

SUPERIOR COURT OF JUSTICE

B E T W E E N:

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SVETLANA DANILOVA and PAVEL DANILOV
Plaintiffs
(Defendants by Counterclaim)

- and -

10

ALLA NIKITYUK and VALENTIN NIKITYUK
Defendants
(Plaintiffs by Counterclaim)

- and -

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YANA SKYBIN and YOUNG MENS CRHISTIAN ASSOCIATION operating as
YMCA SIMCOE/MUSKOKA
Defendants
(Plaintiffs by Counterclaim)

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P R O C E E D I N G S A T T R I A L

BEFORE THE HONOURABLE JUSTICE G. MULLIGAN
on May 26, 27, 30 and 31, 2016 at BARRIE, Ontario

VOLUME III

25

APPEARANCES:

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Legend
[sic] - indicates preceding word has been reproduced verbatim and is not a transcription error.
(ph) - indicates preceding word has been spelled phonetically.

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May 26th, 2016

THE COURT: Are you ready to continue?

MR. BORNMANN: I am.

THE COURT: Ms. Danilova, please come forward
again.

SVETLANA DANILOVA: (Reminded of oath)

CONT'D CROSS-EXAMINATION BY MR. BORNMANN:

Q. Good morning, Ms. Danilova.

THE COURT: And counsel, if you just continue
to refer to the exhibits by their colours as
well. The binders will assist the staff in
locating the correct one at the correct time.

MR. BORNMANN: Q. Yesterday, we were talking
about what happened to the money that the Nikityuks
transferred to you after it arrives in Canada and we were
talking about - what you described, I believe as an
investment in the family business. And to pick up where
we left off about \$200,000.00 or so was lost during
trading - automatic trading by what I believe your
husband called it, a prototype software, is that right?

A. That's right.

Q. And this was a software that makes
automatic trades using information it finds on the
internet, correct?

A. This is correct.

Q. And much of this money about \$200,000.00 or
so was lost in a short period of time while you were at
doctor's and Pavel was at training, correct?

A. Correct, absolutely.

5 Q. Now, it's correct that prior to building this prototype software that neither you nor Pavel had any experience developing trading software, correct?

A. Prior to what period of time are you referring to?

10 Q. Okay. Let's take a step back. Before you had the trading software business, you had the Russian dating website business, right?

A. I have a sole proprietorship, yes.

15 Q. But that dating business, that was unsuccessful, correct?

A. I had to close the business because of a lot of scandalous activity around that, yes.

20 Q. And you closed that business just prior to starting the prototype trading business, is that right?

A. We started dealing with stocks and options first in 2006, I believe, and I closed the business in like 2005.

25 Q. So you close -

A. We closed the business and we started to developing that direction, yes, stocks and options.

30 Q. We start trading business in 2006. So in 2008 when you get the money, this is a pretty new business still, yes?

A. You can say so.

Q. And this business wasn't the only thing you and Pavel were doing, right?

A. Right.

Q. Pavel also had a full-time job, correct?

A. Right.

5 Q. Ms. Danilova, have you heard of the proposition that most new businesses fail? Have you ever heard that before?

A. Very general statement, I cannot comment.

Q. But you've heard that general statement, right?

A. I wouldn't focus on such general statements.

10 Q. Have you heard the general proposition that most new businesses or start-ups are high risk investments? Have you heard that proposition before?

A. It was a high risk investment, this I agree, of course.

15 Q. And you would agree that Alla had asked for a risk free investment, correct?

A. At that point it didn't matter - didn't matter what Alla agreed to. Alla gave all the money to me. It was not up to Alla what to do with that money at that point, at the point of - at the point of time you're referring to.

20 Q. Now, your husband said that this high risk investment in the family business was actually zero risk or low risk for the Nikityuks because he was guaranteeing their investment with his salary, right?

A. Exactly the point. This is why it was always risk free for them in any circumstances, Pavel's high salary secured their future, their support.

25 Q. I want to remind you of your testimony yesterday when we were talking about the sponsorship agreement and you said, and I - you said that you can lose your job in this economy you could lose your job and

I put to you that that salary guaranteed doesn't make - doesn't make it risk free, does it, because Pavel could lose his job? He could lose his job tomorrow, couldn't he?

5 A. Yeah. We can - yes, I explained that, like an earthquake or event like that it's always exists. It's guaranteed with the salary but I was trying at the same time to explain things happen in life and my mom she - she is an experienced woman, she understood that completely. It's like as I said, just word came out of my hat, in insurance like earthquake and those kind of calamities and the same with a salary, it can happen, of course. Everyone can understand that.

10 Q. But we'd agree that the investment in your business by the - the investment of the Nikityuk's money in the family business that was not a risk-free investment. That was a high risk investment, right?

15 A. That's right.

20 Q. I want to turn to the house, Ms. Danilova. Your evidence is that you accepted your mother's wish to live by the lake and in so doing so, verbally modified the email agreement so the Nikityuks could live in the house, right?

25 A. Right.

Q. The Nikityuks will testify that you told them that Valentin was the owner of that house, is that correct?

30 A. No.

Q. The Nikityuks will testify they believed that, that they actually believed Valentin owned the house. Is that in fact correct?

A. No.

5 Q. The Nikityuks will also testify that you told them Alla and Valentin that part of the savings, part of the money they sent you had been used to purchase the house, is that correct?

A. No.

10 Q. And the Nikityuks also believe that to be true, is that correct, they actually believed that some of their money had been used to buy the house?

A. No.

15 Q. But we can agree that the Nikityuks moved into the house on August 16th, 2008 or thereabouts.

A. That's right.

20 Q. And the Nikityuks lived alone in the house during the week at that time.

A. This is not correct, no. You need to specify what - what your understanding they lived alone.

25 Q. It was just Alla and Valentin Nikityuk living in the house between August 16th, 2008 and June 2009, right?

30 A. I testified about that and I explained in details what did it mean. We purchased this house - do I need to repeat, I don't think I need to repeat this. I explained it so much in details already. You have my testimony about that fact what happened in between of August 2008 and June 2009 how Nikityuks lived in the house and that we purchased this house as our principal residence and we were always around. I did - I gave so many details about family living during this period of time. I don't think I need to repeat.

Q. Your evidence now is that you were always around during that time.

5 A. Of course and I - as I put it, my feeling was I was living on the road in between all the house and the apartment in Etobicoke. I was always for them. They needed me, me essentially and with my husband became every - every single weekend we were there doing everything.

10 Q. The Nikityuks will testify that they treated the house as if it was their own during that time. They did the housework. They did chores. They arranged the house. Is that correct?

15 A. That was always - that was always the case. The family was living in the house, everyone was - considered this house as, you know, the place, permanent place to live. Nobody was going to move soon, you know when we were thinking about moving to the other place, you're not decorating, you know. You're not doing something like settlement thing in the house, but they did, we did it. They did it because we all the family was thinking about living in the house for a long period of time. It was the case. Yes, they did everything quite - they were living permanently in this house.

20 Q. The Nikityuks will testify that they enjoyed your company on the weekends during that time. Does that sound right?

25 A. We always enjoyed each other's company, yes, that's right, all weekend or whatever. Why not?

30 Q. And you moved into the house on June 1st, 2009, right?

5
A. Yes, to live for full-time. So we since June 2009 we didn't have a need to keep an apartment in Etobicoke any longer.

Q. You got -

A. Rent the apartment any longer.

Q. You got rid of the apartment.

A. Yes.

10
Q. Okay. The Nikityuks will testify that you did not have a conversation with them about moving in before you actually just moved in, is that correct?

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A. There was no need for such conversations. It was decided like in August of 2008 when they first moved into live in a house. They knew that it's going to be just temporary situation and then we are keeping an apartment in Etobicoke and it's - we changed as soon as we can. It was a connection with our daughter. It was understanding since they first moved in a house from August 2008 that at some point we all will move together and live permanently as a family of four in the house.

20
Q. Well, the Nikityuks will testify that they did not agree to you moving in.

A. Absolutely wrong.

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Q. The Nikityuks will testify that you had always agreed that you would live separately; separate kitchens.

A. What period of time?

Q. In Canada.

30
A. At what period of time are you referring to this agreement?

Q. The Nikityuks will testify that you had always agreed that you would be living separately from them in Canada.

5 A. Always, if you put in always in this statement that absolutely wrong, always - because - I can explain what I mean. In January 2008 before they moved to Canada I can refer to that email that - do I need to do this? I think I've explained.

10 Q. You disagree with the proposition that you had always agreed and that was the answer I was asking for, Ms. Danilova. What I want - before we move onto the next topic, I briefly want to touch on some evidence that you gave on Tuesday. And we're talking about the house as a family space whether it was suitable for both the Danilovs and the Nikityuks. On Tuesday you said the house was sufficiently big and the proof of that was the neighbours who had - where you had two parents and three children. Do you remember that? Do you remember -

15 A. I said that if I put the word proof, I want to take this word.

20 Q. That was my word.

A. I'm sorry, because it wasn't - it doesn't sound like me in this context.

25 Q. You remember saying that, right?

A. I just said that it's normal for Canada it's like average. It's so average for Canadian family to live in a house like that when the neighbour's family is young families with three children. I would describe this as an average level of life.

30 Q. But you would agree that three small children or three children of any age living with their

parents is quite a bit different than two sets of two adults, right?

5 A. I didn't put that much in that statement. I just what I meant that it's this house is pretty average for Canadian family of four whatever. Yes, this was my statement very average, very general statement if you want to go and fill in that. I can answer.

10 Q. The specific question is, you would agree that a family consisting of two parents and three children is - that's quite a bit different than four grown adults living together. That's quite a different living scenario, isn't it?

15 A. Generally I would agree, it's different scenario. As I said, I meant the family of four in very very average context, in very very general statement.

Q. Now, you also said that you lived together in St. Petersburg as a family of four; Alla and Valentin, you and Pavel, right?

20 A. I referred to that experience. I think this matters that we had experience living together with one fridge, with one kitchen, when I was always cooking and this what was here even when they were young, relatively young, not retired yet. I was always cooking for the family and doing a lot of work around the house for the family.

25 Q. But again, you're agree, St. Petersburg was quite a bit different. Valentin was away for 45 days at a time, back one week, away 45 days and you, you were quite a bit younger. You were in your early 20's at the time if I recall and finally Pavel didn't work at home.

30 A. Are you referring -

Q. To St. Petersburg. This is very different.

5 A. You are not - right. You're referring to this situation with Valentin as it was during that whole period when we were - we lived with parents in St. Petersburg. This is not correct, absolutely not. It was certain period of time that Valentin was doing what you are saying, but it was, you know, proportionally even if you said proportionally it's compared to the whole period of time we lived with parents. It was like one-third of the time or even an quarter of the time, I would say. I don't remember the specifics for how long he was on those streets - business streets but it was - you would not characterize the period when we were living with parents that Valentin was always away. It's not true.

10 Q. Well, let's put the matter of how often Valentin was away to one side. We can agree that Pavel did not work at home during that time, did he?

A. He did.

20 Q. In St. Petersburg he worked at home.

A. In St. Petersburg because he of - you can say so because he was always in you know, in the - as a post grad student, in a lot of research. He spent a lot of time at home of course. And I was staying with a baby, yes.

25 Q. We can at least agree that you were quite a bit younger, in your early 20's, right?

A. Of course, I cannot deny that. I was younger.

30 Q. Okay. Let's move on to the loan agreement, Ms. Danilova and perhaps I can draw your attention to Exhibit 1A which is the white book Tab 27.

A. Yes.

Q. And you would agree that the - this loan agreement was prepared by your husband, correct?

A. Yes.

Q. And you would agree that the principal of this loan agreement is the money that was transferred to you by the Nikityuks, correct?

A. This money was transferred to the joint account with myself and my husband.

Q. From Russia, correct?

A. From Russia.

Q. And you would agree that the full amount of the loan as set out on page 171 paragraph one is \$268,002.00 US dollars and that amount when converted into Canadian dollars equals \$263,586.00 Canadian dollars, correct?

A. I will agree with everything in this agreement to save your time.

Q. So the primary purpose of this loan agreement we heard from Mr. Danilov was to facilitate income splitting, correct?

A. I don't understand the word facilitate, but I can explain how we came up with this.

Q. Let me put the question this way. The main purpose of this loan agreement, the reason your husband drafted this loan agreement was to help with income splitting to achieve income splitting, correct?

A. Yes, this is correct to describe real financial situation in the family. Income splitting is like an achievement.

Q. The main -

5
A. It just reflect - reflect what happened with the money. It's a real situation what happened with the money.

Q. And but we - quite a bit of testimony Ms. Danilova to the point that the main concern of you and your husband in putting together this document was tax avoidance, correct?

10
A. Not tax avoid, tax optimization and not just that, we want - I can elaborate this topic actually if I can.

Q. Ms. Danilova, I just want your agreement that we'll use the word tax optimization was the main focus, was the main purpose of this document, correct?

15
A. I'm sorry, you're ignoring what I'm saying. I would like to elaborate how we came up with this agreement, maybe it will explain things in the house.

20
Q. All I'm looking for Ms. Danilova, is what was the purpose, I'm not - your counsel took you through your evidence in-chief. That part of the process is done. Now, I'm asking you questions and my question is why did you create this - what was the purpose behind it? And there's testimony to the fact that -

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MS. CHAPMAN: Your Honour, counsel asked that very question. The main purpose was to help with income splitting and Ms. Danilova's answer is this is correct.

30
THE COURT: All right. And counsel, you used tax avoidance, then you used tax optimization but perhaps it was tax minimization but maybe she can tell us. So she talked about income

splitting. Does that assist you in questions that you want to continue with?

MR. BORNMANN: I think we can carry on, Your Honour.

5 Q. Now, we heard from your husband that you got this idea from the Canada Revenue Agency hotline, correct?

A. Absolutely correct.

10 Q. And you -

A. Not just - I am sorry, not just I, we called together. We called it's a very - it was very important for us and this call actually we did together. I remember this situation very clearly and we did it because for us it was a very normal practice since we came to Canada in July 2003 we were so impressed with the - what source of information is the Canada Revenue Agency public website. All the guides on the website were available for public. It's in plain English and even if you're English is minimal, you come to Canada we could read all the guides - guides and if you don't understand anything you just call it's not - I wouldn't - it's a hotline maybe you can describe it. I never thought about that even as a hotline. It's great support for public, general inquiries, business inquiries and since we did everything ourselves based on this practice researching the CRA website calling the CRA when you do not understand anything - something and even more if you call and you do not understand something a representative cannot answer this question not suggesting like a general question, more specific question, you got transferred to

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the supervisor of the representative to discuss further the issue. And it was so impressive.

Q. Let's talk about - let's talk about the call in question.

A. This is one - this is why we called because our situation was about the change and we did call shortly, several days before parents are supposed to enter Canada in June 2008. It was the first call we did about the loan agreement. Then I was calling again, and then we were calling again when we wanted to prepare to our tax return for 2008 then actually parents were living with us and it was in place loan agreement was in place. So we -

THE COURT: Ma'am, I think you've answered his question and maybe you're anticipating other questions, but just wait for the next question as I think you've answered the question.

A. So we called CRA in June 2008 because it was our normal practice to find out what would be the right thing for us to do in this situation where our family situation was about the change. And I explained - I can put it - I can describe further how I displayed - how we explained to the CRA what we have and what we want from them, them to advise us.

MR. BORNMANN: Q. And we're talking about the telephone call, the specific telephone call about this loan agreement. You got the advice, the hotline advice after you told the CRA that the Nikityuks were bringing all this money, right?

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A. I told three things to CRA. I told them first that my parents coming from Russia - coming from Russia doesn't matter, living under the sponsorship agreement with us and parents are elderly and not expected to work under the sponsorship agreement. It was the first thing what I told. The other thing that parents transferred the money to joint account myself and my husband. The money was transferred for their lifetime support in exchange for lifetime support, but will never be returned to the parents. And the third thing was that my - Pavel, my husband is going to be the only provider in the family. He has a high income and it's not - it's not fair for us, for the family to be in a - that Pavel is in a so high tax bracket of 40 percent. And he was about to start paying the support to the parents and we asked how to make this support, he was going to pay for the parent's tax deductible for him. So he paid the support and he would like the support to be tax deductible. So this pressure of the tax bracket would be - he would be in lower tax bracket.

25
Q. Ms. Danilova, I put to you that this recollection of what you told CRA is different and considerably more nuanced than the recollection you had in 2014 when I asked you about this under oath. And perhaps we can go to your transcript, the transcript of your examination back in 2014.

30
A. Yes. It's going to be different because - okay.

Q. And it's on page 125 of that transcript.

A. Yes.

Q. And it's question 520.

A. Yes.

Q. It starts at line 22.

A. Yes.

5 Q. And I'm just going to start line 22. It was very long answer. "And basically what we did it was a few days before the Nikityuks' arrival actually to - to Canada. We called Svetlana actually called but I was witnessing that conversation. The CRA -

10 MS. CHAPMAN: Your Honour, this is actually I believe Mr. Danilov's answers to that question.

MR. BORNMANN: They were examined together.

A. I answered this question. I remember.

15 MR. BORNMANN: And they were examined together as well.

A. No, no, it's my answer.

MR. BORNMANN: This was before my friend - another lawyer at the time.

20 THE COURT: I understand they were both in the same room and took turns answering.

A. It's my answer I gave. It's my -

MR. BORNMANN: By agreement, they were examined together Your Honour.

25 THE COURT: All right. So you're reading again the question or the answer?

MR. BORNMANN: The answer.

30 Q. Line 22, "And basically what we did it was a few days before Nikityuks' arrival actually to Canada. We called. Svetlana actually called but I was witnessing that conversation, the CRA hotline and we explained them the situation like how our parents are coming. They are bringing money which we will be using - used for the

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lifetime support and how do we do that. We don't pay
taxes on those. And there were some options without,
with those money like trust or whatever, but gift and we
discussed briefly most of them, but my question actually
was how the - the main question was how to split my
income in the family because the family was going to live
together and at that point well, I had good compensation
working for Rogers. It was about 100 thousand per year
and well, the suggestion was very easy actually. The CRA
10 hotline guy he explained you should go for the family law
because if you take a loan from a family member, and you
invest it, and that's what you're going to do, right, and
I said right. And if you pay interest on that loan, that
interest will be tax deductible." Is that correct?

15
A. This is exactly what I was going to
actually say.

Q. You would agree -

A. What answer I received, everything is
20 absolutely - absolutely true and whatever I was about to
say.

Q. And you would agree the testimony you gave
a moment ago is different than this testimony, correct?

A. How is it different? I am sorry. In which
25 part, I - I gave more information than here in
transcript. I said that parents was about to enter and
they were not expected to work. This was the difference.
Some additional information. Other than that, everything
is the same. I can - you know, I can repeat it because
30 it's what we did. Why would it be different. It ended
this absolutely. Uh huh.

5 Q. Well, we heard last week from your husband and we heard you testify that in fact this 260 thousand plus US dollars was actually your money. That's your testimony, right?

A. Yes, this is my - my money.

Q. I put to you, you didn't tell the CRA that oh, this money actually belongs to me, did you?

10 A. I said CRA the real - I explained the real situation that this money and this is actually what my mother understood at this point - at that point. The real situation was my mother transferred me the whole amount money and she transferred this money in the account joint with myself and my husband and I - what I provide her in exchange of this money. This money is 15 yes, it's on my account. It's coming to my account. In exchange I provide my mother with the life - lifetime support and lifetime care for her.

20 Q. But you would agree that you didn't tell the CRA that \$50,000.00 of this loan was actually the proceeds of sale from your ownership stake in an apartment. You didn't tell them that, did you?

25 A. Didn't matter at that time. The fact was that the amount received from selling all family proceedings what I told actually the amount of money I received was obtained from selling all - all family proceedings. My - actually my English was not that perfect but I can explain the facts how I can. So they sold all property - family properties in Russia and they 30 obtained money from selling family property with my shares, their shares, doesn't matter. The whole amount of money was transferred in joint account and it was

5 actually very important that the account was joint. And
this is what Pavel used here because if he technically
received this money. I received this money and he
received, it was joint account and this what we decided
to do this loan agreement and everything it was audited,
audited in 2009 we provided the CRA -

10 Q. I'm sure you told the auditors the same
level of detail you told the guy on the hotline Ms.
Danilova.

15 A. No, I didn't have a chance to talk to the
audit - the audit. It - it's not how it works. We just
left it in the back - in the box and we sent all the
documents they required. The audit was based on the
documents not on our conversation because nobody would
talk to you when we in the process while you're getting
audited.

20 Q. Let's talk about the hotline conversation.
You didn't tell the CRA that \$50,000.00 of this money was
the proceeds of your daughter's interest in the apartment
and consequently had nothing to do with the family at
that point, did you? You didn't tell them, oh by the
way, that money 50 thousand of it is Anastasia's interest
in the apartment. You didn't tell the CRA that, did you?

25 A. I already answered this question.

Q. A yes or no will do. Did you tell the CRA

-

30 A. I already answered this question that I
said, CRA this - the money was obtained from selling
family properties including family properties, not just
parents' property but - it was family properties and

family moving from Russia for - to live in Canada forever without any intention to return to Russia.

5 Q. And we heard from you and your husband that this loan agreement, the loan agreement at Tab 27 in front of you, this was actually signed in and around January 2009, right?

10 A. This is correct. This is mostly because at that - in June 2008, during this first conversation about the loan agreement with the CRA. We were advised that the balance of the principal of the loan is very important so we - as a loan agreement, it should contain the attached balance of the principal of the loan and the principal of the loan should be signed every year and provided to the C - to the CRA as a tax return. This 15 loan as we - as I also indicated that this money will not be returned ever because it's the purpose of this money. I was also advised that you should put it in the agreement that repayment of this loan is not specified because again, because that purpose of the loan is a 20 lifetime, it generate on the lifetime support.

25 Q. And we heard from you and your husband that a handwritten version of the agreement in Russian was prepared by you for the Nikityuks but you didn't bother keeping a copy of it, correct?

A. It didn't bother - why is -

Q. Do you have a copy of it, Ms. Danilova?

A. I do not have a copy.

30 Q. And you of course would agree that in all the years that this litigation has been ongoing, that you have never ever produced such a copy, correct?

A. Correct.

Q. And I put to you that no Russian translation of this document was ever created, Ms. Danilova.

A. And this is your opinion.

Q. And this document Ms. Danilova, it was never explained to them Nikityuks, was it?

A. That's not right. As I said, if you're asking for my statement about that, this loan agreement it was physically prepared in 2009 in January 2009, January/February then we were about to file tax return for the year of 2008 and we prepared this loan agreement and I was sitting with the parents going through this loan agreement and writing, it was with my handwriting all the assets, what we are going to do this loan agreement. Basically it was just a translation of everything of what - of this loan agreement that in my handwriting.

Q. Ms. Danilova, I want to turn now to life in the house at Rankin. You will remember that perhaps I can draw your attention to Exhibit 9. It's a document entitled episodes questioning the mental capacity of Alla and Valentin Nikityuk.

A. Yes.

Q. Do you have that document in front of you?

A. Not in front of me, yeah. But I remember what I put there actually yeah. Uh huh. Thank you. Yes, I have a document in front of me.

Q. Okay. So during your examination for discovery on April 9th, 2014. You were asked to provide records of the episodes referred to at page 50 your defence to counter-claim. Episodes which showed there

was some kind of capacity issue and that Alla and Valentin couldn't take care of themselves in Russia. Do you remember that?

5 A. So many capacity issues that Alla/Valentin could not take care of themselves in Russia. They could take care of themselves in Russia. They could take care of themselves in Russia.

10 Q. Well, that's your position now, Ms. Danilova, but that's not what's written in your defence to the Nikityuks' counter-claim -

A. I'm sorry, I'm sorry.

Q. Wouldn't you agree?

15 A. Yes, I agree because it was elaborated. It was elaborated, I believe or I can elaborate. So -

Q. Let's just take -

20 A. My statement is - my belief and my statement is Alla and Valentin could not take care of themselves in Russia not in respect of personal kitchen or cooking or something like that, this kind of personal care. But they could not live without assistance in Russia without my assistance. They demanding this - my assistance I would say every day basis when they were living in Russia. This is correct.

25 Q. You would agree that in addition to whatever you put in your defence to counterclaim, you told many social service providers, Ontario Works and there's others, that you believed the Nikityuks to have capacity issues, correct?

30 A. Not correct, that I believe they have capacity issues. This statement is not correct. I - can I even elaborate you. I called when they left. I called

5 the office of guardians because I found in the internet
that there is investigation unit in the office of - of
their office of guardians who can investigate issues of
capacity and it was actually my big concern when they
left home at 9:00 pm and all the things I put in here I
had big concern. I provided the office guardian with a
name of my parents and this - with this situation, but I
called them shortly after parents left. And what they
10 told me at that point the office of guardian that they
know the case and social worker already worked with them.
They have social worker with them. So they didn't want
to talk to me. They say they will be dealing with social
worker who is with them. I have concern about their
capacity. You know capacity - I understand the capacity
15 is not plus or minus. It's like of volume, it's
capacity. So the person I understand what does it mean.
It can take care of - the person can take care of himself
like cooking, but it doesn't mean that capacity allows a
person to make decision to see and elevate to what can
20 happen in this situation. So of course I had this
concern.

25 Q. I put to you the Nikityuks do not have a
social worker with the Office in Public and Guardian
Trustee. You don't know such social worker, do you? You
know of no such social worker working with the office of
the Public and Guardian Trustee with respect to the
Nikityuks.

30 A. What I was literally we talked by the
office that there is a social worker with them, with
parents and who can deal directly with - I was, the
statement was that there is some social worker with

parents and Office of Guardian wanted to deal with that social worker, not with me.

Q. Okay.

A. I felt something that they didn't want to deal with me because something is wrong with me here. And then I discovered what was wrong with me.

Q. Thanks for that clarification. Now you provided this document, Exhibit 9 and it's marked on the last page, it says last update May 25th, 2014 and then it has both you and your husband's name on it, correct?

A. I'm sorry, you referring to -

Q. The last page. You would agree it says last updated May 25th, 2014 and it has your husband's name and your name on it, correct?

A. Yes, that's correct.

Q. And you prepared this document, right?

A. Together.

Q. And you would agree with me Ms. Danilova that questioning someone's mental capacity is a very serious act, correct?

A. I think it would be a fair and the right thing to do for parents. I would - sorry, my - my actual concern here in the entire situation with the parents they - they're - at any period of time, at any period of time, since they left home, none of the licensed professional was around my parents, none. A licensed professional like a social worker who would be registered with the Ontario College of Social Worker, social support worker, never was actually around. All those persons - all those persons or agents just introduced themselves as social workers. It's like Yana Skybin is settlement

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counsellor of YMCA. She represented to herself as a social worker for the organization. The other person is Dorothy Archer who - she's social worker even in the works of Yana Skybin. Even Yana Skybin referring to her as a social worker. Dorothy Archer was represented to me as a social worker by the constable during Nikityuk moving from my home. I know what social worker means. That title I trust, but it was not the case, it was misrepresentation.

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THE COURT: I understand your point.

A. And my point is -

THE COURT: Sorry, I just want to take you back to answering his questions.

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A. I'm sorry. My point is if -

THE COURT: Let him repeat the question.

A. No, no, I am sorry, I remember the question.

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My point here is if any of licensed professions would ever be around my parents still think this licensed professional would do is check mental capacity. It's my opinion - it's my opinion it was the first you were in gray area with that, but it's my opinion, I'm sorry, I'm not judging this, but I think any - anyone dealing with parents in this situation first thing to do is a mental capacity check to ensure that people are capable and with all the -

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MR. BORNMANN: Q. Ms. Danilova, I want to be fair to you. The court needs to know whether you understand the seriousness of questioning someone's mental capacity and so I ask you, you would agree that to question someone's mental capacity is very serious. It's

serious because if they don't have capacity then we take away their ability to make decisions.

5 A. Exactly my point. To think that you're dealing with a situation with parents is check their mental capacity. This is my position, always been. This hurts me the most nobody to care - and took good care of them, nobody since they left home. So this is my point.

10 Q. And you made that point in your defence to counterclaim and so under oath I asked you for the details and you've given many general statements over the last few minutes here. I asked you - I received an undertaking to receive the details as to why you are questioning the Nikityuks capacity and this was the document you provided, correct?

15 A. I would never put myself in this position and questioning or I can have an opinion about mental capacity. I do not have an expertise of assessor. The assessor who is doing their mental capacity assessment is a very - it's trained licensed professional. What I am -
20 I was not questioning. I have a concern about mental capacity. I was not in the position of questioning or it's capacity as I said it's -

25 Q. And we asked you - I asked you while you were under oath to give me the specific instances that are causing you to have that concern and you provided this document, correct?

30 A. It would be - we provided this specific - ask and we provided this specific events in this document we provided that. But even in general, people in their late seventies living in Canada and go into their YMCA classes for two years without any success of learning any

English or - and other things like even think that they left home at 9:00 pm and everything. So it's - of course it's an issue.

5 Q. Okay. Let's get into the specifics set out in this document, Ms. Danilova. I'm going to refer - we'll start with memory and understanding information and I see what you've done here. Am I right you found the definition of mental capacity on Wikipedia. It had two parts so you've organized your list of episodes according to those two parts, right?

A. I'm not sure.

10 Q. I believe that's what your husband testified to.

A. Oh yes.

15 Q. Let's go to paragraph 1. Valentin could not figure out the TV remote, cell phone, washer/dryer, coffee maker, could only manage the vacuum cleaner. That's what that says, right? I'm just confirming that's what the document says, right?

20 A. I agree with everything in this document.

25 Q. So Mr. Danilov said in his cross-examination by my friend when asked about the household appliances my note say they figured most of that stuff, household appliances are easy, right? So they actually figured out the household appliances, right?

30 A. They figured but all those appliances were - it's normal. This is why we were living together. All the appliances were like with marks and they could use the appliances but after I interfered and after I explained things like the washer, they - yes, they were

using but again, this capacity it means, you know, you understand every better what I mean here.

5 Q. Ms. Danilova, let's go one paragraph at a time here. And so we're still on paragraph 1. The Nikityuks will say that they use a TV remote, a cell phone, a washer, a dryer, other appliances and they have been doing so since they left the house in 2011 and they have managed. Does that sound like it's true?

10 A. Yes. They managed but it's exactly how we put it here. This TV remote with one button that's switches between the TV and that Rogers box it's exactly how everything is true here.

15 Q. You have a very elaborate bundle of Rogers services if I recall, right? You even had a part where you could view the telephone calls made on cell phones.

A. Yes, but you know it's our life now. It's technology. And people are struggling with technology yes.

20 Q. Many people with capacity struggle with that technology, don't they?

25 A. Yes. It's just concern, the concern was just found one button on the remote switching between we are talking about one button in between some services, and yes, everything has what we meant we put here and everything is correct. It doesn't exclude the fact that they used the appliances. They used the -

30 Q. Thank you. So if we go to paragraphs 2 to 9 we have a long list of issues with Valentin's driving, correct?

A. Yes. I mentioned some already but it's a very long list.

5 Q. We'll just work through it bit by bit so that the court - we can focus this time efficiently Ms. Danilova. So your husband mentioned that Valentin had a Russian car when he lived in Russia; one they don't even make now, correct?

A. Correct.

10 Q. And in this document there's reference to a Chevrolet and a Honda. So undoubtedly this would be different than what he was used to and the dashboard, the dashboard in the car that almost certainly would be different, wouldn't it?

A. We bought Honda Civic that is pretty straightforward.

15 Q. It would be different than the Russian car, right?

20 A. You know we even bought this Honda Civic, the car there is a panel showing the speed in the huge digits in front of the driver. It was so - we thought it would be very beneficial for Valentin. It's actually very specific feature on Honda Civic 2009. You'll probably understand what I'm talking about. It's panel, digital panel in front of the driver showing the speed.

25 Q. Let's just go to paragraph 2 here and you say -

30 THE COURT: Mr. Bornmann, I just want to interject because we could spend a great deal of time on this. I'm not sure what the end result would be. So I think we need to know from the witness whether she still maintains this mental capacity issue. She's indicated that she's not a professional. I think we know

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there's been no formal assessment done. So I just need to know if this is a viable issue or she simply feels that he shouldn't have had a driver's licence. I mean there's lot of nitty-gritty things here that may go to mental capacity or may indicate that a person shouldn't be driving any more. Shouldn't we ask her that fundamental question to assist the court? Or is she saying collectively that they lack mental capacity when all these are taken into -

MR. BORNMANN: Yes, Your Honour.

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THE COURT: You can break them down into bits, but we could spend a week on this.

MR. BORNMANN: And I'm mindful of that challenge, Your Honour.

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THE COURT: I just think I need some overarching answers from her first and then determine whether we need to go into this fine line detailing. I know that she was - this was a response I gather to your - to an undertaking from discoveries.

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MR. BORNMANN: Your Honour, I will put this final proposition to her and unfortunately I suspect the answer will address this particular question.

Q. Ms. Danilova, I'll do this in two parts.

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The Nikityuks will testify that they took care of themselves in Russia and having left the house in 2011 they've now taken care of themselves over the last four-and-a-half years including driving, making decisions,

navigating the bureaucracy. They have done all these things, would you agree?

5 A. No. Absolutely not. They just have other people helping them, the way I helped them in the house. And in December - actually yes, this is my point exactly. Nothing changed in their life. They just have people who they can rely on. My understanding they cannot live independently as you're saying. You put it in your words. You understand it better than me that they cannot live independently as a Canadian retired live.

10 Q. Ms. Danilova, and you would agree that this concern you've just expressed now, the Nikityuks cannot live independently. You have expressed this concern to many social services providers, correct?

15 A. No, I didn't express it. It's social services, it's nothing to do with social services like Ontario Works or ODSP they do not care about this particular issue. If they can live independently okay I'm not - it's just not an issue.

20 Q. We will see some correspondence from you on that point later.

A. Maybe I mentioned it's just my opinion, it's -

25 Q. And I put to you Ms. Danilova that you made this list up to justify the ways in which you tried to control the Nikityuks when they arrived in Canada. That's what this is, right?

30 A. I swear this list. I swear this list. Everything is true in this list.

Q. But everything in this list doesn't come close to showing lack of capacity Ms. Danilova, not even close, isn't that true?

5 A. I cannot comment. I am not a capacity assessor.

10 MR. BORNMANN: Your Honour, and that is the heart of my concern is that the Nikityuks' position is that this list is in no way indicative of capacity and this concern of the Nikityuks' capacity is a recurring theme that justifies that the Danilovs have put forward to justify a whole series of conduct. And this was an undertaking because this allegation was being made to get the actual specifics, what's behind these broad general statements, even the statements that the Nikityuks can't drive. And I'm at the court's -

15 THE COURT: It's filed as an exhibit. She's indicated in her testimony now that the work - the help that she provided has simply been replaced by other people. That will come out in the evidence because obviously she's not been with her parents for a number of years. So we'll hear evidence about that presumably.

20 MR. BORNMANN: Q. And you have no evidence, Ms. Danilova that anybody is providing these supportive services to the Nikityuks, do you?

25 A. Evidence is. I have Yana Skybin as evidence of that.

30 THE COURT: We'll hear more about that and through her counsel she can cross-examine the

5 issues of what support they are getting, but she's indicated most in her last testimony that she acknowledges she's not a capacity assessor and there's none done in this case.

MR. BORNMANN: Yes, Your Honour.

10 THE COURT: There are a lot of things in here and your point is that it was made not contemporaneously but in response to an undertaking at discoveries. She wasn't keeping a log in other words.

MR. BORNMANN: And that many of the events are not indicative of capacity are in fact limitations that many of us may have. I speak personally with the Rogers box and -

15 THE COURT: Would it assist if you just targeted one or two areas as opposed to going through 17 paragraphs to make you point and to allow her to respond to what she thinks were evidence that she saw as incapacity in her parents.

MR. BORNMANN: Yes, Your Honour.

20 THE COURT: She viewed them as not an expert in other words, as a daughter.

MR. BORNMANN: Yes, Your Honour.

25 THE COURT: Is that fair?

A. Yes, absolutely.

MR. BORNMANN: Q. Ms. Danilova, you would agree that Valentin Nikityuk continues to drive to this day?

30 A. I don't have knowledge of that.

5 Q. And I put to that in your damages brief there's a document at Exhibit 4 Tab 73, page 531. It's an invoice that shows, before Valentin left the house, he probably put about 72,000 kilometres on the car in the time that he was living with you, correct?

A. Correct.

Q. And there's no mention of any accident while he was living with you, correct?

10 A. No.

Q. And this allegation, the decision making allegation at paragraph 4 on page 3, Exhibit 9 where you indicate you caught your mom rehearsing scenes from a Russian TV show, really?

15 A. That's my husband saw, yes. I didn't - my husband saw that.

Q. You didn't see it then.

A. I - I personally didn't see that.

20 Q. Thank you. And the Nikityuks they didn't commit fraud, did they?

A. At what period of time?

Q. They've never been charged with fraud, have they, Ms. Danilova?

A. They've never been convicted.

25 Q. They have not been charged with fraud, Ms. Danilova, correct?

A. Never been charged, no.

Q. Okay. They've been collecting social assistance for some time now, right?

30 A. Yes.

Q. Thank you. So other than concerns about memory which does happen when people get older, really

this list Ms. Danilova it's, you would agree rather petty isn't it?

5 A. This coming from actual my care for them as a daughter, as a dedicated daughter, as a responsible daughter, and this is the most painful for me as I mentioned that it comes to my mind and never comes to your mind. It's the most painful thing that helps the most.

10 Q. Let's turn to the finances Ms. Danilova. Your husband testified that you tried to teach the Nikityuks how to do their online banking, right?

A. I tried to do that, yes.

15 Q. Valentin had a laptop computer. You would sit with him and try to show him, but he had difficulty, right?

20 A. That I would not even refer mindful the capacity issue, I would understand this kind of difficulties with elderly people. It's technology again, that the technology is you know. We understand any reasonable person - this time understand technology not for everyone, even younger people can struggle with the technology.

25 Q. But you're not understanding when - we heard evidence from your husband that didn't sound so quite understanding when he said the Nikityuks could have gone into his office or into the local area network at any time to get financial information printouts, right? Your position is that they should have just figured out where all that information was on the local area network and access this financial information. That's your
30 position?

5 A. The position is it was at the same like storage that Valentin kept all his pictures so he took so many pictures and it was a specific disc where he stored all his pictures in the file and then the next - the next folder was a folder with all the documents. He could have accessed this folder along with a folder with his pictures he took, but he didn't express any interest in such thing.

10 Q. I put to you given your experience in trying to teach Valentin online banking it would be very unlikely that they could have been able to understand the financial information you and Pavel stored at the office, isn't that right?

15 A. Say again, please?

20 Q. Given your experience teaching Valentin online banking I put to you it's highly unlikely that the Nikityuks could have accessed the financial information or understood the financial information that your husband kept in his system, correct?

25 A. Yes, I would say so but you know, it's depends on the capacity again, on the person's capacity and even if you do not know the language, the statements are pretty straightforward. It's just numbers and data created and balances.

Q. And was your husband's financial records were they password protected?

30 A. This is a point that was also referenced we're not password protected for Valentin.

MR. BORNMANN: Why don't we move onto another topic here, Ms. Danilova. Your Honour, would this be a good time for a morning break?

5 THE COURT: We could, if you're ready to have a break and move to a new area.

MR. BORNMANN: I am Your Honour.

THE COURT: How is time going?

MR. BORNMANN: Better than I expected, Your Honour.

THE COURT: Just so Mr. Mae will have an idea of when he may be called upon.

10 MR. BORNMANN: I believe I'll still require a little bit of the afternoon, Your Honour.

THE COURT: All right.

MR. BORNMANN: But I may be ready before the first break.

THE COURT: Thank you.

15 RECESS TAKEN

UPON RESUMING

THE COURT: Ms. Danilova, you can return to the witness box.

20 MR. BORNMANN: Q. Ms. Danilova, I would like to talk about life at the house. Your husband testified extensively that you were taking Alla and Valentin to their doctor's appointments, right?

25 A. That's right. I managed to help their health care I would say.

Q. And you were doing most of the grocery shopping, right?

A. Yes, I did.

30 Q. And once you moved in you started doing all the cooking, right?

A. Not all the cooking.

Q. The vast majority of it.

A. Yes, I would say so.

Q. And the cleaning?

A. Most part.

5 Q. And you helped Alla and Valentin quite a lot during this time, didn't you?

A. Can you define helped? Yes, that's right.

Q. Now, Alla will testify that you didn't allow her in the kitchen to cook, is that right?

A. No.

10 Q. And Alla will testify that apart from her and Valentin's rooms, once you moved into the house, she wasn't allowed to clean anything, right?

A. I'm sorry, may I return to the previous question? Actually the previous question that - may I return to the previous question? I can elaborate that I didn't allow my mom to cook in the kitchen, I didn't allow her to cook, you said.

15 Q. That's right. And you said, you disagreed with that.

A. I disagreed, but my mom even brought her pies to the YMCA parties on so many occasions and there are emails from Yana to my mom asking to bring my mom's pie - pies personally to Yana for lunch. So evidence and my other friends are going to be witnesses and testify how proud my mom was about her soup she cooked on the occasion that our friends came. So we are going to have those friends as witnesses.

20 Q. So you disagree with this.

A. Yes.

25 Q. So next question, Alla will testify that you did not let her shovel snow.

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A. They had severe back pain actual issues and I took them to their physiotherapy. I went to the physiotherapy for so many treatments and it would be so clear the right thing to do for my mom. And she agreed with that. She agreed with that, how could she shovel the snow. Actually they did shovel the snow when they lived for the period of 2008.

Q. Separately.

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A. Until we moved, they did but after we moved to live with them, we shovelled the snow.

Q. And Alla Nikityuk will testify that you did not let her go grocery shopping with you.

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A. This is all in Yana's book. I read the other day that Yana put us in an abuse that it's I remember it's her book, I testified about Yana's book as she described the abuse in the family, the book dated September 30th. I believe it's for sure and it says in the book that I daughter warned there was enough food in the fridge and if you need more you can go and buy - buy yourself.
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Q. Ms. Danilova, what would help the court is if you let us know whether you agree or disagree with the proposition that Alla - you would not let Alla go grocery shopping with you. Do you agree or disagree?
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A. Disagree. And we did it on so many occasions because I was - I have a membership card in Costco, we went together to Costco on so many occasions. They didn't have cards, only I had the Costco card and my husband and we took them to Costco for example, and so many occasions.
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5 Q. The Nikityuks will also testify that after you moved in, you put restrictions on the mailbox. You took away their mailbox key, is that correct?

