

Tuesday, 22 November 2011

(10.30 am)

MS DAVIES: My Lady, our next witness is Mr Hauser.

Mr Hauser, my Lady, you will recall, was the subject of Mr Stanley's memorandum last week.

MRS JUSTICE GLOSTER: Yes, I have it here.

MS DAVIES: Mr Stanley is here again today to represent Mr Deripaska's interests. We have had a discussion since the exchange of memoranda, as a result of which we don't think there's an issue that we need to trouble my Lady with and we believe that the matters we indicated we wished to be carved out are agreed, and we will obviously just have to see how we proceed.

Of course there has been no waiver of privilege and Mr Hauser is not authorised to waive privilege in his evidence, and I certainly am very conscious of that in the questions I will be asking.

MRS JUSTICE GLOSTER: Okay, if an issue arises I'll have to deal with it, but it's very difficult to deal with these kind of issues, as it were, of high principle rather than dealing with a specific question, so we'll just wait and see where we get to.

MS DAVIES: Absolutely, my Lady. Mr Hauser is responding to a summons both from my clients and from the Anisimov defendants, Freshfields, but it's been agreed that I

should take him first and we'll see where we get to.

MRS JUSTICE GLOSTER: You're taking him in-chief?

MS DAVIES: I am, my Lady. There is no witness statement.

So I will call, if it's convenient, Mr Hauser.

MRS JUSTICE GLOSTER: Yes. Very well.

MR PAUL HAUSER (sworn)

MRS JUSTICE GLOSTER: Please sit down, Mr Hauser, if you'd like to.

Examination-in-chief by MS DAVIES

MS DAVIES: Good morning, Mr Hauser.

A. Good morning.

Q. Could you please state your full name?

A. Paul Edward Hauser.

Q. And your address?

A. 88 Wood Street, London.

Q. And your occupation?

A. Solicitor.

Q. Which firm do you practise with currently?

A. Bryan Cave.

Q. And how long have you been with that firm?

A. Since 1982.

Q. In 2000, was one of your clients Mr Oleg Deripaska?

A. Yes, it was.

Q. And did he remain one of your clients subsequently?

A. Yes, he did. He's my client to this day.

- Q. If you can be given bundle H(A)18 at page 124 H(A)18/124, you should see there a document headed "Share Purchase and Sale Agreement SA/SN-01..." dated 15 March 2000. Do you have that document?
- A. I have that.
- Q. Have you seen that document before?
- A. Yes.
- Q. Were you involved in the negotiation of this document?
- A. Yes.
- Q. Looking at the document, you can see that the two parties are, firstly, Runicom Limited and, secondly, GSA (Cyprus) Limited. Can you recall whose company GSA (Cyprus) Limited was?
- A. That was Mr Deripaska's company.
- Q. And Runicom Limited?
- A. Was Mr Abramovich's company.
- Q. On whose behalf were you involved in these negotiations?
- A. Mr Deripaska.
- Q. Can you recall when you first became involved in the negotiations of this agreement?
- A. That would have been on the Saturday prior to the date on which this agreement was signed. I think 15 March was probably the following Wednesday so I would have been involved from the Saturday morning.
- Q. Did you attend any meetings in London as part of

negotiations of this agreement?

A. Yes, I attended a meeting in the morning of Saturday at the Four Seasons Hotel with Stalbek Mishakov and Mr Tenenbaum.

Q. Who was Mr Mishakov?

A. Mr Mishakov is, or was at the time, Mr Deripaska's in-house Russian lawyer.

Q. And who did you understand Mr Tenenbaum to be?

A. I understood him to be a representative of Mr Abramovich.

Q. Was there anyone else present at that meeting?

A. Yes, I have -- had at the time a partner, Walter White, who accompanied me to the meeting, so there were four of us present.

Q. Staying with this agreement, the 15 March agreement, did you subsequently attend any further meetings for the purposes of negotiating its terms?

A. Insofar as you're asking about meetings that I may have attended involving Mr Abramovich's representatives, the answer to that is yes. I attended a quite lengthy meeting in Moscow on the Tuesday afternoon following the meeting in London, which meeting lasted well into the evening and into the small hours of the morning.

Q. Who was present at that meeting?

A. Well, it was Mr Mishakov and me on behalf of

Mr Deripaska, and it was Mr Tenenbaum, Andrey Osipov and Ken Schneider on behalf of Mr Abramovich.

- Q. And that, you say, was on the Tuesday afternoon following the meeting in London. Would that have been the 13th or 14th --
- A. I don't have a calendar so I remember by days of the week. It was the Tuesday afternoon, the meeting would have started I think round about 4 o'clock.
- Q. And it lasted for approximately how long?
- A. Twelve or 13 hours, I think we finished about 5.00 am on the Wednesday morning.
- Q. Can you recall whether or not during that meeting you discussed anything about where your respective principals were?
- A. Yes, I was told that Mr Deripaska was -- well, I should stop for a minute. The meeting on Tuesday was held in the Sibneft offices in Moscow in a conference room on the ground floor, actually on a mezzanine floor in the offices. I was told that Mr Deripaska and Eugene Shvidler were upstairs in Mr Shvidler's office although I didn't see them during the course of the negotiations.

The reason that I knew that to be the case was because, as we negotiated during the night and into the morning, as issues arose respecting the agreement, deal

points, then either Mr Mishakov or Mr Tenenbaum or both of them would go upstairs and would get the principals, in this case Mr Deripaska and Mr Shvidler, to reach agreement on whatever the point was, and then they would come downstairs, tell Mr Schneider and me, we would incorporate it into the document and we would continue our negotiations.

- Q. I've just been told the Tuesday was the 14 March in fact. So you had a meeting overnight on the Tuesday?
- A. Yes, the meeting was on the Tuesday, starting at about 4 o'clock, and it ran into the final small hours of the morning on the Wednesday when this agreement was finalised and was taken off to be signed.
- Q. Were you involved in any other meetings prior to this agreement being signed with representatives of Runicom?
- A. Not with representatives of Runicom, no.
- Q. Focusing solely on your communications with representatives of Runicom or Mr Abramovich, prior to the signing of this agreement, the 15 March agreement, can you recall whether or not any mention was made in those communications of Mr Berezovsky?
- A. No. No mention was made.
- Q. And the same question about Mr Patarkatsishvili?
- A. No. No mention was made of Mr Patarkatsishvili.
- Q. Could you now be given bundle H(A)19.

A. Can I put this away?

Q. Yes, of course. And go to page 22 H(A)19/22. You should see there an amended and restated share purchase and sale agreement dated 15 May 2000. Do you have that document?

A. I do.

Q. Do you recognise this agreement?

A. Yes.

Q. Were you involved in the negotiations that led to this agreement?

A. Yes.

Q. On whose behalf were you involved in those negotiations?

A. Mr Deripaska.

Q. Who did you deal with as a counterparty for the purposes of those negotiations?

A. At this stage it was almost entirely Mr Schneider on behalf of Mr Abramovich.

Q. Now, focusing solely on your communications with Mr Schneider or any other representative of Mr Abramovich in the context of negotiating this agreement, can you recall whether or not any mention was made in those communications of Mr Berezovsky?

A. No mention was ever made of Mr Berezovsky.

Q. And the same question about Mr Patarkatsishvili?

A. No mention was ever made of Mr Patarkatsishvili.

Q. Could you put that away and now be given bundle H(A)64 at page 18 H(A)64/18.

You should have a share purchase and sale agreement, this time dated 17 September 2003.

A. Yes, I have it.

Q. If you see in paragraph 1, this refers to the vendor and the purchaser being identified in schedule 1, which you'll find at page 25 H(A)64/25. And we see reference to two companies, Madison Equities Corporation and Baufinanz Limited, page 25.

A. Sorry, are you sure? I don't think it's on -- we're talking about -- this first one, I think the reference is actually on page 8 -- oh, you're looking at the document --

Q. Schedule 1.

A. You're looking at the document numbering on the bottom right-hand side?

Q. Yes, I am. Sorry, Mr Hauser.

A. Yes, okay. Page 8 of the agreement.

Q. Schedule 1: vendor, party 1, Madison Equities. Purchaser, party 2, Baufinanz.

A. Yes, I see that.

Q. Do you recognise this agreement?

A. Yes.

Q. Can you recall whose company Madison Equities



Corporation was?

