persistence of  
4 Mrs Litvinenko.

5 There are four important preliminary questions,  
6 three of which were raised in the opening statement of  
7 Mr Tam.

8 The first is why polonium? Why use this radioactive  
9 toxin as the murder weapon when there are so many other  
10 instruments of death that are so much easier to use and  
11 which are just as effective?

12 We suggest that the answer is straightforward.  
13 Those who planned Litvinenko's murder did not want the  
14 cause of his death to be discovered. Polonium is  
15 a silent, invisible and normally unidentifiable agent of  
16 death.

17 One of its primary advantages is that once delivered  
18 in sufficient quantity, death is certain but not  
19 immediate, permitting the assassins to disappear and  
20 avoid arrest before suspicion is aroused. Tiny, almost  
21 microscopic amounts of polonium are fatal and as  
22 a murder weapon, it is remorseless. It is able to  
23 invade a number of the main organs and unlike other  
24 alpha particle emitters, it is very effective at  
25 migrating to the red bone marrow and destroying it.

1           There is evidence that polonium may well have been  
2           used in the past as the murder weapon of choice on other  
3           victims and if not identified on this occasion, it would  
4           doubtless have been used again in the future.

5           The evidence you have heard has established that  
6           Litvinenko was a healthy young man who had not been  
7           known to be ill, and this fact, together with his  
8           relatively swift admission to hospital and then to  
9           intensive care, probably enabled him to survive for  
10          longer than his assassins would have expected. Had he  
11          not lived for so long, it is extremely unlikely that  
12          polonium would have been detected in life. If it had  
13          not been detected in life, it is unlikely that it would  
14          have been detected in death at the post mortem  
15          examination.

16          Dr Cary said that without the information obtained  
17          in the very last days of Litvinenko's life, he would  
18          have given the cause of death as bone marrow failure,  
19          cause unknown. Dr Swift said that as far as he was  
20          aware, this is the only known recorded death from alpha  
21          radiation poisoning in the world. Without the findings  
22          from samples taken in life, further samples would not  
23          have been sent for nuclear analysis in death. The  
24          post mortem examination would have been wholly different  
25          without the evidence obtained so late in Litvinenko's

1 life, evidence which as we have said, was obtained at  
2 a time when the organisers of this plot would have  
3 expected him to have been dead.

4 It is clear that polonium would not have been  
5 identified through the normal post mortem toxicological  
6 process. Polonium was the almost perfect murder weapon.  
7 We use the past tense because it no longer has that  
8 accolade. As a result of this investigation, it has  
9 lost its anonymity forever and will now be first on  
10 a pathologist's checklist if ever a Russian dissident  
11 dies in similar circumstances. Chief Superintendent  
12 Clive Timmons requested a living post mortem and but for  
13 that decision, and the accident of  
14 Detective Sergeant Jolly watching a television news  
15 broadcast and his inspired detective's intuition to have  
16 a sample tested for radioactive contamination, the cause  
17 of death may never have been discovered and this Inquiry  
18 would never have been held. Death would have been put  
19 down to an unascertained cause.

20 Polonium poisoning, of course, was only confirmed on  
21 the day that Mr Litvinenko died. So we submit that the  
22 motivation of those who plotted Litvinenko's murder is  
23 clear. They wanted rid of him. They wanted death to be  
24 certain. They wanted to evade attribution for his death  
25 because they wanted to avoid political fallout in the

1 UK. This was 2006 and not 2015 when relations between  
2 the UK and Russia were very different.

3 To this end, they wanted the cause of death to be  
4 unidentified. This would have had the additional  
5 advantage that this terrible poison could have been used  
6 again and again.

7 Sight must never be lost of this chilling fact.  
8 They so very nearly succeeded in achieving each of those  
9 objectives.

10 Whatever the merits of polonium, it is not the  
11 perfect murder weapon because it does have its  
12 shortcomings, the first of which is the clear danger it  
13 offers to the assassins who handle it. Exposure to  
14 polonium is life threatening.

15 The second shortcoming, of which we are now aware,  
16 as a result of this investigation, is the detectable  
17 trail polonium leaves behind, if not knowingly handled  
18 as a radioactive substance.

19 Professor Dombey described polonium-210 as being  
20 "intensely radioactive" because it is such an intense  
21 emitter of alpha particles. The Los Alamos National  
22 Laboratory website describes polonium-210 as being "very  
23 dangerous to handle in even milligram or microgram  
24 amounts, and special equipment and strict control are  
25 necessary".

1           The extreme dangers of polonium give rise to one  
2           obvious consequence on these facts. Those who were  
3           tasked to administer this radioactive isotope to  
4           Litvinenko must have known it was a poison but must also  
5           have been ignorant of its true nature and properties.

6           There is, of course, much to commend ignorance. Few  
7           men, even ex-FSB, will be able to handle and deliver  
8           a radioactive substance with the calm that is necessary  
9           to disguise and conceal their intent.

10           Most assassins are comfortable with the act of  
11           murder, but will stop short of anything which will harm  
12           themselves. Apart from anything else, few if any men  
13           would volunteer for such a hazardous enterprise.  
14           Lugovoy and Kovtun are common murderers. They did not  
15           sign up to membership of a suicide squad.

16           Lugovoy and Kovtun were not the bungling assassins  
17           as some have suggested. They were simply ignorant of  
18           the true qualities of the poison they carried and we  
19           suggest that ignorance was essential for those engaged  
20           to administer it covertly.

21           So when the next and second question was raised in  
22           the opening statement, why would Lugovoy encourage Igor,  
23           his eight-year-old son, to shake Litvinenko's hand soon  
24           after Litvinenko had been poisoned, the answer we  
25           suggest is very clear. Lugovoy did not believe that

1 such contact would present any danger to his son. This  
2 question raised by Lugovoy himself, of course, only has  
3 validity if Lugovoy then knew the precise properties of  
4 the poison he carried, and we suggest he did not.

5 It was not just his son that he had with him in  
6 London but his wife and two daughters as well. He did  
7 not then know the full extent of the toxin he carried or  
8 the danger to which his family was undoubtedly exposed.

9 This point can also be examined from this  
10 perspective. If Lugovoy and Kovtun had been aware of  
11 the true nature of this poison, they would have known  
12 that it would leave a radioactive trail. They would  
13 have been much more careful in its transportation,  
14 handling and delivery. They would never have left  
15 behind the trail that now damns them. The clumsy manner  
16 in which the polonium was handled proves beyond doubt  
17 their ignorance of its properties. Of course their  
18 masters could not warn them about the trail that might  
19 be left from inept handling, because to have done so  
20 would have revealed the radioactive nature of the  
21 poison. That, as we have said, was not a viable option.

22 So to those who plotted Litvinenko's murder, Lugovoy  
23 and Kovtun's ignorance suited their ends very well.

24 In any event, their masters would not have been  
25 unduly concerned about the polonium trail, because they

1 would not have expected the cause of death to have been  
2 discovered, and without such discovery, scenes of crime  
3 would never have been examined for alpha radiation.

4 As for the dangers of polonium to those who handled  
5 it or were exposed to it, that was something in which  
6 they had little interest. As we have said, recruitment  
7 may have been impossible if the full facts had been made  
8 available and ignorance was imperative to ensure that no  
9 nerves or reticence were visible to Litvinenko; the very  
10 signs and emotions that might have made Litvinenko  
11 suspicious and might have put him on his guard, and that  
12 would have been the end of this conspiracy.

13 Knowledge, therefore, would not have enhanced the  
14 prospects of success; it would have diminished them.

15 However important Lugovoy and Kovtun may think they  
16 are, to their masters, they were and are quite simply  
17 expendable. If they or their families had died or if  
18 their life expectancies have been reduced, that to their  
19 masters would be regarded as mere and acceptable  
20 collateral damage. That much is obvious and that  
21 general approach to assassins, namely that they are  
22 expendable, was confirmed by Bukovsky in his evidence.  
23 Lugovoy and Kovtun may like to reflect on that  
24 proposition in the months ahead.

25 Has the medal and the honours and the rewards been

1           worth it?

2           The third question asked in the opening statement  
3           was the very question raised by Litvinenko in one of his  
4           interviews. Why was Lugovoy so diffident as to whether  
5           or not he, Litvinenko, drank the tea at the  
6           Millennium Hotel? The answer to this question is  
7           twofold. First, Lugovoy had to be diffident and second,  
8           he could afford to be.

9           Any display by either Lugovoy or Kovtun of eagerness  
10          or urgency or desperation would have appeared suspicious  
11          and counterproductive. Anything other than diffidence  
12          would have appeared very suspicious to Litvinenko and  
13          may well have brought an end to this plot to kill him.  
14          This was, after all, not the drink of the gods that was  
15          on offer at the Millennium Hotel, but an unexceptional  
16          cup of lukewarm tea. Any encouragement or enthusiasm  
17          from Lugovoy that Litvinenko should drink it would have  
18          been out of place and could have betrayed his murderous  
19          intent.

20          Lugovoy could afford to be diffident for two  
21          reasons. First, Litvinenko was very keen to do business  
22          and associate with him. Litvinenko needed no  
23          encouragement to meet Lugovoy. There would have been  
24          many other opportunities to poison him. Even during  
25          that third visit to London, Lugovoy and Kovtun were due



1 to meet Litvinenko the following day, 2 November, at  
2 RISC Management.

3 There would have been many other opportunities in  
4 the immediate future, both in London and in Spain where  
5 Lugovoy and Litvinenko were due to meet just nine days  
6 after their meeting at the Millennium Hotel.

7 In other words, the meeting in the Pine Bar was not  
8 the one and only opportunity Lugovoy and Kovtun were  
9 going to have to murder Litvinenko.

10 Secondly, of course, as far as Lugovoy and Kovtun  
11 were concerned, there was no shortage of this poison,  
12 whatever it might have been. Lugovoy had access to the  
13 very same poison in London on each of his three visits.  
14 There is no reason to suggest that it would not have  
15 been available to him in the future.

16 The fourth and last preliminary question is this:  
17 the claim by Kovtun, and in particular Lugovoy, that  
18 they were framed by MI6, an easy and perhaps inevitable  
19 claim to make and one that is again made without any  
20 evidential support. But there is more that can be said  
21 in addition to that, because we suggest that the  
22 evidence establishes that MI6 cannot have been involved  
23 in a double plot to both murder Litvinenko and to frame  
24 Lugovoy and Kovtun. The claim does not bear scrutiny.