A. Absolutely not. The mailbox we have a community mailbox. It's community mailbox.

Q. But there is a key to your mailbox.

A. Yes, there is a key.

10 Q. And you took that key away from the Nikityuks when you moved in, is that correct?

A. We - we did not.

Q. And the Nikityuks will testify that you spoke to them in a demeaning manner, is that correct?

A. No, absolutely not.

15 Q. And the Nikityuks will say that you discouraged them from seeing their friends, is that correct?

A. No.

20 Q. And the Nikityuks will say that your husband told them to buy burial insurance because they would die soon and you would not pay for their burial expenses, is that correct?

25 A. I believe it was explained already. If I need to explain the situation because it's all twisted, this statement twisted. Even burial insurance you personally knows that there is no such thing as a burial insurance. It's literal translation from our English into Russian and from Russian into English. Everyone knows there is a life insurance in Canada and absolutely popular and common thing that is good to have, and what
30 you are saying in your statement is so twisted and this

is why wrong. We offered them life insurance but I believe my husband actually explained everything.

5 Q. You would agree that burial insurance and life insurance could be interpreted as the same thing when translating between English and Russian, correct?

A. It's the same thing if you translate the conditions of life insurance literally if you translate exactly from English into Russian. We explained them in exact words, absolutely in exact words.

10 Q. And the Nikityuks will testify that you and your husband monitored their emails and in fact, you did, didn't you?

A. Yes, you can say so. We have access and I can even explain that I even more excess to the emails because Valentin kept coming back to me and asking what - what did I get, what did I get, so many spam letters were coming to him and I was trying to explain the letter - I was trying to explain the indications when the letter is spam and he couldn't get those indications and so it - he was experiencing difficulties with that. And this is why he asked me actually to assist him in this matter. The other thing is where so his computer was in his bedroom and when email from relatives from Russia was coming, he just could shout - he could shout that I've got email from Olga from Russia. Please read it. It was kind of convenient for him so I'm not coming to his computer, but can access his email through my computer. This how it worked and there was no any significance about emails.

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30 Q. And forgive, Your Honour if we just look back, very quickly at one part of Exhibit 9. This is the episodes questioning mental capacity. If we go to -

A. Yes, I have it in front of me.

Q. If I can turn your attention to page 2, paragraph 14.

A. I'm sorry, what document are you referring to?

Q. This is the episodes questioning mental capacity of Alla and Valentin Nikityuk.

A. Yes.

Q. And on page 2 at paragraph 14.

A. Yes, I have it, oh yes, I have it.

Q. Valentin begun, and I'm just going to read the start from the second to last sentence, this is all about the -

A. Yes, I can see that.

Q. - broken. Valentin did not appreciate the gift and once the computer started working again, Valentin begun -

A. Yes, that's right.

Q. - to unplug the network cable from it to protect it from Pavel's attacks. Of course without network connection, email stopped coming and Valentin immediately accused Pavel that he broke Valentin's email to make Alla and Valentin unable to communicate with Yana Skybin and their other friends, correct?

A. How it would, if this is correct, everything is correct here.

Q. You'd agree that's a little different than this open email policy you just described for the court, correct?

A. What's difference -

5 Q. Okay. And we were talking about the mental - the discussion around the Nikityuks capacity. In fact, you wrote the YMCA at one point saying the Nikityuks were mentally incapable, did you not?

A. I included in my letter I wrote to YMCA in October 26, 2011 I indicated my concern about mental capacity on Nikityuks among all other things, yes.

10 Q. Svetlana, you'd of course agree you're Alla's daughter, right?

A. Yes.

Q. And how do you think all of this made her feel?

A. I cannot tell. I cannot get into her head.

15 Q. You would agree you could have addressed the Nikityuks concerns about independence in other ways, couldn't you?

A. I'm sorry, I didn't understand that. I probably have a little more capacity myself her, yes, don't understand your question.

20 Q. So we've heard you've agreed you wouldn't let her - you wouldn't let Alla shovel snow. You did the vast majority of the cooking. You dispute a number of allegations that the Nikityuks have made, but you do admit that you wrote the YMCA indicating that the Nikityuks were incapable.

A. I didn't say - you keep -

Q. That you had concerns about their capacity.

A. Exactly.

30 Q. Concerns about their -

A. Exactly. My concern involved capacity, yes.

Q. I would put to you that much of this was your concern about the Nikityuks living independently, correct?

A. Absolutely not.

Q. Okay.

A. It was - my concern at that time in this situation when they left the home then previously they lived with me under my care and I was recognized as their care giver by the Canada Revenue Agency in respect of the tax returns and so the caregiver amount but I'm not talking about the finances here, but about the - my role in their life. My role in their life was a caring giver for them.

Q. But you would agree at some point after you moved in, before the Nikityuks moved out at some point your mother told you, she didn't want to live with you any more, right?

A. No. At some point, not that direct - I never heard this direct statement from my mother, no.

Q. But you would agree all the discussions about living separately, about social housing, and at the core of it is the idea that they did not want to live with you, right?

A. First of all, at what period of time and the other thing what discussion?

Q. Let's make this easy and start talking about when they want to move out. So they -

A. At what period of time?

Q. The first time, I'm putting to you that at some point after you moved in before they moved out you

knew that your mother did not want to live with you, correct?

A. No. No, this is my no because.

5 Q. Well, were you going to move into social housing with you?

A. Social housing, it was about social housing starting from the beginning of 2011. It was all about just social housing arrangements, not general statement that I do not want to live with you. The statement was I want to live in social housing.

10 Q. You'd agree that when your elderly mother is telling you I would rather live in social housing than in this house, that she's saying I'd rather live in social housing than live with you in this house, correct?

15 A. No. She explained the reason, reasons why she want to live in social housing. She had reasons to believe that it's good accommodation for her because the whole family will benefit from them living in social housing. That's what she reasoned. Paying \$200.00 a month for rent and living so independently it's very - it appeared to be very beneficial for my mom. She was trying to explain. She saw that social housing recommendation she only saw that social housing is rent of two hundred per month. This house she saw the social housing and what she told me you made so many mistakes. You don't understand how things here in Canada. She had so many people who lived in social housing normal Russian speaking people and she knew from them then they paid \$200.00 per rent and children might be living in the house and separately and so my mom just liked this kind

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of arrangements very much only in the context of social housing.

5 Q. Let's take a step back, Ms. Danilova, can we agree - let's think about 2011, 2010, can we agree that the Nikityuks are adults and they're entitled to live independently if they want to, is that correct?

10 A. I don't know. It's a very general statement. It might be - I need some statistical information or some other kind of information psychological, depending of their age. I cannot answer this question.

15 Q. Well, no, you need to. You need to think. We're talking about the specific instance of the Nikityuks living with you 2010/2011, the Nikityuks if they want to move out, do they have the right to go live independently?

20 A. I want so many things myself, but I always adjust to what I want to the situation in my family.

25 Q. Right. You're evading my question, Ms. Danilova. The specific question I'm asking you is do they - do the Nikityuks as adults are they entitled back in 2010/2011 they're living with you in the house, do they have the right to say Svetlana, we do not want to live with you, we want to live independently?

30 A. Yes, they do. Yes, I would answer this - yes, they do. They are entitled to tell me that we want to live independently and start the conversation with me about the arrangements. Yes.

Q. Even if you say there was some agreement about the finances you would agree that things as Pavel testified, things can change, can't they?

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A. Yes. I - actually I offered condo to my mom. It's independent style of living in December 2015. I called my mom because we were at the point moving to Waterloo and in December 2015 it became clear that our house is going to be empty because we move to Waterloo. I called my mom and offered her first thing to live in the house because the house was going to be empty and the other option would be I offered her a condo. I even sent the agent to show the condo to her. So we had - we never be - we never were against any kind of negotiations in the family, but we want it to be any negotiations in the family, not breaking the law.

15
Q. Ms. Danilova, you're referring to a settlement offer you made directly to my clients Alla and Valentin Nikityuk in 2015, right?

A. It's not a settle - no, no. I am referring to my telephone conversation with my mother. It's not a settlement offer.

20
Q. And to be clear, the condominium was going to be in your name, correct?

A. Yes, of course.

25
Q. And you and Pavel were going to continue to control all the money, weren't you?

A. What do you define as a control. I actually - I don't know how to even answer question, yes.

30
Q. You weren't going to give them their money back were you?

A. No.

Q. Right. So -

A. But I was going to provide them with the life they want. The life they refer, they wanted it in

January 2008 in that email we are trying to please them in all - I don't know what they wanted at this point, half a million from me. That's it.

5 Q. And to be clear, your offer included many conditions, did it not?

A. What kind - I'm sorry -

10 THE COURT: Mr. Bornmann are we getting into sensitive areas here about offers? Is that really something that we need to discuss at the trial.

MR. BORNMANN: I think we've addressed as much as we need to, Your Honour.

15 THE COURT: It's always open to parties to have discussions although it's not usually something that's talked about during the trial unless there's some resolution of some of the issues.

MR. BORNMANN: Yes, Your Honour.

20 A. I am only referring to the conversation with my mother about the living arrangements and about us willing to support them and as you see in the sponsorship agreement we can support them providing with not just with the money but with services. It's in the sponsorship agreement and we wanted to provide them with accommodation where they can live.

25 MR. BORNMANN: Q. So let's talk about the condominium in 2009. So at that time, you knew that the Nikityuks wanted to live alone, right?

30 A. We considered this as an option because we found the condo very close to Royal Victoria Hospital, walking distance.

5 Q. So but we've heard already during your conversations before they came to Canada, there was discussion of the Nikityuks living separately, correct?

A. Before moving to Canada, yes.

Q. And you testified that you bought a condo for the Nikityuks in May 2009, right?

A. Yes.

10 Q. That condo was going to take two years to complete, correct?

A. Yes, this is correct.

Q. And then you testified that the Nikityuks had overwhelming health issues and that they asked you to terminate the deal because they couldn't live there alone, is that your position?

15 A. Yes.

Q. And the Nikityuks will testify that you told them that that condo was purchased for Anastasia.

A. Not right.

20 Q. And that Anastasia was at U of T in 2009 but this condo wasn't going to be ready until 2011 anyway, right?

A. Yes.

25 Q. And Alla's testimony will be that she was told Anastasia didn't want the condo and that's why the agreement was terminated.

A. This is not correct.

Q. And Alla's evidence will be that she begged you to keep the condo for her and Valentin to live in.

30 A. Not correct.

Q. And I put to you that this condo was an investment that you and Pavel were considering, correct?

5 A. For us - for us it would be the second residence it would be a yes, it would be an investment property for us, yes, secondary residence.

Q. And we heard that you bought the condo in May, correct? We heard that Anastasia went to the condo demo suite in July, correct? It's in her affidavit.

A. Yes, this is correct.

10 Q. And then you cancelled it in October, right?

A. Yes.

15 Q. And you'd agree that this condo was supposed to be in addition to being built in two years it would have two levels. And you'd agree that it would be difficult for two elderly people who have health problems to live in such a condo, right?

A. They lived in a house two stories and even with the basement later, they didn't have any difficulties living in the house.

20 Q. Let's talk about rental options. Alla will testify that she spoke to you separate of the condo, she spoke to you specifically about living independently; not in social housing, but living independently in a rental, that's right?

25 A. No, that's not right, never heard about her something in the relationship with rental other than subsidized social housing.

Q. And Alla will testify that you told her and Valentin to go look for a rental apartment.

30 A. No.

Q. And Alla will also testify that she and Valentin in fact looked for an apartment in the mornings

and then when you would come home, you would tell them no, you can't live separately, it's not going to work.

5 A. It's absolutely lie and maybe you should ask them for their records. It should be something if they're saying things like shopping around. There should be some traces of that. It's absolutely lie.

10 Q. Ms. Danilova, Alla will testify that this sequence that - Alla will testify that the sequence of events happened more once.

A. As I said, this is not true, the previous is not true and this is not true as well.

15 Q. And you will recall that your daughter when we put this scenario to her yesterday, she remembered - she remembered events similar to this.

A. I don't know how to answer this question.

20 Q. I put to you that it's the truth that at least on one occasion if not two, or more you told the Nikityuks to go out and look for a rental apartment for themselves and when they did, when they returned, you said no, you closed the door on the idea.

A. Never happened. What you are saying never happened.

25 Q. And it's because you closed the door on renting an apartment, that's why the Nikityuks starting thinking about social housing.

30 A. I'm sorry, even this concept of renting was never discussed. When we bought that condo, it was specifically discussed in the family that probably it was the last apartment in the - that we rented. Since we bought the house, and in our financial situation we expressed to actually parents that we were in hope that

5 we will not be renting in our life now from now on with
the money we have, we going to only invest. Like you say
condo it's investment. We are not going to have any kind
of pension here and we should think about our retirement
plan as well somehow. And renting you know, it's
absolutely not applicable to me. This scenario you just
described because it couldn't be like that it was against
our position ever so we were not going to be renting.
10 The thing that we are renting right now in Waterloo it
just very unfortunate circumstances and we are so
uncomfortable with it. We would sell this house and buy
the house in Waterloo because we - from our point of view
renting is just wasting the money. It couldn't happen
what you're describing. Shopping for renting it was
15 never an option.

Q. Well, I don't want to leave this topic Ms.
Danilova but I put to you that your husband testified
just a few days ago that when asked by my friend why no
effort was made to sell the house, and pay the proceeds
20 into court that he wants to keep the house.

A. Yes.

Q. Are you and your husband on the same page?

A. Yes. Probably, it depends of outcome of
25 this proceeding because this is so - a lot of mess
creating here. And it depends. We can keep this house as
residence for parents one option and we will keep the
house in this scenario. We can also keep the house I
don't know as an investment and have other arrangements
30 in Waterloo. It depends.

Q. You've testified going back to - going back
to living independently you testified that Alla asked you

for help with the social housing application but you were unimpressed with that suggestion because she - her income was too high for social housing, right?

5 A. She asked me specifically to go to fill application in July 2011. Previously there were some many discussions starting from like April 2011 and starting from April 2011 I testified about all those conversations with my mom and all those conversations were around social housing arrangements. And she at some point closer to the summer so my mom firstly she discovered this social housing as a concept and after she discovered this social housing as a concept she started to refer to Yana Skybin as a person - as a specialist who can do things like waiting list and so I do not have to go there about that. And at that point as I told that it cannot be done legally. This can be done only through breaking the law and I didn't -

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20 Q. And the reason it was illegal so I have this right, is their income was too high for social housing, correct?

A. Correct.

25 Q. Because their income was \$40,000.00 or thereabouts, correct?

A. One thing was about an income and the other thing was about the waiting list.

30 Q. Okay. Let's just go with the income piece. Their income was too high; it was \$40,000.00, but you would agree with me Ms. Danilova that if the - since the Nikityuks had a \$40,000.00 annual income a possibility could be for them to go out and get their own apartment, right?

A. Was a possibility.

Q. It was a possibility, wasn't it?

5 A. Probably but the possibility that should have been discussed in the family, yes. Not, there always a possibility but the possibility that it should be - have been discussed in the family like an arrangement with the condo. We will buy them a condo.

10 Q. So and you know, even your own calculation in that January 2008 email stated that \$25,000.00 would be enough, isn't that right? Do you want to take a look at that email again?

A. I remember the email.

Q. Exhibit 2A, Tab 3.

15 A. Twenty-five thousand yes.

Q. That would be enough for a rental.

A. As I said, at that point a rental was not an option.

20 Q. But you'd agree that adults, adults that unhappy with their living situations and actually have income they simply move out, right? That's what happens. If you're an adult and you're unhappy living with someone and you have income you just move out, don't you?

A. Yes, I agree with you.

25 Q. But the Nikityuks really didn't have that income, did they?

A. They had this income.

30 Q. This income was just a number - a number that you and your husband put on a tax return for them, isn't that right?

A. You are absolutely wrong because they - as you said, this, even that scenario let's go through that

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hypothetical scenario. I can go with you. As they moved out, I didn't know at that point that they moved out to live in a social housing, right, and then they moved out in October 17th, they moved out. I didn't know for sure that they living in social housing, right. I didn't know that, but the first thing, we did, we sent them a cheque. We didn't know where they lived. We didn't know anything. We just have a contact of YMC (sic) but we send them a cheque for their living arrangements. Yes. Let's go through that hypothetical scenario. They moved out, they wanted to rent. We would send them a cheque to cover their expenses what we did, but you know what happened in that instance.

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Q. Ms. Danilova, the Nikityuks will say that the relationship had broken down, the relationship with you and your husband had broken down that you and Pavel had become aggressive with them.

A. Everything is not true.

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Q. That you and Pavel were financially abusing them.

A. They - if you translate them from -

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Q. Sorry, just let me finish my - and they will say that they could no longer live with you. And I suggest to you that's in fact what the situation was at that time.

A. I disagree.

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Q. And I suggest that you needed half of their quote unquote household costs to be able to pay your expenses, Ms. Danilova.

A. Disagree.

Q. And I suggest to you that all those arguments about social housing, these were really arguments about living independently.

5 A. It was all about social housing starting from April 2011 everything was about social housing. The problem in the family was that we cannot go beyond this discussion about social housing with parents. Even - if they wanted something but they didn't. They wanted specifically social housing and the problem was I was not on board. I indicated that I am not breaking the law here and never ever, but I was forced to do so but I didn't go in that direction in any way. My mom was actually exercising all in her power and to resolve and Yana Skybin as well. So I already testified about that meeting with her and arrangements of the meetings with her. It was, I believe, June 2011 and after I didn't go to that meeting with Yana Skybin in her place where she invited to come to her place after I didn't go to that meeting. Now, I'm under impression that that happened after that date of June 2011 that Yana Skybin she just didn't see me as a collaborator in this regard with the social housing that I rejected all kinds of collaborations and she decided with the parents to go on - by their own ways. She started to go, not started, she continued to go to the trips with them where they were probably, it's just my speculations, but she didn't get back to me after I rejected to go to that meeting. She stopped communicating with me through emails. She stopped calling me. So everything changed between me and Yana Skybin since I rejected to go to that meeting in June.

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Q. I put it to you though, Ms. Danilova that that happened later. This happened after you closed the door on the apartments. I put to you that what actually happened was that the Nikityuks came back from looking for an apartment and you explained how all the finances, how it was all complicated, how they weren't going to be able to live independently because of the financial arrangement that you had. And the only option they saw was an option which didn't require this money, this money you said they could not have to go rent these apartments. That's actually what happened. It was only after you closed the door, Ms. Danilova on these apartments, that's when the social housing idea came up. I put to you that that's actually what happened.

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A. And this that you're saying now is has been made out so recently I have even never heard about that before. This is the first time I heard this arrangements you're talking about. And my position here this arrangements has just been made up recently. You have never mentioned this kind of arrangements ever never, not in your pleadings and it's absolutely made out. Of course, it's lie, it's complete lie, but you didn't even indicate this lie before. You made up it, just made up or very recently.

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Q. But you would agree that your daughter testified here yesterday that she recalled the Nikityuks going out, and looking for non-social housing, correct?

A. No.

Q. So let's move on to October 17th, the date -

THE COURT: Did you want to say something?

5 MS. CHAPMAN: Well, yes. Because my
recollection is different regarding Anastasia
Danilova's answer to the question regarding the
allegation that Nikityuks were looking at other
apartments. And I believe her answer was I
don't know the details of those conversations
but it is possible.

10 MR. BORNMANN: My notes are a little different
with respect to the second part of that, Your
Honour.

15 THE COURT: We'll perhaps check into that
later. We have this witness' answer. But I
may ask the reporter to get us that piece of
testimony.

MR. BORNMANN: Thank you, Your Honour.

THE COURT: Just for the benefit of
submissions.

MR. BORNMANN: Thank you, Your Honour.

20 Q. Do you remember October 17th, 2011, Ms.
Danilova?

A. Yes.

25 Q. On that day you had what you called an
unpleasant conversation with the bank manager,
uncomfortable for you to have found out from him that
your mother and Valentin had closed the bank account,
correct?

A. Yes.

30 Q. Now, did you know at that point that
earlier in the morning of October 17th, 2011 your husband
had approached Alla and Valentin to tell them it would be

a good idea for them to get life insurance to cover final expenses. Did you know that?

5 A. Yes, it was a conversation I was there. It was breakfast. We were sitting around the table normal family actually. Somehow - somehow we were altogether for breakfast, yes. Sometimes it's pretty rare occasions for breakfast, we were having breakfast altogether that day.

10 Q. You told your husband about what you had learned at the bank and then he confronted Valentin and asked him why and Valentin said because and then the Nikityuks went to their rooms and for a walk around the block, right?

15 A. But a little bit about timeline, it happened so - so at breakfast talked about life insurance. Then during the day, sometime during the day I went to the bank afternoon I believe and I came from the bank. It was like 5:00 pm or something. Then I came back home, discovered this thing, yes, I communicated to Pavel. Pavel was around, parents were around yes, and it happened in the evening. Pavel asked Valentin why did he close this account and yes, I witnessed that. And Valentin said, "Because". After that they just go to
20 their rooms and they went for a walk around the block, yes. That's the timeline was.

25 Q. And you testified that you met them later coming down the stairs with their bags, right?

A. It was around 9 pm, yes.

30 Q. And they said they were leaving, right?

A. Yes.

Q. And that there were not going to live with you any longer, right?

A. Yes.

Q. And you'd agree that does not sound like two people who are happy with life with you, are they?

A. Definitely not, if the people saying words like that, I would say that - it's unhappy people saying something like that. Or they have to say that. There are other options. There are other options something told them to say that. This is why this capacity issues first, I expressed a concern about the capacity issues. My problem was, were they really unhappy living with them or someone talked to them to tell words and to do things, things that can hurt them at the end, and they do not understand that. This is a capacity issue. And control issues, someone is controlling them, someone so of course, there are a lot of things crossed my mind at this point. I didn't know for sure. I cannot answer your question yes or no, were they unhappy saying that.

Q. But you know that Pavel had taken the garage door opener to prevent the Nikityuks from leaving by car, correct?

A. Yes.

Q. And he had demanded return of the keys and Valentin did actually in fact return them, right?

A. Yes.

Q. And without a car your mother and Valentin ended up having to walk away from the house, right?

A. They walked away, yes. I was trying actually to tell them something what I am doing, but they

said we have - we have to do that and I - already testified actually about that. Do I need to repeat?

5 Q. You testified that - excuse me, Alla will testify that she did not call out - she did not say I'm not your mother anymore. She didn't say that. She will testify that what she did call out was 'where you are, I am not.' She will testify that what she said when she called back to you was 'where you are, I am not.'

10 A. I don't recall this statement.

Q. And your mother will testify that she was telling you that she was not living with you and Pavel.

A. She was not living -

Q. With you and Pavel.

15 A. I'm sorry, I don't understand.

Q. Your mother will testify that what she was telling you when she called that out was that she was not going to live with you and Pavel.

20 A. I said what I said. The only statement from my mom, from the distance I heard was, I am not your mother any longer.

Q. Well, Alla will testify that she wanted to live independently -

A. It's -

25 Q. - as they've been promised.

A. It's pretty long statement to shout from the distance I would say. Sounds unbelievable to me. It was from the distance and it was a short statement, I am not your mother any longer - I am not your mother any longer, that's it. Short statement.

30 Q. Well, all she shouted was, 'I am not your mother anymore.'

A. And this is my statement.

5 Q. But she will testify in her mind she wanted to live independent as they'd been promised. And your mother and Valentin ended up having to call a friend Irena Laverka (ph) and her husband Fleming and they will testify that they waited over half an hour for their friend to come and pick them up and take them to a shelter, Ms. Danilova.

10 A. To the best of my knowledge they never lived in the shelter.

Q. And you heard Pavel testify that he invited Valentin to call 911 on the day they left, right?

A. I'm sorry, saying?

15 Q. We heard Pavel testify that he said to Valentin 'go ahead call the police'.

A. Valentin said we didn't resist any calling to the police.

20 Q. Pavel said 'go ahead, call the police if you want', didn't he, something like that?

A. I don't remember specifically that, but we didn't resist Valentin calling - we didn't mind, we didn't do anything about Valentin. He was -

25 Q. You would agree that something to that effect go ahead, if you want to, go ahead and call the police, we don't - we have nothing to hide.

A. I don't remember this specific statement about the calling the police.

30 Q. Okay. You would agree that if Valentin had called the police they would have come, wouldn't they?

A. I guess so.

Q. And if that is the case I think it would be fair to say that you would not have been concerned about what your neighbours thought, right?

5 A. I would be concerned very much. It would be false actually - false call of the police and they might be even in trouble for this false, if they - I don't want to go in this direction but it would be big issue if he called the police and the police would be. 10 But from the other side, if the police came we would be cleared probably right away because the police didn't see anything and the police may be the right thing to be involved in this case. I don't know. It's my opinion - my opinion is very only - if happened it would be the right thing to do with - it would be the right thing to do for people for professionals, assisting parents first to call the police and the other thing to check their capacity assessment.

Q. Ms. Danilova, I'm trying to get your position on the police attending straight. Because on 20 the one hand you seem to have your husband saying go ahead, go ahead - he's calling Valentin's bluff, go ahead, call the police and then on the other hand we have the complaint about the damage to your reputation because the police were there when the Nikityuks came from their 25 parents (sic).

A. It was - what is apple and oranges again. The police car staying in front of the house for an entire day. It's a defamation in front of neighbours. 30 We consider this part of defamation of course, because there was no reason for the police. The police will come to testify as our witness what did he see and it was just

defamation because from that date on we became criminals for all the neighbours. They saw the police car staying in front of our house.

5 Q. So the car outside the house during the move out, that's worse than the -

A. Yes.

Q. - police coming for a 911 call in the evening, right? That's your position?

10 A. Worse, no I cannot comment on this what's worse. Even if the police would be involved from the beginning, from the start of all this, and if there was actual abuse situation, we would be dealing with the police. The police would examine real evidences, what the police do.

15 Q. Okay.

A. Police investigate and police examine evidences and police would clear our name back in 2011.

20 Q. Let's talk about the neighbours for a moment. You continue to socialize with the neighbours after - long after the move out with the police car, right?

25 A. No. We didn't socialize. At that occasion, probably can be mentioned with our neighbours. I can explain, it was a date that our daughter came to visit with her husband and our neighbour he had a barbecue that day and he saw our daughter. He always interested in the career of our daughter because our daughter is closer to the age to our neighbour than us and he more interested in our daughter's life than ours -
30 in us. And he asked our daughter to participate, come to some beer as he was having barbecue in his backyard and

5 we just were altogether. We came with our daughter. She's intention what was actually to talk a little with our daughter, but we came with our daughter. And he mentioned you kicked out your parents from your house. He's - that was think like that way, didn't social with neighbours since.

10 Q. But you were either invited to the barbecue or at the very least neighbour didn't mind you crashed the barbecue, did he?

15 A. We just stopped, it was for a very short period of time. We just stopped at the barbecue with our daughter and he used this chance to say what he was thinking about us specifically. We didn't socialize with the neighbours. They didn't talk to us at all. At this moment, they didn't talk to us because all those moving and house is empty. It looks like our reputation in the neighbourhood is unrepairable.

20 Q. And so after the Nikityuks leave, you make a lot of - you make a number of calls and we heard testimony about how you were concerned about your parents, but not too long after they leave, November 4th, 2011 you make a call to the welfare fraud hotline, right?

25 A. Yes, I did.

30 Q. And you followed up that call with a letter dated November 10th, 2011 and this - maybe we can direct your attention to it. This is at - this is Exhibit 1A the white book. And it's Tab 72, page 447. So that's Exhibit 1A, Tab 72, page 447.

A. Yes.

Q. You emailed this, you faxed it. We see it at Tab 73 and Tab 74.

A. Uh huh. Yes, this is the fraud -

Q. Presumably, you just wanted to make sure it got there, right?

A. Yes.

Q. I'm going to look at the Tab 72 version. And so this is your mother and step-father don't speak English, left the house and you're writing to advise that they're illegally taking advantage of the social assistance program and you don't want to be a part of it as loyal Canadian citizens, right?

A. Exactly, exactly.

Q. This is signed by you and your husband, right?

A. Yes.

Q. And if you to paragraph 4, you say, you gave the Nikityuks an annual income at around \$34,000.00. That is for both of them, right?

A. It's not precise amount here, not precise for an idea, yes.

Q. But in fact you did not actually give them this income, correct? We've covered this point many times. You didn't actually give them this money, did you?

A. We did give them that money that they spent for their level of living they had.

Q. You did not hand them a cheque for \$2,800.00 and change every month so they could decide how to spend it, where to live, what groceries to buy, what to eat, what car to drive. You did not do that, did you?

A. You know better than me. There is this saying that my salary is not that much, but it's enough -

5 it pays bills, you know better than me. When you receive the pay cheque, you go and spend this pay cheque whatever - how you want. You go to the restaurant with this pay cheque maybe, this how it works here, right.

Q. That's right, Ms. Danilova.

10 A. This cheque, I never seen the money from my salary ever. It's coming to the - it's coming to the bank account what happened in their situation with the parents, the money went to the bank account every month as their income and the money was used to cover their living expenses and they were much more lucky or I don't know how even to tell that they have in addition - additional coming from Russia is their Russian pension that they could spend beyond their living expenses. So they had - I don't know, they had even life better than we had.

15 Q. But you did not give them a cheque so they could decide how to spend it. Instead you told them where they had to live and how they had to live and what duties they had to complete, and what they had to eat, isn't that the truth, Ms. Danilova?

20 A. I disagree with the - I disagree with your statement and it was our big hope that they - when they retained a lawyer, the lawyer would explain him how it works in Canada, how life in Canada actually what does it look like, life in Canada from all perspective; from financial perspective, from all perspective.

25 Q. In fact, Ms. Danilova all they had was their combined pensions from Russian about \$600.00 a month. This is the amount you refer to in paragraph 5. That's really all they had.

30

5 A. It's so unfortunate for me that you - it's so, I don't know how even to tell that it's - it hurts. Again, that you - I don't believe you do not understand actually this concept how that they did have income.

10 Q. Let's talk about after they left 'cause we all agreed including yourself, Ms. Danilova, that when adults no longer want to live together they get to decide to go. They decide to leave. So the Nikityuks have - if there was any confusion before I think we can agree the Nikityuks have now decided to leave and in fact they have left. And so now having left, you did not give them support in the amount of \$2,800.00 per month, you did not give them \$2800.00 per month. Instead, you first gave them a cheque for \$1,741.00 so that was for November 15 2011. And then a cheque for \$1,150.00 short of their alleged income when they lived with you. Sorry, let me put that to you again. When they left, Ms. Danilova, you did not give them the support in the amount of \$2,800.00 per month. Instead, you first and this was just at 20 first, you gave them a cheque for \$1,741.94 for November 2011. This is \$1,150.00 short of their alleged income when they lived with you.

25 A. It's their obligation under the sponsorship agreement to inform the sponsor about their actual aware their needs. It's in the sponsorship agreement. I can refer you to the sponsorship agreement and we paid the first cheque as how we recorded and as you can see it was the same they received from social assistance. From 30 social assistance they received not just monthly income, but not monthly amount but some start up community benefits and things like that. So our support was

5 supposed to be adjusted in accordance with the rent they pay, all other things they need in life. And I wrote so many letters including the letter to social housing administrator asking for providing me with the monthly rental amount so we can adjust the support, we can do the planning. Yes, we did like damage control in this situation, yes, this is as soon as they left and I give you this - they exercised this right of adult to live separately as you're saying. The adult who can live separately. The question all the time was if they live separately or not and for assistance now in this situation.

10 Q. But after they left -

15 A. We were trying to adjust this support according to their needs, but they didn't inform us about their needs.

20 Q. But after they left, you're trying to punish them. You're still controlling and setting all the rules about what kind of money they get, and what kind of money they don't get. You decided that you needed to pay the bare minimum you could get away with by law, right?

25 A. In any circumstances I have never tried to punish them. It's -

30 Q. We have the cheque on October 1st, 2011. This is at Tab 17 in Exhibit 2A. It's in the red book. I don't know that we need to look at it. But you'll there was a cheque on October 1st \$274.00 that was stopped, it was a stop payment, and then there was another cheque on November 1st, 2011 for \$1,741.00 and there was a stop payment on that, right?

5 A. There was a reason why it was a stopped payment. I testified about that in detail. I testified.

Q. You didn't want to pay more than what they could get from social assistance, right?

A. No, that's not right.

Q. And now, you're down to \$150.00 a month, right?

A. Yes, that's right.

10 Q. And just to be clear, looking at this letter you sent to the fraud hotline, despite your allegations about the Nikityuks are committing fraud, they're in receipt of social assistance today, correct?

A. Yes, to the best of my knowledge.

15 Q. And I think - I want to be clear for the court on this, after 2018, you won't have to pay anything for Nikityuks will you. After June 2018, you're off the hook entirely, correct?

20 A. The initial agreement with my mother was that I provide my mother with a lifetime support, lifetime support. It was the initial agreement.

25 Q. That's down to \$150.00 a month, and then we have social assistance and you're paying back the social assistance that's being paid to the Nikityuks. We're going to be get to that again in a second. But you are only on the hook for the Nikityuks' social assistance until June 2018. Every dollar of social assistance the Nikityuks get paid after June 2018 that doesn't come to you, does it?

30 A. Formally no. Yes, you're right. Formally you're right.

Q. So you leave social assistance on the hook for all the basic living requirements not covered by the Nikityuks' Russian pensions, right?

A. You saying in this -

Q. You left it to social assistance to pay for the Nikityuks' basic requirements, the basic requirements not covered by the Russian pension were all paid for it now; social assistance is paying for it.

A. It was not under my control. I would - I was put in the position where we never intended to be and this is issue in so many issues in this litigation, in this action. This is litigation is all about. I cannot answer this question with a direct answer. There is no direct answer to that.

Q. Ms. Danilova, I want to take you to Tab 44 of Exhibit 2B. This is the red book, the second red book and it's Tab 44. And this is a letter -

A. Yes.

Q. - from you and your husband dated April 13th 2013.

A. Yes.

Q. And the subject line, it's sent to the Canada Revenue Agency and the subject line re tax evasion report on Valentin Nikityuk and then you have his social insurance number and Alla Nikityuk and then her social insurance number.

A. Yes, that's correct.

Q. And I note this letter is copied to the Community Legal Clinic.

A. Yes.

5 Q. And if you turn to page 3, could you confirm for the court that that is in fact your signature.

A. Yes. Yes, I wrote.

Q. And you wrote this letter, didn't you?

A. Yes, I wrote this letter.

10 Q. And this is a letter to the National Informants Leads Centre for Revenue Canada, isn't that right?

A. Yes, everything is right in this letter.

Q. It's also carbon copied to Immigration Canada and the County of Simcoe, right?

A. Yes, this is said here.

15 MR. BORNMAN: It Tab 44, Your Honour. It should be the last one in the book.

THE COURT: Okay. I got it.

MR. BORNMAN: Q. And in this letter Ms. Danilova, you accuse the Nikityuks of tax evasion.

20 A. I didn't accuse Nikityuks in anything. I just provided all those agencies with information that I - I knew at this point because my big concern was Nikityuks they kept concealing their income from Canada Revenue Agency. Even after that oral examination - that
25 oral examination you lied in our faces saying that now Nikityuks are showing all their incomes in their tax return that appeared to be not true and you just lied as well in our faces about their income. Basically you - I
30 don't understand your position here why you are doing this. I honestly do not understand what is your actually.

Q. Ms. Nikityuk (sic), the subject line of this letter reads tax evasion report.

5 A. Yes, it's how it's called. Then you know that someone concealing income, there is a way to say Canada Revenue Agency that you know the fact that someone is concealing their income from the Canada Revenue Agency. That is exactly happened in this case and we followed the standard procedure available through the public website at Canada Revenue Agency available for public. That's what we did. It's absolutely a formal procedure.

10 Q. Ms. Nikityuk (sic), but in paragraph 1, you're stating the Nikityuks received \$32,404.00 in investment income in 2011.

15 A. Yes, that's right.

Q. But you never gave them that money.

20 A. This is again, we are going around with you now. I feel I'm in the same position as I was with my parents about subsidized housing in the beginning of 2011. I am sorry, but I keep actually, it's just déjà vu for me, but now about any the Nikityuks income; Valentin put him in a very interesting position where he needs his income like for invitation of his daughter. He accepted that he had that income when he needed to invite his daughter in 2011 to come to him to visit him. He knew that he needed a good income for this purpose so he wrote the invitation of his daughter for application for visa. He attached their tax return for 2010 at that point to arrange invitation to his daughter and he was well aware that he had that income. He was so comfortable with that income. He's all right. But then comes to other things

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30

5 he doesn't under - he states that he has never seen this income, and actually what I referring to the investment for tax year of 2011. They came to - so there is I don't remember the details but everything in this letter is true and there are exhibits here and if everything is absolutely true in this letter. It's just tax listed and that's it.

10 Q. But we heard in previously testimony Ms. Danilova that the Nikityuks had credit cards for their purchases, right? We agreed they had credit cards for their purchases, correct?

A. Yes, that's correct.

15 Q. And you'd agree that we've heard testimony that the Nikityuks did not receive their investment income directly rather that Mr. Danilova would transfer it to their bank account the day before bills needed to be paid, right?

A. Sounds about right.

20 Q. And the Nikityuks will testify that they never saw any of this income personally, Ms. Danilova.

A. We're going in circles.

25 Q. And the Nikityuks will testify that they relied on their credit cards and their pensions for all of their purposes Ms. Danilova.

A. This is absolutely not correct and you know that better than me.

30 Q. So I'm going to - in paragraph 9, you indicate that the Nikityuks are illegally occupying subsidized residence and their overpayment debt keeps accumulating.

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A. Yes. That's how actually I actually not sure that it's not accumulating. This is why we are calling their social - the director of social housing as a witness here. I don't know what to expect in respect with - in connection with the social housing they occupy now. I have no idea. My understanding in accordance to the sponsorship agreement, it should be the same thing as ODSP. With ODSP we know something, some information, like we paying with ODSP we have the arrangements with overpayment recovering units. We have that arrangements we are paying \$70.00 per month together with Pavel, but with ODSP I still do not know the balance of our debts until Nikityuks stopped receiving their social assistance. With social housing it's completely I don't know anything what to expect, what will we need to repay for social housing.

20
Q. But we've heard that you're paying \$151.00 now and it's true that since 2013, you have never paid the Nikityuks more than \$550.00 in support a month, have you? You've never paid more than 550.

25
A. All this thing and put us in the position we are very deep in debt. This is our financial situation now. Even this thing that we still paying any support to Nikityuks, it's you know it's hard. Everything is hard. We are in debt - our debts are over \$100,000.00. I don't have exact number right away, but we are deep in debt. This is our financial position, situation.

30
Q. And the Nikityuks just to be clear, they only received their Russian pensions once every three

months. It's at a rate of about \$600.00 per month but they only get that once every three months, right?

A. Right.

5 Q. And so combine this - and we know you're paying 150 now, but even at the highest point where you're paying 550 combined, that amount combined with the Russian pension, that's an income of \$1,050.00 per month, and I put to you that's well below the amount paid by social assistance for a couple, Ms. Danilova, well below what social assistance pays for the couple.

10 A. Because we ourselves will put in a financial hardship. We have a house to maintain. We have as I said, we are deep in debt. In this situation we just put in the financial hardship ourselves.

15 Q. But in these circumstances you would agree that Nikityuks are not illegally occupying social housing, are they?

20 A. They illegally occupying social housing. This is my position, they illegally occupying social housing.

25 Q. Speaking more broadly about this letter. You're aware of the consequences of tax evasion, aren't you?

A. For whom? For me or reporting?

30 Q. If somebody is convicted - you're aware there are consequences for tax evasion, right?

A. There is my duty as a Canadian citizen to report this illegal activity if I know especially if the persons who is doing this - the person who I have sponsored. I might be in trouble.

Q. One possible consequence -

A. Because they're dependent on me.

Q. One possible consequence of tax evasion is prison, isn't it?

A. I don't know.

Q. Did you want your mother and step-father to go to prison?

A. Of course not.

Q. You said yesterday that it was important - sorry, not yesterday, you said on Tuesday it was important to show respect to different people and their personalities, isn't that right?

A. Did I say that?

Q. You said on Tuesday it was important to show respect to different people - to their personalities, isn't that right?

A. As I recall, what I might mean that in family no one is perfect and it's how - what's a family. You respect each other personality, yes.

Q. Near the final sentence of this letter reads, "It is a real shame that these people are our relatives."

A. Exactly the point, exactly the point. Because I brought those people here to Canada. I am responsible for what they are doing here because I brought them. If I didn't do anything they have been not even near Canada. And now what's going on actually I can tell even more there is so many scared things going on. I'm sorry, but maybe I have to tell you because you referred to Valentin yesterday that he served on that nuclear submarine, right. You were aware about that that he served in that nuclear submarine, you can understand

5 that it's high security level and things like that. And
I can now recall things that was going around Valentin I
didn't pay much attention. But now what he is doing
here. He is committed - what he's doing here with hiding
this government pension for his employ. There's evidence
10 from his employ maybe he has more - he is employee from
other sources in Russia and in addition to that, I can
tell you there's some weird things were going while we
were living together. How can he explain it? Now, I
cannot explain it to myself things like there was an
event. Every year for the New Year, Valentin asked
Margareta Alexsavdra (ph) who is his power of attorney as
I discovered in 2011, power of attorney on the account
15 where he is pension from that submarine design. He asked
that Margareta Alexsavdra to go to the other aunt of the
design pictures. It's like two hours commute to pick up
a calendar from that - from an employee of him. And he
sent him that calendar by registered mail. The price for
20 that calendar like in dollar but she insisted that she
send this calendar every year to him by registered mail.
It was something, the most important thing in his life he
- so I don't know what's going on with all this.

25 Q. You do not respect your mother and step-
father, do you?

A. I respect - I respect them very much and I
care about that very much.

30 MR. BORNMANN: Your Honour, I just have a few
more questions. Did you wish to break for
lunch or should we power on through?