A. Yes, it was Mr Abramovich's company.

Q. And Baufinanz Limited?

A. Was Mr Deripaska's company.

Q. Were you involved in the negotiation of this agreement?

A. Yes.

Q. On whose behalf were you involved in those negotiations?

A. Mr Deripaska.

Q. Can you recall who your counterparty was for the purposes of negotiating this agreement?

A. Yes. It was again Mr Schneider as Mr Abramovich's lawyer. He was -- the person who dealt with the deal points was Andrey Osipov on behalf of Mr Abramovich.

Q. Again, focusing solely on your communications with Mr Schneider, Osipov or any other representative of Mr Abramovich, for the purposes of negotiating this agreement, can you recall whether or not any mention was made in those communications of Mr Berezovsky?

A. No mention was ever made of Mr Berezovsky.

Q. And again the same question about Mr Patarkatsishvili?

A. No. No mention was ever made of Mr Patarkatsishvili.

Q. Right, you can put that one away.

If we go to bundle H(A)85 at page 8 H(A)85/8. You should find another share purchase and sale agreement, this one dated 20 July 2004 between, again, a vendor and

purchaser identified in schedule 1, and schedule 1 is at page 16.

A. Yes, I have it.

Q. It's not very clear, but the vendor is identified as Cliren Investments Ltd and the purchaser Eagle Capital Group?

A. Yes, I see that.

Q. Do you recognise this agreement?

A. Yes.

Q. Were you involved in the negotiations that led to this agreement?

A. Yes.

Q. If you could just leave that one open and could also be given bundle H(A)84 at page 64 H(A)84/64.

You should here have a document entitled "Beneficial Owner Deed of Release DR/BP", again dated 20 July 2004?

A. Yes, I have that.

Q. Do you recognise that agreement?

A. Yes.

Q. Were you involved in the negotiations that led to this agreement?

A. Yes.

Q. If you could turn in this bundle to page 206 H(A)84/206 you should have another agreement dated 20 July 2004 at page 206?

- A. A deed of acknowledgement I think.
- Q. Yes, a deed of acknowledgement between Mr Abramovich and Mr Deripaska. Do you recognise that agreement?
- A. Yes.
- Q. Were you involved in the negotiation of that agreement?
- A. Yes.
- Q. Can you recall when you first became involved in the negotiations that led to the three agreements dated 20 July 2004 that we've just looked at?
- A. In September of 2004. Oh, I'm sorry, no, this is --
- Q. These are dated July --
- A. These are July 2004. No, I first became involved in this -- I was first instructed, I should say, on 31 May 2004.

The first negotiations was in respect of a meeting that was held in Moscow, I believe the following Friday. Again, I don't know the exact date, I only remember by dates of the week -- days of the week.

- Q. I have a calendar for 2004 which has the days of the week --
- A. That might be helpful if you could show that to me.
- Q. -- if that might assist, if I could hand that up.
- (Handed)
- A. Yes. The -- I was first instructed on 31 May, which was a Bank Holiday, I remember that, and the first meeting

I held with -- in terms of negotiations or representatives of anyone from the other side was on Friday 11 June.

Q. Okay. I'll come to that meeting in a minute, if I may, but just to establish certain other things first.

As part of the negotiations that you undertook in relation to these three agreements dated 20 July 2004, did you personally have contact with anyone who you understood to be representing Mr Abramovich?

A. Yes.

Q. Who was that?

A. Mr De Cort.

Q. Anyone else?

A. From Mr Abramovich, no.

Q. If you could please be given bundle H(A)74.

A. Shall I leave these open?

Q. I think you -- actually if you just put them to one side.

A. Okay.

Q. H(A)74, page 129 H(A)74/129. You should have in front of you an article published in the Moscow Times on June 3 2004?

A. Yes, I see that.

Q. Do you recognise this article?

A. Yes, I do.

Q. When do you think you first saw this article?

A. It would have been early in the week that I went to Moscow, so I believe it was about Tuesday, 8 June.

Q. Do you recall whether or not you read it at that time?

A. Yes, I did.

Q. If you go forward in bundle H(A)74 to page 219 H(A)74/219, you should find a memorandum to Mr Mishakov described as emanating from you, Mr Hauser, "Paul Hauser".

A. I see that.

Q. Do you recognise that memorandum?

A. Yes, I do.

Q. Were you the author of that memorandum?

A. Yes, I was.

Q. Now, I understand that this memorandum would once have been a privileged document and I want to make clear I do not want to pry into any privileged matters, but I do wish to ask you a few questions about any communications you had with Mr Abramovich's representatives about the matters covered in the memo. I just make that clear at the outset.

If you could read the first two paragraphs of the memorandum. (Pause)

A. Yes.

Q. Can you recall whether or not prior to preparing this memorandum you had had any discussions with Mr De Cort about the matters covered in the first two paragraphs of it?

A. I had no discussions with him prior to 9 June.

Q. Now, the first paragraph refers to a diagram of the transaction. If you could turn to bundle H(A)74, page 223 H(A)/74/223, do you see a document which has got a lot of arrows and boxes at the top and then numbered paragraphs 1 to 6?

A. Yes, I do.

Q. Is that the diagram of the transaction to which you were referring in your 9 June memorandum, or were you referring to a different document?

A. No, this is the diagram.

Q. Now, if you look at this document and the explanation below, at paragraph 4 it states that:

"RA provides guarantee with regard to the representation and warranty that the Beneficiaries (B&B) are the ultimate beneficiaries of 25% of RH's shares."

Do you see that line?

A. Yes.

Q. Again, can you recall whether or not, at the time you prepared your 9 June memorandum, you had had any discussion with Mr De Cort, or any other representative

of Mr Abramovich, about the terms of the assurances or other terms that might be provided by Mr Abramovich?

A. I had had no discussions with him at all. I hadn't had any discussions with him about the transaction at all. So the answer to the question is no, I had no such discussions.

Q. Now, you told us a moment ago that the first negotiation meeting you went to was on 11 June, a couple of days after this memorandum. Who did you meet with on 11 June?

A. I met with Stalbek Mishakov, the meeting was in Mr Mishakov's office in Moscow, and then I met with Ms Arbatova and with Mr Streshinsky.

Q. Did either Mr Streshinsky or Ms Arbatova explain to you at the meeting who they were representing?

A. Yes, they said that they were representing Mr Patarkatsishvili.

Q. Did they explain why they were representing Mr Patarkatsishvili at this meeting?

A. Yes, they said that he had a beneficial interest in the shares and that he was the person who would be selling them to Mr Deripaska.

Q. Which shares did they say he had a beneficial interest in?

A. The shares that were the subject of the 2004

transaction, the 25 per cent of the shareholding in Rusal Holding.

- Q. Can you recall whether or not either of them explained to you how Mr Patarkatsishvili had acquired that beneficial interest?
- A. No, they didn't. They simply indicated that they were acting for him, that he would be the seller, that he had a beneficial interest, and we then had a general discussion as to how we would move the transaction forward.
- Q. Can you recall whether or not any reference was made to Mr Berezovsky at this meeting with Mr Streshinsky and Ms Arbatova?
- A. Yes, there was a reference to Mr Berezovsky, because I took the Moscow Times article with me. So in terms of talking about the beneficial owner of the shares I was told that Mr Patarkatsishvili was the beneficial owner and I raised with them the statement that was in the Moscow Times article.
- Q. And what was their response?
- A. That Mr Berezovsky did not have an interest, that Mr Patarkatsishvili was the sole beneficial owner of the 25 per cent of the shares to be acquired by Mr Deripaska.
- Q. Now, was Mr De Cort present at this meeting?