25 If MI6 had gone to the extraordinary lengths of

1 framing Lugovoy for three trips and Kovtun for two,  
2 contaminating their planes, motor vehicles, hotel rooms,  
3 bedrooms, restaurants, office premises, a football  
4 stadium and so forth, both here and in Germany, then  
5 surely it would not have left the discovery of polonium  
6 in Litvinenko's body to chance. The discovery of the  
7 true cause of Litvinenko's death would have been  
8 critical to the success of their operation to frame  
9 Lugovoy and Kovtun.

10 But the cause of his death was only discovered at  
11 the very last moment, as we have said, by an unlikely  
12 combination of four circumstances: Litvinenko's early  
13 admission to hospital and then to intensive care; his  
14 unexpectedly long survival; the decision to perform  
15 a live post mortem; and the accidental viewing by  
16 a police officer of a television news broadcast.

17 Without those four random factors coming into place,  
18 it is unlikely in the extreme that the cause of death  
19 would have been known. Without that discovery, there  
20 would never have been any examination of so many scenes  
21 for alpha radiation. This elaborate plot would then  
22 have been to no avail, a monumental waste of time  
23 endangering the lives of many people. Quite a gamble to  
24 take.

25 Given the above, there is nothing to suggest that

1 MI6 was responsible for the three trips of Lugovoy and  
2 the two of Kovtun. It did not organise or promote them.  
3 It was not responsible for the manner in which those  
4 visits were booked, a subject to which we shall return.  
5 It was not responsible for the lies told, especially  
6 about Kovtun, the withholding of the Russian planes to  
7 prevent them from being examined by the British or  
8 German authorities, the missing tape of Lugovoy's Moscow  
9 interview and much more besides.

10 Although blaming MI6 is such an easy and convenient  
11 excuse for Lugovoy and Kovtun to use, why on earth would  
12 such a plot require the deliberate setting up of two  
13 innocent suspects just to implicate Russia?  
14 Anna Politkovskaya had been murdered just nine days  
15 before the first attempt to poison Litvinenko. The eyes  
16 of the world turned immediately to the Kremlin. That is  
17 what happens when any Russian dissident dies in  
18 mysterious or violent circumstances and that is what  
19 would have happened on Litvinenko's death. Setting up  
20 two innocent Russians and a plan which involved the risk  
21 to hundreds, possibly thousands of Londoners' lives from  
22 radioactive contamination, is a wholly unnecessary and  
23 absurd risk to have taken if the only purpose of it was  
24 to blame Russia.

25 Russia would have been blamed if and when the cause

1 of Litvinenko's death was discovered. Nothing more was  
2 required.

3 But of course Lugovoy and Kovtun have no one else to  
4 blame but the security services.

5 Wherever one looks in this Inquiry, Lugovoy and  
6 Kovtun are never far away. It is to them we shall now  
7 turn to start our review of the evidence.

8 To some extent they are an odd couple. Lugovoy the  
9 chosen one, the Novi Russky -- successful, wealthy,  
10 a minor television star and obviously highly regarded by  
11 the Kremlin. A man now going places. Kovtun, on the  
12 other hand, almost the complete opposite. Up until 2006  
13 a deserter, unsuccessful, poor and going nowhere.  
14 Little is known about Kovtun post 2006, save for the  
15 fact that in October 2006, he told D3 that he would soon  
16 have his own flat in Moscow. What can have given him  
17 cause for such optimism? If there are signs that  
18 Kovtun's life style has been transformed, then he has  
19 been rewarded for his services, but the reason for this  
20 odd couple working together is an obvious one. They  
21 have known each other since 12 years of age, as children  
22 they lived in the same apartment block, went to the same  
23 school and thereafter to the same military college.

24 Whatever their differences, they obviously knew each  
25 other well and trusted each other. And trust is

1 an essential requirement in an enterprise of this kind.

2 Kovtun is the misfit, the one about whom lies had to  
3 be told, because whatever his talents, expertise in  
4 finance, international business and oil and gas  
5 exploration were not amongst them. Yet Lugovoy chose to  
6 bring him to London as his business associate on two  
7 occasions. That says as much about Lugovoy as it does  
8 about Kovtun.

9 This much we know of Kovtun: if he had business  
10 acumen and skills in finance and oil and gas  
11 exploration, he kept those skills very well concealed  
12 for a remarkably long period of his life because the  
13 evidence proves that his interests and goals were  
14 neither entrepreneurial nor geological. His ambition  
15 was to be a porn star and not a mogul.

16 His first wife, Inne Hohne, read an interview with  
17 Kovtun in Der Spiegel in which he had referred to his  
18 work in oil and gas. "That", Inne Hohne said, "has  
19 absolutely nothing to do with Dmitri".

20 He met his second wife, Marina Wall, in 1994 and she  
21 said that Kovtun had no main source of income when they  
22 were together in Germany, which he did not leave until  
23 2003.

24 She said that during the nine years they were  
25 together, Kovtun was living off social benefits. He

1 periodically obtained temporary employment, and she gave  
2 some examples: dishwasher, waiter, and refuse collector.  
3 He was a dreamer, unreliable, and he drank a lot.

4 People can of course change, but it is clear on the  
5 evidence that there was no change in his means up until  
6 the time that Litvinenko was murdered. If his means had  
7 changed after that event, perhaps as a reward for his  
8 contribution to it, then that is a different matter.  
9 But up until November 2006, he did not have two roubles  
10 to rub together and he showed no signs of having  
11 experienced a miraculous conversion from what he had  
12 been to a consultant in the development of the Russian  
13 oil and gas markets.

14 Kovtun's application for a visa was based on a lie.  
15 He accompanied Lugovoy to business meetings but made no  
16 contribution to them. He was playing the part of  
17 an international businessman, or expert, yet paid for  
18 nothing and had no money. His ex-wife's boyfriend,  
19 Radoslaw Michal, had to buy his ticket from Hamburg to  
20 London because Kovtun did not even have a credit card.  
21 D3 said this of Kovtun's means:

22 "Generally he had little money on him. When we went  
23 out for a meal I generally paid."

24 His second mother-in-law, Eleonora Wall, said that  
25 "money and [Kovtun] did not go together". Kovtun could

1 not have been further removed from his declared profile  
2 of "general director of Global Project Limited" if he  
3 had tried.

4 On 16 October 2006, DC Scott stopped Lugovoy and  
5 Kovtun as they entered the UK through Gatwick airport.  
6 Kovtun did not speak English but Lugovoy could and so  
7 DC Scott spoke to him. According to DC Scott, Lugovoy  
8 said that he owned the company Global Enterprise and  
9 that Kovtun was a member of the finance department of  
10 the Metropolis Bank in Russia. Lugovoy said they had  
11 come to the UK for a meeting with "Shadray" -- that must  
12 be Shadrin -- at the Continental Petroleum, the premises  
13 of which are at 58 Grosvenor Street.

14 The question must be asked if Kovtun was not in  
15 London to help Lugovoy with his business, and he plainly  
16 was not, for he was incapable of doing so, what was the  
17 purpose of his being here?

18 Why the lies from both Lugovoy and Kovtun as to  
19 Kovtun's employment and past to get him here in the  
20 first? We suggest that on the evidence, the answer is  
21 obvious.

22 Kovtun declared in his visa application dated  
23 2 October 2006 that he had never been to the UK before.  
24 For him therefore, it is quite a coincidence that on  
25 each of his only two visits to London, he was at the

1 centre of widespread polonium contamination of multiple  
2 scenes that he had visited, and that the two visits  
3 coincided with the only two occasions on which  
4 Litvinenko was poisoned by polonium. There is bad luck  
5 and appalling bad luck, but that is off the scale if  
6 Kovtun is an innocent man.

7 The three visits, three by Lugovoy, two by Kovtun,  
8 are very revealing. Kovtun's UK visa application was  
9 received on 5 October 2006 and the visa was issued on  
10 the same day. The first booking for the first visit was  
11 made just two days later on 7 October, which indicates  
12 that this untalented and inexperienced businessman was  
13 deemed essential to the trip. Whatever his purpose or  
14 role may have been, there was no booking until his visa  
15 had been issued. The visa was issued on the 5th, the  
16 hotel was booked on the 7th, and the flights were booked  
17 on the 9th.

18 So reasonably advanced planning for a visit to  
19 commence on 16 October. They were due to be here for  
20 just three days and they did not waste time. On the  
21 afternoon of the 16th, a meeting had been organised with  
22 Mr Reilly of Erinys at his office at 25 Grosvenor  
23 Street. Litvinenko was present. His role was to  
24 introduce Lugovoy to Erinys. Reilly's evidence is that  
25 Kovtun said nothing at the meeting and played no part in



1 it. He said that Russians sometimes have a silent  
2 representative present at business meetings to observe  
3 body language. But there is no evidence that that is  
4 what Kovtun was doing or that he was in any sense  
5 qualified for or experienced in such a role. His  
6 familiarity with business and business meetings was  
7 somewhat lacking.

8 It is also of note that on the following day,  
9 17 October 2006, when Lugovoy, Kovtun, and Litvinenko  
10 had a meeting with Daniel Quirke at the offices of  
11 RISC Management, apart from handing over a disk, Kovtun  
12 again played no part in that meeting.

13 We know from a combination of the scientific  
14 evidence and that of Mrs Litvinenko that Mr Litvinenko  
15 must have been poisoned with polonium on the 16th. We  
16 suggest that it is no coincidence that a corner of the  
17 green baize tablecloth on the board room table at Erinys  
18 where the meeting took place, was one of the most  
19 heavily contaminated areas discovered in this  
20 investigation. The radioactive contamination of the  
21 tablecloth was so intense that Al is of the opinion that  
22 it was caused by direct or primary contact with  
23 polonium, the first example of such a high level of  
24 contamination.

25 Even though Lugovoy and Kovtun were with Litvinenko

1 before and after that meeting, and met him again at  
2 RISC Management on the following day, the 17th, and at  
3 the Golden Dragon Chinese restaurant after that meeting,  
4 their mission was such that they left nothing to chance  
5 and decided to act at the very first opportunity. We  
6 suggest that on the evidence, Litvinenko was first  
7 poisoned at Erinys. He was of course ill and vomiting  
8 but a few hours afterwards.