THE COURT: I think you can keep going if you can think able to do so in the next little while.

MR. BORNMANN: I might be ten minutes or so
Your Honour.

THE COURT: Maybe I'll ask a couple of questions at this point which may open up re-examination questions or further questions for you. I think as the judge, as the trier of fact, I need to have clarification on evidence. So I wonder if the witness could turn to Tab 1A - book 1A Tab 59. For the benefit of counsel, this is a notice of assessment regarding Alla Nikityuk's tax return for the year 2010.

A. I'm sorry -

MR. BORNMANN: Your Honour, I misspoke, I actually in fact have another section that I passed over.

THE COURT: All right. I will still ask this question at this point because it may assist me. So have you found that?

A. What tab?

THE COURT: Tab 59.

A. Yes.

THE COURT: Page 364.

A. Yes.

THE COURT: So this apparently is the notice of assessment for your mother's taxes for the year 2010. She was living with you then, correct?

A. Yes, this is correct.

THE COURT: And her income there is \$21,914.00.

A. Yes, this is correct.

THE COURT: And where did that income come from? What was the source of that income? There's no tax return attached. Can you tell us where that money came from?

A. This money is investment - investment interest on the loan offer, on that loan investment interest on the loan offer for the date the loan agreement in accordance with the loan agreement, investment interest.

THE COURT: And who prepared this tax return?

A. Myself and my husband.

THE COURT: And who signed the tax return?

A. I signed because I was the legal representative at the CRA, I signed.

THE COURT: All right. And were there any tax returns, tax credits or refunds I should say as a result of this?

A. Yes.

THE COURT: And what happened?

A. Tax - tax returns or benefits?

THE COURT: Refunds.

A. Refunds, there was no refund because was not - no tax refund on this. Because there is no tax refund on that amount. This -

THE COURT: Perhaps we can look at Mr. Nikityuk's return for the same period which is at page 356, a couple of pages on.

A. Yes.

5 THE COURT: It looks it says there was an Ontario non-refundable tax credit. Was that a refund or no?

A. No, it's not refund.

10 THE COURT: All right. Those are the questions I had, counsel. If that requires clarification by re-examination etcetera. And I think otherwise we're at lunch break and we'll come back at 2:15.

RECESS TAKEN

UPON RESUMING

15 THE COURT: Over the lunch break, counsel, I had the reporter check on the transcript with respect to Ms. Casper's evidence about the rental. And the reporter has done a handwritten question and answer. Has she provided it to you yet?

MR. BORNMANN: She has in fact.

20 THE COURT: So you've looked that over?

MR. BORNMANN: Yes, Your Honour.

THE COURT: Ms. Danilova, would you return to the witness box, please?

25 SVETLANA DANILOVA: (re-enters witness stand)

30 MR. BORNMANN: Q. Ms. Danilova, you recall before the lunch break, I put to you a question that I'd ask your daughter Anastasia yesterday and during the break, the court has provided a transcript of the question and your daughter's answer, and I'll put this to you and then you can advise whether your answer to that question remains the same. The question that Anastasia

5 was asked, "Did you know that Alla and Valentin had on a number of occasions spent the day in consultation with your parents" that you would be you and Mr. Danilov, "looking for rental apartments in and around Barrie? And on each one of those occasions after they would return home at the end of the evening your parents would advise that on reflection no, we cannot proceed with renting you a separate apartment." And the answer that your daughter provided Anastasia was, "I actually do recall that. That has happened, but I do not know the details of those conversations but this is possible that yeah, yeah." So I put the question to you again, that it's true is it not that the Nikityuks after speaking with you searched out rental properties in Barrie but after they had completed those searches, you told them that no renting another apartment was not an option. Isn't that in fact what happened Ms. Danilova?

20 A. No, that never happened. As I told you, if that happened, Nikityuks would have some traces or some - it's never happened. My answer it's never happened, nothing like that what you described in very long statement.

25 Q. Now, Ms. Danilova, I want to put to you some specific allegations that are being made by the Nikityuks and the first concerns an event that happened in the kitchen and the Nikityuks allege that you, Alla, Valentin were arguing in the kitchen so this is you, your husband Pavel, Svetlana - sorry, you, your husband Pavel, Alla and Valentin were arguing in the kitchen and in the course of this argument, Valentin says I have had enough. I'm going back to St. Petersburg and I will live there

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homeless at which point your husband picked up a plate and threw it against the wall. I put to you that that event happened, did it not?

A. No, it's never happened.

Q. And I'd like to draw your attention to a photo that's at Exhibit 2A at Tab 10. So this is the red book, volume 1 of the red book. It's Exhibit 2A and it's Tab 10.

A. Yes.

Q. I put to you that that is a photograph of the damage done to the wall by the plate or plates that were thrown, is that correct?

A. As I said, I don't know, I don't know what is it.

Q. I further put to you that you were present when your husband picked up a glass and threw it at Valentin's feet or threw it at the floor. And after your husband threw the glass at the floor, he said to Valentin, 'The next one will be thrown at your head' or words to that effect, the next one will be in your head.

A. Never witnessed anything like that, never happened in front of me something like that.

Q. Now, there's another event the Nikityuks alleged took place. I put to you that at some point during the time you lived together at Rankin you and your mother were having a conversation and in the course of that conversation you became upset and you grabbed your mother by the shoulders and either shook her or grabbed her shoulders repeatedly and then collapsed at her feet.

A. Never happened.

Q. Do you recall that event?

A. No, never happened.

Q. And I put to you that that act on your part caused bruising on Alla's shoulders and her upper arm area.

5

A. This never happened.

10

Q. Now, your husband testified and I believe you agreed so that you subscribe to a service, a Rogers service called channel 975 whereby you could see the last - you could see the last ten callers - ten last calls in and out from the Nikityuks cellular telephone, correct?

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A. I do not remember the specifics if that's - that was ten last calls incoming or outgoing (sic) calls, yes, there was some channel with list of the numbers.

20

Q. Thank you. And we already discussed the emails. The Nikityuks, we will hear from Alla Nikityuk your mother that she returned home one day from being out of the house and she went to her room and she found you going through documents that she kept in your room. I put to you that that event happened, correct?

25

A. I might be in my mom's room. I was vacuuming her room when she was away. I might - she might saw me - might have seen me in her room. There was no lock in her room, but what do you mean going through?

30

Q. Alla Nikityuk says that she had some documents, personal documents of hers in her room and that when she came into her room, you were there and you were reading - you were reading through her personal documents that she kept in her room.

A. What I might do - might have done in her room that just vacuuming and dusting and she might have

seen me in her room then she came from somewhere that, but something intention going through her personal, no. No, that never happened.

5 Q. Okay. And I just have bear with me a few more. The Nikityuks will also testify that you were present during a conversation of a health nature when your husband said to Alla Nikityuk something to the effect of what are you worried about, you will die soon. Did you witness such a conversation?

10 A. My husband telling Nikityuks you going to die soon?

Q. What are you worried about, you will die soon?

15 A. I'm sorry, can you please repeat?

Q. Your husband said to Alla in reference to a discussion of her health, 'what are you worried about, you will die soon.'

A. It's nonsense.

20 Q. Okay. And Alla will testify to an incident where she was in her room, and the door to her room is closed and then it's opened by your husband and he swears demeaningly at her in her room and then closes the door.

25 A. I - there was no any - there were no any confrontations like you're describing here. I am trying to actually what are the details, but you keep telling in the various confrontations of various kinds never happened.

30 Q. And Alla Nikityuk will testify that at a gathering of everyone who lived in the house, your husband referred to Alla and Valentin Nikityuk as

freeloaders, people that are not contributing, just taking.

A. No, I didn't remember such things.

Q. Okay. I just have a final few questions.

5 Ms. Danilova, perhaps it would help if we turn to the sponsorship agreement which is Tab 1 of Exhibit 2A the first of red books.

A. Yes. Tab 1.

10 Q. And you would agree that the sponsorship agreement is a promise to provide for the basic requirements?

A. Yes.

15 Q. It's a promise to Canada, the Government of Canada.

A. The sponsorship agreement is between myself as a sponsor, my husband as a consignor, my mother the sponsored person and Immigration Canada, yes.

20 Q. And that your promise is valid for ten years. The -

A. I cannot disagree with the sponsorship agreement.

25 Q. All right. And if I can direct you to tab 42 of Exhibit 2A the same red book - sorry 2B it's the second red book, Tab 42. Tab 42. I put to you this is correspondence dated May 4th, 2016 from the Ministry of Community and Social Services advising that \$18,924.00 had been paid between November 2011 and April 2016 in the form of social assistance to the Nikityuks.

30 A. I'm sorry, which document are you referring to?

Q. It's on the second page.

A. Tab 42. Yes, yes, I can see that, yes.

5 Q. And you would agree that this that you and your husband have breached the undertaking given to Citizenship and Immigration Canada pursuant to the sponsorship agreement by allowing the social assistance to be paid to the Nikityuks, correct?

A. We didn't breach an agreement; Nikityuks did.

10 Q. And you would agree you have not reimbursed the Ministry of Community and Social Services for the amount \$18,924.00, right?

A. We did not.

15 Q. You have not paid this money back to the Ministry.

A. No.

20 Q. And you would agree that you could have sent a cheque at any time.

A. We cannot send a cheque for the amount of \$18,000.00 at this point. We are not in this financial situation that we can write a cheque to repay.

25 Q. And at Exhibit 1A, Tab 76 there's a letter from Ontario Works indicating that you're in default of the sponsorship agreement, correct?

A. Yes, that's right.

30 Q. And that's Exhibit 1A, Tab 76. And if we go on, Exhibit 1A Tab 87, we have - Tab 87?

A. Yes.

Q. We have a letter from Citizenship and Immigration Canada also indicating that you're in default of the sponsorship agreement.

A. Yes.

5 Q. And there's a letter that - this letter pertains to you, but you would agree that at Tab 86 there's an identical letter addressed to Mr. Danilov, correct?

A. Yes.

10 Q. And you'd agree that these letters confirm that the Citizenship and Immigration Canada has been advised by provincial, municipal, social services that Alla Nikityuk and Valentin Nikityuk are in receipt of social assistance benefits.

A. Yes, that's right.

15 Q. And then the third paragraph you would agree that it reads under the terms of the sponsorship undertaking you promised the Minister of Citizenship and Immigration that you would provide for the basic needs of your family member during the validity period of the undertaking and you promised that they would not need to apply for social assistance. You would agree that's what that says?

20 A. I cannot disagree with documents coming from the Immigration Canada.

25 Q. And you mentioned the consequences include not being able to sponsor or serve as a consignor until reimbursed, until the province is reimbursed for benefits received, right?

A. Yes, that's right.

30 Q. And so it's true that contrary to the testimony we heard that this is not a complete ban on you sponsoring further relatives, right? All you need to do is pay back the money you owe, don't you?

5 A. Yes, but I was told by overpayment recovery unit that I will only know the final balance of my debt when parents stop receiving social assistance. At that - only at that point the final balance will be calculated.

Q. And that's right. The correspondence directs you to the overpayment recovery unit and in fact you've made a deal with them, haven't you?

10 A. You can call this a deal, I - I negotiated the repayment options, option with them, that's right.

Q. And the repayment is now 35 bucks a month for you and 35 bucks a month for Pavel, right?

15 A. It's current repayment agreement with overpayment recovery unit. This agreement can be reconsidered at any time by the overpayment recovery unit. It's - it's not something final or something. Today we have this agreement with the overpayment recovery unit and we are authorized payment taken from my account joint with Pavel.

20 Q. So you're on the \$70.00 a month payment plan but you've sued your mother and stepfather, right?

A. Right.

25 Q. You've not provided the basic requirements since 2011, we've established that, right?

30 A. Not right. I provided whatever I can and since 2011 I provided them with amount of over \$1,000.00 a month I believe and we were willing to negotiate further to cover all their needs but to provide. So they - they would not be eligible for social assistance like Ontario Disability Support Program but at that point then we were willing to negotiate the amounts of support to take them from Ontario Works at that time, I believe, you

5
obtained this CPL on our house with financial -
everything for financial trouble coming from CPL on our
house and we - we're not in the financial ability to
provide the income so to take them from their Ontario
Works.

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Q. I put to you, to sum up, you agreed to pay
the Nikityuks ten percent per annum on the broad capital,
on the 260 thousand plus US they transferred you in 2008,
right?

A. Right, but - no, no, no, could you please
repeat the question?

15
Q. Absolutely. I put to you that you agreed to
pay the Nikityuks ten percent per annum on the 260
thousand plus US they transferred to you in 2008.

A. I didn't agree on specific person's age of
their investment. I agreed to support, to provide them
with monthly support covering them and monthly expenses.

20
Q. I put it to you that you rightly should be
paying \$2,166.00 per month. You should be paying
\$2,166.00 per month for the money you got, isn't that
true?

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A. It was calculated - it's needed for living
in Canada it was about - yes, it was about right. I am
willing to provide them with this income right now. I'm
willing, but I have a CPL on my house. I have other
things associated with my financial hardship. I am
willing to provide them.

30
Q. But instead, you're getting away, you're
getting away with paying \$151.00 to the Nikityuks plus
\$70.00 to the Ministry of Community and Social Services,
isn't that right?

A. No, that's not right.

Q. And you won't have to pay back any social assistance paid to the Nikityuk after June 2018, right?

5 A. As I said, I am not under obligation. I am not under - undertake - there's undertaking is - undertaken on the sponsorship agreement is valid until 2018, yes, that's right, but my obligation what I promised my mother is to provide her with lifetime support for her and her husband. This, the obligation
10 how I felt that.

Q. I just want to sum up what's happening right now, Ms. Danilova. You're not paying interest on these arrears to the Ministry of Community and Social Services, you are not paying interest on the money, the social assistance debt for the Nikityuks, are you?
15

A. I do not have knowledge of that because I do not even have - know the balance. I have no idea how much money I owe. I cannot speculate on the interest.
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Q. I put to you that they don't collect interest on that debt.
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A. My understanding, you do not have this knowledge as well.

Q. And Canada all of us, Ms. Danilova, we're left to pay for all the social assistance the Nikityuks get after 2018 and the service cost to the debt that's been incurred by you from their social assistance - from the funds they've received for social assistance, right?
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A. Do I need to - this is your opinion, right.

Q. And meanwhile -

A. No, no what is the question?

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Q. Meanwhile and I want to be really clear here, because this court has heard about all sorts of financial harm that the Nikityuks have allegedly inflicted on you and your husband. So I want to be clear that what you've decided to do is instead of paying \$2,166.00 per month interest on this money you had the benefit of now for a number of years, you're paying \$151.00 to the Nikityuks plus \$70.00 to the Ministry of Community and Social Services. So you're paying \$221.00 a month. You're a mathematician, but I don't think you need to be one to know 12 monthly payments of \$221.00 equals an amount of \$2,652.00. So really on this loan principal to use your husband's words, the 265 thousand plus you're really paying at present about one percent interest per annum, isn't that right? That's what you're paying for the benefit of all this money that got transferred to you, right?

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A. Nothing is right here. Nothing you are saying is right here. It's your opinion. This is - if you're asking my opinion, in my opinion you just misleading them with all that and you understand what's going on better than me.

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Q. My final question; in your testimony on Tuesday you made a statement to the court as to why you're here and I put to you the reason you're here, Ms. Danilova is because you breached your undertaking to Canada to support your mother and her husband and then you sued them and then reported them to the CRA for tax evasion. I put to you that's why you're here.

A. I disagree if you're asking my opinion.

MR. BORNMANN: Subject to any further questions in re-examination, Your Honour, those are my questions.

5 THE COURT: Mr. Bornmann, you didn't explain where you got the figure of \$2166.00 per month but I'm assuming it's roughly ten percent of the \$260,000.00 figure divided by 12 months?

MR. BORNMANN: Yes, Your Honour.

10 THE COURT: Is that the source of that?

A. To answer your last question, I called my mother on December and I offered her exactly this amount of money per month that I thought it would be easier for her to understand without the lawyer. I called her directly because she told me over the phone that your lawyer never communicated any offer from us, never ever although we were self-represented at some point. We wrote so many letters to you. We offered -

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20 THE COURT: I'm sorry, I just have to interrupt because it's not proper to discuss possible settlements that took place before trial unless they were settlement. If there were discussions back and forth, it's not fair to you or to the other side and at the same time, I wouldn't allow them to talk about any offers they made to you. It's a matter of fairness that we deal with the issue in trial based on the evidence that we're hearing at the case. Mr. Bornmann has completed his questions and this is an opportunity for your counsel to re-

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examine if she wishes or perhaps wait until after Mr. Mae. We're not sure. We did it this way with Mr. Danilov.

MS. CHAPMAN: I only have a couple of questions. I'm happy to ask them now.

THE COURT: All right.

RE-EXAMINATION BY MS. CHAPMAN:

Q. Ms. Danilova, Mr. Bornmann in his cross-examination put to you that the Nikityuks allege that the house at Rankin Way was their house, and that they understood the house was in Valentin's name. Can I ask how were the bedrooms chosen, who would be in which bedroom? Was there a discussion about that?

A. It was pretty straightforward from the beginning. The master's bedroom - so there are bedrooms very similar in sizes and the first requirement for living arrangements between parents Valentin and Alla was to sleep in separate rooms to have separate rooms. And they were two separate rooms equal in sizes. They just picked those two rooms and the rest is the masters bedroom we occupied with my husband.

Q. We've heard evidence that the Nikityuks resided in the home from about August 2008 to June 1st 2009 on their own with yourself and Pavel coming back and forth. Why didn't Valentin occupy the master bedroom?

A. It was our room from the very beginning yes. We decorated this room. We bought furniture for that room. It was our bedroom myself and my husband. Master bedrooms has always been our room.

5 Q. Now, we've heard evidence at some length about Nikityuks' income and more specifically their Russian pensions which they had access to while living in Canada. You also mentioned Russian dividends, could you tell the court a little amount - pardon me, about that income?

10 A. It's a period to be more government pension from the former Valentin's employer which is that submarine design institute in Russia and dividends are coming from the same employer. So that's former employer of Valentin pays him a pension, a company pension and dividends. So he has a share in the company and receiving the dividends as a former employer, he has a share in the - in this company and receiving dividends.

15 Q. And do you know the value of those dividends on an annual basis?

20 A. As it was provided recently, the amount for the dividends is about \$3,000.00 per year specifically the last statement, last statement this counsel provide - counsel of the parents provided showed two thousand seven hundred per year in dividends and the pension he showed before it's about one hundred a month, \$100.00 per month. And it showed actually in that statement of Valentin's Scotiabank account, he has now and those amounts coming from Russia, they have been put in his Scotiabank account here and transferred by his power of attorney. It's in this statement, that's what I saw in the statement of Valentin - Valentin's from his Scotiabank account.

30 Q. And do you know whether Valentin Nikityuk is claiming those dividends on his Canadian tax return?

A. No. He does not claim any based on the documents provided by his counsel.

MS. CHAPMAN: Thank you. Those are my questions.

MR. BORNMANN: Your Honour, the dividends were not part of my cross-examination, but seeing as we've come to that topic -

THE COURT: All right. We did hear about them in-chief any way I think she spoke about the dividends.

MR. BORNMANN: But nothing that required my cross-examination, Your Honour. However, there's been a number of statements that have in evidence that I'd ask permission to cross-examine on.

THE COURT: Do you mean, you want to cross-examine now, is that what you're saying?

MR. BORNMANN: Yes, Your Honour, just on that very specific issue because it was new to the re-examination.

THE COURT: Because it didn't come up in your cross-examination.

MR. BORNMANN: That's right, Your Honour. The evidence that went in on these dividends in-chief did not require any cross-examination, however, what we've just heard does.

THE COURT: All right. I'll allow you to ask those questions unless Ms. Chapman has anything further to say about it.

MS. CHAPMAN: No. I asked those questions in relation to an answer that Ms. Danilova had

5 given earlier today and she mentioned that she believed Valentin was hiding his non-government pension and his dividends in Russia. I'm happy to have Mr. Bornmann ask more questions.

THE COURT: All right.

CONT'D CROSS-EXAMINATION BY MR. BORNMANN:

10 Q. Ms. Danilova, I put to you that Valentin Nikityuk has disclosed these pension payments to Ontario Works and to ODSP and that these dividend payments constitute a part of the income calculation that those social assistance providers pay to Valentin Nikityuk.

15 A. He disclosed, but the same thing he told us on oral examination in April 2013. You told us the same, but as I see there CRA assessment of Valentin and Alla for 2015 you just provided before the trial. In their CRA assessment their foreign income is - was not claimed and I'm assuming the same with the ODSP.

20 Q. I put to you Ms. Danilova that you do have - you have no actual knowledge as to the calculation of Mr. Nikityuk's taxes or the operation of his dividend entitlement from Russia, correct?

25 A. No, absolutely not. You provided CRA assessment of Valentin Nikityuk and Alla Nikityuk within this procedure - proceeding. The CRA assessment all for reasons here assessment of the year 2015 and this CRA assessment does not contain any foreign income except their Russian pension. And moreover their CRA assessment does not contain our sponsorship support or support
30 actually. We pay their sponsorship support in the form of investment income. This CRA assessment does not

5 contain this investment income. We paid them during
2015. This is my point that they still concealing their
income. If you are saying that they provided with this
information ODSP, they provided ODSP with amount of
dividends. Valentin received and I can hear from - I can
hear from his - he is saying that he provided the amount
for six years what he is saying.

MR. BORNMANN: No more questions, Your Honour.

10 THE COURT: Mr. Mae, I think perhaps this is a
good time for us to take a recess before you
start.

MR. MAE: Absolutely, Your Honour.

15 THE COURT: And then we'll return after the
break.

RECESS TAKEN

UPON RESUMING

20 THE COURT: Ms. Danilova, would you return to
the witness box?

SVETLANA DANILOVA: (re-enters witness stand)

THE COURT: Yes, Mr. Mae.

CROSS-EXAMINATION BY MR. MAE:

25 Q. If the witness could be shown Exhibit 2B,
Tab 44.

A. 3-4 or 4-4?

Q. 4-4.

A. Yes.

30 Q. Mrs. Danilova, you'll recall that Mr.
Bornmann asked you some questions about this document.

A. Of course.

5 Q. Which from the record is a letter written by you and your husband on April 18th, 2013 to the National Informants Lead Centre, the case processing centre copied to Simcoe County Social Community Services division.

A. That's right, everything is -

Q. And copied to Community Legal Clinic.

A. Of course, I wouldn't just anything in this letter.

10 Q. And when you were asked about this document, your evidence was with respect to the purpose and content that you provided them as in the authorities with the information you knew at that point, that was your evidence, correct?

A. Yes.

15 Q. And that you followed standard procedures.

A. Yes, I followed the procedure available through the CRA public website, yes.

20 Q. And the information contained in the letter was information that you had or you had interpreted, correct?

A. No. It was just facts and actually this documents can be even filed on -

25 Q. Ms. Danilova, we're going to try to get through this as quickly as possible.

A. Yes, I appreciate that.

30 Q. So I'm going to try to ask you to stick to yes or no answers rather than long explanations because we'll get to the end of this a lot quicker. So the letter as we've already dealt with, it was addressed to multiple parties. And you felt that you had a duty to report illegal activity.

5 A. Not exactly duty. I wouldn't call this exactly duty. I felt that was the right thing to do. It's -

Q. You felt it was the right thing to do.

A. Right. It was the right thing to do because it affected me as a sponsor as well. It might affect me this activity yes.

10 Q. Isn't that no different to the letters written by Yana Skybin that you're claiming are defamatory?

A. A huge different. And it's not up to me to initiate the discussion. I am not going to go into discussion about that. But if you're asking my opinion this is a huge difference.

15 Q. Well, why would you say it's a huge difference?

A. And this is my opinion what I am telling you, but I do not want to go into details because I have to - yes, I - I know the defamation act. I'm familiar with defamation acts, certainly. At this point after five years in this litigation. But I do not want to go into the detail and you know dispute my opinion with you a lawyer. I think it's so inappropriate in this situation.

20 Q. You heard your husband's evidence with respect to the defamatory emails. You were here when your husband gave his evidence.

25 A. Of course, and I remember by heart all the statements from the different matter emails Yana Skybin circulated about myself and my husband, yes.

30

5 Q. And you're not going to say anything
different than the evidence provided by your husband on
those points, correct?

A. I would agree with.

Q. That saves an awful lot of time.

A. Oh yes, yes, I would go with that.

10 Q. It's been indicated by your husband, but it
never came out in your evidence specifically that you
allege that Yana Skybin found out about the financial
arrangements between you and your parents. Can you tell
me when you think she found that information out?

15 A. Yes, I can tell you because I thought as I
said, we became very close to each other and we shared
information, very personal information about each other,
both ways. We went to YMCA Innisfil recreational complex
together and I remember the exact moment I told Yana
Skybin myself.

Q. That's going to be my question. When -

20 A. When, it was - I'll tell you, it was prior
to 2011.

Q. Prior to 2011.

25 A. I believe it was prior to 2011, but it was,
you know, my parents they are very open people. They are
very open. They said everyone they could speak in
Russian about those arrangements. This is my belief and
understanding.

Q. Well, okay, that's your belief and
understanding.

30 A. Yes.

5 Q. I'm only dealing with here, what you told Yana Skybin. So your evidence is you told Yana Skybin about the financial arrangements?

A. Yes, I personally talked to Yana Skybin.

10 Q. Let's focus on that. I'm going to put it to you that Yana Skybin will completely disagree with that evidence you've said, but let's just assume for one moment hypothetically that you gave her the information. So let's run through hypothetically what the information would have been. You would have told her that the Nikityuks transferred all of their funds to the Danilovs; yes or no?

A. Yes.

15 Q. And would you have told her the amount of the funds?

A. No, no I don't believe - no, it was just amount from selling apartment, cottage and some - yes.

20 Q. So you spoke in terms of concepts rather than numbers?

A. Numbers it was just amount sufficient I would say.

Q. Okay.

A. Yes.

25 Q. And you would have also said to her that all of those funds have been lost in 2008?

A. No, that I didn't tell.

Q. So you didn't tell her that?

30 A. No. I just told her that we invested money in our business and that I managed the money and the business related to the stock market, that's what I told her.

5 Q. So according to you, if you did say that, you left out a fairly significant piece of information that the money had all been lost.

A. It's not that important what happened. It's important the arrangement, this arrangement about transferring money for exchange for lifetime support. That what I indicated to Yana Skybin and how I managed this money, it's on my discretion and I mentioned that we are dealing with stock market.

10 Q. Yana Skybin is going to dispute all that, I'm still dealing with a hypothetical. I want to understand certain things. So according to you, you would have - did you tell Yana Skybin that the Nikityuks were living on a Russian pension?

15 A. No.

Q. Did you tell Yana Skybin that the money the Nikityuks was receiving was actually not money to them, it was simply you covering household expenses?

20 A. I will probably save you some time. What I told this arrangement in - as I told you big picture, big picture.

Q. Big picture.

25 A. Money I received from my mom in exchange for her lifetime support mostly that.

Q. So, from -

A. Exactly that.

Q. And did you have any discussions with Yana Skybin about the leased Honda?

30 A. No, but I'm noticed not specifically but I noticed that Yana was driving Honda, a very similar model at the time, no, specific.

5 Q. So let's stick to the questions, please.
So if you're dealing with general matters and you say you made it clear to Yana that your parents have given you all of their money in exchange for lifetime support, it's fair to say that all Yana would know is that your parents have no money, correct?

A. I don't understand why should she care -

Q. No, no -

A. - in the first place.

10 Q. We'll get through this a lot quicker if you don't ask me questions, so please just answer my questions. If you made Yana aware that your parents had given you all their money, then logic which is a word you've used many times in your evidence would dictate that Yana would be aware that your parents had no money, correct?

15 A. No, not correct at all, no. Yes, and no question, no.

20 Q. How is it not correct? How is it not correct that that's what Yana would be aware of if you're to be believed that you told her all money had been transferred to you.

25 A. But it's just my answer to your question, no, it's not correct.

Q. So I'm asking you; why is it not correct?

30 A. Because there is not a situation when she should be in the position to judge where this money should go and it's - she was not in this kind of position.

5 Q. But with respect, your evidence is you told her that the parents have given you all the money in exchange for lifetime support.

A. Yes.

Q. So Yana would know that they've given you - if you were to be believed, that they had given you all their money.

10 A. In exchange for their lifetime support that means they have support lifetime annually and she seen the level of living. She seen how they lived at that time and if they had - if they have everything what they had that means they have income to live this kind of life on this income.

15 Q. Well, with respect, it doesn't mean to say they have income at all and we could talk about this for a long time, but I think I've made the point. The Honda vehicle which you leased for the use of the Nikityuks, that was part of your support obligation, correct?

20 A. Yes, you can say so.

Q. Yes. And it was the intention to pay for that vehicle up until the end of the lease or until it was exchanged for another vehicle, correct?

25 A. Until it will be exchanged for another vehicle.

Q. So the monthly payments would keep continuing, correct?

A. Yes.

30 Q. So how can you claim that as a loss when it was something that you were going to continue paying for. You've claimed as part of your damages the payments after the Nikityuks left in October up until the end of the

lease until you were able to exchange it. So how is that a loss?

5 A. This vehicle, specific vehicle was only leased was proposed to provide transportation for Nikityuks. It was leased specifically for them. Then they left and they couldn't take this car. That car ended up in our garage just staying in the garage. They can take this car, but they - Valentin didn't have proper insurance. You cannot drive the car without the insurance. It's illegal again, right?

10 Q. Okay.

A. And this is why - because the car ended up in our garage.

15 Q. But hear my question again, please, and maybe I'll ask it in a different way. You were obligated to pay for the Honda up to the end of the lease. Yes or no?

A. Yes.

20 Q. Okay. And the only issue that happened there, the Nikityuks stopped using it, correct?

A. Correct.

25 Q. But you still had to continue paying which - correct?

A. Yes, we were under obligation to pay.

30 Q. If the Nikityuks had their own insurance, and they had taken the vehicle -

A. Yes.

Q. - you would have continued paying for it.

A. We -

Q. Yes or no.

5 A. We would give Valentin, we would have given Valentin that car, he could - could take this car and then we would pay the income covering that. That income would be without deductible for my husband, right. And we - so we had this option to provide - I'm sorry.

Q. And you never provided a separate car for the Nikityuks after they left, correct?

A. Correct.

10 Q. So I'll ask the question again. How can you now say that you have lost that money when it was money you would have had to have spent anyway? How can you say it's a loss?

15 A. It was not our intention to pay this money anyway. It was - this car was leased for Valentin and to be a part of our support. It's in that email you like to refer to, right? It's a lease car, 350. Three fifty is a share in the income so we would give Valentin three fifty as an income, right.

20 Q. I'm listening.

A. So the intention was even if Valentin lives separately, he left, right, and we would give him that car and the lease payment is three fifty, we would give him as an income, income 350 that would be tax deductible for my husband. Three fifty would be tax deductible within this loan agreement as an investment interest we pay Valentin Nikityuk three fifty in investment interest and then he pay - it goes to the lease payment, if I was him, and we are comfortable with that.

30 Q. Okay. What I'm hearing you, ma'am, and I'm going to put it to you in another way. You didn't lose

any money at all by having to pay that lease because it was money you were going to spend anyway.

A. That's not correct.

Q. Well -

A. It's not correct with that.

Q. After the Nikityuks left, did you or did you not offset those lease payments against your taxes as loan interest; yes or no?

A. Offset?

Q. When you did your taxes for the year 2011 and then to the year 2012, did you set against your taxes as expenses?

A. No, no, no. This is why -

Q. You didn't.

A. We couldn't do that here. We didn't.

Q. Did you offset against your taxes the support payments that you were paying for the Nikityuks?

A. Yes, of course.

Q. And that leased vehicle was part of those support payments?

A. No, it was not. The support would be bigger if he took the leased vehicle, the support would be bigger for \$350.00. This is my point exactly. And because this lease payment, monthly payment, it was taken from the -

Q. Whether you -

A. - support.

Q. Whether you say you offset it against taxes or not, the fact remains that this was an obligation that you would have had to pay anyway. Let's go back to the fundamentals. The Nikityuks leave on October the 17th. If

Valentin had insurance you would have continued paying for the lease, correct?

A. Yes.

Q. And that's whether they were living with you or not, correct?

A. Yes.

Q. We've made the point. Let's move onto the certificate of pending litigation which the Nikityuks placed on the property. The certificate of pending litigation has been in effect since 2012, I believe, correct?

A. Yes, February 2012.

Q. Yes, that's right.

A. Yes.

Q. Sorry, 2013, sorry, I misled you, 2013.

A. Oh, '13. February 2013.

Q. We're now three years later and let's just go through some steps in the litigation process that have happened since the CPL was placed. The parties exchanged their documents. That came after the CPL, correct?

A. Yes.

Q. Yes. And there were examinations for discovery, yes?

A. Yes. No, CPL was before the examination.

Q. That's right.

A. Oral.

Q. The CPL was before, I'm talking about -

A. Before -

Q. What came after. The oral examinations.

A. Came after. The oral examination came

after.

5 Q. So documents were exchanged. The examinations took place, and we're now three years later and you've never filed an application or a motion with the court to have the CPL rescinded, that's correct, isn't it?

A. That's correct.

10 Q. And you've not brought a motion to sell the house in order to pay the proceeds of sale into court, correct?

15 A. As my husband said, I heard that he want to keep the house, but we are trying to save on costs. We are trying not to be shaken completely on costs. We need to move it forward and it was - why we didn't bring the motion for this CPL, it's mostly because of the costs.

20 Q. And you left the house to move to Waterloo fairly recently. It was the end of last year, beginning of this year.

25 A. That's right. My husband got a job in October last year.

Q. And the house remains empty.

A. Yes.

Q. No tenants.

A. No.

30 Q. You were asked about your relationship with your mother when you - before they came to Canada. I don't recall a question being put to you concerning your relationship with Valentin. So he came into your life about the age of 15 when you were about 15 years old.

A. That's right.

Q. And did you have a good relationship with him?

5 A. I wouldn't call it good relationship,
normal I would - it was normal, normal.

Q. I don't know what a normal relationship is.

A. Not warm, like close really, not close
relationship.

Q. So you didn't have a close relationship
with him.

10 A. It's became close from time to time when I
had to assist him with his health issues back in Russia,
even back in Russia. It was many occasions.

Q. So when you came to Canada, the person you
really missed was your mother. You missed your mother
more than you missed Valentin.

15 A. You know, it's quite a long period of time
since I was 15. It's natural I took them as family, as
my family over that long period of time.

20 Q. Maybe I misunderstood your answer, or you
misunderstood my question. So I just want to go back.
So as I understand your answer, your relationship with
Valentin became closer but it wasn't close at the
beginning, is that your answer?

25 A. We came - I would answer all questions like
that, you know, it was normal, normal family
relationship. I - I respected his personality, you know.
As I said before no one is perfect in a family, just need
to respect and be for each other.

Q. But you also said it wasn't a warm
relationship.

30 A. You know, I didn't have experience with my
father, maybe it's pretty difficult for me to answer this
kind of question because I don't know what - what does

5 this relationship look like father, stepfather. He was not - I observed some families, stepfather where very close with stepdaughters. It wasn't like that. It wasn't close.

10 Q. That's all I wanted to understand. Thank you. Now, when your mother and Valentin were coming to Canada, is it fair to say that because of their previous health issues their life expectancy could have been short after they came to Canada? I'm taking you back to your - your impression when they were coming over because of their health problems was it a concern to you that their lives may not be long?

15 A. Nobody know about their expectancy of their life. I don't know if I will be alive next year.

Q. I agree with you, none of us know that.

A. Yes.

20 Q. When you're dealing with elderly people who both had cancer and in the case of your mother cancer twice by that time, long life expectancy was a slim or a remote possibility, would you agree with that?

25 A. If you say so. I personally what I wanted from my mom just to live - live and I did a lot about that. That was - if you want to make me cry.

Q. No, -

30 A. I can tell you what my thoughts were. Actually what my thoughts was, I just was praying to take everything from me in exchange my mom would be alive, yes, which was I was praying for at that time.

Q. I have no intention of making you cry.

A. Yes.

Q. If you would like to take a moment to compose yourself.

5 THE COURT: Mr. Mae, why don't you just ask her if she agrees the evidence from her husband that we've already heard that at least he expressed some concerns they might not have passed the health test. I don't know if she shares that sentiment or not.

10 MR. MAE: Q. Are you okay to go on?

A. Yes.

Q. So did you hear His Honour's comment?

A. No, sorry, I'm sorry.

15 Q. The comment related to a concern being whether they would even pass the health test for coming into Canada.

A. Yes, it was a concern.

20 Q. That was a concern, okay. I just want - we'll move away from that now completely. We'll deal with things that hopefully that don't upset you. Let's jump ahead to June 2009 when you make contact with the YMCA to enroll your parents or your mother and stepfather into the English second language program.

25 A. It was August - August 2009, August 2009. June 2009 we moved together with Nikityuks to live in a house, June 2009 and in August I started to look for the English.

30 Q. That's when you first made contact with the YMCA.

A. That's right.

Q. And prior to that, as I understand it, from June 2008 when your parents were living at Rankin Way,

alone, you said yourself you were almost living on the road.

A. It's a period August 2008 to June 2009.

Q. And dealing with them, put you under pressure, did it not?

A. I wouldn't say under pressure, all my life was under pressure.

Q. Would you describe that the fact that they could not speak English that was a real problem for you.

A. Of course it was a problem for a family for them first and for me as well.

Q. So it was a problem for you. And them having English lessons and getting a grasp of English would have made your life easier.

A. Yes. Mine as well as theirs.

Q. And would you agree with me that you had a desperate need for them to learn English?

A. Not a desperate need, just it's common sense again. Of course it would be better for that whole family and for them to pick up some language of their country where they live.

Q. So you wouldn't characterize that need as desperate to you at the time?

A. It was - they wanted to learn English as well at this point and of course I supported this - actually it was may be in time, yes, because it was since August 2008 until August 2009 yes, it has been a year and it might develop this kind of condition with me that I became desperate because even very simple tasks that caused so many problems.

5 Q. And over the period of time, let's just start up in the clouds and we'll come down to ground level. So we'll start big picture. So over the period of time that they were at the YMCA, as I understand your case, they didn't learn any English language, correct?

A. They're stating in their claim, yes, and Valentin stated in his affidavit for superior motion.

10 Q. And was that a source of frustration for you?

A. No, no actually not the frustration. You know I was not expecting anything from them that much. You know, I am so hard working that I mostly prefer to do something what I can at the moment not to get frustrated for something someone cannot do for me or - no, no.

15 Q. So that didn't cause any confrontation from your part. It didn't cause anger, is that what you're saying?

20 A. English, no, anger in relationship to them happy - their life, they're getting proper health care. I was managing their health care and it was a most important for the family at that time.

25 Q. So you were happy that they were attending these English classes every day for this long period of time but not making any progress.

A. I wouldn't apply such strong words like happy. I was neutral about their English abilities.

30 Q. But later on though after they left one of the complaints that you seem to make to the YMCA in one of your letters which we will come on, that after three years of English language lessons, they can't speak English. That sounded more like a complaint.

5 A. Exactly. This is complaint to YMCA, not to them because I am little - I am not illegal, exactly my concern and actually there is that email with Yana Skybin where she invited me to come to her home in June.

Q. We're going to -

10 A. I just want to mention I wanted to even to go the YMCA to speak about that at some point in June 2011. I wanted to go to YMCA as - I did it many times, I went to the YMCA Bayfield Mall where parents attended in this classes. I communicated with their English teacher, with Susan Green about several issues. And that issue I would like to discuss in June 2011. I wanted to go to talk to someone about that because it's -

15 Q. Mrs. -

20 A. - I'm sorry, two years they went to the classes and two years as they were telling me, they just - first level and then second level, second level and the first level and two years. So I wanted to talk about that.

25 Q. This is the first time you've mentioned this so far as I recall. But it's not part of your - it's not part of your claim.

A. It's not part of claim.

30 Q. So let's move on then.

A. Came up in context of that email with Yana Skybin.

Q. We're going to deal with that email hopefully today but if not certainly tomorrow.

A. And I didn't go, I didn't go.

Q. You didn't go, okay. So you first met Yana and the purpose was to enroll them in English second

languages. We've already established. It wasn't to obtain any services for you, you weren't enrolled in any classes, were you?

5 A. I didn't meet Yana. I had a telephone conversation with her over the telephone. I called the number. I found on the YMCA website in relationship - in regard of the English classes.

10 Q. Can you answer the question; the question was, you weren't enrolling for services yourself.

A. Myself?

Q. Yes.

A. I was talking about the service for my family.

15 Q. For your parents.

A. For my parents. Initially in that first conversation, the conversation was strictly about enrolment in English classes.

20 Q. And during that conversation Yana explained to you the details of the calls, yes or no?

A. Yes.

Q. And the services were free yes or no?

A. Yes.

25 Q. And you were not required personally to enroll as a member of the YMCA to obtain those services for your parents, correct?

A. Myself?

Q. Yes.

30 A. I was not required to - I am not sure what you mean enroll in services.

Q. You did not have to enroll. You did not have to become a member of the YMCA.

5 A. I was a member of YMCA, parents were not members. I was paid member for five years.

Q. For the athletics, for the gym -

A. For that, it's paid member. I was paid member and this enrollment in the settlement classes, I don't understand how to enrol into the program because there is no specific agreement about that right.

Q. Okay.

A. There is no agreement.

10 Q. So this is what - the court is happy to hear your explanation but we're going to get through these things a lot quicker if we just focus on the questions and the answers. So when your parents enrolled at the YMCA, you would agree with me that the YMCA owed them duties. They owed them obligations, correct?

15 A. I don't know if I'm comfortable answering this long questions of law. It's a question of law, I'm sorry.

20 Q. Let me ask it in a non-law context. The YMCA had to do things for your parents, correct?

A. Yes.

25 Q. And you heard I asked your husband about the concept of fiduciary duty, correct? You recall those questions?

A. I understand actually what does it mean. I understand.

Q. And your statement of claim alleges that the YMCA owed your parents fiduciary duties.

30 A. YMCA?

Q. Yes. That's your allegation. You are saying that the YMCA owed your parents fiduciary duties.

A. If my claim says so, I agree.

5 Q. Okay. And that's why I just wanted to understand that's your position. So let's go back to your telephone call with Yana. You found her to be helpful, yes or no?