- A. No, he was not able to attend because his mother was ill.
- Q. Did you subsequently have any discussions or meetings with Mr De Cort about this transaction?
- A. Yes, I had a meeting with him when I returned from Moscow to London on the following Tuesday which was the -- looking at your calendar -- 15 June.
- Q. Was anyone else present at that meeting, or was it just --
- A. No, it was just the two of us.
- Q. And can you recall whether or not Mr Berezovsky's name came up during the course of your discussions with Mr De Cort on that occasion?
- A. Yes, because I showed Mr De Cort the Moscow Times article.
- Q. And what did you say to Mr De Cort?
- A. Well, the -- to kind of go back a little bit, the purpose of the meeting with Mr De Cort was to follow up on the meeting in Moscow of the Friday that he was not able to attend, because it was pretty clear from the meeting on Friday, as we went through the documents that would be required, that a number of documents would be required from Mr Abramovich. And so we needed -- I needed Mr De Cort to know that because it was now a transaction involving three parties rather than two.

So the principal purpose of the meeting was to coordinate the preparation of documents and execution of them.

The second principal purpose of the meeting was to discuss with Mr De Cort the fact that I had been told on Friday that Mr Patarkatsishvili was the beneficial owner of the 25 per cent of the shares that were being sold to my client. There was then a third issue which was more, I suppose, in the way of an aside than anything else, in which I also brought Mr De Cort's attention to the Moscow Times article and said effectively, "By the way, Mr Berezovsky is also claiming an interest in these shares. Do you know anything about it?"

Q. Can you recall what Mr De Cort's response at this meeting was?

A. Mr De Cort told me that he would have to take instructions, that he had had no instructions coming to the meeting, and that he heard what I said but he would need to get back to me.

Q. Could you please go to bundle H(A)75, page 228.001 H(A)75/228.001?

A. Do I need these bundles anymore? Can they all be closed?

Q. You can put away bundle H(A)74.

You should at page 228.001 have a document entitled

"Madison Representations and Warranties", and if you turn forward to page .004 H(A)75/228.004 you should see that the document is identified as a Bryan Cave document dated 14 June 2004.

A. Yes, I see that.

Q. Do you recognise this document?

A. Yes.

Q. Do you know who prepared this document?

A. Yes, I did.

Q. Now, 14 June 2004 was the day before your meeting with Mr De Cort? You've just told us --

A. Yes, that would be the Monday.

Q. Can you recall whether or not you took a copy of this document to your meeting with Mr De Cort?

A. No, I didn't. I didn't take a copy of the -- I can recall I didn't take a copy of the document with me to the meeting with Mr De Cort.

Q. Do you recall whether or not you provided Mr De Cort with a copy of this document on any other occasion?

A. Well, that requires a bit of an explanation as to what happened to this document and what had occurred.

As far as the Monday was concerned, I had simply come back from Moscow. I had been told something by Mr Patarkatsishvili's representatives, and this would have represented my initial thinking as to how we might

cover the representations and warranties. I would not, on the Tuesday, have presented this to Mr De Cort because I had not spoken to Mr De Cort and I had no idea what his client's position was as to who was the owner of the shares. So there would have been no point in presenting this document to Mr De Cort on the Tuesday.

Thereafter what happened was we had a series of negotiations which ultimately led to the documents that you brought my attention to at the start of this line of questioning. In the middle of those negotiations, there was a subsequent version of this document which was produced by Mr Faekov, Artem Faekov, who was the lawyer acting for Mr Patarkatsishvili. He took this initial draft, changed it to reflect what we had discussed in the meantime, and sent it back to me and Mr De Cort for our approval before the revised document was sent to the principals for their discussion and agreement.

So that Mr De Cort did see a version of this document, I don't think he ever saw this document, but he would have seen the version that Mr Faekov produced which was based upon this document.

- Q. Thank you. If you could now -- you can put that away and now turn to bundle H(A)76 at page 106 H(A)76/106. You should here find another Bryan Cave memorandum, this time dated 18 June 2004.

A. Yes, I see that.

Q. Do you recognise this document?

A. Yes, I do.

Q. Who was the author of this document?

A. I was.

Q. Now, again, I understand that this is a document which it is said was originally privileged, and I do not want to pry into any privileged issues, I only want to ask you about any communications you've had with representatives of Mr Abramovich about the contents of this document. I just want to make that clear.

Could you please read the first paragraph, not the "I write", but the paragraph starting "As I understand the position." (Pause)

A. Yes.

Q. Can you recall whether or not this paragraph reflects matters that had been explained to you by Mr De Cort prior to preparing this memorandum?

A. It did not. None of this was discussed with Mr De Cort or explained by him.

Q. In the first paragraph, we can see a reference to Madison being "a trustee for B with respect to the Shares." Do you see that?

A. Yes, I do.

Q. Can you recall whether or not at the time you prepared

this memorandum you had had any discussion with Mr De Cort about whether or not Madison was holding 25 per cent of the Rusal shares on trust for any other party?

A. Well, the answer in -- if you're asking did I -- did we discuss the possibility that Madison was a trustee or held the shares in trust, the answer to that is no. On the other hand, had I raised with Mr De Cort on the meeting on 15 June the claim that Mr Patarkatsishvili was the beneficial owner of the shares, the answer to that is yes. There would have then, if that was true, have been various consequences because, of course, Mr Patarkatsishvili did not appear to be the owner of Madison. But did we during the course of that discussion use the words "trust" or "trustee"? No we didn't.

Q. Had there been any discussion between you and Mr De Cort between your meeting on 15 June and the preparation of this memorandum on 18 June?

A. Well, I believe that in the meantime I had received an email from Mr De Cort. As I recall, it was the previous day. This was issued on the Friday. I think on the Thursday I had received an email from Mr De Cort that had responded to my requests for representations and warranties from Mr Abramovich, so I had received

a communication from Mr De Cort, but we had not discussed it, I had simply received the email.

The only discussion, to be clear, that I had had with Mr De Cort was the meeting on 15 June.

Q. In the last two sentences of the first paragraph, there's a reference to:

"Relations between RA ..."

That's presumably Mr Abramovich?

A. Yes, it is.

Q. "... and B have apparently broken down, and RA no longer wishes to deal... with B. It also is assumed that RA would prefer to discontinue serving as B's trustee and so wishes to divest Madison of the Shares."

Can you recall whether or not the content of those two sentences was based on any information that had been provided to you by Mr De Cort?

A. No, it was not based on information that was provided to me by Mr De Cort in terms of the -- not in terms of what he told me. The first sentence you've referred me to:

"Relations between RA and B ..."

B referring to, at that stage, Mr Patarkatsishvili:

"... [had] apparently broken down ..."

The reason why I had reached that conclusion was because of the way that, on the one hand, Mr Patarkatsishvili's representatives were dealing with

the matter and, on the other, the way that Mr De Cort apparently was dealing with the matter, and that is that each were content to deal with me but I didn't see very much communication. In fact, I saw no communication running between Mr Patarkatsishvili and Mr Abramovich's people. So, as a consequence, I had the strong impression that they were communicating, to the extent that they were, they were communicating with each other through me rather than directly with one another.

Q. You can put that bundle away. If you could now be given bundle H(A)80 at page 86 H(A)80/86. You should find an email dated 8 July 2004 from your email address to Mr Faekov?

A. Yes, I have that.

Q. Do you recognise that document?

A. Yes.

Q. Who was the author of that document?

A. I was.

Q. If you could look at paragraph 1(a) of this document, you see that it refers to:

"The principal is entering into this transaction on the express understanding that matters have been resolved with B2."

A. Yes.

Q. Who was B2 a reference to in this document?



A. Mr Berezovsky.

Q. It goes on in the third sentence to refer:

"Instead, my principal is taking the word of BP..."

A. Yes.

Q. Who was BP referring to in this document?

A. Mr Patarkatsishvili.

Q. If you could now take bundle H(A)81.

A. I can put this away?

Q. Yes, thank you. At page 150 H(A)81/150, you should see another email, this time dated 9 July 2004 from your email address. Do you recognise this document?