9 If Erinys was the chosen location for the crime,  
10 then it might be expected that the polonium was put into  
11 a useable container or at least got ready at the hotel  
12 before Lugovoy and Kovtun left for the meeting. Again,  
13 we suggest it is no coincidence that Lugovoy's room at  
14 the Best Western Hotel in Piccadilly, room number 107,  
15 was very heavily contaminated with polonium.

16 The U-bend of the sink in Lugovoy's bathroom gave  
17 such high readings for radioactivity that Al is again of  
18 the opinion that the contamination is consistent with  
19 direct or primary contact with polonium, the second such  
20 example.

21 The evidence shows that before the meetings at  
22 Erinys, only room 107 was available for the use of  
23 Lugovoy and Kovtun and that they both went to that room  
24 to change before leaving the hotel. It is also  
25 possible, of course, that they could have disposed of

1 the remaining polonium after they had successfully  
2 administered the poison to Litvinenko, because what is  
3 clear is that polonium was poured down the sink, either  
4 deliberately or accidentally. On the following day they  
5 left the Best Western Hotel, even though it had been  
6 booked for the two nights and even though both nights  
7 had been paid for in advance. They left without  
8 complaint and without any request for a refund and  
9 decamped for the Parkes Hotel in Beaufort Gardens in  
10 Knightsbridge. Perhaps the Best Western was not to the  
11 exacting standards of Kovtun, perhaps they left for  
12 reasons connected to the plot to murder Litvinenko. We  
13 will never know for sure.

14 The first visit therefore was a partial success, and  
15 although in time Litvinenko may have died from the first  
16 ingestion of polonium, that was not good enough for the  
17 organisers of this conspiracy, who wanted relative  
18 immediacy as much as certainty and so the procedure had  
19 to be repeated all over again.

20 Lugovoy's second trip to London was planned in very  
21 different circumstances to the first. The flight and  
22 the hotel were booked only the day before departure and,  
23 although Lugovoy has claimed that he had no intention to  
24 meet Litvinenko on this trip, that claim is not  
25 supported by the evidence because he did manage to meet

1 Litvinenko on two occasions at his hotel and even more  
2 importantly, despite his attempt to distance himself  
3 from Litvinenko, upon his arrival in this country, it  
4 was Lugovoy who made the first contact. He telephoned  
5 Litvinenko at 10.09, the call lasted 3 minutes and 7  
6 seconds, and Lugovoy had further time to arrange for  
7 Litvinenko to buy him a new SIM card. Litvinenko says  
8 that the SIM card was Lugovoy's suggestion, Lugovoy says  
9 it was Litvinenko's. Either way, it is not behaviour  
10 that would be expected of a man who claims to have had  
11 no interest or purpose in meeting Litvinenko during that  
12 trip.

13 Why Kovtun did not accompany Lugovoy on this second  
14 trip will never be known but that the principal purpose  
15 of it was to murder Litvinenko is established beyond  
16 doubt on the evidence.

17 Just as Lugovoy's room at the Best Western Hotel  
18 during the first visit was the scene of some form of  
19 preparation or disposal of polonium, so was his room at  
20 the Sheraton during this second visit. The  
21 Sheraton Hotel is the third scene in respect of which A1  
22 is of the opinion that the radioactive contamination was  
23 at the direct or primary contact level.

24 Room 848, in particular the bathroom, had widespread  
25 contamination, some of it very high. Two towels from

1 the laundry emitted the highest reading of alpha  
2 radiation found in the entire investigation.

3 Interpretation of this evidence is of course  
4 a matter of inference, but because of the very high  
5 readings from the bathroom and in particular the towels,  
6 there is the real possibility that the polonium had been  
7 accidentally spilt in the bathroom and that the  
8 contamination, certainly of the towels, the laundry  
9 chute and the inner container of the bin, resulted from  
10 Lugovoy cleaning the scene. If polonium had been spilt,  
11 that spillage was likely to have been responsible for  
12 the wider contamination of the bathroom.

13 There is another feature which tends to indicate  
14 that the plan was not adhered to on this occasion.  
15 There was no significant contamination of the sink  
16 U-bend in room 848 and, as we shall see, that  
17 distinguishes the Sheraton Hotel from the hotels used in  
18 the first and third visits.

19 We also know for certain that Litvinenko was not  
20 poisoned during the second trip. That fact is also  
21 consistent of course with the accidental loss of  
22 polonium in the hotel bathroom before any attempt had  
23 been made to poison him. If there had been  
24 an accidental loss of polonium, then a measure of panic,  
25 certainly of irritation would have set in. Lugovoy's

1 masters may have been patient but he had now been  
2 personally responsible for two failures and he would  
3 have had no desire to find the limits of his master's  
4 patience.

5           Lugovoy would have wanted to make plans immediately  
6 for the now necessary third attempt to poison  
7 Litvinenko. That is exactly what he did.

8           It is no coincidence, we suggest, that whilst  
9 Lugovoy was still in London during this second visit, he  
10 decided that he needed Kovtun with him for the third  
11 attempt to murder Litvinenko -- which would be in but  
12 a few days' time.

13           Lugovoy had a longstanding arrangement to be in  
14 London for the Arsenal/CSKA Moscow game and to give his  
15 family a holiday. The Arsenal tickets had been  
16 requested back in September from Mr Shuppe, Berezovsky's  
17 son-in-law, and the hotel and the flight for Lugovoy's  
18 third trip had been booked on 10 and 12 October  
19 respectively. What is clear beyond doubt is that Kovtun  
20 was never intended to be part of this group travelling  
21 to London for the Arsenal game, because when the hotel  
22 and flights were booked, his name did not feature. No  
23 bookings were made for Kovtun and there was not a ticket  
24 available for him to go to the football match. So  
25 Kovtun was an afterthought and a late one, which begs

1 the question, what had changed?

2 We suggest that the polonium contamination of the  
3 Sheraton Hotel, more consistent with a spillage than any  
4 other cause, is what had changed because, whilst Lugovoy  
5 was still in London during his second and unsuccessful  
6 visit, Kovtun's flight from Heathrow to Moscow was  
7 booked. It was booked on 27 October. When planning  
8 a murder, the exit strategy is perhaps more important  
9 than the arrival.

10 Kovtun booked his flight from Hamburg to London two  
11 days later, on the 29th, and although he said his  
12 purpose for coming to London was to see the Arsenal  
13 game, that was not the truth. It was never an option  
14 for him. Why was Kovtun in Hamburg?

15 You have heard live evidence from C2 and D6 and the  
16 evidence of D3 and D7 has been read. The principal  
17 evidence, of course, comes from D3 and his account of  
18 a conversation he had with Kovtun on 30 October. That  
19 conversation, we accept, was extraordinary. The  
20 reference to an expensive poison and the need for  
21 a London cook. We can understand why the German  
22 authorities were skeptical but after further and  
23 extensive investigation, D3's account was in large part  
24 corroborated. There can be no corroboration of the  
25 conversation, of course, only D3 and Kovtun were

1 present; but the telephone contact which followed  
2 supports D3's account. The calls between Kovtun and D6,  
3 D6 and D7, D7 and C2, D6 and D7 and then eventually  
4 Kovtun on Lugovoy's mobile to C2 on 1 November 2006 at  
5 11.33 in the morning.

6 Lugovoy and Kovtun were then together in London and  
7 that call must have been one of the first things they  
8 did after Kovtun's arrival, because Kovtun's plane had  
9 only landed four hours before at 7.25. That trail of  
10 telephone calls and the reason for them tends to suggest  
11 that D3 has told the truth.

12 You can also take into account, we would suggest,  
13 D3's reaction to these events. He has made it clear  
14 that he regarded Kovtun as a good friend and in his view  
15 Kovtun was incapable of doing anything "nasty". D3 has  
16 explained that he did not take what Kovtun was saying  
17 seriously. D3 has said that he did not want to believe  
18 it but Kovtun's account was "illogical" and  
19 "improbable". Hardly the words of someone who is  
20 attempting to add credence to a false, made-up story,  
21 and D3 concluded by admitting that he had feelings of  
22 guilt because the poisoning actually happened. Again,  
23 we would suggest, an unlikely embellishment, if a lie.

24 If D3's account is a lie, what on earth can the  
25 motive be for it? There is no evidence of any payment



1 or of any financial motive of any kind. The  
2 conversation was an extraordinary one but the evidence  
3 tends to suggest that it occurred and, if it took place,  
4 it is evidence against Lugovoy as well. Statements made  
5 in the furtherance of a conspiracy are admissible  
6 against all conspirators, whether present or not.

7 Kovtun arrived in London on the morning of  
8 1 November, and as an indication of the lateness of  
9 Lugovoy's decision to have him here, there was not even  
10 a room for Kovtun. He had to share a room with  
11 Mr Sokolenko, a business associate of Lugovoy.

12 Sir, I am coming to the events of 1 November. I am  
13 well ahead of time.

14 THE CHAIRMAN: Yes.

15 MR HORWELL: I am also well aware of the fact that this must  
16 be possibly the most difficult time for this Inquiry for  
17 the record to be made.

18 THE CHAIRMAN: Yes. It would be sensible therefore to break  
19 at this stage.

20 (11.06 am)

21 (A short adjournment)

22 (11.17 am)

23 THE CHAIRMAN: Yes, Mr Horwell.

24 MR HORWELL: So to the third and final visit.

25 THE CHAIRMAN: Yes.

1 MR HORWELL: Just as with their first visit, once Lugovoy  
2 and Kovtun were together, and once C2 had been  
3 contacted, as we have seen on Lugovoy's phone and  
4 obviously rejected, they decided to strike at the very  
5 first opportunity again. Lugovoy and Kovtun knew in  
6 advance that they would meet Litvinenko at the Pine Bar  
7 on the afternoon of the 1st and they could make their  
8 preparations in advance.

9 That afternoon, Lugovoy and Kovtun returned to the  
10 Millennium Hotel at 15.29. At 15.38, Lugovoy telephoned  
11 Litvinenko and not only invited him to come to the hotel  
12 but told him to "come here quick". That call lasted 39  
13 seconds. The football match was not until the evening  
14 and so the question must be asked, why did Lugovoy want  
15 Litvinenko to come to the hotel with such urgency?  
16 Litvinenko was not far away and Lugovoy and Kovtun would  
17 have known that his arrival was imminent.