A. Yes.

Q. And you found her to be professional, yes or no?

A. Yes.

10 Q. And after the initial telephone call, then there was an exchange of emails.

A. Yes.

Q. Between you and Yana.

A. Yes.

15 Q. And those are the emails at Tab 64 of Exhibit 1A. If I can put those before the witness. Tab 64.

A. Yes.

20 Q. You have it in front of you.

A. Yes.

Q. And you gave evidence about these emails when examined by your counsel, you recall that?

A. Yes.

25 Q. And we see that the first email on page 403 is simply an email from Yana to you, subject matter confidentiality agreement.

A. Yes.

Q. August the 5th.

30 A. Uh huh.

Q. And basically Yana is asking you to print out a confidentiality agreement and have your parents sign it.

A. Yes, that's right.

Q. And we haven't seen that confidentiality agreement document yet. If you could keep that there, but also produce a green volume 1 which would be Exhibit 3A. If we go to the first section, section A.

A. Which tab?

Q. Section A, there's a big green letter A.

A. Uh huh.

Q. And go to Tab 9.

A. Yes.

Q. What we have there is a confidentiality agreement privacy statement signed August the 10th 2009 by your mother Alla Nikityuk.

A. Yes.

Q. And that's the document you printed out to have her sign.

A. I don't remember exactly it should be, probably -

Q. You would agree with me, we have this email -

A. Yes, yes, I would agree.

Q. And if we go to the next page Tab 10 there's an identical agreement, but this time signed by Valentin Nikityuk.

A. Yes.

Q. Also on August 10th 2009.

A. I think this is my handwriting the date.

Q. The date is your handwriting.

A. And the name. It's my handwriting.

Q. Thank you for that clarification.

A. I just noticed actually.

5 Q. And you read both of those agreements. Did you read those documents at the time?

A. Yes.

Q. And you translated them to the parents.

A. Yes, I did everything what Yana asked me.

10 Q. And you would understand from these agreements that the YMCA has to keep your parents' information confidential.

A. I just translated. I don't remember right away what was in that agreement. I was - you know, I just followed Yana's instruction.

15 Q. Would you agree with me as a general concept - we can actually go through this if you want line by line. This is an agreement relating to the YMCA's confidentiality obligations.

20 A. If you say so, I believe you. This is what I can at this point. It's internal documents of YMCA. I personally don't care what kind of agreement is this.

Q. That's fine. So going back to your emails, if I may.

25 A. Yes.

Q. We will try to get through these fairly quickly. Let's go to email number five which is the email -

A. Yes.

30 Q. - it's on page 404.

A. Yes, I can see.

Q. And there is an email from Yana to you August the 27th, 2009.

A. Yes.

Q. And as I viewed this email you had contacted Yana for information for lawyers to deal with wills and power of attorneys for your parents.

A. That's - I just called Yana and said we all wanted to make powers of attorneys all four of us including parents and wills.

Q. And then after that, we see on page 405 that a lady by the name of Ruth Millar -

A. Yes.

Q. - who worked with Yana Skybin contacted you with details of another Russian speaking person for your parents to make a contact with.

A. That's right.

Q. So far so good, the YMCA are doing good things, we agree.

A. It's - yes.

Q. Okay. And then email number 9 you express your gratitude to Yana Skybin in respect of providing details for the other Russian speaking person.

A. Yes. Everything - everything was very friendly, polite. Everything was very very good.

Q. In fact and so much so, if we go to the next page, on page 406 this is email number 11.

A. Yes.

Q. This is an email from you to Yana dated September the 3rd, 2009 where you invite her to go to church.

5 A. We were talking over the telephone about - yes, I suggested to go to the church with my daughter and the daughter's fiancé because I suggested yes to go to the church.

Q. So in fact you're the one that's starting to get friendly with Yana. You invite her to a social activity.

10 A. As I said, those emails is just tip of the iceberg. There were so many telephone conversations and you know in this situation it's - I wouldn't say who started. It was very mutual. We were just exchanging personal - very personal information with each other and things were friendly.

15 Q. Let's then go to email number 18 which is at page 408. You write to Yana on September 28th, 2009 -

A. Yes.

20 Q. - that your parents are struggling to attend their classes due to new doctors' appointment and you say at the end 'anyway we really appreciate the support and my parents send their greetings.' So this is all at the beginning, it's all very cordial. It's all very pleasant.

A. Yes.

25 Q. And then October the 20th - sorry, October the 3rd email number 20.

A. Yes.

30 Q. You write to Yana, I'm writing to thank you for being in touch with my parents and to say that my mom is happy she can discuss all their needs with you.

A. Yes. It was specifically that all - discuss all needs with you it was from the email. I'm

just going to find what is this in relationship. This was about doctors' appointment, yes.

5 Q. Let's now jump ahead. Let's jump ahead to page 412. You don't need the green binder any more. So you're at page 412?

A. Yes.

10 Q. And we see email 30. It's an email from Yana to you November the 6th, 2009 talking about going to the gym with you and your mother and someone called Ira, I-R-A.

A. Ira.

15 Q. So you start going to the YMCA together to do some things together.

A. That's right.

20 Q. Then let's go to the next page. And this is an email that may be important. Page 413, email number 32 is an email from you to Yana.

A. Yes.

25 Q. Dated I believe it's the 9th of November 2009. If they're in chronological sequence. And let's look at the second paragraph. You say 'Valentin is really sick and his personality is not getting any better from that.' What do you mean about his personality not getting any better?

30 A. He has said actually - my mom, that's what I was referring to my mom was discussing things with Yana as she was telling me. As per this paragraph Valentin is really sick and his personality is not getting any better from that. Although my mom trying to be hold this very well because she understands that life is better here for both of them at the same time. She could not be upset

5
10
about the situation. As I said, that I respect - I respect it. I have respected the personality of Valentin. Although this is not that - I can give you for instance. When they go into the YMCA in their car, my mom is coming from the YMCA, they're coming in the car to home. Their dinner is ready for them, but my mom can be in tears because when Valentin is driving everyone around him are idiots and he is expressing his personality while driving that everyone around is an idiot. My mom got very upset over that, he can get furious at things like that. This is his personality I respect it all my life.

15
Q. Let's deal with that. So he according to you he's made your mother upset. Your mother is in tears.

A. Yes. It was happening from time to time, yes.

20
Q. Presumably either you or your husband spoke to him about that.

A. Never. Never because it was, you know, was a member of our family since we got married. We know him very well. He's harmless, he's just very loud and you know from the distance from the people who do not know him, it might - even his daughter put it in her email that he was something not just pleasant with her. He might - you have.

25
Q. You said he's harmless.

A. Yes.

30
Q. That was your words.

A. Yes.

Q. Let me finish my question. So harmless, harmless like a child?

5 A. You know, he's in tears when he is watching some Russian TV series and he loves animals and things like that.

Q. So harmless like a child. So somebody to be ignored -

A. No, not like a child -

Q. - when they express their wishes.

10 A. I would say he's kind by nature maybe his personality at the same time, he loves animals. We always had pets at home. So you know, nothing a human is conflicted some times. I don't know.

Q. So basically somebody to be ignored when they express their wishes.

15 A. The opposite. As I said, we respect him being like that. It's - it might be upsetting for my mom for sometimes, but it's always been like that. It's always like that for 20 years, you kind of get used to that.

20 Q. And so is that type of environment, would you consider that normally in your house; people getting upset, people crying?

25 A. It was mom always crying from Valentin because she was trying to change him for 20 years. We didn't try to change him.

Q. She was always crying though from things you and Pavel did as well, that's fair isn't it?

A. She an easy crier.

30 Q. So she did cry when things were said to her by you and Pavel, correct?

A. When?

Q. You just said she's an easy crier.

5 A. She's an easier crier, I would say so. She was crying from Valentin, as I said, after the ride in a car with him.

Q. And when somebody is crying they're crying with happiness or they're crying with sadness, correct?

A. My mom was very happy that she's not alone with him and living without.

10 Q. Please answer my question. When somebody is crying they're either crying with happiness or their crying with sadness, correct?

A. Not necessarily, not necessarily.

THE COURT: There could be pain.

A. No, not necessarily.

15 MR. MAE: We could come to the pain later on, Your Honour.

Q. Please cry when they're upset, correct?

A. Not necessarily.

20 Q. Your mother cried when she was upset, correct?

A. I suppose so.

Q. And she got upset when you and Pavel said things to her, correct?

A. She got upset things like -

25 Q. She cried when -

A. Like what?

Q. She didn't -

30 A. We didn't - we didn't - I knew that. I was trying not to - not to get her upset.

Q. Now, if we can just go to the next Tab 64 and we'll - I'm mindful of the time, and we'll just deal

with a couple of issues. Tab 65 were emails between you and Svetlana - sorry you and Yana Skybin in Russian.

A. Yes.

Q. So what we have here, the first part of the exhibit are the emails in English, the translations.

A. Yes.

Q. You mentioned earlier on when you gave evidence yesterday concerning June. So let's look at page 421.

A. Yes.

Q. And you referred to the email from Yana Skybin from June the 27th which says 'Svetlana here is an announcement', did you open it?

A. Yes. I read this.

Q. So that email had an attachment to it, correct?

A. It was a yes. It appears to be a chain.

Q. And would you agree with me that if you look at the Russian version of the letter at page 427.

A. Yes.

Q. The Russian version of announcement, could that also be advertisement?

A. Advertisement?

Q. Yes.

A. This email.

Q. The word that is being translated to announcement in the first sentence, 'Svetlana here is an announcement', that could also be an advertisement?

A. Just a second. You're referring me to the Russian?

Q. Yes, I am. You're the Russian speaker here?

A. Yes. It's supposed to be an attachment to this email.

Q. I'd like to show you the attachment to this email.

MR. MAE: Your Honour, this is a new document. My friend has been provided a copy with it. This is the attachment of the email, if I may hand it up and mark it as an exhibit.

MS. CHAPMAN: Just to be fair to Ms. Danilova, she's not seen that.

A. I even can probably recall this is - I wouldn't actually.

THE COURT: She may have seen it previously.

MR. MAE: I would hope she -

A. Let me have a look but I think I even have an idea. I couldn't find an attachment.

THE COURT: Just wait a minute, wait till you look at it.

A. I believe if I didn't look - I believe it's about the position at the YMCA.

MR. MAE: That's exactly right.

A. Yes. Right. Because I remember that should be attachment. I couldn't print it out or something. Yes.

MR. MAE: For the record, if we just slow down a little bit. For the record the next exhibit will be a job posting at the YMCA dated June 23rd, 2011.

THE COURT: How we just make this part of Tab 65.

MR. MAE: I think that probably be most appropriate.

THE COURT: Page 421A, would that work?

MR. MAE: That would work for me, Your Honour. Actually madam registrar, I have a colour copy printed out which we could call the original simply because it is in colour if that's helpful.

REGISTRAR: 421A.

A. Because it's following the email, previous email Yana offered me the position at some company and there is their position at the YMCA. Yana was offering me the position yes.

MR. MAE: Q. Okay. So thank you, you just saved a whole lot of time.

A. Yes. I agree.

Q. So the court can follow. Yana had given you - and this is June of 2011 -

A. Yes.

Q. - information about potential jobs available to you.

A. Yes.

Q. And in fact the previous one you referenced was nothing to do with the YMCA. It was a job that she was aware - that was available that might be suitable for you.

A. Yes. And she referred to me in this email specifically.

Q. And so -

5 A. Excuse me, if I can refer you to the email number 12.

Q. Email number 12.

A. Yes, in English.

Q. Which is at page 420.

10 A. Yes. I was asked about prospective employee for a position with an editor in the south of Barrie who would speak fluent Russian and English and if you are looking for a job right now. Yes, I agree.

Q. And that was in February and we see the -

A. Sorry, for me. It was -

Q. It's a long time ago.

15 A. No, it was not - she might offered me even more I don't remember, but one after another it was one offer and this YMCA is another.

Q. So Yana is your friend she's trying to get you employment.

20 A. Not a friend, it seems to me participating in the employment program. It's the employment program, not as a friend. The signature is YMCA -

25 THE COURT: You can't both talk at the same time. Let me talk first. The reporter can't hear you and Mr. Mae at the same time. She's not able to keep up so you just have to finish - wait for his question and he has to wait until you finish as well and I have to wait too because I have can't talk overtop over top everybody especially at 4:30. Mr. Mae, do you want to rephrase that question. Is that your point?

30

MR. MAE: I think she misunderstood the question and I'll just leave it at this final question for today.

5 Q. So at that time in June 2011 as your friend Ms. Skybin was trying to put you in contact with jobs, correct?

A. Not as my friend, but as -

10 THE COURT: Mr. Mae, maybe you can ask her if they were enemies at that point.

MR. MAE: I was hoping not to ask the extra question but absolutely.

Q. You weren't enemies at that time?

15 A. Of course, things were friendly. We were friends, but she offered me those position under the signature of YMCA settlement counsellor from YMCA email.

THE COURT: All right. Mr. Mae, she said that they were friends which is the question you had and they were friendly. So understand that.

20 MR. MAE: And I'll park it there today, Your Honour.

SCHEDULING discussed...

25 COURT ADJOURNED to May 27th for continuation

FORM 2

Certificate of Transcript
Evidence Act, Subsection 5(2)

I, Cathy Knelsen, certify that this document is a true and accurate transcript of the recording of *Danilov v. Nikityuk* in the Superior Court of Justice, held at 75 Mulcaster Street, Barrie, Ontario, taken from Recording No. 3811-2-20160526-085750 which has been certified in Form 1.

, 2017

Cathy Knelsen, C.C.R.

cathytheartist@sympatico.ca

May 27th, 2016

THE COURT: Mr. Mae, you're ready to continue?

MR. MAE: I am, Your Honour, yes.

THE COURT: Ms. Danilova, would you return to the witness box?

SVETLANA DANILOVA (re-enters witness stand)

REGISTRAR: Just a reminder, you're still under oath.

CONT'D CROSS-EXAMINATION BY MR. MAE:

MR. MAE: Could you provide the witness with Exhibit 1A?

Q. And if we can go back to Tab number 65 page 421 where we left off yesterday.

A. Excuse me, which page?

Q. 421.

A. Yes, I found it.

Q. And we were looking at email number 14. You recall that email of June the 27th?

A. Yes.

Q. And this was the email in which Yana send you the posting for the job, the advertisement for the job, correct?

A. Yes, this is correct.

Q. And as I understand your evidence yesterday you made a point - I asked you whether she did this as your friend and your position she did this in his role as a YMCA employee.

5
A. My position here is she did it out of -
the feeling friendly to me. She was very friendly to me
at that time, but she sent this email from YMCA official
email and she would - she was considered me as a client
of YMCA enrolled in their employment assistant program of
YMCA. I see me here as a client of YMCA enrolled in
their employment assistant program of YMCA.

10
Q. So do you - so I understood it, and I don't
want to misquote you, but I just want to understand.
You're saying that email came to you from Yana at her
work email address, is that what you're saying?

15
A. I cannot even tell - this particular email
but previous with the same from Yana Skybin as I can see,
the previous email is about the same - same email number
13 is about the same, about the position, the other
position she send to me. And this previous email signed
by your formal YMCA Newcomers Services Settlement
counsellor, the email number 13 signed as a settlement
20 counsellor, YMCA Newcomer Services and I'm assuming that
email number 14 is from the same email.

25
Q. So you're assuming. So let's just cut to
the chase here. This email chain was prepared by you and
exhibited by you, correct? You cut and pasted emails
into a single document, right?

30
A. I'm sorry, I can't even tell because email
number 16, no, this is my answer. You see email number
16 is different to - once she sends email from your home
address, Skybin.net it's clearly stated here that - like
email number 16. You see that?

Q. Let's cut to the chase. Now, listen to
what I'm saying and we'll deal with this with yes or no

answers, okay. This paper exhibit, the translation is a certified translation prepared by a translation service you retained, correct?

A. Correct.

Q. Correct. And the original versions of these emails are also in the same exhibit and the specific email from Yana is at the bottom of page 426. If you turn to page 426.

A. Yes.

Q. We can see the Russian original, correct?

A. And correct me if I'm wrong, either you or your husband cut and pasted the emails into a single document. This is not an email chain, correct?

A. This is not an email chain.

Q. Thank you.

A. You know, I will make your life easier, probably again because for me it doesn't matter from which email it was sent. You can - you can tell and I can even agree that she did out of friendship to me. I can even agree to that. It doesn't matter -

Q. Thank you.

A. - at this point. Yes. Because the previous email was sent with her signature as a settlement counsellor and it was about the same, about the position she offered me. So yes she did it out of friendship -

Q. Thank you, that's -

A. - and out of the enrolment in the employment program.

Q. And as I understand your evidence this email which refers to getting together, your evidence is

that that was Yana wanting to speak to you about the social housing. That's your evidence.

5 A. It's not exact. It's not exact. This chain of emails just saying that we were very friendly. This chain of emails things were still friendly that we just wanted to see each other. So Yana wanted to see me. I wanted to see you. I didn't actually have anything. I was open to see her.

10 Q. With all due respect Mrs. Danilova as I understand your evidence this email you were referring to it as being evidence that Yana wanted to speak with you about the social housing scheme and you refused to see her that's -

15 A. I will -

Q. - what you said -

A. - explain.

Q. - this was.

20 A. Further. I can explain. Yes, my whole evidence is right. It's about the home, but I can explain, it's step by step what was happening here. I need to do the - I need to tell my story and you need to listen to my story.

25 Q. With respect you've had your chance to tell your story and you've already said that this email was Yana reaching out to speak with you to talk about the social housing scheme and you refused to meet her, that's what you said.

30 A. It's appeared at the end of this email chain and this is why I wanted to go step by step of this email chain.

Q. Show me then -

5
10
A. It appeared at the end of the email chain that I refused to go to this meeting because it was my mom on the background during this communication with Yana. It's always been my mother on the background. And when actually during this email communications since came to the point then Yana wrote me email telling that it's not a good idea to go to the Innisfil Beach park with Irena. And Yana sent this email of the last one that we - she wanted to meet me at her home for lunch at her house for lunch.

15
Q. Let's stop there. Let's deal with these - let's look at Yana's email, the English translation which you have as a certified translation. It says -

THE COURT: Number?

15
MR. MAE: Number 14, Your Honour, page 421.

Q. 'I think we will go to the show with Ira.'

A. Yes.

Q. 'Won't you be available to see us.'

20
A. Yes.

Q. 'And we would arrive in, and there's a translation word missing here, for this to Innisfil.

A. Exactly.

Q. We can't wait to see you.

25
A. Harmless, absolutely harmless. Nothing at this point - nothing.

Q. Thank you, thank you.

30
A. This is what I'm trying to tell you. You should go step by step through this communication to see the full picture.

Q. Take me through it then.

A. Yeah.

Q. Show - show me -

5 A. I'll show you. I was absolutely agreed to go to the YMC - to the - go to the Innisfil park and whatever because things were very friendly and myself and Yana I also knew that a person at - later she's in the pictures during this birthday party of Yana on October - on August 20th, 2011.

Q. So you pointed -

10 A. Oh, we are -

Q. Show me these -

A. - going through these emails.

15 Q. Show me in the email chain where there's an email from Yana Skybin saying let's meet to talk about social housing. Show me your refusal to meet with her.

20 A. I pointed already on that email. So it's in email number 15, the next email. I believe after 14, I sent her even something that I wanted to meet with you or something like that. Number 15. We had conversation after email number 14 that I agreed to meet with her at Innisfil park. But email number 15 saying there was the - I together with Ira decided to meet at my place for lunch, can you be there at around 12. Afterwards you could go to YMCA and meet the school. My address follows
25 86 Russell Hill Drive, Barrie, Big Bay Point and Yonge. We want to see you so much. Yana. And this email was a deal breaker for me to go to meet with her because I wrote this - after that email there was - my mom on the background and saying that this is the chance for you to
30 meet Yana. You have made so many mistakes. Yana is a specialist what you're telling about social housing. It's just from all those websites and this kind of

information. Yana knows more. We are in the right place. We are in YMCA Newcomers Services where settlement counsellor Yana Skybin knows how to avoid long waiting list for social housing.

5 Q. Ms. Danilova, we've heard this so many times -

A. Because this is my testimony.

Q. Let's get back to my question.

10 A. No, no, you asked me to tell I rejected to go because this -I didn't go.

THE COURT: You said you were going to take us through the emails. You took us to number 16.

MR. MAE: Number 15, Your Honour.

15 A. No, no, number 15 actually I cannot see that I sent her email saying that I was not going to come to your place, but I didn't go to this meeting. I probably called her.

MR. MAE: Q. Let me help you with this.

20 A. Yes.

MR. MAE: Your Honour, I now have these Russian emails and the interpreter that's going to do the site translation of them hasn't arrived yet. So we have a couple of options here. To keep this flowing, I can ask Ms. Danilova to read out a translation of her own email and assuming that it fits with what I think it says here, we can address the issue that way or we can circle back, Your Honour.

25
30 THE COURT: Well, why don't we try to do that and she can -

5 A. Yes, I agree because I - I said that I can read some emails in this chain, yes. I agree with that fact because I was talking from the sent and the inboxes.

THE COURT: Mr. Mae, are these emails that are not in the materials -

MR. MAE: That's correct, Your Honour.

THE COURT: - but they're contemporaneous with these.

10 MR. MAE: Absolutely, and I have them as additional exhibits. It's a two-page email chain.

THE COURT: Would you like to give a copy to the witness? Does she have the Russian version as well?

15 MR. MAE: That's all she will have is the Russian and I can hand up a copy. If we can mark it as an exhibit. And for the record, it's a two pages of emails.

THE COURT: We'll mark the witness' copy and perhaps we can call this 421B because we have 421A which was the YMCA letter. Does that fit in with the appropriate spot?

20 MR. MAE: That would fit in, Your Honour, yes.

THE COURT: 421B.

25 MR. MAE: Q. So you have it in front of you Ms. Danilova?

30 A. I have it in front of me and I don't mind doing this. I even appreciate you doing this. I greatly appreciate you doing this.

THE COURT: Why don't you just take a minute to read it to yourself.

A. Yes, there was addressed to me.

THE COURT: And then you can read it out loud in English.

A. Yes, yes, I would appreciate this opportunity.

MR. MAE: Q. And I'm specifically referring to the email on the second page dated June 29th, 2011.

A. Yes.

Q. Which is an email from you to Yana Skybin.

A. Yes.

Q. And we see from the header that it's to Yana Skybin's personal email account.

A. Yes, okay.

Q. Not to her YMCA account.

A. Yes, yes.

Q. And this is the email from you to Yana on June the 29th following email number 15.

A. Yes.

Q. So please read that out.

A. Yes. So you mean this email following the email number 15, right?

Q. The email dated Wednesday June the 29th 9:30 am.

A. I can also - I can start with email missing in the chain. There is first email missing from my chain. This email the first one in the page - the first email is also missing in this chain.

Q. Which one; the one of June 28th, 2011?

A. 28th, 2011, the first one, yes.

Q. Okay.

A. This is an email - it is response to the email number 14.

Q. Okay.

A. Because you see there's my emails.

Q. Let's cut to the chase let's get to the translation.

A. Yes. So the first email this additional - this is the response.

THE COURT: Let me just make sure I'm on the right page here. We're now of page 1 of emails or page 2?

A. Page 1.

THE COURT: You took her to page 1, but - page 2 but now is she back at page 1?

MR. MAE: Well, if the witness wants to go back to page 1, Your Honour, I'm happy.

A. I want to go through the chain.

THE COURT: I just want to know where she's at.

A. I want to go through the chain. So this is a chain, right?

THE COURT: I'm going to call page 1, roman numeral I and the second page roman numeral II just so we are consistent with where we're at. So we're now at roman numeral 1 the first page. So go ahead. There appears to be one email there Monday June 27th.

MR. MAE: Monday June the 27th, Your Honour that's the translation at email number 14, correct?

A. Correct.

MR. MAE: Which is at page 421. So we can skip pass that. So we have your reply which is June the 28th, 2011 at 6:56 am.

A. Yes.

Q. So please translate that one.

A. This is email dated June 28th, email from myself to Yana Skybin's email at Skybin.net which is your home email, not YMCA email. It's your home email. So this is private communication with Yana out of friendship. And I responded to Yana yes, this is a good idea by the way. Please write where you want to go today to - I cannot do this today. I have construction of the fence and I'm sorry I will be quickly in the translation - I will give the meaning for sure.

Q. I'm happy that says what it says. You want to be there, but you might not be able to be there because of having a fence.

A. Yes, that's right. Then falls their email number 15 which we have a translation.

Q. At 421, that's correct.

A. In email number 15. And then are going into email -

Q. So we're on page 2 of this exhibit, and -

A. 29th?

Q. The 29th which is the one at the top at 9:13 am.

A. Oh 29th. So we have translated, we have email 15, right?

Q. Yeah.

A. What would be the next? Actually it's not the chain. So okay, on page 2 then the next one as I see

it is the email of June 28th, 2011 at 9:52 am from Yana Skybin to you. Do you see that?

THE COURT: Pm?

MR. MAE: 9:52 pm, Your Honour.

THE COURT: You said am, I believe.

MR. MAE: Ah.

A. We are going -

THE COURT: Is that the one in the middle?

MR. MAE: That's the one in the middle.

A. Yes.

Q. That appears to be the next one.

A. It's 15. It's translated.

Q. No, no, Mrs. Danilova. If you look at the second page, go about halfway down, you will see an email header from Yana Skybin to you June 28th, 2011 9:52 pm. Do you see that?

A. Yes. This is the response to her invitation to come to her home.

Q. So what did Yana write there?

A. After Yana wrote me this invitation to come to her home. This is email 15 translated.

Q. That's the one at the bottom.

A. Yes.

Q. That's the one at the bottom.

A. The one at the bottom is email translated number 15.

Q. Right. What about the email above that, the one from you dated 28th of June; have we seen that one before?

A. No. This is I am about to translate how I respond.

Q. Okay. Translate that one please.

5 A. I translate it. I am translating, 'Yana, thank you so much tomorrow although I have a lot of things to take care of but might be have an opportunity to sort things out by noon - might be able to sort things out by noon. I have a great hope about that. I will write you email if I cannot come but I will be doing my best to come, the meaning I will be doing my best to come.'

10 Q. Okay.

15 A. Yes, that's what I wrote here in response but then you see her invitation came at 9:24 pm, can you see that, and my response is 9:52 pm. So out of my friendship I responded to her immediately. Okay, I will come, I am accepting your invitation but I was telling my mom at the same time - I was telling my mom on the background saying all those things about social housing and how Yana is going to help our family was social housing and that's all what we need. It's some calculation from her side, and this calculation you will discover when you meet with Yana. So yes.

20 THE COURT: Mr. Mae, we have her answer to that email. Can we move on?

25 MR. MAE: That's what I was trying to do, Your Honour.

A. And the next email -

Q. Just please translate them. Let's have no

-

30 A. Yes.

Q. - commentary, let's just have translation. So the next email, June 28th 2011, 9:52 pm.

A. Exactly.

Q. It's from Yana to you.

A. It's more indicated response to this invitation I'm going to translate it.

Q. Ms. Danilova, just please translate the words.

A. That's what I am doing, yes, but with my comments because I slept on that, you see I slept on this.

THE COURT: Just answer the question, do the translation and then you could make your comments, but let's keep the two separate so I understand which is which. So if you just purely do the translation, come to a full stop. Thank you.

A. The next email is in this chain is a response to me from Yana. It's dated June 28th, 9:52 pm. 'I understand but I have a great hope that you will make it. Yana'. And the next email from myself to Yana it's email from the next morning.

MR. MAE: And this is the important one, Your Honour, this is the June 29th, 2011 email.

A. June 29th, 2011 9:00 am, 9:13 am.

Q. Yes.

A. And this is email from myself to Yana in which I am saying my translation. I'm about to translate this email. 'Yana, I cannot come today. Maybe you will - you will be able to call me at some time, yes.'

Q. You have time to talk.

A. Yes exactly.

Q. And the next sentence.

5 A. It's been awhile since we were talking to you.

Q. And the next sentence.

A. Say hi to Ira and have a great weekend.

10 Q. I'll agree with that translation. So there's nothing in these emails that says Yana, I don't want to speak to you. I don't want to talk about social housing. We agree that, don't we?

A. Absolutely. And again, I am going to make your life easy here. It is what it is. It is what I have nothing more. I am not going to say anything more because I am under oath, and I swear on all my testimony.

15 Q. So let's go back to your relationship with Yana. We agree that it was a friendly relationship, correct?

A. Correct.

20 Q. And we agree that you had no arguments, correct?

A. At what - at what time, at what period of time?

Q. Any time prior to August 2011.

A. That's not correct.

25 Q. You haven't had an argument with Yana.

A. Yes, I did.

Q. When did you have an argument with Yana?

A. I called Yana shortly before that weekend of August -

30 Q. We're going to come to that.

A. - 2011. I had a conversation. I called her personally and had a conversation with her over the phone.

5 Q. Right. That conversation, there are two versions of events, there's Yana log and the date of that conversation is August the 19th. So let's get mathematical here. Prior to August the 19th, 2011 you had no arguments with Yana Skybin, correct?

A. Prior to August, I would say no, not at all.

10 Q. And you did not exchange any harsh words with each other; no unpleasantries?

A. Never.

Q. Okay. And your evidence was that - from the evidence is that she was a close friend, close family friend.

15 A. This is my evidence exactly. Yana knew me as great person this great personality absolutely dedicated to my mother, daughter. The daughter absolutely dedicated to the mother always taking great care for the mother and the level of her duty of care Yana Skybin and YMCA provided to me was extremely high. I would characterize as this level of care to me it's very high prior to August 2011. And this actually the distance from which they fell from so high to making criminal of me and mentally sick person.

20 Q. So she had no reason to want to hurt you, correct?

A. She obtained this reason. It's my opinion again that the reason she got exactly that's coming from the chain of this email.

30 Q. And she -

A. Because I refused to cooperate.

5 Q. It doesn't say anything in there about refusing to cooperate. All we see is an email chain with respect to an invitation to a social activity which also involved another lady you were going to meet and you declined because you were having a fence constructed. There's nothing in that email chain to support what you are now trying to say.

A. I'm not going to argue with you.

10 Q. Good.

A. I said it is what I have. I'm not arguing with you.

15 Q. And Yana had no reason based upon your friendship to want to act maliciously towards you.

A. She received this reason because I refused to cooperate in the arrangement that she made with my mother. She made the arrangement with my mother and they wanted me to participate. I said my mother and my mother - what I know I said to my mother that I was not going to be a part of that conspiracy.

20 Q. So -

A. That wait and see, and even if you want to apply to social housing, you have to do this legally not going through YMCA people who knows more than - than who treated something special comparing to this people who was coming from the street to social housing to apply for social housing. This is exactly my point and I refused to break the law. I explained my mother to so many occasions that I am refusing to break the law. The law is the law. And then starting from August, I believe - she was trying to hurt me as much as she could.

5 THE COURT: Just wait for Mr. Mae's question before you provide answers. Mr. Mae, I think you've established that there was nothing about social housing in the email.

MR. MAE: Yes, thank you, Your Honour.

THE COURT: She's indicated that it is what it is and there's no dispute that they had a friendly relationship until August.

MR. MAE: Thank you, Your Honour.

THE COURT: So let's move on.

Q. Can you show the witness Exhibit 3A Tab 1?

A. Yes.

Q. Tab 1. So this is for the record Yana Skybin's log.

A. Yes.

Q. And let's look at the first entry Ms. Danilova; August the 19th, 2001 - 2011, I apologize.

A. Yes.

MR. MAE: And again for the record, Your Honour, I just remind the court that a request to admit authenticity was served and not replied to and therefore this is deemed an authentic document.

Q. So let's look at the entry of August 19th 2011.

A. Yes.

Q. Yana Skybin writes, 'I received a call from Svetlana Danilova telling me that if her parents come to me asking for help with subsidized housing, she wants me to know that nothing changed in their household. They under influence going to YMCA and talking to other people

5
filled their heads with ideas. They are strange and unreasonable. Svetlana and her husband built this house for people and they are not going to make any changes. So let's deal with some questions and hopefully we can deal with them quickly. You agree that you telephoned Yana Skybin on August the 19th, 2011.

10
A. I do not remember exact date but if she says so I agree with the date, yes. It was prior to weekend of August 20th.

15
Q. And Yana Skybin's evidence is going to be that you actually phoned her at home during the evening of August 19th. You did not telephone her at the YMCA. Would you agree with that?

20
A. Yes. I - I called her she was at home. It was, yes, it wasn't the call to YMCA.

25
Q. And Yana Skybin's record of that conversation is written down here as to what she recalls of the discussion. Do you disagree with that characterization of the discussion?

30
A. It's always twisted. This is - the part of true, part of what I would call this twisted because actually the meaning of my call lost here. My reason why I called her, I don't hear that - why my mom keeps referring to YMCA as a great help in obtaining the social housing and if we - if she goes through with YMCA there is no need for any way ways increased ever. The people at the YMCA will take care of everything and it's so different from the person who's coming to apply for social housing from the street. What I - another thing that my mom referred - kept referring to was an - she was saying we do not see any income and that what I was

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trying to talk with Yana. I told her, my mom stated that they do not have any income. Yana, I said to her, Yana, you know, you was in our home. You have seen everything how they lived. I asked here, Yana, what do you think if a person drives 2009 Honda Civic that was a new car by that time and lived in a house just built, a new home and use everything that use the IT professional here in Canada because we are a family of four. We shared all the expenses and the level of living of Nikityuks was the same as my husband's who is IT professional here and who received a salary about \$100,000.00 a year. So that -

THE COURT: Ms. Danilova, can I just interrupt? You don't need to give evidence we've already heard. The question is focused on this particular paragraph. There are many paragraphs to follow, but you don't need to tell the court evidence that you've already given under oath or that your husband has given. I need to hear your answers to Mr. Mae's questions. If you disagree with some parts of this log, then I'd expect you to say so but I don't want you to use that as a platform to repeat evidence we've already heard. We know how much income your husband had. We spent quite a bit of time listening to him last week and this week is your week. Can you just focus on the answers; if some of them need some elaboration that's fine, but don't delve into evidence or try to reinforce things that you've already told us.

5 A. I'm sorry, I'm sorry about that. I wanted to say that I was trying the issue with my parents since come to Yana. I was saying to Yana this was part of my conversation to Yana and I was just saying here I would like you to stop brainwashing my parents about social housing. This was actually the conversation.

10 MR. MAE: Q. So that's your version of the conversation -

A. Yes.

Q. - and I'm going -

15 A. That nothing has changed - nothing changed that's right, nothing changed in the financial situation of the parents or family arrangements. Nothing changed, yes.

20 Q. I'm going to suggest to you Mrs. Danilova that the evidence you just gave is not right, it's not the truth. The truth and the discussion is as set out in this file note. That's the truth of what happened.

A. I'm not going to argue with you again. This is my testimony.

25 Q. And on August the 19th, 2011 you knew that your parents were going to Yana Skybin's birthday party the following day, correct?

A. I knew about that.

30 Q. Yes, you knew. And if you felt that Yana Skybin was some type of bad influence on your parents, why didn't you try to interject and prevent them from going to the birthday party?

A. Because Canada is a free country. We are not in Russia any longer.

5 Q. I'm going to suggest to you, Mrs. Danilova that on August the 19th, 2011 that is the day you attacked your mother and this telephone call to Yana Skybin was a pre-emptive strike. You were getting your defence in first before anything was said to her. That's my suggestion to you Mrs. Danilova.

A. And what am I supposed to do with it? This is your opinion.

10 THE COURT: You can disagree or you can agree.

A. I disagree.

MR. MAE: Q. Let's look at the next entry, August the 20th.

15 THE COURT: Mr. Mae, just to be fair to the witness, sometimes when you make a suggestion, it's important that you indicate to the witness that she needs to agree or disagree.

A. Yes, Your Honour.

20 THE COURT: Otherwise you can make a lot of suggestions.

MR. MAE: Absolutely. I assumed that she's been in the box so long that's she aware of that rule, but thank you for the reminder.

25 THE COURT: I think it's important that she know that she's - you're asking a question and then make a submission.

30 MR. MAE: Q. You've heard my suggestion that this was a pre-emptive strike. You telephoned Yana Skybin because you knew your parents will go into her house the following day and you didn't want them to say to Yana, I've been assaulted. That's my position. Do you agree that that's the reason for your call?

5 A. Been assaulted, I didn't. I'm sorry, could you please read the details of your statement?

10 Q. Absolutely, absolutely. I'm putting to you that the reason why you telephoned Yana Skybin on August the 19th was because you had assaulted your mother and you knew that your mother was going to Yana Skybin's party the following day and you had a fear that your mother would tell Yana about the assault and therefore you wanted to essentially get your defence in before your mother spoke to Yana. That's my position. Do you agree that's what happened?

15 A. Absolutely disagree.

Q. Okay.

15 A. Nonsense.

20 Q. But you do agree that you telephoned Yana late in the evening at home.

25 A. I'm not sure about the date as I said. I'm not sure that it was - I am not sure about the date. I think it was different - honestly I don't remember the exact date. I think it was before the weekend of twenties. I am not even absolutely certain about that, but I think it might be - I don't remember the date honestly.

30 Q. But my question was, you phoned her late in the evening. You phoned her.

A. Yes. I remembered that I phoned her late in the evening that saying that it was not YMCA but her home phone or something.

30 Q. So can we now move to the next entry August the 23rd which is the Tuesday following that weekend where your daughter and son-in-law visited and built the

gazebo. So before we go to August the 23rd, we know from the record that on August the 22nd, your mother had a doctor's appointment.

A. Yes.

Q. And you would have taken her to the doctor's, correct? She wouldn't have gone on her own.

A. No. I went with them as usual. Yes, it was usual.

Q. And you sat in on the consultation with the doctor, correct?

A. It was as I said before, it was a regular checkup appointment.

Q. Please listen to the question. You sat in the meeting, the consultation with the doctor and your mother. You translated, correct?

A. Not at all time, no, no, not at all time. It was examination in the - you know, how it works, it's regular rooms with private and at some point my mom was in this room. Doctor always wanted privacy. It doesn't matter that I was beside her at all the times during the doctor's appointment. It was pretty extensive appointment. She was you know, what I'm assuming taken off all her clothes because Doctor Mosmow (ph) is geriatric doctor. She did examinations with my mom always shared with me like a lung check or not exactly but I don't want to go into the details of that -

Q. I don't need details.

A. - doctor's examination, but it was extensive examination.

Q. You were there, you were at the doctor's with your mother.

5 A. Not at - I was not with my mom in the room when she was examined by the doctor.

THE COURT: You have her answer.

MR. MAE: I have her answer.

Q. So let's go to August the 23rd. Do you accept that your mother and Valentin went to see Yana Skybin at the YMCA on August the 23rd, 2011; yes or no?

10 A. My mom went to see - like would you repeat, I'm sorry?

Q. No problem. Do you agree that on August the 23rd, 2011 your mother and Valentin went to see Yana Skybin at the YMCA?

15 A. It's - I do not have personal knowledge of that, but I can take it from the documents and I believe that those documents are true that you provided the documents. I don't have personal knowledge about that appointment definitely.

20 Q. So everything written in this log you have no evidence to say that it's not accurate.

A. As I said, I do not have personal knowledge of anything wrote in this log.

25 MR. MAE: And I don't know if Your Honour would like me to read it out for the record another log entry, or whether you'd like it to be dealt with when Ms. Skybin gives evidence.

THE COURT: Well, it's -

MR. MAE: Would it be of assistance to the court?

30 THE COURT: It's pretty lengthy. It is really necessary to read it.

MR. MAE: I'm happy not to read it, Your Honour. You have it and you can see the words on the page and you've heard the witness.

THE COURT: And she has it in front of her.

MR. MAE: Yes.

THE COURT: It doesn't reflect - obviously her position is that she doesn't necessarily agree with the truth of their contents but she has no knowledge as to its creation or the -

MR. MAE: And that's how I accept the evidence to be, Your Honour.

THE COURT: Do you understand that, Ms. Danilova.

A. Yes.

THE COURT: This is what the lady wrote down. You don't have to agree with what she wrote down and your position is that you don't agree. We've already heard evidence about that what she wrote in this paragraph. So I don't think we need to go through it line by line to ask whether you agree or disagree.

MR. MAE: Absolutely, Your Honour. I would anticipate that the witness would disagree with the contents are true but she has no evidence to establish that.

A. My position here would -

THE COURT: I'm just going to ask Ms. Chapman -

A. Yes.

THE COURT: - to weigh in. Does that seem like a reasonable approach?

MS. CHAPMAN: Yes.

THE COURT: Obviously her evidence -

MS. CHAPMAN: As long as Ms. Danilova understands that.

5 A. My position would come from the common sense in this matter. I don't know the position of my lawyer. Here, maybe I will rely on the position of my lawyer here.

10 MS. CHAPMAN: If I may, Your Honour, the court is trying to advise Ms. Danilova is that you don't necessarily accept the truth of the words that are written in this log, but you agree that the log was prepared by Yana Skybin on the date suggested.

15 A. If you can - advise me to -

THE COURT: This is subject to more formal proof eventually when the witness testifies.

20 MR. MAE: Absolutely, Your Honour. And just to assist my learned friend, the evidence of the court will hear is that the first few entries in this log were made after the event, a few weeks later when the whole incident blew up and she was instructed to write down what was

written. Just to be fair to my friend the -

25 THE COURT: In terms of contemporaneous or -

MR. MAE: That's right. Or the first year entries were not exactly contemporaneous. They were shortly thereafter.

30 A. I'm sorry, I need to speak more about my position here. I need to speak more about this specific document because during the oral examination where I was present Yana Skybin

5 told that this is not full log of hers, and her lawyer undertook to provide written notes that Yana Skybin said she had, but those written notes that was supposed to be produced as undertaking number 1 after oral examination was never produced since.

10 THE COURT: Well, we can hear more about that when we hear from that witness, and there's an opportunity to cross-examination or refer to the transcript. So we can deal with that when that witness is here to give her own evidence if she's called by the defence and your lawyer will have a chance to cross-examine her about any such issues.