A. Yes, I do.

Q. Who was the author of this document?

A. I was.

Q. It's sent to Andre De Cort.

A. That's correct.

Q. If you could just read the email to remind yourself of its content. (Pause)

A. Yes.

Q. Could you explain who the acronym B2 is referring to in this email?

A. Mr Berezovsky.

Q. And the acronym BP?

A. Mr Patarkatsishvili.

Q. Now, in the final paragraph of your email, you say:

"You appreciate my problem; I'm not trying to be paranoid about the world at large nor am I raising theoretical issues about things that are unlikely ever to occur. I have a specific issue that I need to address which is B2."

You see that paragraph?

A. Yes.

Q. Can you recall whether or not you explained to Mr De Cort what the specific issue with B2 was that you needed to address?

A. Yes, it was Mr Berezovsky's claim to be an owner of the shares as reflected in the Moscow Times article.

MS DAVIES: Thank you very much, Mr Hauser. There will be some questions.

Cross-examination by MR MALEK

MR MALEK: Mr Hauser, could you turn, please, to your memorandum of advice of 9 June, which you will find in the bundle at H(A) volume 74 at page 219 H(A)74/219.

A. Yes, Mr Malek.

Q. You were asked by my learned friend Ms Davies as to whether or not anything said in this memorandum of advice was based on anything said to you by Mr De Cort. My question is, is anything in this memorandum based on anything said by Mr Streshinsky?

A. No, in fact I hadn't met Mr Streshinsky at the time

I wrote this memorandum.

Q. Or Mr Faekov?

A. Or Mr Faekov. I had not met him at the time I wrote the memorandum.

Q. Could you now be -- there are no other questions on that memorandum, could you now be provided with the other memorandum of advice dated 18 June, which is at H(A)76 at page 106 H(A)76/106.

Again you were asked questions about to what extent this was based on information provided by Mr De Cort, looking at the first couple of paragraphs.

Again, was anything in this memorandum, in the first couple of paragraphs that we looked at -- in fact the first -- the second paragraph, based on anything said by Mr Streshinsky or Mr Faekov?

A. No. I think the answer to your question is the same that I gave to Ms Davies, and that is that this is not based upon anything they told me. But the sentence that begins:

"Relations between RA and B have apparently broken down ..."

Was based upon my experience of dealing with all of them. And just as Mr De Cort didn't seem to be communicating with Mr Patarkatsishvili's representatives, so too Mr Streshinsky and Ms Arbatova

did not seem to be communicating with Mr De Cort.

MR MALEK: I have no further questions.

MRS JUSTICE GLOSTER: Yes, Mr Masefield.

Cross-examination by MR MASEFIELD

MR MASEFIELD: Mr Hauser, I'm Mr Masefield and I'm one of the counsel instructed by Mr Berezovsky.

Can I make it clear at the outset that I'm conscious of the fact you're here under compulsion and that you've been told by Mr Deripaska you're not at liberty to waive any privileged information. You can rest assured I have no intention of trying to trick you or trap you into an inadvertent waiver of privilege in relation to any of the matters upon which you are instructed and are now being asked to give evidence. That's not my purpose.

I've tried to formulate my questions with some care so as to avoid straying into those areas, and no doubt Mr Stanley QC, one of Mr Deripaska's counsel who is here in court, will correct me if I go wrong. But if at any stage you feel that I've overstepped the mark, or have any concern about whether or not you are free to answer, feel free to raise that concern and to say that you're not sure that you can answer the question without disclosing privileged information and we will then try to resolve the matter. Do you understand?

A. I do. Mr Masefield, if I can just make two points of my

own in respect of all that. The first one is that, insofar as just as you are constrained in your questions, there may be occasions when I am constrained in my answers and I give answers which are less than complete and, dare I say, may on occasion even seem to be evasive.

Q. I fully understand.

A. If and to the extent that occurs, the only reason why it occurs is because, as you say, just as you are conscious of Mr Deripaska's privilege, so too am I. Mr Stanley is here in a sense to police me, to make sure that I don't go over the boundary, but I'm Mr Deripaska's solicitor and in the first instance it is my responsibility to him as his solicitor to make sure that I don't overstray the bounds of privilege.

The second point that I would make relates to actually a personal point, and that is that I was given Mr Rabinowitz's opening day submissions when it was suggested that somehow or other I connived in, I believe the phrase was "air-brushing" Mr Berezovsky out of the various purchase and sale documents.

I would ordinarily, in circumstances like that, want to give a complete response to those sorts of allegations. I think those allegations in the first instance suggest that I may have done something

improper, dare I say even dishonest. I think second of all that a solicitor who engages in air-brushing someone out of documents, if anything else can be said about him, he is an incompetent solicitor, because the documents then do not do what it is that they purport to do.

In these circumstances, as I say, I would ordinarily want to make a complete response to those sorts of allegations, I'm not in a position to do so because I am constrained by privilege, but I would like to at least put it on the record that insofar as those allegations are made, I completely and most emphatically deny them.

Q. Thank you for that, Mr Hauser. That is now on the record and I understand your position.

MRS JUSTICE GLOSTER: Right, Mr Masefield, can we get on with the questions, please.

MR MASEFIELD: Yes.

Now, Mr Hauser, you've said that you're a partner in the law firm Bryan Cave and you practise out of its London office, is that correct?

A. That's correct.

Q. You first came to London to practise law in 1980, didn't you?

A. I did.

Q. And you've been admitted as a solicitor in England and

Wales?

A. I have.

Q. You've also been admitted as an attorney at law in the courts of New York State, the Federal Court for the Southern District of New York, correct?

A. That's correct.

Q. And your practice with Bryan Cave covers both corporate and tax planning?

A. It does that. In more recent years, it has covered a fair amount of litigation, but yes.

Q. Tax disputes and also commercial litigation?

A. And also commercial litigation, yes.

Q. We know from the documents that have been disclosed in these proceedings that both you and your firm Bryan Cave have acted for Mr Deripaska and his associated companies since at the very least March 2000, correct?

A. We've acted for Mr Deripaska since October 1999.

Q. I'm grateful. And presumably, as a corporate lawyer with many years of commercial experience, you would regard yourself as a reasonably prudent and careful --

A. Sorry, someone coughed. I didn't catch the last part.

Q. I'll repeat the question. Presumably as a corporate lawyer with many years of commercial experience, you would regard yourself as a reasonably prudent and careful man?

A. Yes.

Q. We can see from the documents that have been disclosed that you're a man who pays considerable attention to detail when you become engaged on behalf of clients in corporate transactions?

A. Yes.

Q. And in particular, where M&A work is concerned, can I take it you're someone who pays a lot of attention to due diligence?

A. Yes.

Q. And in the absence of satisfactory answers, to ensuring that adequate warranties and the like are in place to protect your client's interests?

A. Well, I would say that -- the way you phrased the question was: in the absence of satisfactory answers, that I would ensure that adequate warranties and the like are in place, I would say that I would ensure it as a general matter, whether I had received adequate answers or not.

Q. I'm grateful. So just to state the obvious, and without wishing to trespass on any privileged material, whenever you're instructed on a merger and acquisition transaction where you're acting for the purchaser, you would want to ensure that you got proper warranties of title, would you not, Mr Hauser?



A. Yes.

Q. Speaking in entirely general terms, when you're instructed in a substantial transaction, presumably you'll do your best to understand the context in which that transaction has arisen?

A. Yes.

Q. The relevant background against which the transaction is being conducted?

A. To the extent I can determine that, yes.

Q. And in order to understand that background matrix of fact, and again speaking in entirely general terms, your first and most obvious port of call would be your client, would it not?

A. No, I wouldn't necessarily say -- well, in terms of obtaining instructions, yes, I would, in the first instance, look to my client. Whether my client is in the best position to give me the background information depends on the transaction and depends on the client.

Q. It may do, but your client will be one of the people whom you would want to try to find out more information about the background to the transaction?

A. Yes.

Q. Other people would be the other parties, your counterparties?

A. Yes.

Q. And it would be a rare case, would it not, where you had no real information relating to the transaction and had to proceed merely by speculation or solely by relying on information in the public domain, such as newspaper reports?

A. Well, I think the question is seeking a particular conclusion. You say it would be a rare case where I would have no information, no real information, relating to the transaction? That's true. On the other hand, as you go through transactions, depending upon the specific transaction you may have a greater or lesser amount of information with which to work.