18 Litvinenko arrived at the Millennium Hotel at 15.57  
19 and he telephoned Lugovoy at the same time, 15.57. The  
20 call lasted 26 seconds. In the 19 minutes that had  
21 elapsed between Lugovoy's call to Litvinenko and  
22 Litvinenko's arrival at the hotel, both Lugovoy and  
23 Kovtun had gone to the reception lavatory. Nothing  
24 remarkable about their going to the lavatory, of course,  
25 but if last moment preparations were to be made, then

1 a cubicle in those lavatories was as good a place as any  
2 to make them, especially because on this occasion, for  
3 the first time, they were each sharing rooms with other  
4 people. And perhaps the lavatory was the more private  
5 and the most convenient place for such preparations or  
6 checks to be made.

7           They may of course simply have been cleaning their  
8 hands, having already poured the polonium into the  
9 teapot. Kovtun, of course, having gone to the  
10 lavatories, did not return to the Pine Bar until after  
11 Litvinenko had arrived. Is it a coincidence, therefore,  
12 that the closest gents' lavatory to the hotel reception  
13 was contaminated with alpha radiation? High levels of  
14 transferred contamination were found on a cubicle door  
15 and a hairdryer. Whatever the reason for Lugovoy and  
16 Kovtun going to the lavatory, they, or at least one of  
17 them, was responsible for the radioactive contamination  
18 of those lavatories. And we say that for this reason:  
19 as for the theory that it was Litvinenko who was  
20 handling polonium, Litvinenko of course never went into  
21 those lavatories.

22           Litvinenko was an established tea drinker and on  
23 Lugovoy and Kovtun's table was a pot of tea. It was  
24 there before Litvinenko arrived and Lugovoy and Kovtun  
25 would have had unencumbered access to it. There were no

1 CCTV cameras in the Pine Bar and we suggest that is also  
2 no coincidence.

3 The absence of cameras made it an ideal venue for  
4 murder and the choice of the Pine Bar was deliberate for  
5 that reason. Although Litvinenko was there for but  
6 a short time, it was long enough for him to have had  
7 three or four sips of the tea and for his fate to be  
8 sealed.

9 Neither Lugovoy nor Kovtun drank tea from the teapot  
10 whilst Litvinenko was present. A white china teapot was  
11 later found at the Millennium Hotel, from which readings  
12 were taken, and Al is of the opinion that the internal  
13 spout of the teapot was so severely contaminated that it  
14 was the fourth reading of alpha radiation which was  
15 consistent with direct or primary contamination. Who  
16 would have imagined that the tannin in tea bonds with  
17 polonium, making the inside of a teapot a very good  
18 surface for retaining polonium?

19 All plans, no matter how well executed, no matter  
20 how well planned, always have a weakness. Litvinenko  
21 described the teapot on the table as a metal one, though  
22 even he was a little confused. These were his words:

23 "It was silver in colour, made of silver, not  
24 silver, the legs ... Expensive metal. It's a rich  
25 hotel."

1           He went on to describe sometimes a silver teapot and  
2           at other times a silver jug. We know that that part of  
3           Litvinenko's recollection must be wrong but his error,  
4           we suggest, is irrelevant. The only type of teapot  
5           available to the bar staff was a white ceramic one, and  
6           that is the teapot that must have been on the table.  
7           There cannot have been another type. Lugovoy and Kovtun  
8           were hardly likely to introduce a teapot of their own of  
9           a wholly different description. That would have been as  
10          foolish as it would have been unnecessary.

11          We have dealt with the "diffidence" point already  
12          but it is worth noting that had Litvinenko not drunk the  
13          tea, there was a meeting scheduled for the following day  
14          with Daniel Quirke at RISC Management where Lugovoy and  
15          Kovtun would have had yet another opportunity to murder  
16          Litvinenko, both at the meeting and no doubt afterwards  
17          at an Itsu or any other venue of Litvinenko's choosing.

18          That meeting at RISC Management was cancelled on the  
19          morning of the 2nd because, this time, the polonium was  
20          doing what Lugovoy and Kovtun had intended.

21          On the day after that, 3 November, everyone in  
22          Lugovoy's group, including Kovtun, flew out of London on  
23          the same plane bound for the safe refuge of Moscow.  
24          They left behind two further areas of primary or direct  
25          contamination. The first was a table and chair from the

1 Pine Bar, indicating beyond doubt, we would suggest,  
2 that this was the scene at which Litvinenko was  
3 poisoned. Finally, the sixth and last area of primary  
4 or direct contamination, room 382 of the  
5 Millennium Hotel.

6 A very high reading was again taken from the U-bend  
7 in that room which, because of the primary contamination  
8 of the U-bend in the Best Western Hotel, indicates  
9 conduct common to both crime scenes; whether it is from  
10 disposal or transfer of polonium, will never be  
11 ascertained. But the cause of each contamination is  
12 likely to be the same. The similarity is not, in other  
13 words, a coincidence. Room 382 at the Millennium Hotel  
14 was of course Kovtun's room.

15 20 days later, Alexander Litvinenko was dead.

16 When very close to death, it is clear from the  
17 transcripts of his interviews that what really angered  
18 Mr Litvinenko was the fact that he had let down his  
19 guard to those two Russians, one of whom at least, to  
20 his certain knowledge, was ex-military and ex-FSB. He  
21 had let them get close to him. And that one mistake is  
22 all that was required.

23 There are many additional points to make, and we  
24 will make them briefly.

25 It appears that Lugovoy avoided serving a prison

1 sentence in Russia. If so, that demonstrates his  
2 closeness and importance to the authorities.

3 Lugovoy later claimed that the "high quality" CCTV  
4 at the Pine Bar should be looked at because it will  
5 exonerate him. That was a curious lie to have been told  
6 because Lugovoy was security trained, a leading figure  
7 in the Ninth Wave. He would have known that there was  
8 no CCTV system in the Pine Bar. That statement was  
9 intended to deceive.

10 Lugovoy claimed that he telephoned Litvinenko when  
11 he was in hospital, implying no doubt that he was  
12 concerned for his wellbeing. The telephone data proves  
13 that he made no such call.

14 Lugovoy held a press conference in May 2007 and it  
15 affords us an insight into his character. He described  
16 how proud he was of his family's military history and  
17 how he was brought up in the "tradition of a real  
18 Russian officer". He said that for 10 years the world  
19 had ignored Russia but that because of recent events,  
20 Russia had started to gain its place on the world stage  
21 and he added this:

22 "Now, gentlemen, you will have to take Russia into  
23 account."

24 There is nothing wrong with patriotism but when  
25 patriotism is used as a justification for murder, it

1 becomes a shameful vice and not a virtue.

2 In September 2007, Lugovoy announced that he would  
3 run for Parliament when earlier he had said that he had  
4 no interest in becoming involved in politics. And there  
5 is no evidence of his ever being politically active  
6 before. He was elected to the State Duma  
7 in December 2007. His progress thereafter has been  
8 rapid, and it has been reported that he is now the  
9 deputy chairman of the Russian Parliament's security and  
10 anti-corruption committee. A natural and unexpected  
11 career development or a reward and assurance of even  
12 greater security from extradition for services rendered?

13 In December 2008, Lugovoy was interviewed by the  
14 Spanish newspaper El Pais. Lugovoy again revealed his  
15 inner beliefs and the overwhelming importance to him of  
16 the Russian state. He spoke of what should happen to  
17 those who cause it serious harm:

18 "Question: But the FSB believes that Litvinenko was  
19 a traitor.

20 "Lugovoy: And I think so as well. But so what?  
21 That doesn't mean that a traitor has to be immediately  
22 killed.

23 "Question: Do you think someone could have killed  
24 Litvinenko in the interests of the Russian state?

25 "Lugovoy: If you are talking about the interests of



1 the Russian state in the purest sense of the word,  
2 I myself would have given the order. I'm not talking  
3 about Litvinenko but about any person who causes serious  
4 damage. For example, if I had been president, I would  
5 have ordered the death of Saakashvili."

6 The use of the word "immediately" in the first  
7 answer is rather revealing.

8 Rafael Filinov was a friend or at least an associate  
9 of both Berezovsky and Lugovoy. On a visit to Russia,  
10 Lugovoy gave Filinov a present to take back for  
11 Berezovsky and he delivered it to him on 15 July 2010.  
12 It was a black custom-made T-shirt. On the front was  
13 the CSKA Moscow football club logo, together with  
14 a radiation warning symbol above. "Polonium-210" was  
15 printed in red across the top and across the bottom were  
16 the words "London, Hamburg to be continued".

17 On the back of the T-shirt was this clear threat:  
18 "CSKA Moscow -- nuclear death is knocking your door".  
19 Those who were there when the present was unwrapped  
20 believed it to have been an admission of guilt by  
21 Lugovoy. Why else would he have made a joke about such  
22 an appalling crime if he had not been involved, was  
23 their reasoning. No one, of course, could be sure that  
24 Lugovoy was a murderer on that evidence alone. Those  
25 who were present when the T-shirt was unwrapped had

1 a point. And it certainly puts into perspective  
2 Lugovoy's devious expressions of sympathy and concern  
3 for Litvinenko.

4 Then, much more recently, during the course of this  
5 Inquiry, on 9 March 2015, Putin awarded Lugovoy a medal,  
6 a state honour for "services to the motherland". The  
7 timing is unlikely to have been accidental and it  
8 obviously begs the question of what those services might  
9 have been.

10 All of these, and no doubt many other points, are of  
11 interest when reviewing the evidence which concerns  
12 Lugovoy and Kovtun, but towering above all of this  
13 evidence is the polonium trail itself, for which we have  
14 said, Lugovoy and Kovtun have no rational explanation.

15 Sir, you have hundreds of pages of schedules, charts  
16 and graphics to examine with great care in the weeks  
17 ahead, but this is but a short summary of the evidence  
18 of alpha radiation contamination and its effect is  
19 devastating.

20 The first visit, 16 to 18 October 2006.

21 The outward flight of Lugovoy and Kovtun was not  
22 examined by the UK authorities. The Russian authorities  
23 have said that they examined the plane and it was  
24 "clean". As we shall soon see, there is good reason not  
25 to accept that assurance. The Best Western Hotel, both

1           Lugovoy's and Kovtun's rooms were contaminated.  
2           Lugovoy's was heavily contaminated, as we have said,  
3           readings from the U-bend consistent with primary  
4           contamination. It was only Lugovoy's room, of course,  
5           which was available soon after their arrival and before  
6           their departure to Erinys for that meeting with  
7           Litvinenko.