15 MR. MAE: Thank you, Your Honour.

20 A. But my concern here that those written notes referred exactly to that time when Yana Skybin was provided the services to me as a client of YMCA and those logs, they're not produced.

25 MR. MAE: Q. Let's just move on to September the 30th which is another - it's a record of another meeting between your parents and Yana Skybin. And I'm just going to ask you the same question. I'm going to ask it twice so that we can move forward quickly with this cross-examination. So firstly you have - would you accept that on September the 30th, 2011 your parents met with Yana Skybin?

30 A. I'm not sure about the right word to accept how. I'm not comfortable with this thought.

Q. Okay. I'll change the word.

5 A. You know, I am here under oath and I feel a great responsibility about answering your questions and you're putting me in a position then I can -

THE COURT: Maybe Mr. Mae can simplify the question.

MR. MAE: Q. Would you agree that on September the 30th 2011 your parents met with Yana Skybin.

A. It might be. I would say.

10 Q. Okay. It might be. And then the next question I have and this is a general sweeping question in the hope of making your cross-examination a lot shorter. We see that this log goes all the way to September the 17th, 2012. If you go to almost the end of the log there are three pages which are just screenshots showing the date as to when - in the same tab Mrs. Danilova, the end of Tab 1. So the last three - the last three documents suggest screen captures of metadata for when the log was created and completed. If we go to the last page of the log entry. So you need to go forward. And one more page, and the page after that. So we have the log entry ending on September the 17th - page - last page of the log.

15 A. I'm sorry I wouldn't object of the information in your evidence.

20 Q. Thank you.

A. Absolutely not. What I am saying I'm saying the written notes. I am referring to written notes. Before everything was created -

30 Q. Can we please stay with my question? So if you go to the last log entry page which the page you're probably holding in your hand now. There we go.

A. Yes.

Q. So the last entry is September 17th, 2012.

A. Yes.

Q. And you've read this log, haven't you?

5 You've read it?

A. I was doing my best of doing my best of reading everything extensive production.

Q. And you've read - you've read it this document. Your husband has read, you've read it.

10 A. At some point I believe it would be right thing say I read this document. I don't remember in details if you're asking me.

Q. Well, I'm going to ask you a very global question and the aim of this question is to keep your cross-examination short and I'm not trying to influence your answer in any way. But just like the first questions I asked you about August 23rd and September the 30th, would you accept that the events you recorded in this log took place?

15 A. They might took place.

Q. They might have. So you have no evidence to say they did not take place.

A. It would be right answer.

20 Q. Okay. Thank you.

A. But you know I am afraid, I am afraid that might put me in an uncomfortable position. Yes, I have this feeling that you might put me - I am uncomfortable actually answering this question. Maybe I need the help of my lawyer here.

25 THE COURT: Your lawyer can ask questions in re-examination when he's finished if she feels
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that there's some clarification required coming out of this.

MR. MAE: Thank you, Your Honour.

5 THE COURT: But I think Mr. Mae's point is you don't have any evidence to indicate that these various entry dates or meetings didn't take place. You have no information.

10 A. I would answer, the first answer would pop up, you know, this answer, but I feel that maybe I need to think through this question before I answer this question.

15 MR. MAE: Q. You'll have a chance over the entire weekend and your lawyer will re-examine you. So you're going to have two days to think about things. I'll explain to you the basis of my question which might assist you with your answer. This log sets out all of the steps that were taken by the YMCA to assist your parents with getting lawyers, going to the bank, dealing with social housing, and various matters. That's what
20 this log relates to. You understand that, don't you?

25 A. I understand. And in relation to that, actually I think this outstanding document, I would just treat this document as outstanding document of YMCA how it was presented to me.

Q. Thank you.

A. And yes, this would be answer.

Q. And that's what -

30 A. Yes, this answer I'll insist deal with document I wouldn't question.

Q. And that's what's I'm trying -

5 A. Yes, this is actual would be my answer I am comfortable, yes.

Q. So there was no trick question. It was - you answered it.

A. One thing that this log I have to purpose of this log because at some point it was changed in between.

Q. Yes.

10 A. It outstanding document but it's in two purpose. In my production it was produced in two purpose and one purpose have a little - I can show you.

Q. Well, I can help you with that now so we can move it on. If you go to Tab 2, if you go to Tab 2 in that document, you have other entries.

15 A. Yes.

Q. And these are the entries you were referring to, and I'm willing to state on the call record when documentary productions were given, these documents were inadvertently referred to, the ones in Tab 2 as being part of Yana's log. For the record, they are actually entries prepared by Ruth Millar who will also be giving evidence in these proceedings and apologies are obviously offered to the court and to the parties for that oversight. But these are the documents you're referring to Mrs. Danilova.

25 A. Not exactly, I need to look into my production. I need to look into our - my production to answer this question. I am referring to absolutely different issue.

30 Q. Deal with -

5 A. Can I deal with my production? Can I point you to my production?

Q. You can deal with it in your re-examination.

A. Okay.

10 Q. If your counsel so chooses. So I asked you yesterday and again this is in the interest of time, you were present in court while your husband gave evidence and I asked you whether your answers, your evidence would be the same consistent with your husband's evidence, correct?

A. Yes.

Q. And that's still the case, yes?

15 A. I - I honestly hopes so because we are doing our best, yes.

20 Q. And the specific reason I ask that, I don't want to take your time or the court's time asking you a whole load of questions that I asked your husband and we have his evidence. So you would adopt your husband's evidence?

A. Fair approach.

25 THE COURT: Obviously there may be some evidence he gave that she wouldn't have personal knowledge about. There might be some slight variations.

MR. MAE: Absolutely Your Honour, and I'm going to focus -

30 THE COURT: But she did hear his evidence and she's not saying that she has any disagreement. In-chief she didn't raise any issues as I understand that varied from what he said.

MR. MAE: Absolutely, Your Honour.

THE COURT: And that's her position.

MR. MAE: And that's my position and understanding.

5 Q. So I'm going to focus on some specific things that I believe your husband said, speak to my wife about.

A. Very fair approach from my point of view.

10 Q. I'd like you firstly - you still have the exhibit in front of you. Can you go to Tab B28?

A. Yes.

Q. Actually I do apologize. Let's look at B25 first.

A. I have 24 and 26 somehow.

15 Q. You have no 25?

A. Sorry, I'm sorry, I apologize. Yes, I have 25.

Q. B25 for the record is an occurrence report from South Simcoe Police Service.

20 A. Yes, it appears so.

Q. And I understand that you're calling the maker of this report Constable Hurtle (ph) as a witness.

A. I believe so.

25 Q. And you've read this occurrence report?

A. I read everything. I did my best, yeah, I believe so.

Q. And this report relates to the day October the 24th when your parents returned to the house to collect their belongings and a police officer was with them, correct?

30 A. Yes, I will, absolutely.

Q. And you've seen the synopsis referring to what happened during the day.

A. Yes.

Q. Yes. And you've have no disagreement with that report?

A. No, I do not.

Q. And you see at the bottom of the first page, reference is person and companies.

A. Yes.

Q. And references are made to Dorothy Archer.

A. Yes, yes.

Q. And she works at the Women's Shelter. You're aware of that. We can see that from this document?

A. Yes.

Q. And she's not an employee of the YMCA.

A. Yes, that was what I can see here.

Q. And the other witness is Nikita Lavica (ph).

A. Yes.

Q. And she's not an employee of the YMCA?

A. No.

Q. And in fact nowhere in this document the official police report is there a reference of the YMCA or Yana Skybin, correct?

A. As it appeared so. It appears so, yes, of course.

Q. And let's go to the next page. On the supplement report section, the report says the family have insisted that this information not be given out in reference to your parents' whereabouts. You see that?

A. What are you implying here? I'm not sure.

Q. I asked you if you saw it. You can see this on the second page of the police report.

A. Yes.

Q. And there's a heading supplementary report.

A. Yes.

Q. And it says the parents have been given emergency housing.

A. Yes.

Q. And the address at 1 Blake Street is provided.

A. Yes.

Q. And then it says, the family have insisted that this information not be given out.

A. Yes.

Q. You understand that the family meaning your mother and stepfather did not want their address given out.

A. Yeah. I agree that's what - it says what it says. I agree with whatever says in the police report. This is my answer. But it says the family have their - the police report says the family have insisted that this information not be given out, but what kind of information. The family -

Q. The address, it refers to the address.

A. Yes.

Q. So let's move onto Tab 28 which is the letter that you wrote to the YMCA.

A. Yes.

Q. And as I understand your evidence you suggest that by this time, by the date of this letter

5 which we have dated as October the 26th 2011 you were already aware according to your evidence that your parents moving out was all part of some grand scheme authored or inspired by Yana Skybin. Do I understand your evidence correctly so far?

A. It's very blurry. It sounds so blurry what you are saying here, very indirect.

Q. Okay. Let me make as this clear as glass.

10 A. Yes, could you please, just ask me question.

Q. This is the evidence that we've heard from you that at some point in April 2011 your parents started asking about social housing, correct?

15 A. Correct.

Q. That's your evidence.

A. Correct.

20 Q. And then your evidence is at some stage they started saying to you, you've got to speak to Yana, she's a specialist, she knows what she's doing, you're making mistakes, correct?

A. You got it so right.

25 Q. Okay, good, thank you. And then according to your evidence that in the summer of 2011, your mother or somebody is saying to you, you need to meet with Yana, she will explain everything -

A. Exactly.

30 Q. - correct? And then you say that you refused to meet with Yana to discuss these things, correct?

A. Correct.

5 Q. That's what you say, okay. And then you say and on August the 19th, 2011 the telephone call that you place to Yana your evidence is essentially that you spoke to her about those issues, correct?

A. As I said I'm not sure about the date, but about that time.

10 Q. So we've got all of that. So by that time according to your evidence, you knew that Yana Skybin was behind all of this.

A. Yes.

Q. Okay. Let's look at this letter that you wrote on October the 26th.

A. Yes.

15 Q. And let me say to you, I'll put this to you as a proposition. You're not shy about expressing your feelings are you?

A. After five, almost five years, I am not shy.

20 Q. Yes.

A. After five years, putting my life on hold, now I am not shy.

Q. Yes. But you weren't shy back in 2011 because -

25 A. I was.

Q. But -

A. It was - I was very shy about writing this letter.

30 Q. But we've seen the letters that you've written to the Ministry to the fraud hotline. And we've seen them and you're saying in those letters exactly what

you're saying in these proceedings. Yana Skybin put them up to it. Your parents are committing fraud.

A. Can I answer?

Q. Please, please.

A. Can I answer?

Q. The answer is yes or no, you wrote those letters.

A. Not yes or no. I wrote the tax evasion report on spring 2013 I believe '14. I wrote this tax evasion report after oral examination. It was - I was quite some time in this litigation and I discovered documents during this oral examination and -

THE COURT: Let me just interrupt because I think Mr. Mae's question was very broad based and perhaps opened up an opportunity for the witness.

MR. MAE: I appreciate Your Honour.

THE COURT: If you just want to focus back on -

MR. MAE: I'm going to get us back there.

THE COURT: You gave her a question that -

MR. MAE: I appreciate that.

A. I was trying to answer that I was not shy when I was writing. It's not shy or not - I wrote that tax evasion report based on documents I have in my possession. But here I didn't have any proof or documents in my possession, yes.

MR. MAE: Q. Let's go back to this letter -

A. Exactly.

5 Q. Let's get back to this letter. So by the time you write this letter, according to you, Yana Skybin you knew that Yana Skybin was behind all of this.

A. Yes. I was - I suspect - I have my suspicion. I didn't have proof.

Q. Oh, so you only had suspicions.

A. Yes, all those - as I said -

Q. Oh thank you.

10 A. - I hadn't - I didn't have any proof of that, no, not at all, absolutely not. As I said here -

Q. With respect - with respect Mrs. Danilova, your evidence is that on or about August the 19th you spoke to Yana Skybin and that she wanted to meet with you to discuss this and your parents and now you're saying you have a suspicion.

15 A. Now, I am saying this is my evidence, but at the time I was writing this email. I couldn't consider those suspicious as evidence. So I can go to the YMCA and you know ruining the career of Yana Skybin waste - at that time, it was not responsible from my point of view, yes.

20 Q. With all due respect, that is completely incredible. That is unbelievable, when you're saying in one breath that you knew all of this stuff -

A. I have suspicion.

25 Q. - and now you're saying it's a suspicion. I'm sorry, the two do not add up.

A. At this time, I had a suspicion.

30 Q. Let's get to the letter. Show me where in that letter you have mentioned Yana Skybin by name.

A. I'll tell you.

Q. Take your time.

A. This thing has been constantly changing since they started to go to YMCA. They have been participating in a YMCA program.

Q. Please, let's -

A. It's the letter to YMCA.

THE COURT: I think the question is a simple one, is Yana Skybin's name mentioned in this letter. Take a few minutes to read it to yourself.

A. I don't need - even the time I believe there is no Yana Skybin's name mentioned in this letter.

MR. MAE: Q. Thank you.

A. My belief is. Correct me if I am wrong, it was not my intention at this point to ruin the career of Yana Skybin or to put her in any trouble. This is why I wrote this letter to YMCA so they will use their procedures to investigate themselves. I didn't want to point, you know, fingers to her.

Q. Let me stop you there. You said you had suspicions.

A. Yes.

Q. Yesterday in your evidence, it was either in your evidence in-chief or under cross-examination you said and I quote, it was absolutely obvious in relation to Yana's involvement.

A. Yeah. For me it was obvious but not obvious enough not supported by any evidences to make harm to Yana Skybin's career. I wanted YMCA to take care of that - themselves because I believe - my belief was

5 that YMCA is an organization with HR, with whatever I don't even go to the details for me. It was obvious that it should be some procedure to investigate the matters I raised at that point. And Yana Skybin is employee of YMCA and so I just wanted initiate an investigation in the matter.

Q. Mrs. Danilova -

A. And I was explaining the answer.

10 Q. Mrs. Danilova, the court has heard your inconsistent evidence and this letter is completely inconsistent with what you say in another breath that you knew that was absolutely obvious. The court has heard that evidence, let's move on to another topic.

A. I answered, I answered this question.

15 Q. After your parents leave on October the 17th, 2011, as I understand your evidence you become frantic. You start calling lots of people on a call list, correct? You've gone to the Rogers phone and you start phoning around, correct?

20 A. You can say in this - I called everyone I could.

Q. Yes.

A. I was looking for parents.

25 Q. And one of the people you called was a lady by the name of Yulia Malysheva, and I'll spell that for the record, Y-U-L-I-A M-A-L-Y-S-H-E-V-A. So do you recall telephoning Yulia Malysheva?

30 A. I don't believe it was exact name because I knew this person. I didn't - I didn't know her personally. My mom was in communicating with Yulia this is why the number was - other numbers in the list and I

knew her as family of Sothichuk (ph) actually her husband's name is Sothichuk and I didn't know the name of Malysheva.

5 Q. Okay. Let's just focus. Did you phone someone called Yulia, yes?

A. Alex more -

Q. Alex -

A. Alex is her husband and Alex Sothichuk.

10 Q. Yes, or no you spoke to Yulia?

A. At some point I spoke to Yulia.

Q. Let's focus on that. So you didn't know her before so you got her name from some source with Rogers, yes or no?

15 A. Yes. Not actually exact because I knew her number from her husband's number, Alex Sothichuk. The name of Alex Sothichuk was among the numbers my mom called in Rogers.

Q. How many times did you phone her?

20 A. I called Alex Sothichuk first and her husband picked up the phone in the morning and with Alex Sothichuk I had previous communications myself prior to this date.

25 Q. So answer my question. How many times did you call her?

A. I started - I started - I called Alex Sothichuk first in the morning who is the husband of Yulia Malysheva. I knew Alex Sothichuk personally because at some point my mom -

30 Q. I'm sorry, Mrs. Danilova -

A. - I need - I need to speak here -

Q. - no, no.

my -
A. I need to speak here. Let me speak this is

Q. No, you need to -

A. - testimony.

5
Q. - answer the question. How many times did
you call her; simply, it's a number.

A. No.

Q. Give me a number.

10
A. No, there's a story behind that and I - I
am - I insist I need to tell the whole story.

THE COURT: I think you should answer the
question. If it has to be elaborated, that's
fine, but answer the question.

A. I cannot answer the question -

15
THE COURT: If you know.

A. I cannot answer the question how many times
I called Yulia Malysheva. Because I called
their telephone number and telephone number
20
belongs to Alex Sothichuk and Yulia Malysheva.
This Yulia Malysheva, I talked one time but
during the day, I called that number like four
times during the day, but I can explain why.
Because in the morning I called Alex Sothichuk
25
told me that he's the only family member in the
house and he said that I need to call later.
Then I called later. He said the wife is not
there yet and - but he kept saying but of
course, call she should be home at some point.
30
So I called maybe three times and the moment I
spoke with Yulia Malysheva who was around 4:00
pm that date and I spoke with her once, yes.

MR. MAE: Q. So you did try to telephone her numerous times.

A. Through - I talked to her husband.

Q. Perfect. And you were aware that Yulia is a friend of your mother, correct?

A. There are pictures.

Q. You're aware she's a friend, yes or no?

A. Yes.

Q. Okay. Let's move on. And tell me what you spoke about with her.

A. This was the same her husband already knew why I was calling -

Q. I would like to know -

A. - and then she picked up the phone and I told her, of course, I am still searching for my parents the whole day and asked her - because her husband Alex Sothichuk said me that she might know something where they are. I asked her personally if she might know where they are.

Q. So that's your version of the telephone call.

A. No, it was a little bit more.

Q. Okay. Tell me the little bit more than.

A. I told her that you might know more that my mom said that you had trip with them on October 7th so I asked her that you went for a trip with my parents to Killbear Park and it was extensive period of time you spent with my parents during that weekend. The Killbear Park is so far away and they were staying with parents either asking him maybe she might know something where I can look for them further. I asked her then I asked her

5 I know that my mom was babysitting your little daughter.
I was just asking maybe she was might be any arrangements
that she might be babysitting with your daughter. I
mean, you have this arrangement with - you have this kind
of arrangements like tomorrow she can come to babysit
your daughter. And another thing what I asked her, so I
was getting the feeling through the conversation with
Yulia that she's not going to be any help to me so she
knows nothing about -

10 Q. And that's where you threatened her.

A. And that what she calls threat -

Q. That's where you threatened her.

15 A. - threat I will tell her. I asked her if
she's comfortable to talk the police. I told her that I
am about to file missing person report with the police.
And I asked her if she would be comfortable talking to
the police in English. I knew that she was a YMCA
student. I asked her can you talk in English to the
20 police because if you can talk in English I will provide
your number to the police. I was looking for someone.
You know, I was looking for some Russian speaking who
might know something about my mom. My mom can call them
to provide the number to the police so the police can
25 call and talk and have more information about my parents.
That's what - and that what I asked her. And you know, I
can even explain why she considered this as a threat.

30 Q. No, you cannot -

A. Threat, I can explain.

Q. You cannot explain.

A. Because police in Russia is a threat -

5 THE COURT: Sorry, just wait for Mr. Mae's question and I don't think it's the proper time to explain what was in somebody else's mind.

MR. MAE: Thank you, Your Honour. That's the point I was going to make.

10 Q. So let me ask you another question and it's a yes or no question. Do you agree that Yulia Malysheva contacted the YMCA and made a complaint to them about the call she received from you? Do you agree that that's -

A. I don't have personal knowledge of that.

15 Q. Okay, right. Can we show the witness - actually, yes, Exhibit 3B Tab 17. Sorry, it's Tab 17 it's the very last document in the bundle.

A. Which one?

THE COURT: Sorry, in book two or book one?

MR. MAE: Book two, Your Honour.

THE COURT: All right. So the E section.

20 MR. MAE: And it's E17, sorry F17. Q. It's the very last document in the binder.

A. Yes.

25 Q. And what we have here is a certified translation with an affidavit of a note prepared by Yulia Malysheva. So you have the Russian one there. The English copy is at the beginning of the tab. So if you go to the English version or the Russian version whatever you're more comfortable with. This is a note from Yulia Malysheva who will be giving evidence in these
30 proceedings and correct me if I'm wrong, initially I wasn't going to - Yulia Malysheva wasn't on any witness list and your counsel insisted that she be called as a witness.

A. Of course I insisted.

Q. Perfect, thank you. This is Yulia Malysheva's version of the telephone call and this was provided to the YMCA along with a verbal complaint. Last year in the fall -

A. I'm sorry, before you begin, first of all, let's look at this note. It's just notes, it doesn't say her name or anything else and why I insisted -

Q. Mrs. Danilova -

A. - there was another, actually there was another evidence, it was a support letter written of Yulia Malysheva -

Q. Mrs. Danilova -

A. - this is another translated by Yana.

THE COURT: Just wait for the question.

MR. MAE: Q. Please, let me get through this. Let me ask the questions. We're not going to get anywhere with you interrupting. 'A lady called -

A. I'm sorry. I cannot proceed because you need to show the court that initial documents, this initial documents there is no -

Q. Mrs. Danilova -

A. - any indication -

THE COURT: Just hang on a minute. Mr. Mae, this is a document that you're proposing to read out. It's a translation attached to that and there's handwritten notes.

MR. MAE: That's correct, Your Honour.

THE COURT: And you're indicating it was from this -

MR. MAE: And the witness is going to be giving evidence so I have to put this to Mrs. Danilova.

5 THE COURT: Just listen to what he reads to you then you'll have a chance to respond. If there's some other evidence or other documents, we can turn to them eventually, but let's just listen to what he wants to tell us, this English translation.

10 MR. MAE: Q. 'A lady called numerous times presenting herself as Svetlana, a daughter of our friends Alla and Valentin.' So far so good, we agree that happened, correct?

15 A. Yes.

Q. 'Svetlana wanted to learn from us where her parents Alla and Valentin were.' Correct -

A. Yes.

Q. - so far?

20 A. Yes.

Q. Good. We're on the same page. "Moreover Svetlana for some reason was sure that they stayed at our house for some time and we supposedly were hiding this fact from her." Question, did you believe that?

25 A. Clearly twisted, mistaken and first of all I disagree with the documents and usual document that what said. I cannot see those notes. I think this document is nonsensical. I cannot accept that authenticity of this document.

30 Q. Okay. And let's assume -

A. And why I cannot answer that question about the documents. I cannot accept as being -

Q. Okay. Let's ignore the document, pretend I'm not reading from the document.

A. I cannot pretend anything after five years of litigation.

Q. No, please, please. Listen to me.

A. This is my answer. I am not going through this, no.

THE COURT: Don't answer until you've heard the question.

MR. MAE: Q. I'm going to put some propositions to you. I'm going to get the propositions from this bit of paper. I don't care whether you think it's authentic or not. I'm asking you about the events referred to okay.

A. Yes.

Q. So ignore -

A. Okay, yes, we can go with that.

Q. - for one second this is a document.

A. Yes, we can go with that.

Q. Did you say to Yulia Malysheva that you thought your parents had stayed at her house; yes or no? Simple, yes or no?

A. I - I asked if they might babysit with their daughter, yes. Yes, I asked her this question. Yes, I asked.

Q. And when she answered, you suggested that they were hiding that fact from her, from you?

A. Yes. I said that if you do not want to tell me, you can tell this to the police, but give me your number and tell if you are comfortable saying to this things to the police.

Q. Okay, right.

A. And yes I did, that's right.

Q. And Yulia is going to say every time you called her husband or she answered and told you that she didn't know where your parents were. So there was more than one call, correct?

A. Correct, and correct that her husband said that she didn't know - he didn't know where my parents was and he suggested to call again and again because then the wife will come she might know anything, yes. This is correct, this is correct.

Q. Yeah, okay.

A. But twisted. Her husband twisted.

Q. And you thought they were lying to you?

A. I didn't have this kind of opinion, you know.

Q. So you didn't express that?

A. No.

Q. Okay. Well she's going to say that's what this note says. And then you try to intimidate her by referring to security agencies namely the Barrie Police and if they hide your parents they'll have to deal with the police. Did you say that to her, yes or no?

A. No. Not in this word.

Q. She's going to say you did. So let's move forward. 'Svetlana tried to explain to me that her parents are mentally challenged and insane.' Did you say that to her, yes or no?

A. I said that it came to my surprise to say the least they left - I explained as they left at 9:00 pm I was distressed absolutely. I was saying I don't know

5 what to think someone can change advantage of them.
Someone might hurt them. I said here all the things that
I was absolutely distressed and didn't know what to do.
I was super distressed.

Q. Okay. And did you accuse them of allegedly
wanting money belonging to your parents?

A. Absolutely not.

10 Q. Well, she's going to say that's what you
did and she's also going to say that you threatened or
said to her it's better for her not to do that and that
she shouldn't help your parents. Did you say that to
her?

A. I said what I said. And that I was very
15 distressed.

Q. Did you say that to her?

A. No.

20 Q. Okay. She also says that you asked her
various questions if I know how much her parents sold
their apartment belonging to Alla and Valentin in Russia.
Did you have that discussion with her?

A. No.

Q. It's a strange thing for her to write.

25 A. You know, I really didn't have time for
this kind of discussion then. She was first - she was
last person I called and after I hang up I went to the
police. I just figured out that she was not of any help
to me she doesn't speak English. There was no need to -
for me to talk to her further and she indicated that she
30 didn't know anything. She was not - she was of no help
to me. And I hung up and we went to go to the police and
we filed a missing person report.

5 Q. Okay. She also says that the conversation was unpleasant for her and she asked you not to call her again. That's correct, isn't it? She asked you not to call her again. Yes or no?

A. What she said.

Q. Yes or no.

A. I don't remember.

10 Q. Okay. And she said to you that if she learns where your parents were, she would tell you about it and she also told you to go to the police to find the parents or at least to find out if they were fine. That's how she ended the discussion with you.

15 A. I honestly don't remember. As I said I was so distressed but I cared is the information if the person can give me any information or I can rely on that person as a contact to the police. That's two things I cared at that point.

20 Q. But you accept that she reported that discussion to the YMCA.

A. Yes, there is not those notes, but there is a letter in the production that was produced as a support for the application of parents to social assistance again.

25 Q. So my last question to you, would it be a surprise to you that when Ms. Malysheva comes to this court to give evidence, she's going to say that she went out with your mother in August 2011 and she saw the bruises on your mother's shoulders. Would that be a
30 surprise to you?

5 A. I don't know what - how to answer the question because I don't know. You do whatever you want to do.

10 Q. Well, I'm telling you that is the evidence we're going to hear. She saw the bruises on your mother and your mother told her exactly how the bruises happened. They were caused by you and she saw exactly the same things that Yana Skybin saw on August 23rd, 2011 but on a different day.

15 A. Okay. It's your evidence, but I would glad to refer to Yana Skybin's logs. I actually mentioned two versions of Yana Skybin's log in my production. I need to answer your question. What kind of witness is this. I want to answer this question.

20 Q. Well -

A. Can I receive my production?

MR. MAE: Your Honour, we've addressed this issue if it's a re-examination -

25 A. Because what I -

THE COURT: I think it's a good time for the morning break.

MR. MAE: That's what I was going to suggest Your Honour.

30 THE COURT: Would this be a useful opportunity for her to talk to her lawyer about these production issues?

MR. MAE: Even though she's under cross-examination, Your Honour, I would be happy for her to - if counsel wants to find something now I can make time and I will deal with it this morning.

5 THE COURT: I'll leave it that way, otherwise we can deal with it in re-examination if it's more appropriate then, but I'll certainly -

MR. MAE: I would be happy for it to be addressed because I am on track to finishing this morning and I'd like to deal with that rather than -

10 THE COURT: Well, we do want to keep you on that track if possible.

MR. MAE: Absolutely, Your Honour. That's the intention.

THE COURT: Thank you.

RECESS TAKEN

UPON RESUMING

15 THE COURT: Ms. Danilova if you'd return to the witness box. Mr. Mae.

MR. MAE: Q. Just before the break, you indicated that Yulia husband's was Alex.

20 A. Alex Sothichuk.

Q. I'm going to put it to you that's not correct. Alex's wife is a lady by the name of Lika or Lillia Fatykhova.

25 A. I need to correct you. They're both are Alex's.

Q. There are two Alexes.

A. Yes.

30 Q. Okay. Make the Alex that we were referring to is the Alex the recruiter.

A. It's different Alex.

Q. Alex the recruiter is Lika's husband, correct?

A. Yes.

Q. And Lika for the record is L-I-K-A her real name is Lillia L-I-L-L-I-A last name Fatykhova, F-A-T-Y-K-H-O-V-A. You know this lady?

A. Personally no, never met.

Q. But you telephoned her, didn't you?

A. Never.

Q. You never telephoned Lika Fatykhova looking for your mother?

A. No, never spoke with her.

Q. So I'm going to put to you that she also complained to the YMCA at exactly the same time as Yulia Malysheva about being contacted by you looking for your parents and she's going to be giving evidence in these proceedings to that effect. So cast your memory back, do you recall phoning this lady? Is it possible you phoned her and you don't recall phoning her?

A. I phoned the number and I spoke with her husband Alex Levine (ph). I have never spoke with Lika ever in my life.

Q. Well, she's going to give evidence that you did speak with her. She's going to give evidence that you were looking for your parents, but she's going to say that you were probing her but not threatening her. So I'm just giving you that fair warning. I'll just ask you again, do you recall speaking with her?

A. I called their number, and home number. I know - I have previous connections with Alex Levine. I personally knew Alex Levine not exactly personal. I have previous history communicating with Alex Levine and I

could only - so I called their number. I called only Alex Levine. I have never spoke with Lika in my life.

5 Q. Okay. She's going to say otherwise and she's going to say that you weren't completely threatening, you were probing and I'm putting it to you that firstly that telephone discussion happened, and we have your evidence you say it did not. And I'm going to put it to you the reason why you were less threatening with her was because Alex is the recruiter, her husband and Alex is the man that got your husband a job at Rogers and so there was no mileage in it for you to go along with threats. That's what I'm putting to you. Isn't that the reason?

10 A. This is everything is absolutely, I disagree with everything you are saying.

15 Q. We heard that you telephoned the YMCA receptionist.

A. Yes, that's right.

20 Q. More than one occasion.

A. That's right.

25 Q. And you described yourself as being distressed at that time when you were making those calls.

A. I do not remember.

30 Q. That was your evidence madam. That was your evidence.

A. I was very distressed during that time.

Q. And how many calls did you make to the YMCA, do you recall?

A. Many.

Q. Many, okay. Many is fine. And you also called other people who haven't even been named in these

proceedings. You phoned a whole load of people on the list from Rogers, correct?

5 A. I phoned everyone I can find any number, any number someone can give me in reference to parents yeah, I called many numbers. I also positioned myself, I was in search for parents.

Q. And amongst those people you tried to phone you phoned Yana Skybin on multiple occasions, didn't you?

10 A. I phoned her, yes.

Q. And in fact, you phoned her many times during the same day.

A. Yes.

15 Q. And on one occasion you even tried to telephone her using Valentin's old cell phone.

A. Yes.

Q. And you left voice mails for her when she didn't pick up the phone.

A. Yes.

20 Q. Now, we spoke earlier on about the social housing discussions with your parents and at some point in the proceedings, a reference was made to your parents meeting a Russian couple in Toronto living in social housing, correct?

25 A. Correct.

Q. And that's where they got the idea from. That's what they - that's what you were told.

A. That's what my mother told me.

30 Q. Okay. And you said in your evidence in-chief that the phrase was it's always in the air in the Russian community about social housing.

5
10
15
A. About this illegal way to obtain social housing waiting list, yes. I have even there an article in the Russian newspaper describing this - it's like - yes. My evidence here even might be Russian newspaper with the article about that. All Russian speaking people knows about this illegal way to obtain social housing, and the article from Russian newspaper I have it's referring to this situation in Toronto. It's back several years ago and it's about the thing that government took care of and now to obtain the social housing list you have to live in the shelter for three months or something and it's indicated that some kind of agencies in Russian community who can help and now they experiencing difficulties with that. And it's I have this article. I can present it as evidence if you wish.

Q. I'm happy with that. You're basically saying that out in the air and -

A. I'm sorry, can I -

20
Q. Let me finish. You're saying out in the air, I take that to mean public knowledge.

A. Public knowledge that my mother can also access.

25
Q. Okay.

A. In her own language.

Q. Your parents' version of events of what happened they've maintained that consistently from the time they left up until these proceedings. You would agree with that?

30
A. I'm sorry, was thinking.

Q. Your parents have consistently told agencies what happened in the home. You would agree with

that's what they've been doing, correct, as part of your claim?

A. I cannot speak for my - that yes, my parents telling agencies -

Q. Yes.

A. - what really didn't happen in my home, yes. This is defamation yes.

Q. And they - your case is they're telling other people as well, correct?

A. Yes.

Q. Okay. I'd just like you while you have the - do you still have Exhibit 3A in front of you, or is that 3B? Is that 3B? If we can just go to 3A. You have the exhibit? So I may ask you to turn to Tab C21.

A. Yes.

Q. You have that in front of you, Mrs. Danilova C21?

A. I believe so email.

Q. No, C21 is a letter dated December the 20th, 2011. If you go to the big green Tab C. There's a -

A. C.

Q. So if you go to 21.

A. Yes.

Q. So what we have here is a letter dated December the 20th, 2011.

A. Yes.

Q. From Valentin and Alla Nikityuk and it's addressed to Ontario Works. You have that in front of you?

A. Yes, I believe so.

Q. And can you go to the third page of that letter?

A. Yes.

Q. And we have two signatures on there.

A. Yes.

Q. And those are the signatures of Alla and Valentin.

A. Yes.

Q. Okay. Now, this is a letter that was written in English but was translated for them into Russian. And if we can go to the second page of that letter. I'm just going to quickly read two paragraphs and you can read along with me. I'm going to ask you some questions. It's the paragraph midway through which begins with, we've experienced.

A. Yes.

Q. 'We've experienced both financial abuse and physical threats and assaults. In mid-August 2011 Pavel threw plates at the wall secondly at Valentin's feet and then told him he will throw the next one at his head. The situation was getting bad. We talked with our daughter and she said - sorry, we talked with our daughter and said that we would like to live separately and then Svetlana attacked Alla. She grabbed Alla by the arms and her shoulders and shook her. When Svetlana went for her neck, Valentin stepped in to stop her because he was concerned Svetlana would strangle Alla. Alla was badly bruised. Alla showed these bruises to Yana Skybin YMCA newcomer settlement services counsellor August 23rd, 2011.' You would agree with me that this explanation in this letter signed by your parents is consistent with the

information provided to Yana Skybin and set out in her log for August 23rd, correct?

A. I don't want to -

Q. No, you would agree -

A. - comment on this -

Q. You would agree it's consistent.

A. - in relationship with the consistence of the documentation.

Q. I'm just - you would agree with me that it's a consistent story.

A. I need to share further to make this kind of statement. Can you point me to -

Q. Let me put it to you another way. This is what Alla and Valentin told Yana Skybin, correct?

A. It appears so.

Q. And then the next paragraph, 'We became more and more concerned about our safety. We continue to get support from Newcomer Services about our situation. Yana referred us to Dorothy Archer, transitional housing support worker with the Women's and Children's Shelter. Support services we discussed the safety plan. She put us in contact Kim Clark a support link who gave us the 911 cell phone so that we could call for help if we were in danger.' So the same question, Alla and Valentin's story is consistent and that's what's they told Yana.

A. It's a consistent with the log of Yana, but Yana writing the log knew that it was all lie and it was not true. This is my answer. It is consistent with all this babble you created on the - about the event and things that Yana knew is absolutely not true.

Q. Let's go to the next page. Can we go to the next page in the exhibit, Mrs. Danilova.

A. Yes.

5 Q. And I'd just like to take you to the final paragraph of the letter. 'Because we have limited English, we have had assistance from Yana Skybin and Ruth Millar at Newcomer Services with interpretation in settlement services, from Dorothy Archer shelter support services and from Kim Clark, support link to write this letter and access all of the above services.' So do you accept that this letter - I'll ask a different question first. We agree that your parents have limited English.

A. I agree.

10 Q. And you would agree that they've had assistance from Yana Skybin with interpretation in settlement services, correct?

A. Even if -

15 Q. Correct?

20 A. She only provided interpretation services. She provided that interpretation services so which language is from what from what, tell me please. What kind of interpretation services Yana provided; English to Russian, Russian to English. Right, we are talking about even here interpretation they're not be valid because she does not have any experience in Russian at all based on her production you provided. She's from Ukraine. She has all her diplomas from Ukraine universities. What is her relationship to Russian? I don't understand even
25 that, even if she positioned herself a community interpreter she doesn't have any expertise in Russian at
30 all.

Q. Your Honour -

A. She's from Ukraine and speak - have education from Ukraine.

5 Q. Ma'am, I've let you speak but you may wish to think about what you're saying. Let me ask you some questions; yes or no. When you spoke with Yana, did you see with her in Russian; yes or not?

A. Yes.

10 Q. Okay. So she speaks Russian.

A. She speaks Russian, but -

THE COURT: You've answered the question.

MR. MAE: Q. And she speaks English, yes?

A. Yes.

15 Q. Thank you. And she's fluent in Russian; Russian is her first language, correct?

A. Spoken yes.

Q. Yes. And you're aware, are you not that Yana is a qualified translator.

20 A. I understand she positioned herself as a community interpreter. This is such think is community interpreter. She might even meet any credentials but even as a community interpreter she's in - but it's maybe an issue to raise with -

25 Q. Yana Skybin's evidence is going to be that she is a qualified interpreter.

30 A. From 2014, yes from 2014 she obtained her credentials. It's in the production that I reviewed only in 2014. She obtained the certificate for inter - as an interpreter, but the issue was not certified in any.

Q. Does anything matter - does -

A. Of course it matters.

5 Q. Well, when Yana gives evidence she will talk about her qualifications. So let's move on. This morning we were - you recall I put to you that you're not shy about expressing your views, correct?

A. Actually I'm a very shy person in public speaking. For me, it's - I'm over trying myself here, yes, it's fair to say. I - I had previous teaching experience by it's not my actual thing public speaking. I'm extremely shy about that.

10 Q. Well, I'm not referring to public speaking. I'm talking about making your feelings known and I referred you to the letter you wrote on October the 26th where you did not mention Yana and I also referenced the letters that you sent to the other Ministries and you correctly pointed out that the letter to the fraud hotline was in April 2013. So let's look at Exhibit 1, and I'm going to suspect that it's in Exhibit 1A because we had multiple volumes provided to us. If you could show the Exhibit 1A Tab 66.

15 A. Yes.

20 Q. And this is a letter you wrote to the Ministry -

A. I'm sorry, which exhibit?

25 Q. Exhibit 1A, did I say 76, I apologize, 74. Sorry.

A. Yes.

30 Q. Just bear with me one second, I've lost my page.

A. This is welfare -

Q. This was the letter that you wrote to the Ministry.

A. Yes.

Q. On November the 10th, 2011.

A. Yes, that's right.

5 Q. And this is approximately two weeks after
the letter that you wrote to the YMCA.

A. Yes.

Q. And you gave your explanation as to why
Yana's name is not mentioned in the letter.

A. Yes.

10 Q. That's what you said. Well, so two weeks
later you're writing to the Ministry.

A. Yes.

Q. A completely different organization.

A. Yes.

15 Q. You're not writing to the YMCA.

A. Yes.

Q. You're writing the Ministry.

A. Yes.

20 Q. Let's look at paragraph seven and eight of
this letter.

A. Yes.

25 Q. You wrote 'they've both been very excited
having Russian speaking counsellor at YMCA Simcoe/Muskoka
Newcomer Services in Barrie whom they have been dealing
with.'

A. Yes.

30 Q. 'The name of the counsellor is Yana Skybin
and she also became a personal friend for my parents. My
mom referred to Yana as a person who helped her a lot in
Russian community to receive all kinds of social
assistance.'

A. Yes.

Q. So you've named Yana.

A. Yes.

5 Q. Then the next paragraph eight, 'This was about last July when my mom approached me with an idea of social assistance and social housing for the first time. I said that it is not the case in our situation when we have decent annual income. She was not satisfied how I responded and so she stated to talk about it almost every day. My husband was trying to explain that there is no legal way for them to get social assistance by being misled by YMCA and some friends. She did not want to listen at all, always referring to some success stories how elderly parents being in the same situation in collaboration with their children acting in a goodwill with their parents arrange social assistance through sponsorship breakdown and now happy living separately.' So those two paragraphs together, you've named Yana Skybin. You're now saying that as the point of contact with your parents at the YMCA.

A. First of all -

25 Q. And then in the second you're saying being misled by the YMCA. So you're saying to other people two weeks later, this is the YMCA's fault, this is Yana Skybin's fault, but you didn't put it in the letter to the YMCA on October the 26th, you didn't name Yana.

30 A. After I wrote this letter October 26th, there are so many events then I was spoke with social services and at this - I wrote this letter on November 10th because it came to knowledge, it came to my personal knowledge that YMCA and Yana Skybin involved in this

5 situation with my parents. I was told by social - by the workers in Ontario Works it was communication, previous communication that from which I developed the knowledge about the involvement of YMCA and Yana Skybin with my parents. This is why I was certain at this point and put it as my knowledge.

10 Q. But you said earlier on you were all - actually you said you were suspicious, you said you were certain. You said it was absolutely obvious because you're saying that you knew all of this was going on from April and now you're saying sometime between October the 26th, 2011 and November the 10th, you suddenly become certain of something that you previously said was actually obvious and you were certain. I'm just not following it.

15 A. As I told you it came to my personal knowledge since I wrote the letter to YMCA on October 26th it came to my personal knowledge from their communications with their Ontario Works and social housing that the YMCA and Yana Skybin personally involved in situation. The only thing that I would like to correct here is that July it's actually I put July I would have put June at this point. Everything I would swear.

20 Q. I'm going to suggest -

A. All other things.

25 Q. I'm suggesting to you that you've created a back story and everything you're saying about Yana Skybin is simply not true. Do you agree or disagree?