I think the way you put it, to have a transaction in which there is no real information, no information, yes, that would be a rare case.

Q. And all the more so when the transaction in question is a transaction worth hundreds of millions of dollars, it would be madness to become engaged in such a transaction without first seeking proper instructions from your client, would it not?

A. I think that the way in which I would approach a transaction frankly doesn't depend upon the value. I think I would approach all transactions equally.

Q. And would your approach be in relation to all transactions to seek proper instructions from your

client?

A. Yes.

Q. Now, I want to ask you some questions about your involvement in March 2000 in one of the merger transactions that led to the formation of Rusal, okay? I don't want to ask you about the content of your instructions, Mr Hauser, but can you please confirm that you were in fact instructed in early March 2000 to represent Mr Deripaska's interests in a proposed merger transaction which ultimately led to the formation of Rusal?

A. I was instructed to represent Mr Deripaska's interests. I wouldn't necessarily describe the initial transaction as a merger transaction. But I was instructed to represent Mr Deripaska in the negotiations which led to the 15 March 2000 agreement.

Q. That's fine, I don't want to debate the nature of that agreement, that's going to be a matter of submission in due course.

Without referring to the content of anyone's instructions, Mr Hauser, please can you also confirm that Mr Mishakov was also instructed to represent Mr Deripaska's interests in relation to that transaction?

A. Yes, he was.

Q. And that Mr Mishakov was also a lawyer by training?

A. Yes.

Q. Now, I understand that you attended a meeting in London on 11 March 2000 with Mr Alexander Bulygin. I don't want to ask you questions about the instructions he gave you, but is that fact correct, Mr Hauser?

A. Yes, it is.

Q. I don't want to, as I say, get into the instructions which Mr Bulygin may have given you on behalf of Mr Deripaska, Mr Hauser, and nor do I need to, because we know from Mr Bulygin's own evidence that his understanding as a result of the preliminary agreement of 5 March 2000 was as follows: firstly, that Mr Abramovich was not entering into the merger transaction with Mr Deripaska on his own; secondly, that on the contrary Mr Bulygin understood that Mr Abramovich was acting together with partners; thirdly, that those partners did not include anyone within the Trans-World Group; and fourthly, that Mr Bulygin made the assumption that one of Mr Abramovich's partners was Mr Shvidler, although he was not clear who the other partners were.

And for the record, the reference to that is Mr Bulygin's witness statement, paragraph 13, at E4, tab 1, page 7 E4/01/7.

Following your meeting with Mr Bulygin on

11 March 2000, Mr Hauser, you've told us that between 13 March and 15 March 2000 you took part in negotiations in Moscow with Mr Abramovich's representatives concerning the details of the merger process?

A. No, I told you that I did that on the 14th and the 15th. I didn't participate in negotiations with Mr Abramovich's representatives on the 13th.

Q. I understand. So were you travelling out on the 13th, or you arrived on the 14th and went straight into negotiations --

A. No, I travelled out on the morning of the 13th and arrived in Moscow later in the afternoon that day.

Q. Understood. Ultimately, those negotiations led to the share purchase and sale agreement which was drawn up and executed on 15 March 2000?

A. Yes.

Q. Can we have a brief look at that, Mr Hauser. Can you please be given -- you can put away the bundles that you've already got, and can you please be given bundle H(A)18 and turn within that to page 124 H(A)18/124.

A. Before we go on to that, you have made a number of submissions about what Mr Bulygin is said to have said. Is there a question for me in relation to any of that?

Q. There isn't, because --

MR STANLEY: My Lady, there shouldn't be a question about whether Mr Bulygin said that to Mr Hauser, that's for sure.

MR MASEFIELD: Exactly. I cannot put that question to you, Mr Hauser. I am under a constraint as well.

A. Just asking.

Q. Now, you should have at H(A)18, page 124 H(A)18/124, a copy of the share purchase and sale agreement dated 15 March 2000, Mr Hauser.

A. I do.

Q. As we can see, the parties to that agreement are Runicom Limited, who is described as the vendor, yes?

A. Yes.

Q. And GSA (Cyprus) Limited, who is described as the purchaser, yes?

A. Yes.

Q. And what is being sold pursuant to the contract we can see from the definition of "Shares" on page 125 H(A)18/125, if you turn over the page, and that is 50 per cent of the shares in the companies, with a capital C, which are named in the schedule 1 to this agreement. I don't think we need to turn that up, it's page 138. But those shares comprise shares in the companies Runicom Fort Limited, Galinton Associated Limited, Palmtex Limited and Dilcor International

Limited.

It's those companies, Mr Hauser, you can take this from me, that as at the time held the shares in the underlying aluminium assets such as Krasnoyarsk, Achinsk and Bratsk, do you follow?

A. Yes. Well, since I negotiated the agreement I don't need to take it from you, I do recall this.

Q. You do recall that. If we turn within the agreement to clause 6, Mr Hauser, at page 131 H(A)18/131, do you see there a heading, "Vendor's and Purchaser's Representations and Warranties"?

A. Yes.

Q. Below that are set out the warranties of title and the like which Runicom was making to your client, yes?

A. Yes.

Q. And looking at clause 6.1.1 of this agreement, we can see that it provides:

"The Vendor and the Other Selling Shareholders are together the legal and beneficial owners of 100 per cent of the shares of the Companies, which shares are owned free from all encumbrances, charges and liens..."

Do you see that, Mr Hauser?

A. I do indeed.

Q. If we look back at the definition of "Other Selling Shareholders", which we have at page 125 H(A)18/125,

we can see that the contract provides that "Other Selling Shareholders" means:

"... those other persons who together with the Vendor are the legal and beneficial owners and holders of 100 per cent of the shares (both in registered and bearer form) of the Companies as at the Completion Date."

Do you see that, Mr Hauser?

A. I do.

Q. So to summarise, there is a warranty that Runicom Limited, together with other selling shareholders, are the legal and beneficial owners of 100 per cent of the four offshore companies, yes?

A. Yes.

Q. But when you turn to look to see who the other selling shareholders are, they're not named, are they?

A. That's right, they're not.

Q. Instead you are simply told that those are the persons who, together with Runicom, are the legal and beneficial owners of 100 per cent of the four offshore companies, correct?

A. That's what the agreement says.

Q. But what both clause 6.1.1 and the definition do suggest is that there are a number of other selling shareholders with proprietary interests in the four offshore



companies in addition to Runicom Limited?

- A. No, they raise the possibility that there are other selling shareholders, they don't suggest anything.
- Q. The use of the plural is more than a possibility, isn't it, Mr Hauser?
- A. No, in terms of drafting the document they raise the possibility. I can give you a more complete explanation if you want to formulate a question.
- Q. Let me formulate this question, Mr Hauser. It follows from this definition, does it not, that during the course of the negotiations leading up to the conclusion of this agreement, you were most probably not told by any of Mr Abramovich's representatives that Mr Abramovich was the only legal and beneficial owner of the four offshore companies in addition to Runicom?
- A. No, because you've misinterpreted the agreement. If you start with the agreement: if the agreement had said the vendor was Mr Abramovich personally then the analysis that you'd given was correct. But the agreement doesn't say that. What the agreement says is a particular company, Runicom Limited, is the vendor.

Now, if we can spend a couple of minutes just to explain how this clause was developed and why we did what we did, you had suggested to me about five or ten minutes ago that ordinarily doing a transaction of this

sort I would want to conduct as much due diligence as I could before we proceeded with the transaction. It is apparent, given the time constraints that we were under, that we didn't have time to construct -- to conduct the due diligence. It was also the case that Mr Schneider, who had just then been brought in to act for Mr Abramovich, had limited information as to the structure of the deal and the companies that were being acquired.

During the course of the negotiations, on the Tuesday night and the Wednesday morning, we had to consider a number of possibilities. Possibility 1, that with respect to the companies that Mr Deripaska was acquiring an interest in, we were not certain that the interests that Mr Abramovich held in those companies was in each case owned via Runicom. It was possible that there were other companies within the Abramovich group that had interests in some of these companies. And so the first reason we had to refer to "other selling shareholders" was to take account of the possibility that there were companies, Abramovich companies, other than Runicom that held some of the shares.