8           They move hotels. They went to the Parkes Hotel.  
9           Both Lugovoy's and Kovtun's rooms were contaminated in  
10          the Parkes Hotel, together with the lobby area outside  
11          of both rooms.

12          The meeting at Erinys, Lugovoy, Kovtun and  
13          Litvinenko were present. The boardroom where the  
14          meeting took place was heavily contaminated. The green  
15          baize tablecloth gave readings consistent with primary  
16          contamination.

17          Lugovoy, Kovtun and Litvinenko then went to the  
18          Piccadilly Itsu. This was also contaminated and the  
19          contamination is much more likely to have been from this  
20          visit than the later one by Scaramella and Litvinenko  
21          because of the different seating positions for each  
22          respective visit.

23          The Pescatori restaurant, contamination of the table  
24          at which Lugovoy, Kovtun and Dr Shadrin sat, together  
25          with heavy contamination of a wall elsewhere in the

1 restaurant.

2 Lugovoy and Kovtun then went to the bar,  
3 Dar Marrakesh, where there was contamination of a shisha  
4 pipe.

5 Lugovoy and Kovtun had a meeting at Dr Shadrin's  
6 office. That office was contaminated, as were  
7 Dr Shadrin and his assistant Dariya Pridmore.

8 We will return to Dr Shadrin's office because it is  
9 not clear whether the office was contaminated on  
10 16 October or 1 November when Lugovoy and Kovtun  
11 returned to it. It could of course have been  
12 contaminated on both occasions.

13 Lugovoy, Kovtun and Litvinenko then met at the  
14 offices of RISC Management where Kovtun gave  
15 Daniel Quirke a disk. The office and the disk were  
16 contaminated. Lugovoy, Kovtun and Litvinenko then went  
17 to the Golden Dragon restaurant in Chinatown. No  
18 contamination was found.

19 Lugovoy, Kovtun and Litvinenko then went to  
20 Cafe Boheme in Soho, no contamination found.

21 Lugovoy and Kovtun then went to Hey Jo's night club  
22 in Piccadilly and this was contaminated.

23 Lugovoy and Kovtun's return flight, having been  
24 described by the Russian authorities as clean, was later  
25 examined by the British authorities and was found to be

1 contaminated in the area where Lugovoy and Kovtun sat.

2 That is quite an impressive trail for two men who  
3 claim to have had nothing to do with polonium. If they  
4 were being set up by meticulous secret service agents,  
5 then why on earth should they have missed the  
6 Golden Dragon and Cafe Boheme? Not very efficient if  
7 that was their task.

8 The second visit, 25 to 28 October 2006.

9 Lugovoy's outward flight was contaminated, the  
10 overhead luggage compartment above his seat.

11 Lugovoy's room at the Sheraton Park Lane Hotel was  
12 significantly contaminated, together with the  
13 laundry chute and the two towels at the bottom of it,  
14 the towels giving readings consistent with primary  
15 contamination.

16 On the 26th, Lugovoy hired a chauffeur, had  
17 a chauffeur-driven Mercedes to take him to and back from  
18 Patarkatsishvili's home in Leatherhead. That Mercedes  
19 was contaminated, especially in the area where he sat.

20 Lugovoy says that on the morning of the 27th, he  
21 again went to Dr Shadrin's office and as detailed above,  
22 that office was contaminated. Dr Shadrin has stated  
23 that he has no recollection of a meeting with Lugovoy on  
24 that day. Because of that uncertainty, and because  
25 there is no corresponding entry in the visitors' book,

1 we shall ignore those premises for this visit. Lugovoy  
2 met Litvinenko in the Palm Court bar at the Sheraton, on  
3 two occasions. That bar was contaminated.

4 So to the third visit, 31 October to  
5 1 November 2006.

6 But for this visit we have to start three days  
7 earlier in Germany. Kovtun flew from Moscow to Hamburg  
8 on 28 October on an Aeroflot flight. The German  
9 authorities wanted to examine that plane but on the day  
10 it was due to arrive, another plane was used. And the  
11 aircraft in which Kovtun was a passenger has never been  
12 made available by Aeroflot for testing.

13 Kovtun was picked up at the airport in Hamburg by  
14 his second wife, Marina Wall. She drove him to her home  
15 in her BMW. Marina Wall's home and her BMW, mainly the  
16 passenger seat, were contaminated. Whilst there, Kovtun  
17 bought some clothing from Massimo Dutti and the receipt  
18 for that purchase was left behind. It too was  
19 contaminated. Kovtun stayed at two other addresses, the  
20 home of Marina Wall's mother and the home of D3. Both  
21 of those premises were also contaminated and on  
22 30 October, Kovtun went to the aliens' registration  
23 office in Hamburg and there a passport photograph of  
24 Kovtun was found and that too was contaminated.

25 As for the flights to London, there are two to

1           examine. Lugovoy's outward flight, with the majority of  
2           his family and Mr Sokolenko, had widespread  
3           contamination. Kovtun's outward flight from Hamburg was  
4           not contaminated. Again, we ask, why would MI6 agents  
5           go to the trouble of contaminating numerous locations in  
6           Germany, including even a clothing receipt and  
7           a passport photograph but not Kovtun's plane.

8           The Millennium Hotel and the Regency Hotel were both  
9           contaminated. The Millennium Hotel had widespread  
10          contamination in Lugovoy's room, Kovtun's room, and  
11          Tatiana and Galina's's room. As we have seen, the  
12          U-bend in Kovtun's room gave the highest of those  
13          readings.

14          Begak Maxim was one of the Lugovoy entourage and he  
15          stayed at the Regency Hotel. Even Maxim's room at that  
16          hotel was contaminated.

17          On 1 November, from late on the morning to about  
18          3.30 pm, Lugovoy and Kovtun had a meeting at  
19          Dr Shadrin's office. The office was contaminated, as we  
20          have said, as were Dr Shadrin and his assistant. It is  
21          not clear whether the office was contaminated on  
22          16 October or on this day, or indeed on both occasions.  
23          If contamination occurred on just one of those visits,  
24          then it is perhaps more likely that it occurred during  
25          the second, because Kovtun then sat in the armchair

1           which gave the highest readings for any location in that  
2           office for alpha radiation.

3           But whether it was the first, the second or both  
4           visits, it is important to note that Litvinenko never  
5           went to Shadrin's office.

6           As for the meeting with Litvinenko, the Pine Bar was  
7           contaminated, a table and chair gave readings consistent  
8           with primary or direct contamination, as did of course  
9           the teapot. The gentleman's lavatory close to the  
10          reception was also heavily contaminated, the importance  
11          of which we have already made clear.

12          Although some of what Al had to say about the teapot  
13          was common sense, there are few things in this life that  
14          cannot benefit from the opinion of a nuclear scientist.  
15          This was her evidence:

16          "The deposition within the teapot and the position  
17          in the spout indicates at some stage polonium has been  
18          in contact and has been poured out of the spout.  
19          I think that's the only conclusion you can come to."

20          Add to that evidence the evidence of Dr Cary and in  
21          particular Dr Swift, that the most likely route of entry  
22          of polonium into Litvinenko's body was through oral  
23          means, together with the undisputed fact that Litvinenko  
24          drank tea at the Pine Bar, then we suggest that the  
25          importance of that conclusion cannot be overstated.



1           Lugovoy and his party then went to the Emirates  
2 stadium where contamination was found within two rows of  
3 seats, 665 to 674, and in two private boxes, 76 and 77,  
4 both of which were used by Berezovsky.

5           On the following day, Lugovoy and his wife went to  
6 the Pescatori restaurant and although this restaurant  
7 was contaminated as we have already seen, it is more  
8 likely than not that it was contaminated during Lugovoy  
9 and Kovtun's visit on 16 October because the table then  
10 used, table 17, was contaminated. But on this second  
11 occasion, a different table was used, table 3, and that  
12 was not contaminated.

13           The return flight to Moscow, on which everyone was  
14 a passenger, including Kovtun. It had widespread  
15 contamination in the areas of the seats of Lugovoy,  
16 Kovtun, Tatiana, Maxim and Sokolenko.

17           The trail does not end there. On 23 November 2006,  
18 Lugovoy and Kovtun went to the British embassy in Moscow  
19 to make their declarations. The room which was used was  
20 contaminated and the highest level of contamination was  
21 found on the chair used by Kovtun. Both Lugovoy and  
22 Kovtun say they had nothing to do with polonium. Yet in  
23 addition to the extensive polonium trail they left  
24 behind, almost wherever they went, each of them had  
25 either ingested and/or inhaled polonium. It is clear

1 from Dr Harrison's evidence that they were personally  
2 contaminated. If, as the evidence suggests, Kovtun was  
3 the foot soldier and Lugovoy the general, it is not  
4 surprising that the contamination of Kovtun was ten  
5 times higher than that of Lugovoy. But no one should be  
6 misled by Dr Harrison's evidence. Their contamination,  
7 the contamination of Lugovoy and Kovtun, hardly compares  
8 to that of Litvinenko. Litvinenko's intake was about  
9 1,000 times greater than that of Kovtun. How does that  
10 help you determine who was the handler and who was the  
11 victim?

12 Kovtun's account of the events surrounding the  
13 contamination of him has not been either consistent or  
14 true. The starting point is Dr Harrison and Dr Gent.  
15 Dr Harrison's evidence is that the low level of Kovtun's  
16 intake of polonium was insufficient to have caused  
17 alopecia. The level was below the threshold for what  
18 he described as "short term deterministic effects", by  
19 which he meant hair loss or external burning of the  
20 skin.

21 Dr Gent agreed and he added that he had looked at  
22 all the tests and could see nothing that represented  
23 acute radiation injury to Mr Kovtun.

24 When interviewed by a journalist from Der Spiegel,  
25 however, Kovtun had no head hair at the time of the

1 interview, and he said that he had shaved it off after  
2 he had burnt himself when lying on a sun bed. The  
3 article was published on 11 December 2006 and the  
4 interview took place before Kovtun's admission to  
5 hospital on 28 November.

6 Yet in another interview, an interview to the  
7 New York Times on 17 March 2007, Kovtun stated that he  
8 had shaved his head as a precaution because radioactive  
9 material could linger in the hair.