30 A. Disagree.

Q. That's Exhibit 1A. What is the last numbered exhibit in that if you don't mind me asking.

A. 97.

Q. 97, okay. Can the witness be given Exhibit 1B. Thank you. And I'm going to ask you to turn to Tab 183.

A. Yes.

Q. I'm showing you a printout from the CRA website.

A. Yes.

Q. You have that in front of you?

A. I have it.

Q. And this document is the - it was an attachment to the letter that we saw previously to Susan Green. It was the one that you - where you say you pieced together that Yana was involved - or the YMCA was involved and that's when you went the cheque, you recall that?

A. Yes sir, I recall and yes, I agree.

Q. This website, this screen shot or printout, did you get that off the internet or did you your husband?

A. It was me, yes.

Q. So now we see on this document that Yana Skybin is appointed as a representative of CRA for the Nikityuks.

A. Yes.

Q. With the authorization expiring on December the 31st 2011, correct?

A. Yes.

5
Q. And we see that she has no online access, correct?

A. Yes.

Q. Yes?

A. Yes.

Q. And then underneath that we see the words, 'view or delete' which are underlined. In the box where it says Yana Skybin.

10
A. Yes.

Q. And would you agree with me that that underlining on the website that's a hyperlink, isn't it? That's an -

A. Yes.

15
Q. So you can click on it to get more information.

A. I suppose so.

Q. You suppose so, okay. And underneath that, we have Svetlana Danilova authorization does not expire.

20
A. Uh huh.

Q. With online access.

A. That's right.

Q. So you went onto the CRA website.

A. Yes.

25
Q. And you used this - you used your access -

A. Yes. As a legal representative with online access, yes.

30
Q. Yes, is fine. And when you look at the online taxes, would you agree with me that when you click on these hyperlinks you can the information for the previous 365 days. You can get past information.

A. I suppose so if you say so.

5 Q. Okay. And as I understand - well, did you - when you saw Yana Skybin's name on there, did you click view or delete? Did you click on the hyperlink to look for any information?

A. I don't recall such.

10 Q. Okay. And as I understand your evidence, the date at the bottom of this page which says date modified, 28th of April 2011 you're using that as the date that you suggested Yana Skybin was appointed as representative, am I right?

A. Yes, this is my position.

15 Q. Okay. And you're aware that during these proceedings, we've asked for an order to get that information direct from the CRA as to when she was appointed as a representative.

A. Yana Skybin was appointed as a repress -

20 Q. Listen. During these proceedings last week we asked His Honour for an order for the production of the CRA records direct from the CRA to find out the date Yana Skybin was appointed.

A. Are you referring to the period of April 2011; you're referring to which period?

25 Q. Any period.

A. Any, yes.

30 Q. And you can't say absolutely, can you, the date modified on this document does not relate to the date Yana Skybin was appointed; date modified could mean an updated just to the website site itself. Would you agree with me?

A. Absolutely not.

5 Q. You don't agree with me, okay. So when we get the documents from the CRA and they show that Yana Skybin wasn't appointed until October 2011, how are you going to react them?

A. I am telling you what my position is here.

Q. You're telling me what your position is.

10 A. Out of my experience dealing with online, online access with CRA and based on my experience and how actually I have expertise, professional expertise how to operate the website, and it's coming from my professional experience. It's coming from my experience dealing with CRA.

15 Q. Madam, let me ask the question again because obviously we're going to get these records from the CRA by the time we next get back to court hopefully. When these documents reveal that Yana Skybin was not appointed as a representative in April 2011, you'd agree with me that your back story that you've created disappears. You'll agree with me, won't you?

20 A. If it happened, I agree with your statement, of course.

Q. Okay.

25 A. It's just logical statement then I agree with the statement.

30 Q. I'm suggesting to you that you've looked at this date and you've just misunderstood it, and you fitted it in with your back story to putting this on Yana Skybin going back to April of 2011. That's where this comes from madam, that's what I'm putting to you. Would you agree with that position?

A. That I've created back story?

Q. Yes.

A. No, disagree.

Q. And just while we're dealing with the date of the appointment of Yana Skybin, if we can go to Exhibit 1A please.

THE COURT: And Mr. Mae, just to be fair, you're giving the hypothetical because we don't actually have the evidence yet from CRA.

MR. MAE: No. Your Honour, but I'm going to take you to a document which is what we -

THE COURT: On the face of this document.

MR. MAE: Well, on the face of this document we have a date and I'm going to take you to another document now Your Honour which I suggest will address the issue anyway.

Q. So if we go to Tab 1A, please. And if we can go to Exhibit B10. Oh, I'm sorry, did I say 1A.

THE COURT: You mean the green book.

MR. MAE: I do Your Honour, sorry.

A. Yes.

Q. 3A and it's Tab B10.

A. Yes.

Q. So what you should have there at Tab B10 is an authorized - authorizing representative for Canada Revenue Agency for Valentin Nikityuk.

A. Yes.

Q. And this authorizes Yana Skybin we see on the front page, section 3.

A. Yes.

5 Q. And let's go to page 2. First of all, the first box we see partly for the level of authorization it's for the tax years, 2008, 2009, 2010.

A. Yes.

Q. Yes. And then next part 4 consent expiry date.

A. Yes.

Q. 31st of December 2012.

A. Yes.

10 Q. So 31st of December 2012 is the same that we saw on the webpage, correct for the expiry date? Yes or no?

A. Yes.

15 Q. Okay. And then let's look at the bottom of this.

A. Yes.

Q. We have Valentin Nikityuk's signature.

A. Yes.

20 Q. And we have a date 11th of October 2011.

A. But I -

Q. Yes, you agree that's the date?

A. I agree with everything in this form.

Q. And let's go over the page to number 11.

25 A. I agree with - I agree with this form was filled out correctly. I agree with everything, but I need to answer.

Q. Let me finish - let's go to the next tab. And we have an identical document for Alla Nikityuk.

A. Yes.

30 Q. And on the second page it's also dated 11th of October 2011.

A. So there was -

Q. Yeah -

A. So dated October 11th 2011, right.

Q. Yes.

5 A. And it was application, it's application forms, right.

Q. Yes, yes.

10 A. You understand you're a lawyer. You're trying to mislead court here. You're trying to mislead court there.

Q. Madam, madam. Please answer questions.

A. This is an application I agreed with every word in this application. Don't waste your time.

15 Q. Madam.

A. Yes, I agreed, I answered that.

20 Q. Let's look at the third page of that exhibit. Have you got the third page which is a faxed transmission slip. Do you have it?

A. Yes.

THE COURT: It's not in mine in Tab 10.

A. Yes, I have.

25 MR. MAE: It's in Tab number 11, Your Honour the fax slip.

A. Yes.

30 MR. MAE: Q. And we see this is a fax slip dated also the 10th of November.

A. Ten of November.

Q. No, the 11th of October.

A. October 12th.

Q. October 11th.

A. Yes, 12 o'clock.

THE COURT: I'm sorry, counsel, I don't have the fax.

MR. MAE: At the end of Tab 11, Your Honour, you don't have it.

THE COURT: There's just two pages there the authorization.

MR. MAE: I can give you my copy.

THE COURT: Maybe I do have it. Yes. It's page 3 of Tab 11, thank you.

MR. MAE: Q. So we have a faxed transmission slip.

A. Yes, dated October 11th, right?

Q. Same day as the two applications.

A. Yes, but this is an application.

Q. Please.

A. Yes.

Q. Please listen. And we see from the fax slip that there are four pages.

A. Yes.

Q. And we've just seen both of those exhibits are two pages each.

A. Yes.

Q. So two plus two makes four.

A. Very good.

Q. Thank you. I failed math but thank you. So we've got four pages being sent through to the Canada Revenue Agency.

A. Exactly.

Q. And those authorizations are to expire on the year end, December the 31st.

A. That's right.

Q. Which is the same information as on the web page, correct?

A. Correct.

Q. So the entry on the web page relates to these appointments, correct?

A. Not at all. I'm sorry, but you need to use your head. This is just an application. Those are two applications sent to the Canada Revenue Agency on October 11th, 2011. They are CRA procedure and it takes, I believe, 14 days to proceed this application. I'm sorry, no, no, now you need to listen to me. It takes 40 days at least for the CRA to proceed this application so this person Yana Skybin will be appointed as legal representative, as representative at CRA. Now, you refer to this page my printouts from the CRA and this printout dated October 26th, right. My printout for CRA dated October 26th, and it's pointed Yana Skybin as appointed legal represent - as a representative for CRA. So by that date the printout was made from CRA October 26th. This application could not be processed. So it's based on some other application that made -

Q. Madam, madam -

A. - earlier that is -

Q. Madam -

A. - that is April.

THE COURT: Mr. Mae, I think you're trying to prove your point but you indicated to the witness that the point could also be proven through the CRA documents.

MR. MAE: Absolutely, Your Honour.

5 THE COURT: Her point is that this form that you're referring to is an application. The evidence may prove differently. So we're arguing about issues that may be better addressed when we have the evidence that bears on it.

MR. MAE: Absolutely, Your Honour. And I just wanted to end just with the chronological sequence.

10 Q. This is not - the document is an authorization of a representative, not an application.

A. It's an application.

15 Q. The front page, madam, it says authorization for cancelling a representative.

A. Yes, but you are misled here. This is an application. I can prove it through the CRA website. It's just an application and it dates certain period of time for this application to be approved -

20 Q. Madam -

A. - so that the person mentioned in the application is appointed as a legal representative.

Q. Madam -

25 THE COURT: I think you've made your point Mr. Mae.

MR. MAE: Thank you, Your Honour, I'll move on then, Your Honour.

30 Q. I'd like you to turn at - can the witness have a copy of the trial record or the statement of claim particularly? And I can tell Your Honour, I'm in the home stretch and I'm optimistically will be done by 1:00 p.m. So you have the trial record in front of you.

5 A. Yes.

Q. If you could turn to Tab 1, page 23.

A. You're referring to the trial record.

Q. Yes.

A. Yes.

Q. So we've got page 23.

A. Yes.

Q. Paragraph 56 of your statement of claim.

A. Yes.

10

Q. I'm going to deal with paragraph 56A and B.
So you allege that Yana Skybin owed you a duty of care.

A. Yes.

15

Q. Yana Skybin personally owed you a duty of
care.

A. As employee of YMCA, but again, I wouldn't
go too deep, yes.

20

MS. CHAPMAN: Your Honour, I believe we've
already dealt with this in relation to Justice
Corkey's decision.

MR. MAE: Well, I'm still not clear whether 56A
and B are on the table.

25

MS. CHAPMAN: They are in accordance with
Corkey's decision in relation to the - A is in
relation to the defamation claim.

MR. MAE: In that case, I'm going to deal with
them.

30

THE COURT: All right. So they're still live
issues.

MR. MAE: Yes.

MS. CHAPMAN: There's clarification because
Justice Corkey's says that A is not in relation

to Yana breaching her duty. A is in relation to defamation and that B is in relation to inducing the breach of contract.

MR. MAE: I'm still going to deal with them.

THE COURT: I don't have the trial record in front of me because the witness has this. Are we talking about the negligence claim?

MR. MAE: Yes, Your Honour.

THE COURT: I just want to adjourn for two minutes to get my other set of notes. I've reviewed these issues with counsel and I have some notes and we talked about this a few days ago.

MR. MAE: And actually Your Honour, to me it's still not - I'm being told it's still a live issue, but it's not a live issue and all I want to do -

THE COURT: As I recall it, it was a live issue under a different head.

MR. MAE: It's still the same questions, Your Honour.

THE COURT: It was not a live issue with respect to the negligence claim, it's a live issue with respect to defamation, is that how I recall it?

MR. MAE: That's how I understand it to be, Your Honour, it's not a negligence claim itself.

THE COURT: So it doesn't assist - the answers don't assist counsel on that head of damages in submissions.

MR. MAE: Absolutely, Your Honour.

THE COURT: But you still need to delve into the answers.

MR. MAE: My questions were going to be this. I'll address the question.

5
10
Q. We heard extensive evidence from your husband under cross-examination with respect to what your position is - what should have been in terms of the investigation. Are you going to tell the court anything different to what your husband put forward in terms of the investigation?

A. I would rely on the testimony of my husband.

15
20
MR. MAE: Thank you. Let's go to paragraph 57. This is the direct negligence claim against the YMCA. If Your Honour doesn't have a copy of the amended statement of claim. Your Honour I can hand up mine it has just a bit of green marking on it, nothing significant and I can share with Mr. Bornmann.

THE COURT: I can take counsel's copy. It doesn't have any notes on it. So paragraph 57?

MR. MAE: Paragraph 57, Your Honour.

25
THE COURT: So the interpreter can keep up if you're going to read something.

MR. MAE: Yes, Your Honour.

30
Q. Just assist me with these questions. So paragraph 57A you say that the YMCA failed to ensure that their staff provide the services they were sought to provide. So what does that mean? What service was supposed to be provided by the YMCA and to whom?

5 A. It's so out of context of the claim. It's very hard for me to answer your questions, you know.

Q. Well, madam, this is your claim.

A. I don't even understand who is 'they' in this context.

Q. Well, madam -

A. They were sought.

Q. This is your pleading; this is your case.

10 A. Yes. I do not want to take the job of my lawyer here.

Q. Well, madam, you're the witness, you're the plaintiff. You're the one that's supposed to be advancing the case. So I'm going to ask you - let me ask you a simple question, okay. Let's ask a question that relates to everything in this negligence claim. Tell me what you say the YMCA was supposed to do and what they did not do. Two questions; what they were supposed to do, what they did not do.

20 A. It's came to my frustration, absolute frustration that under their YMCA that knows Yana Skybin was doing whatever she wanted to do. She was doing this out of her personal agenda and out of her personal angle.

Q. Did you say anger?

25 A. Angle. She had an angle.

Q. Angle.

A. Angle.

Q. I apologize.

30 A. Yes. She was absolutely reckless in all her activity and this is what this is about.

5
10
15

Q. Okay. So that was the first part of the question. Answer the second part of the question. Tell me what you say the YMCA should have done.

A. Should have supervised her. She was acting like, no, I have experience in working with so many organizations I cannot believe that this thing might happen in an organization I was working. And in this situation she was just doing what she was doing without any directions. So you know what for me the settlement counsellor it just - what is the duty of settlement counsellor if she's doing anything she has the directions, written directions do that if that - yes or no. Yes, do that, no, do that. She was absolutely not supervised and she didn't have any purposes or directions to rely on.

20

Q. Let me stop you there. You said she wasn't supervised.

A. Yes.

25

Q. What evidence are you adducing to say she was not supervised?

30

A. She not supposed to deal with abuse situation at all because as Fiona Cascognette testified under oath at that point Yana Skybin did not have any policies at her disposal. The only document she have is the policy related to abuse of children and vulnerable adults and Yana testified that she only obtained training from that policy in 2012, I believe much later. So at the point she started dealing with parents, she didn't have - she didn't have any training. She didn't have any policies to rely on and this is my position why she was not supervised or directed.

5 Q. Okay. So you recall when I cross-examined your husband and we went through the procedural manuals with respect to elder abuse, you recall that?

A. I recall that.

10 Q. And you recall that the steps taken in those manuals which you are relying upon in respect of your negligence claim, they were all followed by Yana Skybin. You accept that. That's what your husband conceded in the witness box.

15 A. As I told my position is different here. I am saying that she will not suppose - if it was true, even if - this is an assumption that it was everything was true on the assumption that everything was true, my position is she didn't have any directive or policies in place to deal with the situation. But she acted maliciously because it - she knew that everything is not true and the abuse was -

20 Q. So everything comes back as far as you're concerned to your suggestion that Yana knew everything wasn't true.

A. Exactly.

25 Q. Okay. So let's just deal with your allegation of the lack of supervision. Would you and I'm giving the opportunity to agree or disagree with these propositions. Yana Skybin her direct superior was Ruth Millar. Are you aware of that? Can you confirm that; yes or no?

A. I can accept that.

30 Q. Okay. And you can accept that Ruth Millar was involved in the events because she wrote some emails and was involved, correct?

A. Yes.

Q. Okay. And Ruth Millar's superior was a lady by the name of Susan Green. You can accept that.

A. Yes.

Q. And Susan Green was involved -

A. Yes.

Q. - in this. And you can accept that Susan Green's boss was Fiona Cascagnette?

A. It appeared to be so, yes.

Q. And they're all involved.

A. Yes, exactly.

Q. Thank you.

A. But their policy Yana had in place at that time Fiona Cascagnette referred to the policy this is abuse of children and vulnerable adult and there is an exhibit in this policy report of abuse. So when someone counsellor dealing with this situation of abuse, there is such thing as recording of abuse. There is an exhibit to this policy called report of abuse. And in this report of abuse, Yana Skybin if she was dealing with that policy in place, she was supposed to carefully report what did she did see. She was supposed to write it even in her handwriting.

Q. Okay. Let -

A. This is a part of that policy that was in place.

Q. Let me stop you there.

A. I'm sorry, I need to finish here. I will be quick. I will be quick. But the reason for this exhibit is that the first thing she should have cared about falsely - falsely accuse the person. So from the very

beginning she should have good care of that. And this is why she should have been reported carefully what she - what she saw.

5 Q. Well, with all due respect madam, we have a log and she recorded what she saw.

10 A. But this log is very different from that exhibit. I can refer you to that policy and the exhibit to the policy required that counsellor to report it in handwriting there is even their picture of the human order and she was supposed -

Q. Madam -

A. - and it would be in evidence.

15 Q. Let me assist you. The policy documents that you're referring to was a policy relating to children.

A. Exactly, exactly.

20 Q. Your parents are not children, are they?
Yes or no -

A. No.

Q. - they're not children.

A. No.

Q. Okay. And they were capable adults.

A. Yes.

25 Q. And they did not want any action taken at the time. That's what the log says, yes or no, that's what the log says?

A. Log?

Q. Yana's log, you -

30 A. But I'm referring to the testimony of Fiona Cascagnette here. You're dealing with the testimony of Fiona Cascagnette here.

5 Q. Your lawyer will get a chance to deal with that. I'm just dealing with simple concepts here, okay. So your parents wanted no action taken, correct?

A. I don't know.

Q. But that's what the log says.

A. I don't know.

10 Q. Okay. And I'm going to put to you the reason why they did not want action taken, why they did not want to go to the police is they did not to get you into trouble. That sounds like your mother; she doesn't want to get you into trouble.

15 A. It doesn't sound right. I am in trouble for five years and you're saying it doesn't right to you, it's exactly not logical at all. You put me in a bigger trouble.

Q. You're focusing on the word 'trouble' let me add to my sentence; in trouble with the police.

20 A. Trouble, I don't understand what's - why are you referring to the trouble to the police. Police here is to serve and protect not for trouble. You are Canadian lawyer, you should know better than me. What does it means, the trouble with the police?

Q. Madam -

25 A. Police investigate. Police clear, people clears people's name then they are accused falsely.

Q. Madam, I'm not going to argue with you.

30 A. But this is my position. I would like them to report me to the police. This is my exact position that they failed to do so. If they reported me to the police this matter would be investigated immediately probably we won't be here.

Q. Madam -

A. And I didn't put my life on hold for five years.

THE COURT: Mr. Mae, let's just move it along.

MR. MAE: Thank you, Your Honour.

Q. You refer to the negligence supervision. You would accept with me - you would accept, would you not, I can take you to the documents, the documents that have been produced with respect to Yana Skybin's employment and appraisals and performance reviews. You've seen those documents?

A. As I said, I did my best.

Q. Yes, okay. And those documents revealed that Yana Skybin had formal assessments throughout her employment. You recall that.

A. To be honest, I didn't go through the documents because I don't care.

Q. Okay. So you don't care.

A. Yes.

Q. If you don't care -

A. I don't care at all.

Q. If you don't care, then I don't care.

A. Yes.

MR. MAE: Okay. We'll deal with it with our witnesses. Your Honour, if I could have literally two minutes I have three minutes of questions but I just want to make sure before I commit myself to wrapping up.

THE COURT: You just want a brief adjournment, you mean?

MR. MAE: Yes, Your Honour, less than five minutes.

THE COURT: All right.

MR. MAE: Thank you, Your Honour.

5 RECESS TAKEN

UPON RESUMING

THE COURT: Ms. Danilova, if you'd return.

10 MR. MAE: Q. Mrs. Danilova, as you've heard Mr. Bornmann in this case, I'm going to put my client's position to you and each thing I say you either agree or disagree, okay? If you lose this case, you're going to end up losing the house to the Nikityuks; agree or disagree?

15 A. Disagree.

Q. You disagree, okay. I put it to you that your mother and Valentin have told the truth within these proceedings, in the affidavits they've filed and in the documents concerning the situation at Rankin Way; do you agree with them or disagree?

20 A. Disagree.

Q. And I put it to you that did assault your mother on or about August the 19th, 2011; do you agree or disagree?

25 A. Disagree.

Q. I put it to you that your mother and Valentin were not happy at Rankin Way the way they were treated by you and your husband both financially - sorry financially, emotionally and physically; would you agree with that; they were or they were not?

30 A. Disagree.

5 Q. I put it to you that there was no mention of Yana Skybin by either of your parents in respect to the social housing application, agree or disagree?

Sorry, maybe you - I put it to you that Yana Skybin's name was not mentioned by either Alla or Valentin in connection with the social housing application to you.

A. Absolutely disagree, disagree.

10 Q. Okay. And I put it to you that the assistance provided by Yana Skybin to Alla and Valentin after the report of the assaults was as a result of her role at the YMCA; agree or disagree?

A. Disagree.

15 Q. And that there was nothing in it for her personally with respect to the assistance, it was all professional.

A. Disagree.

20 Q. I put it to you that your version of events and your evidence on all matters is simply made up and it's a cover story to assist you to proceed with your claim.

A. Disagree.

25 Q. And the YMCA had absolutely no obligations towards you personally or your husband; agree or disagree?

A. Disagree.

30 Q. But if the YMCA did have obligations to you they were all fulfilled by following correct procedure and reporting to external agencies; agree or disagree?

A. Disagree.

Q. And I put it to you there was absolutely no conspiracy between your parents and Yana Skybin with

respect to anything that you allege in these proceedings;
agree or disagree?

A. Disagree.

5 Q. And I put it to you that Yana Skybin did
not induce your parents to break their contract with you
and your husband; agree or disagree?

A. Disagree.

10 Q. I put it to you that Yana Skybin saw
bruising on your mother and that your mother told Yana
Skybin that you assaulted her; agree or disagree?

A. Disagree.

15 Q. And I put it to you that all of the events
recorded and reported by your parents or Yana Skybin in
her log were all the truth; agree or disagree?

A. Disagree.

20 Q. Finally, put it to you that all of the
assistance provided by Yana Skybin and the YMCA towards
your parents was appropriate and responsible in all the
circumstances; agree or disagree?

A. Disagree.

25 Q. And was not directed in any way, shape or
form to cause you or your husband any harm whatsoever.

A. Disagree.

MR. MAE: Thank you, Your Honour. Those are my
questions.

THE COURT: Ms. Chapman, I think I gather that
the re-examination can wait until Monday?

MS. CHAPMAN: That's my intent.

30 THE COURT: So you can step down.

Counsel, I think we've discussed this already
but you don't have any objection to Ms. Chapman

5 talking to her client over the weekend about
 the issues that are -

 MR. MAE: I trust Ms. Chapman.

 THE COURT: She indicated she wanted to have
 those talks and I'm sure that she'll - there's
 no issues about that, is there?

10 MATTER ADJOURNED TO MAY 30th, 2016 for continuation

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FORM 2

Certificate of Transcript
Evidence Act, Subsection 5(2)

10

I, Cathy Knelsen, certify that this document is a true and accurate transcript of the recording of *Danilov v. Nikityuk* in the Superior Court of Justice, held at 75 Mulcaster Street, Barrie, Ontario, taken from Recording No. 3811-02-20160527-085817-090758 which has been certified in Form 1.

15

, 2017

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Cathy Knelsen, C.C.R.

cathytheartist@sympatico.ca

25

30

MONDAY, MAY 30, 2016

MS. CHAPMAN: Good morning, Your Honour.

THE COURT: Morning. So counsel, I think this morning we're ready for re-examinations -
Danilova.

MS. CHAPMAN: I - I've decided we're not going to ask any questions this morning on re-examination. We'll be relying upon our other witnesses.

THE COURT: All right. Before you do that, I just want to speak to Mr. Bornmann about the issue of the interpreters.

MR. BORNMANN: Yes, Your Honour.

THE COURT: I don't think there was ever an order specifically made that they would be paid for by the Ministry of the Attorney General. I guess I had that impression when we began, but when I looked at - actually at Justice DiTomaso's notes for the pre-trial, he simply indicated Russian interpreters required. You know, generally speaking, Rule 53.01 indicates that expense is usually bore by the party that needs the interpreter.

MR. BORNMANN: Your Honour, we were - our clients were pleased to hear that Justice DiTomaso had in fact ordered the interpreters. The Community Legal Clinic is Legal Aid Ontario funded organization. We - there is a resource available through Legal Aid Ontario for interpretation which the Clinic would have to avail itself of if it was arranging for interpreters. My - my understanding - and I should advise I was not personally involved in the discussions with the

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5 court - with the court staff about this issue, my understanding was that the Ministry of the Attorney General was going to be paying for those, but I don't have first-hand information that such an assurance was made. So I would have to speak with my colleagues back there.

THE COURT: All right. I'm - I'm gonna leave that in your hands. Yes, go ahead.

10 MR. BORNMANN: I'm sorry. If the - the Nikityuks are - are not in any position to pay for interpreters themselves, so we - we would - if the - this would create - this does create a bit of an issue if - if we are in a situation where the Nikityuks have incurred the costs of the
15 interpreters to date and we - we would seek the court's permission to arrange alternate interpretation resource - and in fact that was the - was the case again working for Legal Aid Ontario. Would your Honour be prepared to hear
20 submissions on the issue of the court assuming those costs or - and it's a bit of a surprise here, Your Honour, to me. Again, I did not have - I - I did not speak directly with the court staff, so I - I can't....

25 THE COURT: I raise the issue because it's been brought to my attention by the administration of - that's in the building and I understand that, you know, both interpreters were sometimes staying until six o'clock and this represents
30 quite a [sic] expense for - for the public if that's the case. If there's some uncertainty about who was to be paying this, I think it

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5
10
certainly should be resolved in your clients' favour at this point. But I'm just wondering about going forward, especially if this case goes on for another three weeks. I think the idea was that this was gonna be a three week trial. But if it balloons into a six week trial, there's quite an expense. So I would opt - urge you to make other inquiries going forward. But I - I would resolve any uncertainty, I think at this point, in favour of your clients, the issue not having been specifically addressed at the beginning of trial.

15
20
MR. BORNMANN: Thank you, Your Honour. I - I'm surprised - I do believe that we - we asked one interpreter be present to six o'clock one evening. That may have happened - may have happened on a second occasion, but it's not - it's not coming to mind when that occasion was at present, Your Honour.

25
THE COURT: All right. And also we have the extra cost of having two interpreters throughout, so that's another factor that's there and obviously enables them to spell each other off and - and - but this - is - is an expense that has to be looked at as well.

30
MR. BORNMANN: Maybe Your Honour, perhaps what I could do is take this information away and see whether or not we can arrange a different interpretation resource once the Nikityuks case has gone in - once the Nikityuks have testified. I - I don't see any reason for us to require two Ministry of Attorney General interpreters if in

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5 fact Legal Aid Ontario - we can have one to assist them with understanding the proceedings. THE COURT: Yes and whether or not they even need an interpreter when they - when their case is finished and it's start of the case between the Y and the plaintiff and maybe less of interest to them or - the necessity of interpretation may be somewhat reduced, so you may be able to do it in a different fashion.

10 MR. BORNMANN: Yes, Your Honour.

15 THE COURT: Such as repeating the evidence with them on a briefer basis with the benefit of an interpreter outside of the court process. Lower expense for Legal Aid Ontario. But I'll leave that with you. Not certainly forcing you to make any quick decisions on this and we can carry on the way we're going for the time being until you're ready to address the issue - and obviously we're very close to the point where they're going to be giving their evidence with the benefit of the interpreter. But the bottom line, general rule in Rule 53.01 is that parties provide their own interpreters.

20 MR. BORNMANN: Yes, Your Honour.

25 THE COURT: So, unfortunately the issue got kind of never addressed and because it doesn't real - it's not part of the adversarial process, there's no issue with the plaintiff or the other defendant on that particular issue because it's not at their expense.

30 MR. BORNMANN: Yes, Your Honour.

THE COURT: So that's - that's what I wanted to

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say and I leave that in your hands because it's been brought to my attention.

5 MR. BORNMANN: Thank you. The Nikityuks are very grateful to the - to the court for this indulgence, Your Honour and I will take this information away and bring back a proposal before we - we break with respect to how we can reduce this ongoing cost, Your Honour.

10 THE COURT: Yeah I'm - I'm less concerned about this week because we're already in this process, but I'm much more concerned about other weeks that might follow in - in the future especially if your clients' are less involved in the YMCA aspect of it, so....Those are my thoughts and I'll just turn back to the plaintiffs' case now.

15 MR. BORNMANN: Thank you, Your Honour.

MS. CHAPMAN: I actually have something to address with the interpreters this morning as well. I was hoping that one could....

20 FEMALE VOICE FROM THE BODY OF THE COURTROOM: I can speak English, not a problem.

MS. CHAPMAN: Okay.

FEMALE VOICE FROM THE BODY OF THE COURTROOM:
Yeah.

25 MS. CHAPMAN: Our witnesses this morning are all Russian speaking, English as a Second Language and I've spoken to them, they speak English quite well, their concern was that the meaning of some words may be different in English than in
30 Russian. So they were hoping to have one of the interpreters with them at the stand while being examined and cross-examined this morning.

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THE COURT: All right. It's - do you want to confer with her again? She seems to think...

MS. CHAPMAN: Yes.

THE COURT: ...in conversation....

5

FEMALE VOICE FROM THE BODY OF THE COURTROOM:

Yes, I can speak English.

MS. CHAPMAN: Okay. Okay. I'm not sure about the other two Russian speaking...

10

THE COURT: We'll deal with it on a case by case basis.

MS. CHAPMAN: All right.

THE COURT: But at this point, I think we just have one interpreter here.

15

MALE VOICE FROM THE BODY OF THE COURTROOM: On the roof of my - since I did it many times, if the witness requires my assistance I can stand next with the witness and speak loudly so Nikityuks will hear questions and answers in Russian [indiscernible]....

20

THE COURT: All right.

MALE VOICE FROM THE BODY OF THE COURTROOM: So that's [indiscernible] which is not a big deal.

25

THE COURT: All right. We'll deal with it as - as needed, but it doesn't sound like an issue for this first particular witness.

MS. CHAPMAN: Very good.

THE COURT: All right. So are you ready to call your first witness?

30

MS. CHAPMAN: Yes, I am - yes. The first witness this morning will be Olha Krylova.

OLHA KRYLOVA: SWORN

Olha Krylova - in-Ch

THE COURT: Good morning, you can have a seat if you wish.

OLHA KRYLOVA: Thank you.

THE COURT: Mrs. Chapman.

EXAMINATION IN-CHIEF BY MS. CHAPMAN:

Q. Yes, thank you. Ms. Krylova, could you tell us how you know the Danilovs?

A. We met Danilovs family in 2003 - in July. Our families immigrate almost at the same time and we used to live in close [indiscernible] apartment. And we became friends after a blackout in August 2003 because they used to live on the third floor and we lived on the twentieth floor and it was very difficult to take stairs to go upstairs during the day, up and down, without elevator and we had lunch together and had conversation and we have kids almost the same age. Their daughter - Asa - Anastasia and our son Artum (ph). They were friends as well.

Q. And you had the opportunity to visit with the Danilovs at their home in Innisfil?

A. Yes.

Q. When was your first visit to Innisfil?

A. It was in July 2010.

Q. And what do you recall from that visit?

A. We came to see their beautiful house, meet their beautiful parents and we met stepsister of Svetlana as well. And we came to Innisfil by car and we brought our bicycles and we seen [sic] Alla and Valentine. They are beautiful, very nice people. They just smiling, talking and then we ride on our bicycles to the beach and they took the car. And we played volleyball, three on five. Me, my husband and

Olha Krylova - in-Ch

Svetlana and Alla and Valentin were enjoying sitting on the beach. After that we had snack on their barbeque table. They told us how happy they are to be in Canada and how they enjoy to stay in the house with their daughter and stepdaughter. And
5 everything was very kind and open hearts talking, enjoying. Then we got back home after the beach, Pavel made barbeque and me, Alla and Svetlana were in the kitchen making salad of cucumbers and tomatoes. We talk, enjoy conversation. Everything was very nice, beautiful, friendly. I asked Alla,
10 she make very nice soup, it's called shchi (ph) - [indiscernible] and I asked her about the recipe and she was smiling at me and tell me the recipe of the shchi (ph) and I was so happy to try it to make it at home myself. And it was pleasant to see how nice all people are, how friendly they are.
15 We do enjoying our visit.

Q. And was that your first visit to the house in Innisfil?

A. Yes, it was our first visit and first visit with beautiful people.

20 Q. Okay. And sorry, did you say that was July 2010 or July 2011?

A. It was July 2010 - 7 of July. I know exactly why it happened because we took pictures of this party - not party like being there. It was picture of me, Svetlana and my
25 husband playing volleyball and Valentin was on the beach as well. It was beautiful Canada day chair - lawn chair and that's why I know exactly what date was it.

Q. Okay. And then you also had a visit in the summer of 2011.

30 A. Correct.

Q. So tell us about that visit.

A. Oh it was remarkable day for the family

because Svetlana's stepsister came and Valentin was thrilled because his daughter came to Canada first time and he told us how happy he is and it was united of the family in so many years - they finally meet each other. Right. And we seen how happy
5 all of them were. We went to the beach and - we went to the beach by bicycles because we like to bike and to - we like to snorkel as well. At that time we brought camera with us - underwater camera and we were snorkelling, taking video under the water. But it was not much to see, it's not the Caribbean
10 Sea unfortunately, but it's a warm lake right. You can swim and enjoy. And all of us have been on the beach and we had snack, conversation, talking, enjoying. Everyone was so happy. Then we come back home and had barbeque and had glass of wine, beautiful dinner and we were not planning to sleep over - stay
15 overnight because house full of people right, you know, but all of them were very friendly and told us why you should drive home, stay with us, just sleepover, have breakfast and then go back home because everyone was excited, talking to each other, sharing their experience how nice to be in Canada and Lilliana
20 (ph) was telling lots of about Saint Petersburg where she comes from and it was pleasant conversation and everyone was very happy.

Q. And did the Nikityuks eat dinner with you that evening?

25 A. Yes, of course.

Q. And were they involved in the conversation?

A. Absolutely. Valentin told us that he bought a ticket for his daughter, that Svetlana booked tickets online and that's he planning to take Lilliana (ph) to the Toronto,
30 show her CN Tower, take her to Niagara Falls, lots of plans, everything was very fine.

Q. And did you have an opportunity to look

around the house while you were visiting?

A. Yes, of course.

Q. And what do you recall about the home?

A. Beautiful home, very nice, clean, neat, well
5 decorated, comfortable.

Q. Did you notice any damage to any of the walls
in the home?

A. No.

Q. And during your conversations, was anyone
10 talking about living separately...

A. No.

Q. ...not wanting to live together?

A. Not at all. Not at all. Everyone was very
happy and so - so pleased to be here because Alla and Valentin
15 got lots of medical attention here and Svetlana was taking them
to their appointments to the doctors. And I was thrilled how
beautiful this family can self - medical problems your parents
have, you know, and it was just amazing to see how happy all of
them.

Q. Now earlier you stated that you met the
20 Danilovs in 2003.

A. Correct.

Q. And in those first few years when you knew
the Danilovs, did Ms. Danilova speak about her mother and
25 Valentin being back in Russia?

A. Yes, all the time. She was calling them and
asking how they are doing - and actually she told me that she
sending money to support her mom and her stepfather because they
have not enough money to live on their pension. And she was
30 taking any job was it possible - right, she was doing cleaning
and sending money to help her mom because she is very ill.
Canadian woman and she will doing all her best and when she told

Olha Krylova - in-Ch

me that her mom has to have surgery, she told - it's - I have to be there because nobody can help her to get medicine because at the clinic, if you don't pay money you don't have proper medication as well. And she was doing everything to help her mom and her mom was very appreciated as well. When we've come - when we've met them first she told me about all this stuff too.

Q. And did you know that Ms. Danilova had travelled to Russia to assist her mom during that time when she was ill?

A. Yes - yes of course. She flew to Russia on the very short notice. She booked - she just - she couldn't stay because her mom was in the big trouble, right. You have to help to - all this medication will be applied at all time right, on time, not miss anything and she was very, very, very careful, very attentive, very supportive.

Q. And just a couple last questions. Your visit in July 2011, you said that you and your husband stayed overnight.

A. Yes, correct.

Q. Where did you sleep?

A. They have beautiful house and they have loft. It's open area and they put mattress and blankets and we slept down there - up there. Yes.

Q. Okay. And the next morning, did you stay for breakfast?

A. Yes, we had breakfast, some conversation, said thanks a lot for having us, it was a pleasure to be there to see all family together and we left.

Q. And you obviously know now the Nikityuks do not live in Innisfil.

A. Yes, I do.

Q. And - and so what do you know about that

situation?

A. I know that Svetlana called me and told me - "Oh yeah I have to tell you something happened." I said, "What happened?" She says, "My parents didn't come back home and I don't know what's wrong, where they are. I - I'm so - so stressed. What could it be?" And it was just like - how can I explain it? It was like - [words spoken in Russian] - how - can you translate it? Oh but it's not - it's ideal, it's not....

INTERPRETER: Okay. Either we continue in Russian or in English because this...

A. No - no - no - no....

INTERPRETER: ...back and forth....

A. Okay. I just wanna skip it. Not a problem at all. It was unbelievable. For me it was like how would it happen? What's wrong? No explanation at all, you know. I - I was why - what - what's wrong - what is going on? She says, "I have no idea. I don't know."

Q. And have you spent time with the Danilovs since the Nikityuks left?

A. We've been on the phone all the time on the conversation and she was crying and telling, "I have to find them. I have to find them. Maybe they lost. What can I do? What should I do?" She was very worried - very worried.

Q. Okay. Thank you, those are my questions.

THE COURT: Any questions, Mr. Bornmann?

MR. BORNMANN: No, Your Honour.

THE COURT: Mr. Mae?

MR. MAE: No, Your Honour.

THE COURT: Thank you, you can step down. Thank you. Ms. Chapman, do you have another witness this morning?

MS. CHAPMAN: Yes. The next witness would be

Alex Krylova [sic].

THE COURT: Morning.

ALEX KRYLOVA: Morning.

5 ALEXANDER KRYLOV: SWORN

THE COURT: Sir, you can have a seat if you wish.

EXAMINATION IN-CHIEF BY MS. CHAPMAN:

10 Q. Mr. Krylova [sic] we spoke this morning about
- you had some concerns about giving evidence in English.

A. I did.

Q. Are you comfortable answering my questions in
English this morning?

15 A. Yeah - okay.

Q. Yes?

A. Yes.

Q. Okay. So to start with, could you tell the
court how you know the Danilovs?

20 A. I know them from 2003 from building of
crossway, Dundas and Bloor. They live in one building. They
left building 2005 [indiscernible]...

Q. And you spent some time together?

A. ...and - yeah.

25 Q. And could you tell us a little bit about the
time you spent together while living in that building?

A. Just visit each other. Most of time we come
to them because they were so, how do you say - I having trouble,
they - they so close - was close to [indiscernible] and we just
30 visit them through - it's a - meal and to talk to - to discuss.

Q. You spent some social time...

A. Yeah.

Alexander Krylov - in-Ch

Q. ...together.

A. Yeah - yeah - yeah.

Q. Okay. And when you moved out of that building in 2005, did you continue - continue a relationship?

5 A. Correct - yes.

Q. And we heard evidence this morning that you visited their home in Innisfil.

A. Yes.

Q. And do you recall the visit in July 2011?

10 A. Eleven - yeah. In July 22nd.

Q. Yes. And how do you recall that date specifically?

A. And they came to the building and then they came to the beach. We spent time at the beach and talk and swim...

15

Q. Yeah.

A. ...and snorkel and do snorkel things and Canada. I took video picture and then we stay - we eat.

Q. And who was - who was at the beach with you that day?

20

A. All their family, Pavel, Svetlana, Valentin and Alla and Valentin daughter.

Q. And Valentin's daughter?

A. Yeah.

Q. And you went back to the home to have dinner that evening?

25

A. Yeah.

Q. Do you recall where you ate dinner?

A. Okay - again?

Q. Where you sat when you were eating dinner?

30

A. Where dinner set like - set?

Q. Where did you sit?

Alexander Krylov - in-Ch

A. Oh where did I sit - mm-hmm.

Q. Inside?

A. Where I sit?

Q. Outside?

5 A. We sit inside and outside. We sit inside and Pavel prepared the barbeque outside and then we covered the tables outside and sit outside.

Q. And did the entire family eat dinner together?

10 A. Yes, correct.

Q. And Alla and Valentin were there for dinner?

A. Correct.

Q. And do you recall what was discussed? What conversation was being had during dinner?

15 A. About Russian T.V., Russian movies. About [indiscernible]. About snorkelling - it be fair to talk about snorkelling most of time. This is what I remember.

Q. And were Alla and Valentin involved in the conversation?

20 A. Yes, of course.

Q. They spoke to you?

A. Yeah.

Q. Do you recall what they spoke about?

25 A. With - with Valentin? Specially [sic] I don't remember exactly what about - Russian - the city - about Saint Petersburg and about like - again about movie - same Russian movie...

Q. Yes.

30 A. ...T.V. Because we - you don't have it at home - Russian T.V. and we just asked what - and can see what kind of new show were there - some type of movie.

Q. Why don't you have Russian T.V. at home?

5 A. Because nobody will ever watch it.

Q. Did Alla or Valentin speak about living in Canada?

A. What do you mean?

5 Q. Did they talk about the time that they have been living in Canada?

A. I don't understand the question. What do you mean?

10 Q. Was there any discussion about things....

A. Yeah, of course we talk about living in Canada. They visit the rink, for nothing special. What about....I don't know what to say about living in Canada.