The second reason we needed to do this was because it was not entirely clear at the time we negotiated this transaction that in fact Mr Abramovich or Runicom had

completed the acquisition of all of the shares of the companies, the underlying companies, that Mr Deripaska was buying an interest in. We had to take account of the possibility that there were still interests that were being held outside of Mr Abramovich's group that he was still in the process of completing purchases from. So that was the second possibility we had.

The third problem we had, and we discussed this expressly, was the ongoing suspicion on the part of my client that perhaps Trans-World still had an interest in some of the assets that Mr Abramovich had said he had acquired. One of the things that we were most insistent upon was to ensure that this share purchase and sale agreement was in all respects enforceable, even if it transpired that Trans-World still had some sort of an interest.

There was then the fourth possibility, which is in fact something that again Mr Schneider and I discussed, which was dealing with Mr Abramovich himself. It was possible that he had one or more other partners that had interests of one sort or another in the company, but the person that we actually were focused upon was Mr Shvidler, and the question was whether Mr Shvidler had an interest in these companies. I asked Mr Schneider whether he knew whether that was or was not

the case, Mr Schneider did not, and it seemed that Mr Shvidler was actually running the deal negotiations on that evening, sitting with Mr Deripaska, so we took account of that possibility as well.

So that's why the phrase "other selling shareholders" was inserted into the purchase and sale documentation.

Q. I'm very grateful for that explanation, Mr Hauser, because possibilities 3 and 4 that you just enumerated contemplate, do they not, that there may have been other persons who were involved in addition to Mr Abramovich?

A. Correct, but there's a difference between what you're now saying, contemplating the possibility that there may have been, and the way that you originally phrased the question, which was suggesting that there were.

I would accept your analysis, it contemplated the possibility that there would be other shareholders, but I don't accept your analysis or your conclusion that, in fact, it suggested that there would be.

Q. And you didn't get to the bottom of it, you say, before the share purchase and sale agreement was concluded on 15 March 2000?

A. Well, I suspect that this particular clause was probably negotiated about 1 or 2 o'clock in the morning, and we finalised the document about 5.00 am. I think we were

probably the only people who were up in Moscow at that time. It would have been rather difficult for me to have come to the bottom of it.

Q. Indeed that's rather reflected, isn't it, in the somewhat circular definition that you see here, because if you had got to the bottom of it and you'd found out who particular partners were, if there were indeed particular partners, one could have named them in the agreement, yes?

A. We could have. We could have, yes.

Q. It contained a confidentiality provision so there would have been no problem with that.

A. I'm sorry, I don't know why the confidentiality provision would have affected whether we could have named the partners.

Q. Well, there might have been sensitivity about documenting the existence of other people's ownership interests in these assets, Mr Hauser.

A. Oh, if your question -- let's cut to the chase on this one. If your question is: during the course of the negotiations was there any sensitivity raised about naming other partners, and was that part of the motivation for including, as you describe it, a somewhat ambiguous clause, "other selling shareholders"? No, that was not anything of what we discussed that evening.

There was no issue about that, or sensitivities.

- Q. And were you reassured at least of this from Mr Abramovich's representatives, that the Trans-World Group were not in fact included within the definition of "other selling shareholders"?
- A. Well, insofar as the definition itself is concerned, on the face of it "other selling shareholders" could have taken account of the Trans-World Group. If you're asking me, was I told during the course of the negotiations that Trans-World didn't have an interest in any of the assets that Mr Deripaska was buying into? The answer to that is yes, I was told that.
- Q. You were told that expressly?
- A. Yes.
- Q. But you weren't told who the other selling shareholders might be, expressly?
- A. No, but I've told you how it was -- how the phrase was drafted.

It also is the case that, frankly, whatever I had been told in the course of negotiations, yes, that's fine as far as it goes. But at the end of the day, the legal obligations and responsibilities are based upon the terms of the purchase and sale agreement. If in fact, having been told that Trans-World was not -- no longer had an interest in these shares, if subsequently

it had transpired that Trans-World did have an interest, and somehow or other that interest had affected the value of whatever it was Mr Deripaska had been buying into, the fact that at 2 o'clock in the morning Mr Schneider had told me, or had reassured me "No, Trans-World doesn't have an interest in this" wouldn't have helped my client at all.

So the fact of the matter is, "other selling shareholders", the definition was drafted in the widest possible way to make absolutely certain that Mr Deripaska got what it was he thought he was buying, and that's the reason we drafted it that way.

MR MASEFIELD: My Lady, that might be a convenient moment if you wanted to rise.

MRS JUSTICE GLOSTER: Yes, certainly.

You mustn't talk to anybody about your evidence or about the case.

THE WITNESS: Of course.

(11.29 am)

(A short break)

(11.40 am)

MRS JUSTICE GLOSTER: Yes, Mr Masefield.

MR MASEFIELD: Thank you. Now, the share purchase and sale agreement of 15 March 2000 was subsequently amended and restated on 15 May 2000.

A. That's correct.

Q. And we have a copy of the amended and restated agreement in bundle H(A)19. I wonder if we can turn that up, it's page H(A)19, page 22 H(A)19/22.

A. Can I put this away?

Q. You can, thank you.

What I hope you have there, Mr Hauser, is a copy of the agreement I was referring to, the amended and restated agreement of 15 May 2000. Do you have that?

A. Yes, I do.

Q. Obviously, if anyone had wanted to make corrections to the earlier agreement to tighten up warranties or to pick up on any errors that had crept into the drafting there had now been two months in which to do so, yes?

A. Yes, that's right.

Q. And you've told us that you're involved in negotiating the terms of this amended and restated agreement, that's correct?

A. Sorry, before we just continue with that, page 2, there seems to be something blacked out in relation to AGK Securities. I don't know if there's anything else in here which has been blacked out. Obviously that is not in the original of the document.

Q. That's fine. You don't need to worry about that, Mr Hauser.



- A. All right, then to go back to your question, yes, I was involved in negotiating the terms of this agreement.
- Q. And the main change between the earlier 15 March 2000 agreement and this amended and restated agreement was that the Bratsk assets were now being brought into the merger, do you recall that?
- A. That was one of the main changes, there were a number of other substantial changes too, but that was one of the main changes, yes.
- Q. Previously they were going to be spun off but now they are going to be included as part of the deal, correct?
- A. I have no idea what the original deal was because the original 15 March 2000 agreement made no reference to the Bratsk assets.
- Q. Well, they did make a reference --
- A. Did they?
- Q. It said they were going to be spun off. Shall we have a look at that?
- A. All right, we should probably have a look at that.
- Q. If you go back to H(A)18, if you turn within that to page 141 H(A)18/141, you will see there's a schedule 2 there which dealt with the shares and the aluminium assets that were going to be brought within the merger.
- It's page 141, Mr Hauser.
- A. Yes, I do, but this is -- no, I think --

Q. Wait for my question, Mr Hauser. Part III says

"Spin-Off Shares:

"Any and all shares held by the Companies in Open Joint Stock Company 'Bratsky Aluminium Plant'."

A. Yes, that's right.

Q. So the Bratsk shares were going to have been spun off under the original agreement, that's correct, isn't it?

A. There were Bratsk shares that were being spun off under the original agreement, but when you refer to "the Bratsk shares", what the 15 May agreement refers to is the fact that Mr Abramovich at that stage had acquired a substantial interest, I think about two-thirds of the shareholding in Bratsk. And on the basis of that, the original deal was renegotiated.

What had happened on 15 May, and the reference to spin-off shares, was frankly, as I recall, to deal with miscellaneous small holdings of Bratsk shares that may have been caught up in these companies. But there was a fundamental difference between what had happened between 15 May and 15 -- and the earlier period, 15 March, and that is that Mr Abramovich in the meantime had acquired a substantial interest in the Bratsk smelter.

Q. That may have been what you were told at the time, Mr Hauser, but in fact Mr Abramovich acquired his

interests in the Bratsk smelter under the 10 February agreement in 2000. So he had already acquired those interests by the time of the 15 March 2000 agreement. But I'm not sure we need to trouble ourselves about this.