10 Both accounts cannot be correct and it might be  
11 thought that Kovtun would be able to remember why he had  
12 shaved his head.

13 It is also worth noting that when Litvinenko  
14 travelled into or out of London on buses, those buses  
15 were identified and examined, and none were  
16 contaminated. We readily acknowledge that, because of  
17 the frequency of use and cleaning, buses may not provide  
18 the best surfaces for retaining contamination. Airport  
19 buses, for example, were also not contaminated. But  
20 this gives an indication of Litvinenko's lack of  
21 exposure to polonium.

22 Furthermore, we have already referred to the low  
23 level of contamination at Litvinenko's home, not  
24 consistent with the Lugovoy and Kovtun theory that  
25 Litvinenko was a handler of polonium, wittingly or

1 otherwise.

2 There were also premises that Lugovoy and Kovtun  
3 went to without Litvinenko that were also contaminated,  
4 such as Dr Shadrin's office and Hey Jo's night club.  
5 Lugovoy also went to the Emirates stadium without either  
6 Litvinenko or Kovtun. That too was contaminated.

7 There has to come a time when even the most  
8 enthusiastic of conspiracy theorists has to recognise  
9 that the polonium trail links no one to the murder of  
10 Litvinenko other than Lugovoy and Kovtun.

11 Such conclusion is not the result of fantasy or  
12 speculation and nor is it tainted by anti-Russian  
13 propaganda or sentiment. It is the application of  
14 science and common sense, nothing more and nothing less.

15 What of the polygraph test, Lugovoy's embarrassingly  
16 inept attempt to establish his innocence? If we may  
17 take and corrupt a line from Casablanca, "Of all the  
18 polygraph examiners in all of the towns of the world,  
19 why did Lugovoy employ Bruce Burgess?"

20 We have a number of suggestions. Just over two  
21 years before Mr Burgess senior was approached to conduct  
22 this test, he was convicted of perverting the course of  
23 justice and received a suspended sentence of  
24 imprisonment. He has demonstrated himself to have been  
25 unscientific and lacking in any form of objectivity. He

1 was prepared to go to Moscow for a large fee to conduct  
2 serious work but was content to be unencumbered with the  
3 details of the case in which he would be involved, or  
4 the man he would be examining.

5 Even when he got to Moscow, his understanding of  
6 events was still very limited. He asked the questions  
7 he was instructed to ask, not those which should have  
8 been asked. Lugovoy no doubt had advance notice of  
9 them. The entire process, we suggest, was a farce. The  
10 procedure was as unscientific as could be imagined:  
11 scientific rigour was abandoned in favour of caprice.  
12 Mr Burgess senior even had this remarkable approach to  
13 his work: it is always better when interviewees pass the  
14 test because that is such a nicer or more pleasant  
15 outcome. Emotion over science and style over substance.  
16 On examination, his integrity and competence were found  
17 wanting.

18 The test was an unmitigated disaster, and the only  
19 service it has provided to mankind is to add the  
20 strongest possible support to this jurisdiction's firm  
21 attitude that such evidence should not be admissible in  
22 court proceedings.

23 Mr Burgess senior's evidence was worthless and, for  
24 that reason, we will not attempt to rely on that part  
25 which suggests that Lugovoy lied when he denied that he

1 had handled polonium. Worthless evidence is worthless  
2 in whatever direction it might lead.

3 Perhaps the most significant point is this. This  
4 dire episode says much more about Lugovoy than he could  
5 ever have imagined. These are not the actions of a man  
6 convinced of his innocence and who was prepared to  
7 undergo the most demanding of independent examinations.  
8 Conspiracy theorists have been able to run amuck around  
9 the murder of Litvinenko because of his extraordinary  
10 background, contacts, interests and life. There is  
11 something for everyone to take, whether in or out of  
12 context and then to weave around it some fanciful  
13 explanation for his death.

14 Conspiracy theories have no part to play in  
15 an inquiry unless there is some evidence to support  
16 them. This Inquiry has demonstrated that there is  
17 either no support or at best questionable support for  
18 any one of them.

19 One view is to argue that, once it is clear, as we  
20 suggest it is, that Lugovoy and Kovtun murdered  
21 Litvinenko, then that logically must exclude any other  
22 suspect, unless that suspect had a link to Lugovoy and  
23 Kovtun and their activities in London.

24 There are only two individuals against whom it could  
25 be said that there is some evidence of complicity,

1           however tenuous, and they are Scaramella and Berezovsky,  
2           but it must be made clear immediately before some may  
3           choose to misrepresent what we have just said, that the  
4           evidence, such as it is, is not scientific and neither  
5           does it carry any weight. We raise their names in order  
6           that the suspicions around them may be rejected. The  
7           only source for Scaramella being a suspect is Litvinenko  
8           on his deathbed. And the only sources for Berezovsky  
9           being a suspect are a combination of Lugovoy and  
10          Svetlichnaja, not, we would suggest, a reliable or happy  
11          mixture.

12                 First, Scaramella. When Litvinenko was in hospital,  
13          he suspected that Scaramella had poisoned him and said  
14          so to the police and to visitors. Although it later  
15          became clear that Litvinenko was falsely accusing  
16          Scaramella of poisoning him in order to divert attention  
17          away from Lugovoy and Kovtun, and that he did so for  
18          a number of reasons, it is likely, certainly possible,  
19          that for a short time at least, at the beginning of his  
20          admission to hospital, that Litvinenko did suspect that  
21          Scaramella had or may have poisoned him. We must deal  
22          with that suspicion.

23                 It is important to note that Litvinenko's misgivings  
24          were based on two principal factors. First, that he  
25          believed that Scaramella did not have a proper

1           justification for being in London other than to see him,  
2           which he thought was odd.

3           Litvinenko believed that because Scaramella did not  
4           have a purpose for being in London, he, Scaramella,  
5           could have communicated with him perfectly well by  
6           email. In other words, they did not have to meet.

7           Second, that Scaramella appeared to be holding the  
8           copies of the Limarev emails in an unusual fashion over  
9           his, Litvinenko's food in Itsu, thereby giving  
10          Scaramella at least an opportunity to poison him.

11          On examination, both of those beliefs were  
12          unfounded. First, Scaramella had a very good reason for  
13          being in London. He was attending a conference held by  
14          the International Maritime Organisation. Scaramella had  
15          been attending this conference for many years. It is  
16          held in London at the end of October/beginning  
17          of November each year and has been so held for about  
18          12 years. 2006 was no exception.

19          Scaramella flew to London on 31 October, the day  
20          after the conference began, and he returned home on  
21          4 November. He attended the conference on a number of  
22          occasions and spoke at it. He used his visit to the  
23          conference as an opportunity for seeing Litvinenko and  
24          discussing with him the Limarev emails and the threat  
25          referred to in them. Litvinenko was not troubled by



1 Limarev's concerns when he was told about them.

2 Scaramella obviously was.

3 Second, Scaramella's copy of the Limarev emails was  
4 in fact given by Scaramella to Litvinenko. These five  
5 pages were later seized by the police from Litvinenko's  
6 home and they were examined.

7 Although that exhibit was contaminated, the level of  
8 contamination was very low: one page at just 150 counts  
9 per second, and the other pages at less than 30 counts  
10 per second. Very low readings indeed and as A1 made  
11 clear, these levels were wholly inconsistent with  
12 primary contamination. These pages could not have  
13 contained or carried polonium, and could not have been  
14 involved in Litvinenko's death. So the grounds for  
15 Litvinenko's suspicions were unfounded but there is  
16 more.

17 The evidence has established that Scaramella and  
18 Litvinenko had had an amicable relationship over  
19 a number of years. That did not change. Sight should  
20 not be lost of the fact that Scaramella had no motive to  
21 kill Litvinenko. Furthermore, Scaramella was not in  
22 London or anywhere else in the UK when Litvinenko was  
23 first poisoned on 16 October 2006.

24 During the International Maritime Organisation  
25 conference, Scaramella stayed at the Thistle Hotel. His

1 room was examined and it was clean. He went to  
2 an internet cafe in Wardour Street on 1 November and  
3 that was examined and was also found to be clean. The  
4 place where Scaramella sat with Litvinenko in Itsu on  
5 1 November was examined and, although contaminated, the  
6 contamination was nothing like as strong as the area  
7 nearby where it is likely that Litvinenko had sat with  
8 Lugovoy and Kovtun on 16 October.

9 Scaramella himself was tested and he was found not  
10 to have been contaminated with polonium.

11 Finally, of course, Scaramella came to this Inquiry  
12 twice to give a credible and cogent account of his  
13 movements and the recent for his seeing Litvinenko.

14 Contrast the evidence of Scaramella's movements, the  
15 contamination or otherwise of scenes he visited and the  
16 contamination or otherwise of himself to the evidence  
17 affecting Lugovoy and Kovtun, and their response to this  
18 Inquiry's invitation to them to give evidence.

19 For all of those reasons, we suggest, Scaramella can  
20 safely be excluded as having played any part in  
21 Litvinenko's murder.

22 As for Berezovsky, Litvinenko may have been  
23 temporarily put out by Berezovsky's reduction in  
24 financial assistance, but a motive for his blackmailing  
25 Berezovsky? Never, we suggest.

1           Whatever falling out they had was no more than  
2           temporary and they were soon friends again. It must not  
3           be forgotten that Berezovsky had only reduced his  
4           payments to Litvinenko. He had not stopped them. And  
5           of course he was still paying Anatoly's school fees.  
6           A cause for irritation, perhaps, but hardly a cause for  
7           great tumult and acrimony.

8           Lugovoy and Kovtun have made fairly late claims that  
9           at and after their meal with Litvinenko at the  
10          Golden Dragon restaurant on 17 October 2006, Litvinenko  
11          mentioned his scheme to blackmail Berezovsky. Neither  
12          of them mentioned this at the outset, a rather memorable  
13          event if true. This claim has developed over time and  
14          has become rather contradictory.

15          A late attempt was made to introduce a witness  
16          statement of Lugovoy in the Terluk/Berezovsky  
17          litigation, a witness statement which Lord Justice Laws  
18          rejected as "not sensibly capable of belief."

19          Over time, Lugovoy and Kovtun have made statements  
20          which have suggested that Litvinenko spoke of  
21          blackmailing Berezovsky to just Lugovoy on his own after  
22          Litvinenko had asked Kovtun to leave the Golden Dragon,  
23          and then later to just Kovtun on his own after the three  
24          of them had left the restaurant.