Q. That's okay. And did you - you were inside the home, you slept over that evening?

15 A. Yeah. We left out we sleep there. What is called sleepover?

Q. Yes.

A. And they - yeah. And we left in the morning the next day.

20 Q. And what was your impression of the home? What did you think about the home?

A. Nice, good people, nice house.

Q. Did you notice any damage inside the home?

A. No.

25 Q. Damage to the walls?

A. No.

MS. CHAPMAN: Those are my questions for the witness, Your Honour.

THE COURT: Any cross-examination, counsel?

30 MR. BORNMANN: No, Your Honour.

THE COURT: Okay. Thank you sir, you can step down.

Larissa Kouzminova - in-Ch

MR. MAE: Same - same thing, Your Honour.

THE COURT: Yes.

ALEXANDER KRYLOV: I can sit?

THE COURT: Yes, you can have a seat. You are
excused. You can stay in the courtroom if you
wish. Sorry Mr. Mae, I didn't mean to exclude
you, but I...

MR. MAE: No - no, Your Honour.

THE COURT: ...I assumed that if Mr. Bornmann had
no questions, you wouldn't either.

MR. MAE: I didn't, I just wanted to be on the
record for - for later purposes.

THE COURT: Thank you. Ms. Chapman, do you have
another witness now?

MS. CHAPMAN: Yes, I do. Larissa Kouzminova.

THE COURT: Good morning.

LARISSA KOUZMINOVA: Good morning.

LARISSA KOUZMINOVA: AFFIRMED

(Testifying through interpreter - Russian/English)

THE COURT: Good morning. You can have a seat
and I'll ask you to speak up loudly so we can all
hear you. I think there's a microphone there.

LARISSA KOUZMINOVA: Oaky.

THE COURT: Although I can't see it, I presume
that it's there.

LARISSA KOUZMINOVA: Okay.

THE COURT: Yes, Ms. Chapman.

EXAMINATION IN-CHIEF BY MS. CHAPMAN:

Q. Thank you. Ms. Kouzminova, before we start,

Larissa Kouzminova - in-Ch

when we spoke this morning, you said you would like an interpreter. Do you feel comfortable giving your answers to me in English?

THE WITNESS: Oh yeah, you can answer it English,
5 I'm gonna - yeah.

Q. Would that be okay? I'm going to ask a question in English...

THE WITNESS: Yeah you ask me - right. I
[indiscernible].

10 Q. Okay. Good. So could you tell the court please how you know the Danilovs?

THE WITNESS: Can I speak Russian? No. Oh I mean could you answer me English - I'm gonna - ask me English, I'm gonna answer you Russian - it's okay?

15 THE COURT: All right. If that's the case, then we'll maybe ask the interpreter to come...

INTERPRETER: Yeah sure.

THE COURT: ...come forward to assist.

THE WITNESS: Thank you.

20 CLERK REGISTRAR: Do you wish me to page the other interpreters?

THE COURT: If she's available you can try, but....

25 INTERPRETER: There's no need for two interpreters, Your Honour. It doesn't help it only creates some trouble.

THE COURT: All right. So we'll just proceed with this one interpreter. She will - she's indicating to the court that she'll listen to the question in English...

30 THE WITNESS: Yeah.

THE COURT: ...and she'll respond in Russian.

Larissa Kouzminova - in-Ch

THE WITNESS: Yes.

THE COURT: Then you'll provide an interpretation which will benefit the court and the Nikityuks as well.

5 MS. CHAPMAN: Very good. Okay.

THE COURT: We'll have to go a bit slowly.

MS. CHAPMAN: Yes.

THE WITNESS: Mm-hmm.

10 MS. CHAPMAN: Q. So my first question was, could you tell the court how you know the Danilovs?

A. We got acquainted with Svetlana and Pavel in 2004. Apartment in the same building. It's next to the subway Dundas bus station.

Q. And so when did you first meet the Danilovs?

15 A. Them in 2000 - them in 2004.

THE WITNESS: Right.

A. I took a ride in the elevator up, overheard people talking Russian. We started to talking. That's how we got acquainted. It turned out we come from the same city.
20 We're about the same age, same kids. And we continued to see each other on occasion exchanging the movies - that's all.

Q. And eventually the Danilovs moved out of that building.

A. Yes, they did.

25 Q. And I understand you remained friends.

A. Yes.

Q. And you had the opportunity to visit with them at their place in Innisfil?

A. Yes.

30 Q. And how many times did you visit there?

A. It was only once - summertime. And it turns out that [indiscernible] went on vacation together to Costa

Larissa Kouzminova - in-Ch

Rica. But we quite frequently called each other on the phone.

Q. So let's talk about that visit in the summertime. Do you recall when that was?

A. Yes, of course.

5 Q. Do you recall when that was?

A. Was actually was on September 3rd, 2011.

Q. And how do you know that that's the exact date?

10 A. We went to see their house for the first time and we baked a cake for them for this occasion. After our visit we exchanged emails. And Svetlana asked me the recipe for this cake, we sent the recipe. Therefore from computer dates I can recall that day when we *[indiscernible]*....

15 Q. And could you tell the court about that visit?

A. We arrived there, my husband and myself. We arrived in my car. I met Svetlana's mother once previously and it was the first time that I met Valentin. We got acquainted. We were shown around the house because it was our first visit to
20 this house. Later on we went to the beach, nature with Svetlana and Pavel together. After we returned back home, we went out on the deck. We had dinner all four of us. *[Indiscernible - talking over each other]*. We talked a lot about - because as I mentioned earlier we come from the same city. And Svetlana's
25 mother and her stepfather told us how their spending time, told them they have a car. They lead very active life.

Q. And what do you mean by an active life?

A. It's not like they're sitting at home all the time. They're driving around, they're going on trips, meeting
30 with friends, attending different events organized by this area.

Q. And who told you? Alla and Valentin told you about this?

Larissa Kouzminova - in-Ch

5 A. Yes, it was - they did, but it was a general conversation. I remember sitting there and having a good chat.

Q. And the Nikityuks joined you for dinner that evening?

A. Yes, they did.

Q. Do they spend anytime up in their bedrooms or away from the rest of the family?

10 A. I don't recall, but I don't think that they ever left to their bedroom or something like that. Maybe for a while when they were watching T.V. in the living room. We left the same evening and we said goodbye to everyone.

Q. And did everyone appear to be having a good time?

A. Yes. Yes.

15 Q. You shared some drinks.

A. Yes, we did - but my husband didn't.

Q. Okay. And did there seem to be any tension in the family?

A. No.

20 MS. CHAPMAN: Those are my questions for the witness, Your Honour.

THE COURT: Mr. Mae, do you have any questions?

MR. MAE: None - none for me, Your Honour.

THE COURT: Mr. Bornmann.

25 MR. BORNMANN: None either, Your Honour.

THE COURT: Thank you, you can step down.

30 MS. CHAPMAN: Your Honour, I guess we didn't time things very well this morning. I don't have my next witness, s who is Police Constable Harbottle, coming until 2:15 today. I can - maybe if we take a break, try and reach him and see if he can be here before lunch. But I thought we would be

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a little longer with the witnesses this morning.

THE COURT: Well how could you know that Mr.

Bornmann and Mr. Mae wouldn't be asking

questions? That - you did obviously grant time

5 for that, but it's not been necessary. I will

take an adjournment to see if you can get the

witness to come earlier. If it works out that he

can be here at one o'clock then we can always

have lunch earlier and start earlier in the

10 afternoon if - if he's tied up until a certain

time. So just let us know and perhaps you can

let the registrar know in 10 or 15 minutes if you

are able to make any arrangements whatsoever.

Otherwise we'll assume that we'll adjourn to

15 2:15. Were there any comments or suggestions

about the timelines I gave counsel or is it

generally accurate and not in dispute - the sheet

that I made?

MR. MAE: I don't think we're accurate enough,

20 Your Honour.

THE COURT: All right.

MR. BORNMANN: You're accurate, Your Honour.

MS. CHAPMAN: Yes.

25 THE COURT: All right. So we'll just adjourn

until we hear further minutes from Ms. Chapman

about the next witness, whether it's later this

morning or earlier in the afternoon. We'll find

out. Thank you.

30 R E C E S S

U P O N R E S U M I N G :

THE COURT: Morning.

MS. CHAPMAN: Morning, Your Honour.

THE COURT: Ms. Chapman, you ready with your next witness?

5

MS. CHAPMAN: Yes, we are. Constable Graeme Harbottle.

GRAEME HARBOTTLE: SWORN

10

THE COURT: Good morning, Officer. Ms. Chapman.

EXAMINATION IN-CHIEF BY MS. CHAPMAN:

15

Q. Yes. Constable Harbottle, please feel free to sit if you like. Could you please advise the court where you are currently employed?

A. Employed with the South Simcoe Police Service.

Q. And how long have you been a police officer there?

20

A. With that service I've been there for 15 years and I got 28 and a half years combined service with the Toronto Police.

Q. And you were involved with an occurrence on or about October 24th, 2011?

25

A. Yes, I was.

Q. And that was at 1490 Rankin Way in Innisfil, Ontario.

A. Yes, it was.

30

Q. And I believe you have a copy of that occurrence report in front of you.

A. Yes, I do.

Q. For the court and my friends, there's a copy

of that occurrence report actually in Exhibit 3(A) at Tab B25 -
thank you.

THE COURT: Sorry, tab what again?

MS. CHAPMAN: B25 in Exhibit 3(A). Q. Do you
5 recall attending the home on that date?

A. Yes, I do.

Q. And what do you recall from that attendance?

A. Would you like me to read my occurrence?

Q. Sure.

10 A. "Police were called to assist with a family
that wanted to get property from their home. It was reported
that the parents immigrated [*sic*] from Russia three years ago.
They moved in the house with their daughter who also immigrated
[*sic*] from Russia approximately eight years ago. The daughter
15 is the immigration sponsor. Over the past few months the
relationship has fallen to the point that the parents (victims)
wanted to move out. Unfortunately daughter has full Power of
Attorney of the parents and they have no money. Through contact
of the Russian community, the couple's made contact with
20 Salvation Army and there is other Social Services. They decided
to leave the home and stay at the Salvation Army for the
weekend. Since then (three days) they have revoked Power of
Attorney and been given emergency shelter. Today they came with
Social Services, a moving truck and several friends to help move
25 out. They were [*indiscernible*] with people present to assist
with the translation as the parents only speak Russian. There
were no allegations or criminal activity by any parties
involved. Police stood by while belongings were removed from
the house. Their daughter agreed to let them have furniture,
30 books, beds and various kitchen items. Because there was a
social worker present, police stood by 'till no longer needed.
The move went without incident. No further police action

required and the parents are now under the care of the Salv -
Salvation Army to assist with getting acquaintances - getting
acquired with new homes." My supplementary report says, the
parents were given emergency housing. Then there is an address
5 here, but there's an asterisk saying that they insist that that
information not be giving out.

Q. And do you recall who provided you with the
information that you put into this occurrence report?

A. This information would have come from Alana
10 [sic] and Valentin Nikita [sic] and this Dorothy Archer was
kinda serving them in Social Services.

Q. And you do state at paragraph 3 that because
there was a social worker present, police stood by 'till no
longer needed. Do you know which of the persons listed here
15 identified themselves as a social worker?

A. I don't know specifically for sure, but is -
by the address and everything, it would be Dorothy.

Q. And do you recall whether the daughter - the
- the lady whose home you had attended...

A. Mm-hmm.

Q. ...whether she spoke with her mother or
father?

A. I don't know if there are any specific
transactions - any communications with them while I was there.

Q. There weren't - there weren't any
25 confrontations?

A. I don't know - no there's no confrontations
whatsoever. There's not - there's no arguing that I recall.

Q. And with regards to the home, do you recall
30 what the home looked like? What state it was in?

A. I don't have any independent - like
recollection of - of anything that was wrong, that was - like

that would draw suspicion to me to investigate any further.
It's a typical family home.

Q. Very good. Thank you, those are my questions
for the witness.

5 THE COURT: Mr. Bornmann do you have any
questions?

MR. BORNMANN: I do not, Your Honour.

THE COURT: Mr. Mae?

MR. MAE: Me neither, Your Honour.

10 THE COURT: All right. Thank you, Officer.
You're excused. Thank you for coming today -
earlier than planned. Ms. Chapman.

MS. CHAPMAN: Your Honour, those were the
witnesses I had planned and scheduled for today.
15 I do - I had an opportunity to speak with my
friends while we were on break and I was going to
call a witness tomorrow morning by the name of
Aurika Karasseva. I had previously asked about
having her affidavit which was sworn back in
20 January of 2013 entered as her evidence. I was
intending to call her to be cross-examined
tomorrow and counsel's advised me that they do
not need her to attend and be cross-examined. So
I'd like to hand up her affidavit.

25 THE COURT: All right. Mr. Bornmann and Mr. Mae,
you satisfied that this witness' evidence can be
filed by way of affidavit?

MR. BORNMANN: Yes, Your Honour.

MR. MAE: Right, Your Honour.

30 CLERK REGISTRAR: Exhibit 10, Your Honour.

THE COURT: Exhibit 10. And just for the record
the name of the individual again.

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MS. CHAPMAN: Aurika, A-U-R-I-K-A, Karasseva, K-A-R-A-S-S-E-V-A.

THE COURT: All right. So this thing has to do with Powers of Attorney from 2009.

5 MS. CHAPMAN: That's correct.

THE COURT: And are those documents already exhibits, I've forgotten?

MS. CHAPMAN: Yes, they are.

THE COURT: They're the ones....

10 MS. CHAPMAN: They're in - they're in the plaintiffs' document brief, Exhibit 1(A).

THE COURT: Perhaps you could just give me the tabs for reference point.

15 MS. CHAPMAN: The Last Will and Testament of each of Alla and Valentin are at Tabs 39 and 40. And the Powers of Attorney are at Tabs 41 and 42 of Exhibit 1(A).

THE COURT: All right. Very good. So Exhibit 10. And the next steps after that?

20 EXHIBIT NUMBER 10: Affidavit of Aurika Karasseva - Produced and Marked.

MS. CHAPMAN: So the - the final witness of the plaintiffs is scheduled to attend tomorrow morning. That's Cathy Kytayko with the Simcoe of County - County of Simcoe.

25 THE COURT: All right. Does that mean we're going to be down 'till tomorrow morning?

MS. CHAPMAN: Yes.

30 THE COURT: All right. Is that - would that be your last witness?

MS. CHAPMAN: That will be our last witness.

THE COURT: And you anticipate how much time that

might take?

MS. CHAPMAN: Depending whether my friends have questions, I expect I may be forty minutes to an hour with the witness.

5

THE COURT: All right. So when you're finished the defence will have their opportunity to start the case. Mr. Bornmann, do you anticipate starting tomorrow?

MR. BORNMANN: Yes, Your Honour.

10

THE COURT: And is there any possibility of this witness coming today, is that....

MS. CHAPMAN: Unfortunately not. She will be attending with counsel from the County of Simcoe. They were not available today which is why I have them first thing tomorrow morning.

15

THE COURT: All right. So I obviously will need to adjourn then until tomorrow morning. There's nothing else we can do in the meantime, I don't think, in terms of process. Mr. Mae.

20

MR. MAE: Well - yes, Your Honour. One - one thing with respect to Cathy Kytayko, my friend is already aware that my firm acts for the County of Simcoe. There - there's no conflict in respect of this matter, but I'm just drawing it to the court's attention that my friend does represent the County of Simcoe and we weren't aware until shortly before trial that they would be - being called to give evidence. But it - it's not going to limit my ability to deal with this matter in any regard. Thought I'd draw it to your attention, Your Honour.

25

30

THE COURT: And Ms. Chapman said she was coming

with counsel, is that someone from your firm
or...

MR. MAE: Don't know...

THE COURT: ...different firm?

MR. MAE: ...Your Honour. My former partner,
Marshall Green, now works at the County of Simcoe
and my understanding is he's just coming as a
hand holding exercise just to put the witness at
ease.

THE COURT: All right. So your firm is no way
representing her interest at this...

MR. MAE: No.

THE COURT: ...and of course she is just a - a
fact witness of some sort.

MR. MAE: No - no, Your Honour. Absolutely, Your
Honour.

THE COURT: All right. Ms. Chapman, you don't
see any issues there?

MS. CHAPMAN: No issues there - no, Your Honour.

THE COURT: All right. Anything else that we can
discuss? If not we can adjourn until tomorrow
morning at 9:30.

MS. CHAPMAN: We'll just talk about that later.

MR. MAE: So - sorry, Your Honour.

THE COURT: All right. So we'll adjourn 'till
tomorrow at 9:30. Madame Registrar, I'll just
get a copy of that later when you have a chance
of the exhibit.

...

M A T T E R A D J O U R N E D

1091.
Certification

FORM 2
CERTIFICATE OF TRANSCRIPT (SUBSECTION 5(2))
Evidence Act

5

I, Lauren Burch, certify that this document is a true and accurate transcript of the recording of Danilova v. Nikityuk et al. in the Superior Court of Justice held at Barrie, Ontario taken from Recording No.

10

3811_02_20160530_090026__10_MULLIGG.dcr, which has been certified in Form 1.

15

(Date)

L. Burch
(Signature of authorized person)

20

25

30

May 31, 2016

COURT OPENS...

SCHEDULING DISCUSSED of the witnesses for the week

5 THE COURT: Yes, Ms. Chapman, are we ready with the next witness?

MS. CHAPMAN: Yes, we are. So the next witness will be Cathy Kytayko.

10 CATHY KYTAYKO: (SWORN)

EXAMINATION IN-CHIEF BY MS. CHAPMAN:

Q. Do you say your name Kytayko?

A. Kytayko.

15 Q. Okay, thank you. Ms. Kytayko, we've heard this morning that you've since retired from the County of Simcoe. But would you tell us, please, about your employment when you were with the County of Simcoe?

20 A. Certainly. For the last 12 years I've been the director of social housing and in that role I'm basically responsible for a number of business units within the County so the County owns rent-geared to income housing with Simcoe County Housing Corporation. We also administer the wait list for the rent-geared to
25 income housing for all of the social housing units across the County. And we also deliver a number of new programs where we increase supply of social and affordable housing across the County.

30 Q. Thank you. And you're in agreement that the defendants Alla and Valentin Nikityuk made an application for social housing.

A. Yes, they did.

5 Q. So let's have a look at that application. There's a copy in Exhibit 2B the red book at Tab 41. And if we could please have a look at page 528. So the Nikityuks made an application on a special priority basis, is that correct?

A. That's correct.

10 Q. And it appears in the application that there are some mandatory requirements in making that special priority application. First, number 1, under the box under number 12, special priority, we have mandatory requirements. Number 1, a letter outlining the nature of the abuse and timeframes of when the abuse occurred, and timeframes in which you co-resided and your current plans of reconciliation or permanent separation. And there's a box next to it checked that says attached by letter. Could you confirm which letter meets requirement number 1? Now, if I could be of assistance to you, I believe the two letters that formed part of this application are in Exhibit 3A at Tab 9. So you'll need likely both of those binders open. Sorry, I should clarify. In the green binder, Exhibit A it would be Tab B9. So there's letter tabs and number tabs. There should be a large coloured tab with the letter B on it.

25 A. I don't see that.

Q. And then number 9.

A. Okay.

30 Q. So again, could you advise the court which letter complies with requirement number 1?

A. So we have to my understanding we have the letter that has been signed by the tenants, or the applicant at that time which is written in a language

5 that I don't speak and there's a verification document from the Women's Crisis Centre and a letter from the YMCA from a settlement counsellor that has translated the information provided by the tenants in their letter seeking and speaking to the abuse that they've encountered.

10 Q. Okay. So if we're in agreement that these documents represent the requirements under the special priority application would you agree that the letter that is written in Russian and translated by Yana Skybin was that the letter to answer number 1 under the mandatory requirements? And if so, I would then put to you that the verification form and letter prepared by Ms. Dorothy Archer on October 7, 2011 would meet requirement number 15 3.

A. I would - I would concur with that, yes.

20 Q. Okay. Let's have a look at the letter that was hand written in Russian and what appears to be Ms. Yana Skybin's translation of that letter dated October 7th, 2011. So number 1 I would suggest is very specific. It must outline the nature of the abuse and the timeframes of when the abuse occurred. Could you please advise the court where in this letter it outlines the 25 nature of the abuse and the times that the abuse occurred?

MR. MAE: Your Honour, forgive me for rising.

I fail to see the relevance of this line of questioning.

30 THE COURT: Ms. Chapman?

MS. CHAPMAN: The relevance is that the Nikityuks were able to obtain social housing on

5 a special priority basis, based on an allegation of abuse. In order to meet the definition of special priority there were very specific requirements and I'm suggesting that those requirements weren't met.

MR. MAE: Which, again, Your Honour, is not relevant to this case.

10 MS. CHAPMAN: Given the allegations of abuse, alleged by Nikityuks against the plaintiffs and more specifically Svetlana Danilova, I believe it is relevant to the very issues in this case.

MR. MAE: With respect, Your Honour, just saying 'I believe it is' is not actually addressing the issue.

15 THE COURT: Well, I guess the bottom line is that a social housing application was granted.

MS. CHAPMAN: It was.

20 THE COURT: Based on information filed. All this witness can do is address what's in the record unless she was the decision maker.

MS. CHAPMAN: Correct.

25 THE COURT: If you feel or want to submit later that the application ought not to have been granted, that will be a separate issue between - involving Simcoe County. But I think your point is, that you're trying to make is that the application was deficient in some respects.

MS. CHAPMAN: That's correct.

30 THE COURT: But the bottom line is the housing was granted.

MS. CHAPMAN: Yes, it was.

5 THE COURT: So really it calls into question the oversight function of Simcoe County housing as opposed to the details of issues between the plaintiff and defendant. But you can extract that information from her in terms of what the records show and then that forms the basis for some future submissions you may wish to make.

10 MS. CHAPMAN: Q. So then the verification letter that appears to be a letter prepared by Dorothy Archer on or about October 7th, 2011.

A. That's correct.

15 Q. And do you know whether Ms. Archer is a professional such as a doctor, a lawyer, a law enforcement officer as listed under number 3?

A. Yes, by virtue of the fact that she works for the Women and Children's Shelter of Barrie, Crisis Center, they are considered a verifiable source for individuals that are applying for special priority.

20 Q. And who made - do you know who made the ultimate decision about allowing the application to go forward on a special priority basis?

25 A. Yes. That decision would be made by our applicant tenants services supervisor, Carol Runnings and a letter would have been sent to the applicant advising that they had been awarded special priority.

30 Q. Do you have any knowledge as to whether any other applications were supported by Ms. Skybin in relation to applications for social housing?

MR. MAE: Your Honour, again, this is entirely irrelevant.

5 THE COURT: Is the question whether or not they made previous applications that were rejected or something along those lines?

MS. CHAPMAN: No. It's in relation to other individuals that may have -

THE COURT: Oh, I see.

MS. CHAPMAN: - made application with the assistance of Yana Skybin through the YMCA.

10 THE COURT: And the relevance of that?

MS. CHAPMAN: The relevance is that in correspondence, Ms. Skybin refers to another elderly couple. I'm trying to establish whether Ms. Kytayko has any knowledge of those applications.

15 MR. MAE: Your Honour, firstly the email my friend refers to is an email dated October the 4th to Anthony Culbert of the Community Legal Clinic has nothing to do with the County of Simcoe and of course, I'm sure my learned friend is well aware of the rules of evidence relating to open quote similar facts close quote. It's highly irrelevant - it's completely irrelevant whether Ms. Skybin has assisted other people obtain housing or not. It's just not relevant, Your Honour.

20 THE COURT: All right. Ms. Chapman was this an issue that was pleaded in terms of this may have happened previously?

25 MS. CHAPMAN: It was not. I'm prepared to move on.

30 THE COURT: All right. Thank you.

5 MS. CHAPMAN: Finally, I have a few questions in relation to the documents that we were able to review and make copies of from your file this morning. Your Honour, there's a copy here for you. If we could enter that as what I believe would be Exhibit 11.

EXHIBIT NUMBER 11 - Documents from County of Simcoe - Produced and marked

10 MS. CHAPMAN: Q. Now, Ms. Kytayko, these documents appear to be letters and supporting documentation in English, do you know whether Alla and Valentin Nikityuk prepared these documents?

A. I don't have any knowledge of that.

15 MS. CHAPMAN: Those would be my questions for the witness, Your Honour.

THE COURT: Is there anything in these letters that I ought to take note of? You're filing them as exhibit. They come from her file, but is there -

20 MS. CHAPMAN: I intend to refer back to them later on in relation to Nikityuk's evidence.

THE COURT: So I can review them at a later time.

25 MS. CHAPMAN: Yes.

THE COURT: These aren't numbered pages, perhaps just for the record, you'll indicate how many pages.

30 MS. CHAPMAN: I believe there are six pages in total.

5 THE COURT: All right. And these came from the County's file this morning after reviewed by all counsel, is that the idea?

MS. CHAPMAN: That's correct.

THE COURT: That completes your examination.

MS. CHAPMAN: It does.

THE COURT: Mr. Bornmann, do you have some questions for the witness?

10 MR. BORNMANN: No, Your Honour.

THE COURT: Mr. Mae?

MR. MAE: No, Your Honour.

THE COURT: Thank you, Ms. Kytayko. You're finished. You can step down. Thank you very much for coming this morning. Ms. Chapman, does that complete the plaintiffs' witnesses?

15 MS. CHAPMAN: Yes, it does, Your Honour.

THE COURT: Mr. Bornmann, are you ready to call your first witness?

20 MR. BORNMANN: I am, Your Honour. I'd like to call Alla Nikityuk, Your Honour.

TATIANA BEKKER - RUSSIAN INTERPRETER (reminded of oath)

ALLA NIKITYUK: (SWORN through Interpreter)

25 MR. BORNMANN: Your Honour, before I begin my questions, just a quick matter with respect to the chronology which I will be referring to. I believe one of the entries, April to June 2008 there's the Danilovas' name appears where the Nikityuks' name should appear, and I've spoken with my friend and she's in agreement.

30

THE COURT: Yes, thank you for that correction.

EXAMINATION IN-CHIEF BY MR. BORNMANN:

(testifies through interpreter)

5

Q. Good morning, Mrs. Nikityuk.

A. Good morning.

Q. I want to start by talking about your background. You were in born in Leningrad Russia, now St. Petersburg, right?

10

A. Yes.

Q. And you were born October 30th, 1938, right?

A. Yes, yes.

Q. So when you signed the sponsorship agreement in October 2004, you were 65 years old about to turn 66?

15

A. Yes.

Q. And you're 77 years old now?

A. Yes.

Q. And I want to talk about your education and work. You're retired now, correct?

20

A. Yes.

Q. And what did you work as before you retired?

25

A. I was working as a senior tech -

THE INTERPRETER: May I ask the witness to repeat and slowly and sentence by sentence? Sorry.

A. Twenty years before the pension I was working as an engineer as engineer modeling engineer and I was of the third category.

30

Q. And what was your education?

A. I have special technical education.

5 Q. I'm going to talk about marriages and children. You're now married to Valentin Nikityuk, right?

A. Yes.

Q. And when did you marry Valentin?

A. I married Valentin in 1978.

Q. And you were married previously and had one child, Svetlana who was born in January 5th, 1963, right?

10 A. Yes.

Q. And Svetlana would have been 15 years old when you married Valentin, yes?

A. Yes.

Q. And you have no children with Valentin?

15 A. No.

Q. And we've heard that Valentin had twin girls from a previous marriage, and that they live in Russia, correct?

A. Yes.

20 Q. And where did you live after married Valentin?

A. After the first divorce I was living with my daughter Svetlana and when she turned 14, I married Valentin. We were living in a rooming apartment and we had room there. And Valentin had an apartment, one room apartment separate. We made an exchange of the apartments and we bought as a result of the exchange we bought two room apartment.

25 Q. I want to talk about Svetlana's marriage to Pavel and the birth of Anastasia.

30 THE INTERPRETER: Sorry, marriage to -

5 Q. I want to talk about Svetlana's marriage to Pavel and the birth of Anastasia. Svetlana married Pavel in 1983, right?

A. Yes.

Q. And they had a daughter named Anastasia, correct?

A. Yes.

10 Q. And do you remember when Anastasia was born?

A. On November 21st 1985.

15 Q. So I now want to ask you about the time when the Nikityuks and Danilovs lived together in Russia. We heard that Svetlana and Pavel lived with you and Valentin in the two-bedroom apartment after Svetlana and Pavel were married, right?

THE INTERPRETER: After?

Q. They got married.

20 A. It was not two-bedroom apartment; it was two room apartment. They call it that way.

Q. Did Pavel move in with you after the marriage?

25 A. Before the marriage, in the apartment where registered my husband, myself and my daughter Svetlana. When Pavel appeared after the marriage, he moved in but he was not registered. He stayed registered - remained registered with his parents.

30 Q. What did Pavel and Svetlana do at that time?

A. They are finishing the university and Pavel was allowed to stay at the owner -

5 THE INTERPRETER: I cannot find the word it's
the - may I explain the phrase. Pavel is allowed to stay
at the organization where the scientific organization but
only under the condition that he has registered in
Leningrad, a scientific organization where the people do
scientific research work.

Q. Did Svetlana and Pavel live with you right
away or did they live somewhere else first?

10 A. After the wedding they advised us that they
wanted to live separately and about two months there were
living separately they were renting. After that they
came to us to our home and they told us that they would
like to live with us because due to economic reasons and
we didn't mind.

15 Q. And how were the costs split when you lived
together?

20 A. We lived together as a family and they had
some - occasional things, they were very contentious
guys.

Q. And how were expenses paid?

25 A. We had - we shared the grocery bills and we
lived as one family. We paid for utilities everything
what we have to do.

30 Q. By 'we' you mean you and Valentin or
everyone?

A. I mean all my family Valentin, me,
Svetlana, Pavel and later Anastasia.

Q. And what was the percentage contribution
for everyone?

A. I would not even discuss that because we
did everything. We did everything as a family.

Q. Do you remember what the percentage was?

A. There was no such thing as percentage. We were working. We had money. We lived well, not bad.

5 Q. I want to talk about the Danilovs move out. When did the Danilovs move out?

A. As I have already mentioned Pavel was left at this scientific research organization and the parents from - his parents from the town of Kirousk (ph) provided him provided with a residence in Leningrad. It used to be Leningrad.

10 Q. When did they move out?

A. After Pavel bought his dwelling Svetlana deregistered from our apartment and they registered at Pavel's dwelling.

15 Q. What year was that?

A. '83, oh, sorry, one moment, '88.

20 Q. After they moved out, who was registered at the apartment?

A. I would like to clarify they do register it at our apartment and they registered at his dwelling in order to get on the waiting list for improvement of the living conditions.

25 Q. So they were no longer registered at your apartment?

A. In our two room apartment only Valentin and I remained registered.

30 Q. I want to talk about - I want to ask you about your relationship with the Danilovs when you all lived in Russia. Can you tell the court what your relationship was with the Danilovs at that time?

5
10
A. The relationship was very good. My daughter was well prepared for the life. She did everything. I didn't have any claims to her based on the everyday life. Pavel studied a lot and he took occasional jobs when necessary - when possible. He was doing his best for the family. Valentin at that time worked a lot as well and he often went on the business trips. We had good relationship in the family. It was my daughter's choice and we accepted it.

Q. What was your daughter's choice?

A. To marry Pavel.

Q. How often did you see Svetlana and Anastasia after they moved out?

15
A. We keep in contact all the time. We made calls all the time and also what connected us was a cottage.

Q. How so?

20
25
A. I was working but at my every opportunity I took myself for the weekends. I was trying to help wherever I could help. We spent all vacations at the cottage with Valentin, it was kind of our oasis and we took our granddaughter with us all the time. Svetlana and Pavel came there for the weekends and we were working - all of us were working at the cottage. There was a room designated for them on the second floor of the cottage and when we were together as a family, everything was good.

30
Q. Anasta is short for Anastasia, correct?

A. Yes, yes. I didn't say it that way.

Q. At that time, what was your relationship with Svetlana?

A. Good.

Q. What about Anastasia?

A. Nothing. She was loved by all of us.

Everything was good.

Q. And how about Pavel?

A. We can talk here only about the relationship between men. Between women everything was good.

Q. You said some good things about Pavel. Pavel tried hard for his family; were there other good things you remember about Pavel from that time?

A. I was very positive. I was okay how he treated the child, how he treated Svetlana. At that time, he was a good husband and a father. But of course Valentin, my husband he is from a military family and of course, they are very different by nature. As far as I understand that, those arguments were based on Pavel has always done everything - he wanted to do everything very good, very good, but as different generation we had different opportunities, different viewpoints and we were doing - we were doing things not in the way that he liked it. We were trying to deal with it somehow but they were different by nature two people they were different.

Q. At that time, were there bad things that you thought about Pavel?

A. No, there was no.

Q. I want to ask you about the Danilovs move to Latvia. The Danilovs moved to Latvia in 1996, right?

A. Yes, in '96 Anasta was ten then.

Q. Do you remember why they moved to Latvia?

5
A. I would like to make a clarification here. The time when they deregistered from the apartment in 1993 there was a privatization of our apartment.

Q. Okay. We will get to that. You need - I'm going to ask the question again. Do you remember why the Danilovs moved to Latvia?

10
A. There was a difficult time and there were difficulties with jobs and Pavel's opinion was that he would find a proper job for himself in Latvia.

Q. Did you see the Danilovs after they moved to Latvia?

A. We stayed in contact all the time.

Q. How?

15
A. We talked on the phone all the time.

Q. Who would talk by phone?

A. Mainly I was talking to my daughter Svetlana.

Q. And did you discuss family reunion?

20
A. We got used to each other. We were mother and daughter and it was a big blow to me when they left.

Q. And were there any registration changes that you remember at that time?

25
A. Before they left, they had to privatize Pavel's dwelling and sell it. For that purpose, Svetlana asked me and Valentin to register her and Anastasia back at our apartment.

Q. This was in 1996?

30
A. It was - yes, it was '96 before they left, right before they left, they had to go through this procedure.

5 Q. And you said they - so Svetlana and Anastasia registered where?

A. They had to deregister from Pavel's dwelling and they asked us to register them back at our apartment. It was necessary to do because they could not sell their residence because they had to provide a document that the child was registered somewhere.

10 Q. And did they register at your apartment?

A. Yes, we did not decline. It was not easy. They were registered, but at that point the apartment was already privatized and it was not the government property any more. It was Valentin and mine property. And they were registered at the apartment without the right of ownership.

15 Q. You said that they needed to register Anastasia, are there other good reasons to be registered at an apartment even though you don't live there?

20 A. There are many reasons here, medical reasons. It is about the education. It is about the banks everywhere you have to be - you have to have registration.

25 Q. After the Danilovs moved to Latvia, did Anastasia live with you again?

A. Anastasia entered the university and during the first year she was living with us.

30 Q. Do you remember what year that was?

A. They moved out - okay, it was 2003 - 2002.

Q. And where were Svetlana and Pavel then?

A. They lived in Latvia.

Q. And who took care of Anastasia?

5 A. She was living with our family. She, Valentin and I together.

Q. And what did you do for her?

A. She was studying a lot. She went into sports very actively. She was studying. She had friends and we were monitoring her.

Q. Anything else?

10 A. The relationship was good so everything was good.

Q. And who paid for her food?

A. Svetlana and Pavel communicated with us all the time. They knew everything about their daughter. They took care about her including financially and everything was good.

15 Q. And when did Anastasia leave?

A. Anastasia left together with her parents in 2003 she left for Canada from Latvia together with her parents.

20 Q. So she stayed with you for about a year?

A. Yes.

Q. So I want to ask you about the Danilovs move to Canada. The Danilovs moved to Canada in 2003, right?

25 A. Yes.

Q. And you said you were talking by telephone with Svetlana in Latvia.

A. Yes.

30 Q. Did you keep in contact with her after she moved to Canada by telephone?

A. Yes.

Q. How often would you talk?

A. Very often.

Q. How many times a week?

A. I would not be mistaken to say that almost every day.

5

Q. Did you communicate by email?

A. The computer - my husband had the computer and if there were messages he was telling me about them.

Q. How often were there emails?

10

A. Mainly it was by the phone at the beginning it was by the phone.

Q. Whose email address would you send emails to in Canada?

15

A. Svetlana's address when Valentin emailed, he emailed to Svetlana's address.

Q. When you talked with Svetlana by phone did you talk about being together?

A. This conversation started when I got ill mainly.

20

Q. I want to show you a document. Exhibit 2A, Tab 1. This is the sponsorship agreement. Do you recognize this document?

A. Yes.

25

Q. Is that your signature at the bottom of the document?

A. Yes.

Q. Signed October 2004.

A. Yes.

30

Q. Do you remember what happened before you signed this document?

A. I remember that well. In 1995 I was diagnosed. I had oncology. Svetlana took an active part

5
in all those medical issues. She helped me a lot. She was looking for the ways to help me and she managed to find the ways to help me and I was going through the radiology. And of course, we were talking. We had conversations that we had to be together, that we have to get together. She was helping me a lot and I am very thankful to her for that period and she supported me.

Q. Are we talking about 2004 or 1995?

10
A. Everything is connected since that time there were conversations how you would be by your own. There were conversations starting at that time. It's when the document appeared it was like a continuation of the previous times and we didn't know how it should look like how we could do that.

15
Q. By 'that', do you mean - what do you mean by that?

20
A. The way for us to be together was possible only through the sponsorship. And we started to discuss this document. But the problem is this is the lengthy process. We did not promise anything. We would like to be together but it was like the first sign that appeared.

Q. Why did you sign this document?

25
A. We signed that document. That document did not oblige us to do anything, but the conversation is let's start and we'll see how it goes.

Q. Whose idea was sponsorship?

30
A. We didn't know anything about it. Svetlana told us about it and explained everything.

Q. And when you signed the document, at the time when you signed the document, what did you think would happen next?

5 A. I was just thinking that the life will give us a hint how to act further.

Q. Sorry, could you explain that?

A. Svetlana interpreted the document to me on the phone into Russian and I knew the context of the document. I understood it. But I also knew that in order to put that in life, we had to prepare a lot of other documents and it depended on how our health condition would be, how everything would be.

10 Q. Had you decided whether or not you would immigrate to Canada?

A. The problem is, it turned out that in ten years in 2005 my illness came back, has revealed.

15 Q. When you signed the document, had you made a decision to immigrate?

A. No. There was no decision.

20 Q. The other steps, the other documents that you talked about, were there costs associated with those other documents?

A. Yes, the whole procedure required money. We had to pay for everything, everything had to be translated. Svetlana told me mother, we will be sending you money piece by piece and you have to process the documents.

25 Q. Did Svetlana tell you that you need to pay that money back?

A. There was no conversation like that.

30 Q. Did you promise Svetlana to pay that money back?

A. We did not talk on that topic.

5 Q. Did you know about the Danilovs' financial situation in Canada then?

A. Yes, I knew.

Q. What was your understanding?

A. I knew that Pavel had a job there that they were starting to settle, I knew that. I was concerned about that issue as well, but they told not to worry, you don't have to worry about that.

10 Q. I want to talk about your finances in 2004 and 2005. Now, we've heard about the apartment. And you were living in the apartment with Valentin, right?

A. Yes.

Q. And we heard that at the apartment was at first government owned.

15 A. Yes.

Q. And that it was privatized.

A. Yes.

Q. I want to take you to another document. It's Exhibit 2A, Tab 2. And on page 3 there is a Russian version of the document. Do you recognize this document?

20 A. Yes.

Q. Could you explain it to the court, please?

A. This is the certificate of the state registration of ownership.

25 Q. Does this document show who owned the apartment?

A. It is written that the owners are Nikityuk, Alla and Nikityuk Valentin.

30 Q. Were there any other owners?

A. No.

5 Q. And on the document, in the row that says ownership basis, it says agreement 9430 dated February 4th, 1993. What is the significance of that date?

A. It is that the apartment was privatized in 1993 and from the government property it turned into the private property.

10 Q. When the apartment was privatized, did Svetlana or Anastasia have ownership rights?

A. At the time when we were going through the privatization, only Valentin and I were registered.

15 Q. Were Svetlana or Anastasia ever owners of the apartment?

A. No.

20 Q. You told us that in 1996 Svetlana and Anastasia were registered without rights of ownership, right?

A. Yes.

25 Q. Were there any costs associated with their registration?

A. No.

30 Q. Were there any - what about common area fees?

A. After Svetlana and Anastasia moved to Canada they sent us money to pay common area fees because we had to pay for all people registered at the apartment.

Q. How did they send you that money?

A. Once Svetlana came in 2005 when I had surgery she brought a card and we used that card.

Q. Do you remember how much common fees were?

A. We used to withdraw the money and pay for the common area fees for those two people.

Q. Do you remember the amount of money?

A. It was \$100.00.

Q. I want to ask you about the summer house.

THE COURT: Mr. Bornmann if the figure is significant or of any importance, is it \$100.00 per month or per year unless that was already made clear, I'm not sure.

MR. BORNMANN: Thank you, Your Honour, my mistake.

Q. Alla, the \$100.00, how often was the \$100.00 paid?

A. Once a month we were paying for the common area.

Q. Thank you.

THE COURT: Mr. Bornmann, I wonder if we should just take a brief morning break. I know that the witness has been testifying for about an hour and there's a translation issue so I think frequent breaks would help. I don't know how you're doing on time, but if we need to shorten up our lunch hour or sit a bit later in the afternoon from time to time to make sure we do get both witnesses completed if we can, but I think frequent breaks would help.

MR. BORNMANN: At the risk of being assaulted in the hallway, Your Honour, I say that we gratefully take whatever extra time the court is willing to provide in that regard in order for us to meet our timeline.

THE COURT: You can keep me posted on how you think we're going in terms of the timelines.

I've forgotten what you told me this morning as far as what your hope was, whether you'd start the second witness.

5 MR. BORNMANN: My hope was to start the second witness some time on Thursday, Your Honour, and in fact conclude on that day. The County testimony went a little longer than expected this morning, but I'm hopeful we can make some of that time up especially if we can dip a little bit into lunch.

10 THE COURT: So we'll come back in about 15 minutes then.

MR. BORNMANN: Thank you, Your Honour.

15 RECESS TAKEN

UPON RESUMING

MR. BORNMANN: Your Honour, based on this morning's questioning, I believe I'm on pace for six more hours of chief.