A. Fine.

Q. A direct consequence of the Bratsk assets being brought into the merger was that the purchase price which Mr Deripaska was due to pay had been increased from 400 million, which was to have been paid under the 15 March 2000 agreement, to \$575 million, which was to be paid under this agreement. Do you recall that?

A. That was one of the consequences, yes.

Q. And we can see the 575 million is referred to in the fourth recital of the later agreement which we have in bundle 19 at page 22 H(A)19/22. If you look down the page to the fourth recital, do you have that?

A. Yes.

Q. We see the figure there that is now due to be paid by Mr Deripaska to Runicom Limited, yes?

A. It also is referred to in the definition of "Net Transfer Price" on page 2.

Q. I'm coming on to that.

This was something you were probably not aware of at the time, Mr Hauser, but this net transfer price of

575 million in fact exactly equalled the sum which Mr Abramovich, and we say his partners, were due to pay to Mr Reuben, Mr Chernoi, Mr Bosov and Mr Anisimov for the aluminium assets. Was that in fact something you were told about at the time, Mr Hauser?

A. No.

Q. And we know from Ms Panchenko and Mr Shvidler's evidence in these proceedings that this 575 million, which was due from Mr Deripaska, was in fact used to discharge the debt due to Mr Reuben and others under the February aluminium acquisition agreement. But, again, presumably that was not something that you were told about at the time?

A. I was not.

Q. Now, if we look a little bit further down the page on page 23 H(A)19/23, you've referred to the "Net Transfer Price" provision on that page. We can see further down that there is -- rather than a reference to "other selling shareholders", there's now a new defined term, which is "Other P1 Shareholders"; do you see that, Mr Hauser?

A. Yes.

Q. Is this a term which you recall was the subject of discussion with Mr Abramovich's representatives?

A. Yes.

Q. They clearly accepted this term because it's in the final form of the executed agreement, correct?

A. Yes.

Q. And we can see that the definition provides that:

"Other P1 Shareholders [are] those other persons and/or entities (whether legal or natural) who together with Party 1 [that's Runicom Limited] are the legal and/or beneficial owners and/or holders of 100 per cent of the shares (both in registered and bearer form) of the P1 Companies..."

Do you see that?

A. Yes I do.

Q. Then turning forward in the agreement to page 33

H(A)19/33, Mr Hauser, we have at clause 7 the relevant representations and warranties, do you have that?

A. I do indeed.

Q. Now, clause 7.1(a) is similar to the warranty in the 15 March 2000 agreement, it's the warranty of title by which Runicom Limited warrants that it, together with the other P1 shareholders, are:

"... the legal and beneficial owners of 100 per cent of the shares of the P1 Companies ..."

Do you see that?

A. I do.

Q. And so it's reasonable for us to conclude, is it not,

Mr Hauser, that none of Mr Abramovich's representatives had told you in the two intervening months since the share purchase agreement that the reference to "other selling shareholders" in the plural was wrong, and that there should instead be a reference simply to one other P1 shareholder, or even just to Mr Abramovich?

- A. Well, whether they had told me that or not I would have insisted on this language anyway, for all of the reasons that I had indicated that we needed a definition of "other selling shareholders".

Nothing had changed between 15 March and 15 May. My objective was to make sure that this transaction, just as the previous agreement, was not torpedoed or in any way affected by someone showing up, or claiming an interest, or it subsequently being determined that some other group company in the Abramovich group had an interest in, or held shares, or that in some respect the purchase of some of these underlying assets hadn't yet completed.

So the same considerations applied for March -- for May 15 as applied for March 15.

- Q. And those considerations, you told us earlier, included as points 3 and 4 the possibility that Mr Abramovich had partners and the possibility that Mr Shvidler was a partner?

A. Yes.

Q. And those possibilities you had still not resolved one way or the other?

A. Well, frankly, had I resolved them or not I still would have drafted the document as I had. Because as I said to you, if on 15 March at 2 o'clock in the morning, if I had been told by Mr Shvidler -- I'm sorry, by Mr Schneider, that Trans-World didn't have an interest, then that wouldn't have taken me very far in terms of giving protection to my client. Similarly, if I had been told that on 10 May, in the middle of the day, it still wouldn't have given me the protection that I needed.

I needed to ensure that this document was legally enforceable whatever happened, and if someone climbed out of the woodwork, or Mr Abramovich came back and said, "Actually, terribly sorry, it wasn't Runicom that owned these shares, it was someone else," then that was not going to affect the legal effectiveness of this agreement.

Bear in mind as well that a number of the underlying companies were bearer share companies.

Q. Correct.

A. So the ownership of the underlying companies, although I was told that it was Runicom, how did I know that it

was Runicom? What was I going to do? Was I going to go sit in Mr Abramovich's office and see the share certificates and sit there until we completed the deal? It wouldn't have made any sense.

So as a consequence I needed to have that language included in the agreement to make sure that no matter what had happened, no matter what the underlying position was, no matter how the shares of the underlying companies were owned, this document remained effective.

Q. Let's look further down the page that we are on, page 33 H(A)19/33, the representation and warranty at clause 7.1(d). We see a further representation of warranty there which says:

"Party 1 has the power and authority to act in the name of and to represent any and all of the Other P1 Shareholders in respect of the sale of the P1 Shares, and to receive their portions of the Net Transfer Price on their behalf."

Do you see that provision, Mr Hauser?

A. I do.

Q. So what this demonstrates, Mr Hauser, is the parties' agreement and understanding was that the 575 million purchase money was due not just to Runicom Limited, correct?

A. No, what it indicates is -- and let's actually read the



document. It says:

"Party 1 has the power and authority to act in the name of and to represent any and all of the Other P1 Shareholders ..."

Well, if you take out "all"; "to represent any of the Other P1 Shareholders". That is, if there are any.

So this isn't an affirmative declaration that the other P1 shareholders exist, it simply covers the possibility that they might exist. And if they did exist, then what this clause says is that the purchase price is \$575 million and not a penny more.

Q. Let's look at the last part of the clause though, Mr Hauser:

"... and to receive their portions of the Net Transfer Price..."

That suggests the transfer sum is going to be apportioned between parties?

A. No, it suggests that if there were other P1 shareholders, then obviously they would be entitled to some of the purchase and sale consideration. And to the extent that was the case, that whatever was paid to Runicom would represent -- would be a complete discharge of whatever would be due to these other shareholders if they existed.

Q. Mr Hauser, I'm not going to debate the provision with

you because it's going to be a matter of submission as to how it should be construed. But what we can say --

A. I can only tell you what I did --

Q. I appreciate that.

A. -- and why I negotiated it and how the negotiations transpired.

Q. What we can see from this agreement is that the 575 million which was due to Runicom and all the other P1 shareholders, that was the sum that was in fact used to discharge the debt of the aluminium assets that Mr Abramovich, and we say his partners, had acquired back in February 2000. But you say you weren't told about that at the time, were you, Mr Hauser?

A. Well, your initial question started with: what we can see from this agreement is that the 575 million was used to discharge Mr Abramovich's debt.

You can't see that from this agreement at all, and to be clear, no, I didn't know any of that.

Q. We are at cross-purposes.

What we can see from this agreement is that the sum was due to be paid to Runicom and all the other P1 shareholders, that's what it says.

A. Yes.

Q. And it was that sum --

A. If any.

- Q. -- that was due to Runicom and all the other P1 shareholders that was used to discharge the debt to Mr Chernoi, Mr Reuben, Mr Anisimov, and Mr Bosov, but you didn't know about that?
- A. Well, to go back to the beginning of your question: what we can see from this agreement is that the sum was due to be paid to Runicom and all the other P1 shareholders, if any. That's what it says.
- With respect to how the money was then used, there is nothing in the agreement that gives any indication at all.
- Q. You say "if any", but it doesn't actually say "if any" at all, Mr Hauser.
- A. It does. It says no person -- it says:
- "P1 has the power and authority to act in the name of and to represent any and all of the other P1 shareholders ..."
- The word "any" is there.
- Q. It says "any", not "if any".
- MRS JUSTICE GLOSTER: At the end of the day, the document and its interpretation is a matter for me.
- MR MASEFIELD: I agree, my Lady.
- Let's move on, Mr Hauser, to September 2003, to the time of the first Rusal sale transaction?
- A. Can I put these away?