25          The question must be asked, why not tell the two of

1           them together, when it is obvious that Lugovoy and  
2           Kovtun would have shared that information and would have  
3           discussed it? Why separate them? Why the need for  
4           secrecy?

5           We suggest that Lugovoy and Kovtun had tied  
6           themselves in knots in making up this account for their  
7           own benefit and that of Terluk. These statements and,  
8           in particular, the protracted fashion in which they have  
9           emerged makes them inherently unreliable. And there is,  
10          of course, no evidence that Litvinenko ever did  
11          blackmail Berezovsky, or that Berezovsky ever paid  
12          Litvinenko a blackmail demand. The idea on the evidence  
13          is preposterous.

14          As for Svetlichnaja, perhaps the less said the  
15          better. She was an unattractive witness who appeared to  
16          be motivated by malice. Little weight if any can be  
17          given to her evidence.

18          And so to the other names which have emerged. We  
19          would submit there is no evidence to implicate any one  
20          of them in the murder. On Day 29,  
21          Detective Inspector Mascall was asked to consider  
22          Scaramella, Limarev, Mogilevich, Attew, Reilly and  
23          Berezovsky and he said that the investigation had  
24          uncovered no evidence against them. No doubt some  
25          people wished Litvinenko harm but that can never equate

1 to a motive for murder. The police investigation was  
2 led by evidence and not by speculation. We suggest that  
3 you must adopt the same approach.

4 The evidence points resolutely to Lugovoy and Kovtun  
5 and no one else as having administered the poison which  
6 killed Litvinenko. You have already ruled on the issue  
7 of adverse inference. There is none in law from the  
8 fact that Lugovoy and Kovtun declined your invitation to  
9 them to give evidence and the Russian state in whatever  
10 form has decided not to seek core participant status,  
11 which of course it would have been granted.

12 But their deliberate silence carries this  
13 consequence. A failure to participate or to give  
14 evidence comes with the obvious consequence that you  
15 will make findings of fact without the benefit or  
16 otherwise of such contributions. So much for Kovtun's  
17 much vaunted threat to the Sunday Times that he would  
18 blow this Inquiry apart with evidence. He has had every  
19 opportunity to do just that. And his silence is  
20 an embarrassment, just as the excuse for it is  
21 an embarrassment to the Russian authorities.

22 The Russian state and the Russian witnesses have  
23 been given every opportunity to play a part in this  
24 Inquiry. And their failure to do so and the lies and  
25 the obfuscations which have been told says much about

1           their attitude towards justice and to Mr Litvinenko in  
2           particular. Kovtun says that he cannot give evidence to  
3           you because of his obligation of confidentiality that he  
4           owes to the Russian prosecutor, an obligation that does  
5           not seem to prevent him from spinning a yarn to any  
6           journalist that is prepared to listen to him. The  
7           Russian authorities, which are following every word of  
8           these proceedings, wait four months before objecting to  
9           the video-link, sufficient time for Kovtun to access the  
10          Inquiry papers, and to cause maximum disruption. Their  
11          actions and responses have descended into farce.

12                 Kovtun's credibility in particular could not be any  
13          lower. Just compare, for example, his witness statement  
14          of 2 June 2015 to the statement he gave at the British  
15          embassy on 23 November 2006. In 2006, he said that the  
16          critical meeting at the Millennium Hotel on 1 November  
17          had been scheduled for the afternoon, which is what  
18          Litvinenko has always said. To this Inquiry in 2015,  
19          however, he said that this meeting took place completely  
20          by chance, the intended false inference being that  
21          neither he nor Lugovoy would have had any warning of  
22          Litvinenko's arrival and therefore no time to arrange to  
23          poison him.

24                 In 2015 to this Inquiry, Lugovoy stated that having  
25          met Litvinenko again on 1 November, he had the following

1 concerns about Litvinenko and had the following  
2 conversation about him with Lugovoy on 2 November.

3 "I formed the impression that Litvinenko had mental  
4 health problems, a person driven to despair, with  
5 a feeling of worry and disquiet. I remember on the  
6 morning of 2 November I told Lugovoy categorically that  
7 I did not want anything to do with that person  
8 regardless of how useful he might be and that the  
9 meeting we were having that day [2 November] at the  
10 office of [RISC Management] would be the last one."

11 All very clear and distinctly memorable. Contrast  
12 that to what Kovtun had to say at the British embassy in  
13 2006.

14 "On 3 November 2006 I flew back to Moscow. Having  
15 learned from the media about the situation around  
16 Mr Litvinenko, I contacted Mr Lugovoy and we took the  
17 decision to contact the British embassy with  
18 a declaration to help to clarify the situation, as  
19 Mr Litvinenko is a possible future business partner for  
20 whom we have the sincerest sympathy."

21 Then the lies that Kovtun has told to this Inquiry  
22 about C2, which tend to lend further support to the  
23 German evidence, and the lie about Litvinenko being  
24 poisoned on 15 October 2006, the motive for which is  
25 obvious.

1           These are but a few examples of the important  
2           changes in Kovtun's various accounts. No wonder he did  
3           not relish the thought of giving evidence and no wonder  
4           the Russian authorities wanted you to disregard or  
5           conceal the evidence which Kovtun had already provided.

6           Sir, one final topic remains and it looks very  
7           likely that I will finish before 1.00.

8   THE CHAIRMAN: Yes.

9   MR HORWELL: The final topic that remains is that of Russian  
10           state participation. You will have heard closed  
11           evidence on this subject, and you will then consider all  
12           of the evidence open and closed before reaching your  
13           conclusion.

14           As the material we have is incomplete, we intend to  
15           do no more than suggest that the following tends to  
16           indicate that the Russian state was involved in one way  
17           or another in Litvinenko's death. First, it should be  
18           said that the Russian state has hardly helped itself in  
19           this regard.

20           In the summer of 2006, the Russian law was amended  
21           to enable the Kremlin lawfully to order their agents to  
22           eliminate extremists anywhere abroad. The definition of  
23           extremist was amended and made so wide that someone like  
24           Litvinenko, whose only weapon was words and not bullets  
25           or bombs, could easily come within it.



1           As a result of the change in the law,  
2           Vladimir Bukovsky and Oleg Gordievsky wrote a letter to  
3           the Times published on 11 July 2006, the fourth  
4           paragraph of which may have been depressingly prophetic.

5           Having referred to the change in the law, they wrote  
6           as follows:

7           "... the stage is set for any critic of Putin's  
8           regime here, especially those campaigning against  
9           Russian genocide in Chechnya, to have an appointment  
10          with a poison-tipped umbrella. According to the  
11          statement by the Russian defence minister,  
12          Sergei Ivanov, the blacklist of potential targets is  
13          already compiled."

14          Second, it is clear that neither Lugovoy nor Kovtun  
15          had a personal motive for murdering Litvinenko.  
16          Therefore they must have been acting on behalf of  
17          someone else. Given Lugovoy's history, both before and  
18          especially after Litvinenko's death, the Russian state  
19          in one form or another is likely to have been the  
20          sponsor of this plot and Lugovoy's master.

21          The third consideration is motive. There can be no  
22          doubt that the Russian state had reasons aplenty for  
23          wishing Litvinenko not only harm but death. We would  
24          further submit that it is a relatively pointless  
25          exercise in attempting to resolve which motive or

1 motives may have been causative of his murder because  
2 there are so many of them, and there is no evidence to  
3 suggest which one or which ones sealed his fate.

4 Here are but some of the possibilities that have  
5 been revealed during the course of this Inquiry.

6 Litvinenko was ex-KGB and FSB. He had obtained the  
7 rank of colonel-lieutenant and he had worked at the FSB  
8 headquarters in Moscow. He met Putin in the  
9 summer/early autumn of 1998 and informed him of the  
10 corruption and links to organised crime at the heart of  
11 the government.

12 Litvinenko's choice of confidante proved to be  
13 unfortunate. Putin was not interested but would not  
14 have forgotten that meeting.

15 Litvinenko's press conference on 17 November 1998  
16 must have been a considerable shock to the government.  
17 Nothing like it had ever happened before. Litvinenko  
18 had broken the rule of silence which for the FSB must  
19 have been the ultimate betrayal. It is worth noting  
20 that the press conference was held right in the middle  
21 of Putin's nine-month appointment as director of the  
22 FSB. He may well have taken the betrayal personally.

23 Litvinenko was tried twice in Russia and was  
24 acquitted each time. But he was due to be tried a third  
25 time, ominously now outside of Moscow and at a hearing

1 that might have been closed. His defection to the UK in  
2 2000 was high profile and akin to treachery, especially  
3 as it appears to have been assumed that he was  
4 a whistleblower now working for the British authorities.

5 This was the same year that Putin became president.  
6 Litvinenko's two books, *Blowing Up Russia* and *The Gang*  
7 *from Lubyanka* and his articles for the Chechen press and  
8 his general and frequent condemnation of the Russian  
9 state, though never Russia, cannot have been ignored.  
10 Of Litvinenko's many personal attacks on Putin, perhaps  
11 his most audacious and explosive was his claim that  
12 Putin was a paedophile. *How to Win Friends and*  
13 *Influence People* was obviously not on Litvinenko's  
14 reading list.

15 He was a friend and ally of Anna Politkovskaya,  
16 Berezovsky and Zakayev, amongst others and a supporter  
17 of the Chechen cause. No doubt there are many more  
18 grievances that the Russian state had with Litvinenko  
19 but that will do for present purposes. It is  
20 a formidable list and it establishes the point.

21 How was Litvinenko's conduct received in Russia?  
22 Gusak was of the opinion that Litvinenko deserved to die  
23 for his treachery. Victor Shebalin, an ex-FSB colonel,  
24 told Litvinenko to get his will ready. And Shebalin had  
25 also told Litvinenko's coauthor of the two books,

1 Trepashkin, that he would be sentenced to  
2 "extra-judicial elimination" and that he would  
3 "definitely be killed".

4 General Khokholkov said that there could be no  
5 forgiveness and that not only would Litvinenko have to  
6 die, but that he would happily kill him with his own  
7 bare hands.