20 THE COURT: I propose that we return at two o'clock after the lunch break from one to two so we'll shorten up our lunch breaks. I'll check with the staff to see if they're available to stay till five o'clock through the rest of the week. So I'll make those inquiries and counsel can consider that as well if it's suitable for them.

25 MR. BORNMANN: Thank you, Your Honour.

30 Q. Mrs. Nikityuk, we were speaking about your financial situation in Russia in 2004/2005. We heard that you owned an apartment. And we understand Valentin owned a summer house outside St. Petersburg, correct?

A. Yes.

Q. And we understand that you and Valentin had a car and a garage for the car, correct?

A. Yes.

Q. And Valentin owned the car, right?

A. Yes.

Q. And you owned the garage, correct?

A. Yes.

Q. Can you tell the court about your income in late 2004/2005?

A. At that time, I'm completely retired. I stopped working. Valentin stopped working as well and retired as well. However, when he retired, the moment of his retirement, he received 90 thousand rubles. It was some kind of support money. He received additional amount to his pension from organization. And he would have dividends from organization.

Q. Did you have enough money to live?

A. Yes.

Q. Did you have any other sources of income?

A. No, didn't have.

Q. Did Pavel and Svetlana send money?

A. They would send money for utilities and send money for - to start the process of this document as well.

Q. I want to ask you about your health in 2005. We've heard that you had oncology in 1995.

A. Yes.

Q. And did you recover?

A. Doctor believed that I recovered however I had - it came back in 2005.

Q. And what happened when it came back?

A. In 1995 my treatment was limited by radiology. In 2005 I needed urgent surgery.

Q. And did you get the surgery?

A. Yes, I had surgery.

Q. And we've heard that Svetlana returned to Russia to help you at this time, right?

A. Yes, Svetlana came to Russia at that time.

Q. And how did she help?

A. She was helping me a lot at that moment. She would involve her acquaintances for this purpose and she would meet me good doctors.

Q. Did she help with the surgery?

A. Surgery, we had money and we paid for surgery.

Q. Who?

A. Valentin.

Q. Whose idea was it for Svetlana to visit?

A. We had very good relationship and it's very normal thing that daughter helps her mother at very difficult moments, hard moments.

Q. Whose idea was to come; her idea, your idea or mutual?

A. She came herself. She believed I need her help.

Q. Did you need her help?

A. At this circumstances it wasn't bad. I'm very grateful for that.

Q. Did you need Svetlana's help?

5 A. I was hospitalized at a very good hospital. Valentin was on side of this case. I said again, I've very grateful that she came, that she helped.

Q. My specific question is, was it necessary? Was it required? Did you need her help?

A. If she wouldn't come, I would went under surgery and I have a niece I would turn to her for help.

10 Q. Was there a cost associated with the surgery?

A. Yes.

Q. Who paid that?

A. We paid and Svetlana came and paid as well.

Q. Were there medications?

15 A. Yes, medications, yes.

Q. And was there a cost associated with the medications?

A. Yes, there was cost.

Q. And who paid for those?

20 A. We paid from our side and Svetlana paid.

Q. And was the surgery and medication successful?

A. Yes.

Q. You fully recovered?

25 A. I can't say that, who knows?

Q. Did Svetlana tell you that she wanted to be repaid for the medication and surgery?

A. No.

30 Q. Did she say she wanted to be repaid for the cost of her visit?

A. No.

5 Q. Did you promise to repay her for the surgery, the medication or the trip?

A. She put from her side that way that we wouldn't have a question about that.

Q. Did you promise to pay her back?

A. No.

Q. Before this court case, did Svetlana ever ask for repayment?

10 A. No.

Q. What was Valentin's health in 2005?

A. Valentin had problems with health.

Q. What were those problems?

A. Urology.

Q. And did he receive any treatment?

15 A. Yes. He received treatment in Russia. He was hospitalized.

Q. Was it successful?

A. Not really.

20 Q. Can you explain?

A. In Russia, they didn't have something that could help him, however we would manage our own efforts as we could.

Q. Was it a life threatening issue?

25 A. No, it's not life threatening but he would leave his problems.

Q. These are bladder problems.

A. Yes.

30 Q. And did you know where you could get treatment?

5
A. That was a conversation that in Canada good medical system. We had conversation about that on this topic.

Q. I would like to ask you about your trip to Canada in 2005. You visited Canada in 2005 without Valentin, right?

A. Yes.

Q. How did that trip happen?

10
A. Svetlana offered obviously after surgery. She offered. You go and come to Canada and see everything.

Q. Why did she want you to see Canada?

15
A. She told, you have health issues. You live alone, the age, just to see what's all around here.

Q. Were you still talking about sponsorship?

20
A. Yes, we started the process of documents and we had to make a decision, you want to live here alone.

Q. Who paid for the trip?

A. They paid for the trip.

Q. Svetlana and Pavel

A. Svetlana, yes.

Q. Did you promise to repay them?

25
A. No.

Q. Did Svetlana or Pavel ask you to pay them back?

A. No.

30
Q. Before this court case, did they ever ask you to pay for that?

A. No.

5 Q. When you went to Canada alone, had you made a decision about immigrating to Canada?

A. I couldn't make this decision alone. First of all, I had a husband.

Q. So yes or no?

A. No.

Q. Why not? Did you have any concerns?

10 A. It's not that simple for elderly to leave everything where you lived. It's not that easy. There was no decision. We heard only negotiations.

Q. Now, we understand - I now want to ask you about your visit in 2007. You and Valentin visited in October 2007, correct?

15 A. Yes.

Q. What was the purpose of that visit?

A. The purpose of this visit was for Valentin to see.

Q. To see?

20 A. So he could see acquaintance and they invited us and we went.

Q. Whose idea was that visit?

A. Svetlana's and Pavel's.

Q. And who paid for the trip?

25 A. Svetlana and Pavel they paid.

Q. Do you remember what you did on your visit?

A. Yes, I do remember.

Q. Can you tell the court about the visit?

30 A. When we came they would take us, show us making acquaintances with Canada. They took us to Innisfil and showed us a place, a lot where we're building our house. For us, we never been to - for us

everything was new. They asked us if we liked the place and we said yes, it's a good place.

Q. Which place, where?

A. Innisfil at the lake, not too far from lake. Yes, I said we liked this place.

Q. Did you talk about immigration to Canada on the trip?

A. Yes. All the time we had this conversation, decide, decide.

Q. And what were you talking about?

A. We were talking about that all the time and talking about that in Canada.

Q. Do you remember the topics of conversation?

A. Namely we were being interested on what the terms, conditions there would be, but no, it was not discussed. At that moment I was very interested to live separately and it was very important moment for us, Valentin. We were talking about health, but here you can turn to doctor and they can help you, the fact that you don't know the language of course was a big barrier. They would say all the time, you didn't need that much, you would go to certain places -

Q. Can you say that last sentence again, please, Alla?

A. When it was in regards to the language there would calm us down and say okay, or you going to go and know the language.

Q. They would say you'll learn the language?

A. Yes, they had this conversation that we would learn the language, we have an opportunity here.

Q. Was there any discussion of helping?

A. What helping?

Q. Would they help you?

A. We discussed this document about the sponsorship, yeah, we discussed it. It was saying -
5 talking about helping and supporting.

Q. What was your relationship like with Svetlana and Pavel on this trip?

A. Good.

Q. What was Valentin's relationship with Svetlana and Pavel?
10

A. Good too, as well.

Q. Had you made a decision to come to Canada?

A. He was after we came here, two of us and after we received the email.
15

Q. Okay. So on the trip, yes or no, had you made a decision about immigrating to Canada?

A. No, not yet.

Q. You said living separately was important.

A. We would discuss it from the first days, on the first days, from the first days of our discussions.
20

Q. And during the 2007 trip, do you remember any discussions about living separately?

A. We were talking there were a lot of options we could buy separate apartment. Yeah, we have different options and when we make a decision, we will do it for sure.
25

Q. What was the last bit?

THE INTERPRETER: We will do it for sure.

Q. Did the Danilovas ask you to pay them for the cost of the trip?
30

A. No.

Q. Did you make a promise to pay them?

A. No.

Q. Did the Danilovs ask for repayment before
this court case?

A. No.

Q. When did you finally make your decision to
immigrate to Canada?

A. After we received the email.

Q. Do you remember when you got that email?

A. We receive it in winter of 2008.

Q. Can I turn your attention to Exhibit 2A,
Tab 3? This is the January 27th, 2008 email.

THE COURT: Mr. Bormann, it's almost one
o'clock and I presume you're going to take a
bit of time with this next issue.

MR. BORNMANN: Yes, Your Honour.

THE COURT: We should return to that at two
o'clock.

MR. BORNMANN: My apologies, I lost track.

THE COURT: So we'll break until two o'clock.

RECESS TAKEN

UPON RESUMING

MR. BORNMANN: Q. Before lunch we were looking
at the January 27th, 2008 email which is Exhibit 2A, Tab
3. Do you recognize this document?

A. Yes.

Q. Can you tell the court what the
significance of this document is?

A. When we received the email message telling
us that our money may be invested without risk at ten
percent and we were told what conditions we will be

5
10
living in in Canada. I mean, the separate - separate residence the car for Valentin, meals, miscellaneous, insurance, gas, telephone, TV and internet. When we read everything and discussed it with Valentin we came to the conclusion that those were concrete promises which we could count on and which we in principle discussed before, I mean, the separate residence and the most important thing in his email message was that our money will be preserved if the money is invested without the risk on ten percent without the risk.

Q. How is this connected to the decision about immigrating to Canada?

15
A. Those were concrete discussions and it was possible already to give some sort of the answer about our consent to go Canada.

Q. Before this email, did you get any other information or proposal in writing?

A. No.

20
Q. And before lunch, you said that when you got this email, you were then able to make a decision, is that correct?

THE INTERPRETER: Could you please repeat again? Able to make a decision?

25
Q. Able to make a decision about immigrating?

A. Yes, we discussed it with Valentin and yes we decided that we can.

Q. And why did this help you make that decision?

30
A. The main important thing why it helped it is because our money would be preserved without the risk.

5
Q. Can you take a look at the top of the email where it states 'brought capital 200 thousand'? What did that mean to you?

A. We didn't know how much money we would bring. But the amount was indicated here \$200,000.00.

Q. And what was this amount?

A. It was meant that if we come we have to sell everything that we saved throughout our lives; the apartment, the car, the cottage.

10
Q. Had you sold them yet when you got this email?

A. No, no, no.

Q. And the ten percent growth, what did that mean to you?

15
A. It meant that on that growth amount we could live in Canada. We would lead a normal life in Canada.

Q. And what did you think that life would looked like?

20
A. It would be a good life for us.

Q. Can you look at the expenditures? Were any of those items of particular importance, any of those expenses? Were any of those expenses of particular importance?

25
A. Separate residence it was the most important.

Q. The most important what?

A. Separate living.

30
Q. Can you look at the - where it says pension under income?

A. Pension \$200.00.

Q. Why is that amount \$200.00?

A. We had a Russian pension which would be transferred to Canada if we came.

5 Q. Was the Canadian - did you know the Canadian value of your pension at that time?

A. This is not the exact amount but I remembered that at that point my pension in Russia was five thousand rubles, but it would have been less because
10 if we went abroad, the federal benefits will be deducted.

Q. Who is this email from?

A. As far as I can tell, it is Pavel who signed it. So it is from Pavel and from Svetlana.

Q. Do you know how Pavel came up with \$200.00 for your pension?
15

A. I believe it was an approximation, he put it approximately.

Q. Can you look at comment number 2? Read it to yourself. It's on two pages. It goes onto the next
20 page.

THE COURT: She'll have to read the Russian version.

MR. BORNMANN: Q. What's the significance of this comment? We don't have to read it. Was this
25 comment important?

A. It says again that our money will be preserved if the money is invested at ten percent without the risk.

Q. Can you look at comment four? You don't
30 need to read it aloud, read it to yourself without saying it. What was this comment all about?

5 A. We had doubts about selling our apartment. It was a pity for us to sell the apartment, but in this comment it is confirmed that there will be difficulties if we do not sell the apartment.

Q. Was it an option to keep the apartment?

A. Yes, we discussed that issue.

10 Q. Can you read comment six to yourself, please? And that I believe may be on a second page, or is it all on the - it goes onto page 8.

A. I read it.

Q. Was there any importance to this comment?

A. Again, it was emphasized that you have to decide yourselves because it was your money.

15 Q. And what about comment seven, was it important?

A. Yes, it was very important. It was emphasized here that we will have different wallets and different kitchens but in case it is necessary they would always support us with the amount of \$200.00/\$300.00 per month. This was not a problem.

20 Q. What does separate wallets and separate kitchens mean?

25 A. It is meant that we will lead our household ourselves. That is what we wanted while living with them here in Canada.

Q. And why was that important?

A. It was important. We would remain a good family and we would preserve a good relationship.

30 Q. How would living together affect relationships?

A. Greatly, a great influence.

Q. How?

5 A. We lived together as it happened two years and three months. The main conclusions that I made living together is that my daughter adopted the living scenario of her husband.

Q. I'm talking about 2008. Why in 2008 was it important to have separate wallets and separate kitchens?

10 A. We arrived on June 13 and lived together until August 15 is what you mean?

Q. No. I'm talking about this email. When you got this email, why were separate wallets and separate kitchens important? I'm talking about the moment when you got the email.

15 A. We understood that we will be living separately.

Q. And why was that important?

20 A. That was what we wanted. It would mean that we would have our own money. We would have our own style of living and they would be only helping us and supporting us.

Q. And did you know how the Danilovas were going to generate ten percent with the brought capital?

25 A. We didn't know that, but we trusted them a lot.

Q. At the bottom it says 'think it over, make up your mind'. What was the significance of that statement?

30 A. It was a very important decision. We discussed it with Valentin and we accepted it and the most important thing was to preserve money without the risk.

Q. Did you respond to this email?

A. Yes. We responded to that email message. We did not respond, we talked with Svetlana on the phone.

5 Q. Sorry, I'll ask the question again. Did you respond to the email?

A. Responded yes.

Q. How did you respond?

A. On the phone.

10 Q. And do you remember that conversation?

A. Yes. I remember it quite well. It was our decision and from my daughter's side it was pure joy.

Q. What did you say on the call?

15 A. We discussed this message and we decided made a decision to come to Canada if the following procedure will be successful like medical examination selling the real estate property.

Q. What else did you tell Svetlana?

A. We told her that we agreed.

20 Q. And what were you agreeing to?

25 A. We agreed that our money will be invested at ten percent without the risk. We would have a separate residency. Valentin will have a car, meals, miscellaneous, gas, insurance, and various cultural things, TV, internet, telephone.

Q. What did Svetlana say when you told her that?

A. She told finally you made up your mind.

30 Q. And what did you think of the arrangement set out in the email? What did you think of the one bedroom, the food, the car; what did you think of this arrangement?

5 A. We believed that those would be good conditions for us.

Q. Can you look back at comment one? Read it to yourself, not aloud. What was the significance of this comment to you?

10 A. We understood that there were various options for living for example there was an option even of a house. And in future, it might be helpful - it might be a house for living.

Q. This is comment number one.

15 A. They make a comparison here how people retire, people live in Canada some of them sell their house which has been already paid for in full that it is a normal occurrence here and it fits our situation perfectly.

Q. And what did you think of that?

20 A. We couldn't think yet that, we understood that we could live as regular Canadian retired people if there is this option.

Q. So what happened next?

25 A. When we received the email we gave our consent and we started thinking about passing the medical evaluation.

Q. And did you hear back from the medical?

30 A. When we got the decision from the medical commission, the decision came up to sell the property.

Q. And what property did you sell?

A. We sold summer house, garage, car, apartment.

5
Q. I'd like to turn your attention Exhibit 2A, Tab 4. This is the agency agreement for the apartment. There's a Russian version on page 21.

THE COURT: Mr. Bornmann, would it assist if you just led her through some of this information if it's non-controversial?

MR. BORNMAN: Yes, Your Honour.

10
THE COURT: Unless Ms. Chapman has a concern about it, I think these issues are already in front of us. That may assist.

MR. BORNMAN: Thank you, Your Honour.

Q. This document is the agency agreement for selling the apartment, right?

15
A. Yes.

Q. And if you turn to Tab 5 starting on page 29, this is the Russian version is on 29, English version on page 23. This is the purchase and sale agreement for the cottage, correct?

20
A. Yes.

Q. And then on page 25 in English and page 31 in Russian. This is the purchase and sale agreement for the garage, correct?

A. Yes.

25
Q. And on page 27 in English and page 33 in Russian. We have the purchase and sale agreement for the apartment, correct?

A. Yes.

30
Q. To sell the apartment, was there any deregistration?

A. Yes.

Q. Who had to be deregistered?

5
A. It was necessary to deregister people without the rule of ownership.

Q. And who were those people?

A. Anastasia and Svetlana.

Q. And did they deregister?

A. Deregistered, yes.

Q. And did they agree to be deregistered?

10
A. I said the right to deregister right away through this port and it was a little bit slower with Svetlana.

Q. Did you make any promises to Svetlana or Anastasia in order to get them to deregister?

A. No, no we didn't give any.

15
Q. Did you pay any money to them?

A. No.

Q. Did you promise them part of the sale proceeds from the apartment?

A. No.

20
Q. If Svetlana or Anastasia had refused to deregister, were there any other steps you could take?

A. It is possible to deregister through the court in that case.

25
Q. If I can turn you back to Exhibit 2A, Tab 5, page 27 in English, page 33 in Russian. And this is the agreement from when you sold the apartment, correct?

A. Yes.

30
Q. Now, between - the court has heard between April and June 2008 you transferred funds to Svetlana in Canada, correct?

A. Which period?

Q. April to June 2008.

A. Yes, yes.

Q. And do you remember how you made those transfers?

5 A. We transferred the money from the Russian bank to the Canadian bank.

Q. Can I turn your attention to Exhibit 2A, Tab 6? These are the wire transfers and there's Russian versions starting on page 44. And do you recognize these documents?

10 A. Yes.

Q. Can you tell the court what these documents are?

A. This is money transferred to Canada from the sale of the garage.

15 Q. That's on page 44. And can you turn to page 46? This is the Russian version. And what's this document?

A. This is money received of the selling of the cottage.

20 Q. So how many of these transfers were there?

A. There were four transfers.

Q. Okay. And there's a row titled purpose of transfer and it says present. Why is present the purpose of the transfer?

25 A. This phrase stated on the application for the money transfer. When we were transferring the money the controller who worked with us she asked us what was the purpose of sending the money and we responded that it was our money and we make transfer from one bank to another one and she recommended that in order not to pay
30

the percentage that they take for something to just state present.

Q. And who gave you that advice?

A. The person who worked with us while wiring the money.

Q. And was this money actually a present?

A. No, no.

Q. And did you send these documents to Svetlana or Pavel?

A. No.

Q. Did you think Svetlana or Pavel would ever see these documents?

A. No we didn't think.

Q. So after you transfer the money, you said the money was not a gift, I want to ask you about your understanding about this money. After you transferred it, whose money was it?

A. It was our money.

Q. And why had you transferred it?

A. We didn't have another way out. We didn't have an option how to transfer them.

Q. Why did you transfer the money to Svetlana; for what purpose?

A. The purpose was to transfer money to Canada and she's my daughter and I trusted her a lot.

Q. And what was going to happen in Canada with this money? What did you think was going to happen once you got to Canada?

A. We believed that the money will be invested at ten percent without the risk.

Q. And what were you going to use that ten percent for?

5 A. That ten percent we would have an apartment, a car, gas, insurance, telephone, TV, internet.

Q. And who would decide where you lived?

A. In that case we hoped for Svetlana and Pavel.

Q. Hope for?

10 A. We hoped that because we didn't know the language we didn't know the ways in they would help us to find the residence.

Q. Did you think that you would have a decision about where to live?

15 A. We hoped for that, yes, that we will have.

Q. What do you mean by hoped?

A. Again, we didn't know the language, we didn't have friends, anyone except them.

20 Q. When you sent the money, did you think now it's entirely up to Pavel and Svetlana or did you think that you had input?

25 A. We considered ourselves and them to be a family and that's why we believed that only with their help we can - we can achieve what they described in the email.

Q. About - I'm talking about where you were going to live.

A. In a separate residence.

30 Q. How - did you talk about how you were going to find somewhere? Did you talk with Pavel and Svetlana about how you were going to find a place to live?

A. When?

Q. When you sent the money but before you arrived.

A. They promised on the phone that they would rent an apartment for us, rent an apartment.

Q. You and your husband arrive in Canada on June 13th, 2008, right?

A. Yes.

MR. BORNMANN: Your Honour, having arrived in Canada, I'm wondering whether now might be time for a quick break.

THE COURT: We'll take a break now and come back in 15 minutes.

RECESS TAKEN

UPON RESUMING

MR. BORNMANN: Q. Just before the break, we had arrived in Canada and it's correct you and Valentin immigrated to Canada on June 13th, 2008, right?

A. Yes.

Q. And upon arrival, you lived with the Danilovas in their apartment in Etobicoke, correct?

A. Yes.

Q. Could you tell the court what the living conditions were like in the apartment?

A. The apartment was two-bedroom. We lived in this apartment together, Svetlana and Pavel.

Q. And where did everyone sleep?

A. Valentin slept in the living room. I kind of slept in the living room as well, however there was some days when Anastasia would leave - would go competition so I could occupy her bedroom.

Q. And did Pavel and Svetlana discuss housing with you?

A. Yes, somehow we were trying to decide what to purchase.

Q. And what was - what was the first option you remember?

A. We went to that place where there was supposed to be construction of houses when we visited with Valentin and it came together.

Q. Before the house, was there anything else?

A. They offered us to see an apartment next to our building, but they didn't like this apartment because it had too much glass. The whole wall was glass.

Q. And was this apartment a rental or a purchase apartment?

A. Conversation was to purchase, what if buy apartment like that, but she didn't like it.

Q. Were you shown any other apartments?

A. No, there was only this one.

Q. Now, the court has heard that Pavel and Svetlana rented an apartment for you in a nearby building, did you know about that?

A. No.

Q. Do you remember arriving in Canada?

A. Yes.

Q. How did it feel? How did it feel to be in a new country?

A. For us everything was very new. We would be interested in everything. Not knowing the language, we were going everywhere with them of course.

Q. Sorry, what was the last thing you said?

THE INTERPRETER: We would go everywhere with them, of course.

Q. What languages did you and your husband speak when you arrived in Canada?

A. Our mother tongue Russian language.

Q. Did you understand any other languages?

A. At school and when I was a student I was studying German, but not to the extent that I could speak this language.

Q. And that wouldn't be very much help in Etobicoke, would it? You said you went everywhere with the Danilovas. Were they helping you?

A. Yes.

Q. Were they helping you with paperwork?

A. Yes.

Q. Could you tell us about that?

A. What documents, what did you mean? We already had this in process.

Q. When you arrived, were there documents to fill out?

A. Yes, we had to fill out the documents and we trusted them and they were giving us a lot of documents in English to sign and we would sign.

Q. And did the Danilovas explain each of these documents before you signed them?

A. It was some this we need for bank, this one for here, somehow - this we need for - we wouldn't get involved everything was in English. We trusted them big time.

Q. And so would you just sign the documents?

A. Yes.

Q. And did you know anybody else here in Canada when you arrived?

A. No, nobody.

Q. No friends?

A. Nobody. No.

Q. I want to ask you about the house. When did you move out of the apartment in Etobicoke?

A. We moved out when the house was built.

Q. And what house was this?

A. When we came they took us to this place where it was construction lot. They were building houses there. When we were Valentin we were visiting.

Q. In 2007?

A. 2008.

Q. 2008. And was the house built?

A. We came - before we came to this place we were looking at the model, house model. There was conversation about same type of house, we all liked this type of house and just asked us, you like this house, yeah, we all liked it. And when we came to the lot we saw that there was construction was going on. And at that place - this place used to be empty spot there was a house built halfway and we looked at it and then after that we went to see the nature. And then a surprise was announced. They said we bought this house that you just saw, Valentin Andregh bought this house. That's what they said.

Q. When was this?

A. It was in 2008 when we came and it was a period of - when this house was built.

Q. And where was this house?

5 A. This house was Innisfil and was said there was invested 150 thousand of our money.

Q. Who told you that?

A. Pavel and Svetlana.

Q. When they asked you whether you liked the house, what did you say?

A. We saw a model of this house and at that moment we said yes, house like that we like.

10 Q. And this was different than the scenario in the email, right?

A. Yes, it was different but there our money was invested. The house was purchased - Valentin.

Q. Were you okay with this change?

15 A. It was unexpected for us but it was pleasant expectation.

Q. So a good surprise.

A. Yes.

Q. So when was the house finished?

20 A. House was finished, we moved in - on August 15th of 2008.

Q. Was there any discussion about the mortgage?

A. No.

25 Q. Was there new furniture bought for the house?

A. Yes.

Q. Were there any discussions about who was buying the furniture?

30 A. We considered it if the house was ours, the furniture is ours too.

Q. Did you discuss that with Svetlana and Pavel?

A. We purchased the furniture together.

Q. The court had heard and you've testified as well that in August 2008 the Innisfil house closes and then the Nikityuks move into the house and the Danilovs continue to live in Etobicoke.

A. Yes.

Q. What were the living arrangements like during that time? And to be clear, this is the time when you live in the house and the Danilovs live in Etobicoke.

A. They would come only on weekends. Svetlana she had to come because we had to see the doctors. The house was a new one and builders - the builder's construction would come to see anything. They would call them on the phone and would tell them everything and they would do what they believed was right. They would come it was their decision. We wanted to buy groceries ourselves but they would say, 'no, you don't have to do that. We will bring everything when we come on the weekend.' We would try to do some - initiative in the cleaning and other things they would say 'don't do it we'll do everything'. We were still trying - Valentin would vacuum and in the wintertime would shovel the snow. We lived in the house and what is necessary to do and we tried to do it. Separation of us and money-wise wasn't, it was all family.

Q. Let's leave the money for a second, what was the relationship like with the Danilovs during that time?

5 A. It was like they very business-like guys, very busy. We tried not to bother them much. We didn't ask too many questions only some necessary questions. Sometimes Svetlana would say don't touch Pavel, he's very busy, don't touch.

Q. Anything else?

A. No, in our case we didn't feel our - we didn't feel free.

10 Q. What about the rooms?

A. We had two bedroom in the house eight by ten metres each. They were next to each other, bathroom nearby.

Q. Did Pavel and Svetlana have a room?

15 A. Yes, they have the master bedroom. There was an ensuite bathroom and changing room and it was kind of isolate like a separate little apartment.

Q. And what did you think about the Danilovs coming to visit every weekend?

20 A. Us, it looked similar to how we lived in Russia when they would visit in our summer house.

Q. Did you enjoy their visits?

25 A. Yes, it was normal, yeah. We tried to have reasonably good. We wouldn't bother them, they didn't bother us.

Q. And did you do - what kind of work did you do around the house?

30 A. Vacuuming, cleaning our rooms and anyway when I was working in the kitchen I would clean after myself always.

5 Q. And you said that you tried not to bother the Danilovs, did you have many requests? Were there many things that you wanted from the Danilovs?

A. No, there weren't too many requests. It would happen you want to ask something and the way they asked - after that you didn't want to ask the second time.

10 Q. And why is that?

A. Perhaps depended on personalities, people.

Q. Help the court understand what you meant.

A. I believe they were very busy with their own stuff and we tried not to bother them much and not to turn to them.

15 Q. Overall, were you happy with the situation?

A. I can't say that it was a happiness relationship between people, among people.

20 Q. But overall, I'm talking about the period of time when you're living alone in Innisfil, overall are you happy with the situation, sad with situation, neutral?

A. When we were at the whole week alone everything was fine, quiet.

25 Q. This was good?

A. Yes.

Q. What were some of the good things during this time when you lived alone?

30 A. We tried to support ourselves. We would go for walks. In general, it was a little bit hard because we were adaptation we didn't have friends here. Therefore, for us it was a period of adaptation literally. The full meaning of this word.

5 Q. I want to ask you about the Russian pensions and other money brought from Russia. We've talked about the money from the sale of the assets that were sent to Svetlana, right?

A. Yes.

Q. Was there any other money?

10 A. No. There was only money that we sent and pension that would come every quarter. There was left a bank account in St. Petersburg where we would receive additional amount that Valentin got from an organization that he used to work for but it was a very small amount.

Q. Did you bring any cash?

A. No, not from this account, no.

15 Q. In general?

A. Yes. We brought cash. We brought \$15,000.00. We were entitled to bring this amount and we brought it.

Q. And what happened to that money?

20 A. We gave this money to Svetlana and she deposit to her account - into an account.

Q. And when did you give her that money?

A. When we arrived.

25 Q. Let's talk about bank accounts. You knew there was a bank account at CIBC with your name, Svetlana's name and Valentin's name on it, right?

A. Yes.

Q. Did you know about any other bank accounts?

A. No.

30 Q. Did you know about any other bank accounts with Valentin's name on it?

A. No.

5 Q. Did you discuss where the Russian pension would be deposited with Svetlana?

A. I understood it would be deposited to this account, I thought this way.

10 Q. You thought it would be deposited in the CIBC account?

A. Yes, that's how I thought. I didn't discuss.

15 Q. So you didn't have any other discussions about that?

A. I believe that I have joint account with my daughter, any other thing wouldn't come to my mind because I didn't know anything about any other accounts.

20 Q. When you arrived, did you talk about how the bank accounts would be set up?

A. No.

25 Q. What about when you were in Russia, did you talk about whether they'd be separate accounts, joint accounts, or it didn't come up?

THE INTERPRETER: Sorry, the last word?

Q. It wasn't discussed.

30 A. We haven't discussed this subject however we thought that our money would be deposited to our account and we can withdraw any time when we want.

Q. And did you ever ask for a separate bank account?

A. Yes.

Q. When did you do that?

A. I asked my daughter.

Q. At what time?

5 A. I'll tell you. When we lived in the house, when we came across when we wanted to withdraw some amount from the account and we had to - but we had to ask about that ahead of time and then to go to the bank.

Q. Why did you ask for a separate account?

A. We decided that this is not normal for us that we can't withdraw the amount that you want of our money.

10 Q. And what happened when you asked for a separate account?

A. What happened, it was very unexpected, Svetlana got sick after that. She fainted. For me of course, it was horror and I never raised this question again, only I realized it's not normal.

15 Q. Did you ever talk about separate accounts with Pavel?

A. I never talked to him about that and even was scared to ask him about that.

20 Q. Before Svetlana fainted, did she say anything about the separate account?

A. She said you're not going to have a separate account. Money has to work; it was their favourite phrase.

25 Q. Did she say anything else?

A. No. She said nothing.

Q. And what was her mood like when she said that?

A. Bad.

30 Q. Can you describe it, please?

A. First of all, that would happen, happened to her I didn't know what to do. We were driving in the

5 car the three of us, Valentin, myself and her. And we started to talk about that we would like to withdraw some amount and she got sick, and she pulled over and it was very hot. She walked a bit and laid down right on the ground. I didn't know what to do, but thank God she came back to senses and we sat a bit and waited and after that we continued driving.

10 Q. Were the Danilovs living with you when this happened or were they still in Etobicoke?

A. No, I think we were living alone. You know what, I don't remember it was 2008, yes it was 2008.

Q. So you were living alone.

A. Yes. But they would come on the weekend.

15 MR. BORNMANN: I want to show you - I think this might be a good time for a break, Your Honour, but I just have one quick question on this.

20 Q. I want to show Exhibit 2B Tab 27. It's the second red book and there's are the TD Waterhouse statements.

THE INTERPRETER: Tab 27?

Q. Yes. Do you recognize the -

THE INTERPRETER: Sorry, what page?

25 Q. 320 at Tab 27. There's no Russian. These are bank account statements and your name is on this bank account statement. Do you remember this bank account?

A. No. For me it's a dark forest, it's unclear. I don't understand.

30 MR. BORNMANN: A dark forest. Your Honour, I think now would be a good time to break with your permission.

THE COURT: We'll take a 15-minute break and then return.

RECESS TAKEN

UPON RESUMING

5 MR. BORNMANN: Q. We were talking about life at the house and the finances. When you were living at the house, did you have access to cash?

10 A. Only if we warned in advance, two days in advance.

Q. What did you have to do two days in advance?

A. We had to tell Svetlana that we are willing to withdraw such and such amount.

15 Q. And what amounts of cash would you ask for typically?

A. Fifty dollars, \$100.00 something like that.

Q. And how often would you ask for cash?

A. Maybe once a month, something like that.

20 Q. And when you asked for the money, did you always get it?

A. In two days, yes.

Q. I want to ask you about credit cards. Did you and Valentin have any credit cards?

25 A. Yes, we had.

Q. How many credit cards did you have?

A. Valentin had a card, and I had a card and also Valentin had a card for gas purchasing.

Q. And who gave you those cards?

30 A. Pavel.

Q. And what did you - you said one card was for gas.

A. Yes.

Q. What was the other card for?

A. We were able to purchase groceries,
clothing and medicine.

5

Q. When you bought things, what did you use
most, credit card or cash?

A. Mainly credit cards.

10

Q. Do you know how those credit cards were
paid?

A. Pavel paid the credit cards.

Q. Did you ever ask Pavel how he paid the
credit card?

A. No, I didn't ask.

15

Q. Did Svetlana tell you anything about how
they paid off the credit card?

A. No.

Q. Did you ever have any bank cards or debit
cards?

20

A. I can recall that upon our arrival we used
to have a bank card but then somehow it disappeared.

Q. This was a bank card that you had in
Russia?

25

A. No, it was a Canadian one. It was joint,
mutual family.

Q. And when did it disappear?

A. I don't remember that.

30

Q. Did you talk to the Danilovs about the bank
card?

A. No.

Q. Did you have - what did you know about the
household expenses?

5 A. Svetlana used to give us the printout of our pension what we spent. She gave it to us, it happened.

Q. When did she give that?

A. In the process while we were living together she used to give it.

Q. How often?

A. She gave it quite often.

10 Q. And was this - what kind of a printout was it?

A. How much money was spent and for what that kind of printout.

Q. Was this in English?

A. Yes.

15 Q. Did you understand it?

A. We were trying to understand. We at that point, we were going to the stores. We were trying to develop our English.

20 Q. But did you understand?

A. The issue was only about our pension we were talking about pension only.

Q. And did you understand the document you were given?

25 A. It was a printout and it was understandable, yes.

Q. So you got a printout for the Russian pension, did they give you any other financial reports?

30 A. No, it was Svetlana who used to receive that printout. Now, when we lived together wouldn't know now we know and Svetlana used to get this printout and she used to tell us that your pension had come.

Q. At the house, who paid the mortgage?

A. We didn't pay anything.

Q. Do you know who paid the mortgage?

A. I know that they had power of attorney and they did everything.

Q. Do you know who paid taxes and utilities?

A. No, I don't know.

Q. Can I turn your attention to Exhibit 1A, Tab 27? It's a different - it's a different book. It's a white binder. It's called loan agreement. Can you turn to the last page, the second page, please? Is that your signature on the bottom?

A. Yes.

Q. Do you recognize this document?

A. I don't know it.

Q. This is a loan agreement; do you remember signing a loan agreement?

A. No. I remember that those signatures are ours, but I don't know anything about the document.

Q. Why did you sign this document?

A. It was in English and we trusted - we were given this document to sign and we signed.

Q. Do you remember this specific document?

A. No.

Q. Did you believe that the money you transferred to the Danilovs was a loan?

A. We didn't know about that, no, no.

Q. On June 1st, 2009, the Danilovs moved into the house, correct?

A. Yes.

Q. And you had lived in the house with Valentin for about eight months at that point, correct?

A. Yes, yes.

Q. Tell the court about how the move in happened?

A. It was a weekend, another weekend and they came to visit and they told that there was a financial crisis that it was difficult to support two properties and we will live altogether. It was like that.

Q. Were you given a choice in the decision?

A. No, there was no choice.

Q. What did you think when they told you this?

A. We didn't have a choice and we had to accept everything.

Q. And what was your thought on this? How did you feel?

A. We were not happy about that.

Q. Why?

A. Because our agreement was broken. The agreement that we would be living separately.

Q. Were you concerned about everybody getting along?

A. Yes, I was concerned.

Q. Why? Can you explain to the court why you were concerned?

A. We were concerned that we were not the hosts of the house, it turned out to be so and our voice is not the one that decides something. And we become very - we become very dependent on them.

Q. You had testified earlier that you trusted the Danilovs.

A. Yes.

Q. Did you continue to trust the Danilovs?

A. Not to that extent of course.

Q. And why was that changing?

5 A. There were changes in relationship, in the way we communicated with each other.

Q. What else?

10 A. We found ourselves as if we were in a rooming apartment.

Q. What do you mean?

15 A. The kitchen that we shared, I could not recognize my daughter she was not like herself already and I was just trying not to aggravate the relationship with Pavel. And Valentin and Pavel are two absolutely not compatible persons and I watched how his mood went down, Valentin's and everything was not for the better.

Q. Did you bring up finances at this time?

20 A. We did not bring up but we were dependent on them. We needed their help in medical area. We were just making peace with everything.

Q. Did you talk about your concerns with the Danilovs?

A. It was merely impossible to discuss.

25 Q. What would happen if you tried to discuss?

A. It caused rage in him, just caused rage in him.

Q. Can you explain to the court?

30 A. Yes. There were many instances like that while we were living together. He was telling that if you will be telling what was going on in our house I would apply to the court. He cursed me with rude words

5 and he banged the door in my room. When Valentin said something contrary he put this line into the wall. Then he threw glass to the floor at his feet and he told that next time it will get into your head. What I'm telling about is not that everything happened momentarily, it was happening gradually during two years and three months. He even told sit still do not - he told us not to make any movements, sit still, you have a cancer and you have 10 two years to live. He said the most profound thing was that my daughter stood behind him and she heard everything. This was an incident one day when he summoned Valentin Andregh to talk and he told him Valentin Andregh come to my office I want to talk to you. I summoned to you to tell you that you have to use your 15 Russian pension for the burial insurance. I buried my parents I'm not going to bury you. It was scary for us for Valentin and for myself because the person couldn't manage him his emotions at all. In general, he's a person of a mood, he's a moody person. If something was not to his liking, he used to become enraged, I called it 20 rage, aggression. One of the incidents was when Svetlana rushed at me, she didn't like something. Up to the conversation that the house is not yours and there's nothing yours in the house. She rushed at me and she put 25 her hands - she put her fingers - hands on me and then she started to shake me and then she let me go and fell to the floor and fainted. It was one of the episodes that happened already and we started realizing that we cannot live like that, it is impossible. We didn't want to live like that. We realized that somehow they use us 30 but did not understand the meaning only here during the

5 court I understood, I realized what was the meaning. Valentin and I decided to make an appointment with Yana at the school. We didn't have a purpose to tell anyone to explain it was my daughter and I didn't want anything bad for her. And when we came for the appointment with Yana we asked her for help. We asked her to help us to leave the house.

10 MR. BORNMANN: Okay. I want to - I thought it might assist the court just to hear the full response, Your Honour, but I need to go back a bit in my line of questioning. Would perhaps a time to break for the day or can we - some of what I need to ask has been covered but there a few details that I need to fill in. With your 15 indulgence, speaking if we could use the last ten minutes.

20 THE COURT: If you'd like to keep going if you've got some areas you think you can focus on in that time period, yes.

MR. BORNMANN: Thank you, Your Honour.

25 Q. Alla, I'd like to go back to the question of trust. Do you remember any of the specific things the words, the words that were said to you when you asked about finances?

A. The responses were humiliating, very humiliating. It was kind of you would not understand anything anyway, it's not up to you to understand.

30 Q. Anything else?

A. We had only one thought, isolate, just isolate. I understood the position my daughter was, it turned out that she was between two fires, between her

5 husband and between her mother. And we didn't want to be in such position with Valentin and we had one thought to leave the house and to isolate ourselves because things like that happens end very badly. I am very grateful to my husband that he beared (sic) things like that.

Q. After they moved in and some of these conversations happened, did you still trust the Danilovs about money?

A. The trust was decreasing.

Q. Why was your trust decreasing?

A. We thought that something was wrong, something wasn't going as it should go in normal families.

Q. Were the Danilovs paying you the interest, the ten percent?

A. No.

Q. Did they give you any reports on what they had been done with your money?

A. No.

Q. Do you remember doing your taxes?

A. When we lived together with them, we didn't do anything.

Q. Did you ever try and do your own taxes?

A. There was not even a thought coming across our mind that we can do that because it was impossible.

Q. Why?

A. I wouldn't be surprised if I asked him he would mock me.

Q. Did you have access to financial records in the house?

5
A. We have never entered his office. We didn't look, we didn't even have a thought about it because anyway we would not understand.

Q. Did you know there were financial records in his office?

A. We didn't come to Canada to become financial specialists in Canada.

Q. But did you know?

10
A. We knew that they did everything but we didn't know what they were doing.

Q. Did you know that they had records that you could look at?

15
A. We didn't understand anything in their financial business and we didn't go into anything and we didn't look at anything. We have never signed under the statement that we would be financial specialists like he is.

20
Q. When did you first find out that a big piece of the money had been lost?

A. We heard about that for the first time during the court proceeding.

25
Q. When you lived with the Danilovs, and before, did you ever have control of the money after you came to Canada?

A. I did not understand the question.

30
Q. Did you have control of your money after you came to Canada? When you were living with the Danilovs did you have control of your money?

A. From our standpoint control -

Q. Did you control?

5 A. We only knew that 150 thousand were
invested into the house. They told us that. We were
asking questions of course, but they responded that
anyway you would not understand anything. It was like
that.

MR. BORNMANN: Your Honour, I think this might
be a good time to break for the day.

10 THE COURT: We'll continue tomorrow morning at
9:30.

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30
COURT ADJOURNS.....

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FORM 2

10

Certificate of Transcript
Evidence Act, Subsection 5(2)

15

I, Cathy Knelsen, certify that this document is a true and accurate transcript of the recording of *Danilov v. Nikityuk* in the Superior Court of Justice, held at 75 Mulcaster Street, Barrie, Ontario, taken from Recording No. 3811-02-20160531-085945 which has been certified in Form 1.

20

, 2017

Cathy Knelsen, C.C.R.

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