8 On the evidence, it is likely that many more  
9 Russians wished Litvinenko serious harm if not death.  
10 Indeed, Lugovoy in his interview with El Pais offered  
11 a similar view and said that all those who caused  
12 significant damage to Russia's interests should be  
13 liquidated. Felshtinsky cannot have been alone in  
14 expressing his opinion that from the day of the Moscow  
15 press conference in 1998, Litvinenko was a marked man.  
16 On 21 November 2006, in the State Duma, Sergei Abeltsev  
17 made this comment following Litvinenko's death:

18 "The deserved punishment reached the traitor. I am  
19 confident that this terrible death will be a serious  
20 warning to traitors of all colours, wherever they are  
21 located. In Russia, they do not pardon treachery.  
22 I would recommend citizen Berezovsky to avoid any food  
23 at the commemoration for his accomplice Litvinenko."

24 As we have already said, the Kremlin cannot exactly  
25 complain if the eyes of the world look to it for

1 responsibility for Litvinenko's murder. And of all of  
2 Litvinenko's targets, Putin was the one most frequently  
3 in his sights.

4 Then there is the Victor Ivanov report which found  
5 its way into Lugovoy's hands. Ivanov of course is  
6 a member of the Russian government and according to the  
7 report, has direct access to Putin's ear. We submit  
8 that there is no basis for finding that this report was  
9 solely responsible for Litvinenko's death, but, even if  
10 it was, Shvets' evidence was that rule number 1 in the  
11 KGB, before issuing an order to assassinate anyone  
12 within or outside of Russia was this: cover your back.  
13 That, according to Shvets, would exclude the possibility  
14 of a decision being made to murder Litvinenko without  
15 the approval of the president.

16 Russian special forces used an image of Litvinenko  
17 as target practice. A small point but indicative of the  
18 antipathy of the Russian state and military towards him.  
19 Russian authorities prevented British and German  
20 authorities from examining two Russian registered  
21 planes. The Russian authorities claimed that another  
22 plane was clean when it was not.

23 Why be obstructive if there was nothing to hide?

24 The lack of full cooperation in Moscow with the  
25 interviews of Lugovoy and Kovtun: stupid, petty

1           obstructions placed in the way of the police officers  
2           who went to interview them. The failure of the Russians  
3           to supply the tape of Lugovoy's interview perhaps says  
4           it all. The motivation obvious. The Russians wanted  
5           control of those interviews, a control which was  
6           resurrected but a few days ago. Hardly a reaction  
7           indicative of an interest in truth and justice.

8           Detective Inspector Tarpey was probably making  
9           an attempt at diplomacy when he described the Russian  
10          restrictions and attitude to the arrangements for the  
11          interviews as "a little disingenuous". Looking at the  
12          refusal to allow access to the two aircraft, the lies  
13          told about one of those aircraft being clean and the  
14          obstructions to free and recorded interviews of Lugovoy  
15          and Kovtun, this question must be asked: what did the  
16          Russians have to hide?

17          Lugovoy must have had the consent of the Russian  
18          hospital to feign being a patient to provide yet another  
19          obstacle in the way of the Metropolitan Police Service  
20          officers having access to him. The fact that polonium  
21          was the cause of death tends to indicate that there must  
22          have been some form of Russian state participation.

23          There are more than enough ways to kill a man  
24          without resort to such a rare and dangerous radioactive  
25          isotope and there cannot be a black market for polonium

1 because there is no need for one. Professor Dombey said  
2 that 97 per cent of the world's production of polonium  
3 is from the Russian nuclear site at Avangard in Sarov  
4 which he described as having the only commercial  
5 polonium production line in the world where fresh  
6 supplies are manufactured each month.

7 Of course it is possible that another country  
8 manufactured the polonium that killed Litvinenko and  
9 that common criminals murdered him. But we say that on  
10 the basis that almost anything in theory is possible.

11 But the chances of those two theories combining and  
12 coming together in this way? Close to infinitesimal, we  
13 would suggest, on the evidence that you have heard.  
14 What possible motive could another state with a nuclear  
15 reactor have had for murdering Litvinenko? And of  
16 course employing Lugovoy and Kovtun as its assassins?

17 Finally, the attitude of the Russian state to this  
18 Inquiry which has been nothing short of contemptuous.  
19 Its refusal to give permission to the use of evidence  
20 concerning Lugovoy and Kovtun when it had already given  
21 permission for such evidence to be used in these  
22 proceedings when an inquest, and its obstruction to  
23 Kovtun giving evidence. What on earth does Russia have  
24 to hide and why these impediments to the truth?

25 The evidence suggests that the only credible

1 explanation is that, in one form or another, the Russian  
2 state was involved in Litvinenko's murder. We say in  
3 one form or another because evidence of the precise part  
4 or parts of the Russian state which participated, if  
5 participate it did, is far from clear.

6 A number of witnesses have given evidence that Putin  
7 was or must have been personally behind the plot to  
8 murder Litvinenko. Those opinions, however genuinely  
9 expressed, cannot have the force of evidence. Apart  
10 from anything else, the witnesses have hardly been  
11 impartial observers.

12 We would suggest that Professor Robert Service did  
13 no more than point out the obvious when he issued this  
14 warning as to the standards this Inquiry must apply. He  
15 was asked this question about the possibility of a link  
16 between organised criminals and the Russian state. The  
17 question was this:

18 "If somebody were to suggest a proposition that,  
19 because of the entanglement in an individual case,  
20 somebody in an organised crime group might be able to  
21 persuade a government official to order a certain course  
22 of action, for example an assassination, do you think  
23 that that is possible and is it possible to say whether  
24 or not it happens?"

25 His answer was this:



1            "I am at a loss as to how to know how I would go  
2            about proving or disproving that. We simply do not have  
3            the evidence. The point I am trying to make constantly  
4            is that things are so bad in Russia that they don't have  
5            to be exaggerated. So we would be best to stick to what  
6            is definitely provable and that is quite damning enough.  
7            In 10 or 20 years we will know more about what we are  
8            talking about today and we will be able to go further  
9            and it will probably be very dispiriting the verdict  
10           that we will come to, but we have to be really cautious  
11           and there is another aspect of this that exercises me.  
12           That is that Russians want on see us fairly going  
13           through evidence in a scholarly environment or  
14           a judicial environment, or an Inquiry like this in  
15           a fashion that they know doesn't happen in their own  
16           country. So we must not sink at all below our  
17           conventional standards, we absolutely must not, because  
18           some of what we do in relation to this Inquiry will get  
19           back to Moscow and we must not give them the opportunity  
20           to say that we failed to respect our own standards  
21           because those standards that are really well worth  
22           keeping to those standards are really well worth keeping  
23           to.

24           "Question: When you say "Russians", do you mean the  
25           Russian government or do you mean ordinary Russians as

1 well?

2 And he said this:

3 "I mean both because not -- but especially ordinary  
4 Russians who read what is going on in the West on the  
5 internet, which is much freer than it is in some  
6 countries like Saudi Arabia or China."

7 Now, we are more than confident that that advice was  
8 unnecessary but it does help to put into perspective  
9 some of the evidence which this Inquiry has heard and to  
10 emphasise the need for caution when truthful but  
11 partisan witnesses give in evidence their personal  
12 opinions as to what happened and why it happened.

13 Our standards of justice are immutable and they must  
14 not be influenced, let alone undermined, by the horror  
15 of the crime under review.

16 It is utterly dispiriting that in the 21st century  
17 a man can be murdered because of his words and thoughts;  
18 that homicide is considered an appropriate measure to  
19 remove embarrassment and ensure silence. Dispiriting  
20 also because of the futility of the crime. Terror will  
21 never curtail the human desire and spirit for justice  
22 and freedom of expression. Those who organise crimes of  
23 this nature should understand that murder does not  
24 strengthen their cause, it weakens it.

25 Stalin achieved absolute power in Russia during the

1 first half of the last century and assassination was his  
2 preferred solution to eliminating difficulties and  
3 removing inconvenience or embarrassment. Russians  
4 became familiar with the phrase that reflected Stalin's  
5 approach to humanity and it can be translated in one of  
6 two ways: "Death solves all problems", and the more  
7 familiar, "No man, no problem".

8 The murder of Alexander Litvinenko was intended to  
9 solve the problem that he had become but in reality it  
10 has created a much greater one and one which this  
11 Inquiry has ensured will not go away.

12 We suggest that the evidence is clear.  
13 Alexander Litvinenko was murdered through the ingestion  
14 of polonium-210 on 16 October 2006 and 1 November 2006.  
15 Lugovoy and Kovtun poisoned him and you will decide on  
16 all of the evidence, open and closed, whether or not  
17 they were sponsored by the Russian state.

18 Those, sir, are our submissions.

19 THE CHAIRMAN: Mr Horwell, I am most grateful to you for  
20 your assistance, which has been very considerable. Your  
21 analysis is demonstrably based on a close, careful and  
22 comprehensive analysis of the evidence.

23 I would be grateful if I could impose upon you  
24 further in one respect, which is to provide me with the  
25 cross-references to the evidence that you have directed

1 my attention to. I would be most grateful.

2 MR HORWELL: Of course.

3 THE CHAIRMAN: One other small point, the first point that  
4 you made in relation to Russian state responsibility,  
5 that is to say the changes in the Russian law earlier in  
6 2006, Professor Service gave some evidence as to the way  
7 in which that would be interpreted. He, of course, is  
8 a historian, not a lawyer, and I have in fact put in  
9 hand a commissioning of evidence from an expert in  
10 Russian law. It is not yet available. When it is  
11 I shall, of course, distribute it to the core  
12 participants and invite any written submissions.

13 Thank you very much indeed.

14 MR GARNHAM: Sir, I wonder whether I could invite the  
15 transcriber to make one small correction to remarks we  
16 just heard. The observation that was made by counsel  
17 was that "Terror will never curtail the human desire and  
18 spirit of justice and freedom of expression." That was  
19 rendered in the transcript as "Treasury solicitor will  
20 never curtail the human desire and spirit of justice and  
21 freedom of expression." So sir, I would be grateful --

22 THE CHAIRMAN: I will refrain from any observation on that.  
23 Yes, of course, thank you very much in indeed.

24 Mr Emerson, you are due it address me tomorrow  
25 morning.

1 MR EMMERSON: Yes, sir.

2 THE CHAIRMAN: Thank you very much. We shall reassemble at  
3 10.00 tomorrow morning.

4 (12.50 pm)

5 (The Inquiry adjourned until 10.00 am the following day)

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