Q. You can put away bundle 18 and bundle 19.

Once again, without waiving privilege as to the contents of any instructions, can you confirm that you were in fact instructed on behalf of Mr Deripaska in relation to the September 2003 transaction?

A. Yes, I was.

Q. And as well as the various share purchase and sale agreements which were executed at that time, which related to a first 25 per cent tranche of Rusal, the parties also entered into a deed of pre-emption and option agreement relating to the last 25 per cent tranche of Rusal not owned by Mr Deripaska?

A. They did.

Q. Were you involved with that, Mr Hauser?

A. Yes, I was.

Q. Could we turn the document up, please. It's bundle H(A)65, page 172 H(A)65/172.

What I hope you have there, Mr Hauser, is an agreement entitled "Deed of Pre-emption and Option", do you have that?

A. I do.

Q. And it's dated the 30th day of September 2003, do you see that?

A. Yes.

Q. You say you were involved in the drafting of this

document, were you, Mr Hauser?

A. Yes, I was.

Q. And if we look at the first page of the agreement, page 172, which we're on, recital A, we can see that it says:

"Whereas:

"It had been agreed by the Parties as of the Effective Date that the Grantor granted to the Option Holder a right of first refusal to purchase the entirety of the Business Interests in the event the Grantor proposes any transfer of the Business Interests to any other Person."

Do you see that provision, Mr Hauser?

A. Yes.

Q. Then at recital B we can see it says:

"Whereas:

"It was further agreed by the Parties as of the Effective Date that in the event of a contemplated change of Ownership Rights, the Option Holder should be entitled to purchase the entirety of the Business Interests in accordance with the terms of this Deed."

Just pausing there, what the contract clearly contemplates are two potential triggers, yes? Recital A is the situation where Madison, the grantor, is contemplating a sale to a third party, correct?

- A. Correct.
- Q. And recital B is the situation where a change in ownership structure of Madison is contemplated, correct?
- A. Correct.
- Q. And if either of those events arose then Mr Deripaska's company, Baufinanz, the option holder, has a right of first refusal to purchase the entirety of the business interests?
- A. Correct.
- Q. That's the last 25 per cent stake in Rusal, that's recital C, isn't it?
- A. Yes. When you say the last 25 per cent stake in Rusal, at that point, Rusal still referred to the conglomeration of interests rather than Rusal Holding, which is why we used the phrase "business interests".
- Q. I agree with you, Mr Hauser and I don't think we need to debate that point.
- The price that Mr Deripaska's company, Baufinanz, would have had to pay under this contract is dealt with slightly differently depending on which of the two triggers has been activated, do you recall that?
- A. Yes, I do.
- Q. If you turn to page 175 H(A)65/175 and look at section 2, we can see what was to happen in the event of a contemplated sale to a third party.

Looking at clause 2.3, we can see that on receipt of a bona fide offer from a third party, Madison had to send a written pre-emption notice to Baufinanz, correct?

A. Yes.

Q. And the pre-emption notice was to set out, amongst other things, the proposed price to be paid for the business interests? That's 2.3.2.

A. Yes, that's right.

Q. Looking at clause 2.4, Baufinanz had to then, within the next 30 days, deliver to Madison a written notice either offering to match the third party price, or tabling a different price in terms, or saying that it was not interested; do you see those provisions?

A. I do.

Q. And finally, looking at clause 2.6, if Baufinanz had tabled different terms and prices Madison and Baufinanz had to negotiate in good faith for a period of 30 days, and if no agreement could be reached then Baufinanz could deliver an election notice offering to match the terms of the price offered by the third party?

A. Yes.

Q. So that was what was to happen in the event of a third party offer. But if the triggering event was not a third party offer but a change in control or ownership rather different rights arose, and those are set out in

section 3 which we have at page 177. I don't think we need to work through all the detail of it, Mr Hauser, but you can take it from me that the way the price was then to be calculated was that the parties were to negotiate in good faith, and if no agreement was reached after 30 days, Baufinanz could serve a nomination notice on Madison which would require the matter to go off to an expert determination at which the expert would fix the price?

A. That's correct.

Q. Now, do you have recollection of those provisions, Mr Hauser?

A. Yes, I do.

Q. And would you at the very least agree with me that if in September 2003 Mr Abramovich's representatives had told you that Mr Deripaska had an unrestricted option to buy the remaining 25 per cent of Rusal at a fixed price of 450 million, you would have drawn up a rather different contract to this one?

A. Now you're asking me if Mr Abramovich's representatives had told me, would I have drawn up a different contract? Yes, I would have.

Q. Thank you, Mr Hauser.

And can we therefore take it that Mr Abramovich's representatives did not tell you in September 2003 that



Mr Deripaska had an unrestricted option to buy the remaining 25 per cent of Rusal at a fixed price of \$450 million?

A. Yes.

Q. Thank you, Mr Hauser. We can put away bundle H(A)65.

Finally I would like to ask you a few questions, Mr Hauser, about your involvement in the second Rusal sale. I'm very conscious of privilege issues that have arisen and for the need for us to proceed carefully here.

The second Rusal sale documentation really kicks off at the start of June 2004 and the deal was concluded on 20 July 2004. Do you remember that?

A. Yes, the deal was concluded on 20 July, that's correct.

Q. And you've confirmed already that you were in fact instructed in relation to that transaction on Mr Deripaska's behalf?

A. Yes.

Q. And you may or may not recall this, but it's fairly clear from the documents and communications passing between yourself and the other parties that the second Rusal sale transaction developed in the course of three different stages, and let me just summarise those stages for you as it may make things a bit easier as we work through the documents.

Stage one was the initial period from 9 June 2004 up until 17 June 2004. Now, during that period, drafts were passing backwards and forwards between the parties which contemplated that Mr Abramovich or his companies would warrant that there were two ultimate beneficial owners, X and Y, who had (sic) beneficial owners of a 25 per cent stake in Rusal since 15 March 2000; do you understand?

A. Well, I understand what you're saying, yes.

Q. Then there's a second stage which starts on 17 June 2004 when Mr De Cort sent you an email stating that there were going to be no warranties from Mr Abramovich's side regarding beneficial ownership. And stage two was then a period of impasse where the parties were trying to reach a compromise on the warranty relating to beneficial ownership, do you remember that?

A. Well, again, I understand what you're saying, yes.

Q. And that impasse lasted up until the beginning of July 2004. And then, in early July 2004, the impasse was resolved and the solution, which was then fine-tuned in the course of stage three up until closing on 20 July 2004, was this: firstly, Mr Abramovich would acknowledge but not warrant that he had only ever had dealings with Mr Patarkatsishvili, and that whoever Mr Patarkatsishvili said was the beneficial owner must

be the beneficial owner.

Alongside that acknowledgement --

MRS JUSTICE GLOSTER: Well, do you accept that, Mr Hauser?

A. Well, I don't think I've accepted anything, my Lady, yet. All I've done is acknowledged that I've heard what I've been told. I would not have characterised the negotiations in this way.

MRS JUSTICE GLOSTER: All right.

MR MASEFIELD: We'll come on to the documents in a moment, my Lady.

MRS JUSTICE GLOSTER: Well, I'm not sure where it's getting you if all you're doing is putting your version of events and the witness is saying "Well, I wouldn't have characterised it in that way.

MR MASEFIELD: My Lady, why don't we go straight to the documents.

Could we start with your 9 June memorandum, which we have at bundle H(A)74, page 219 H(A)74/219. This is the memorandum that we've looked at already this morning, Mr Hauser, and you've confirmed that you were the author of it.

I don't want to go through the memorandum at length with you, Mr Hauser, because we can all see what it says and because, to some extent, I'm constrained by questions of privilege. But focusing on the first

numbered paragraph that we have at page 219, we can see that the paragraph starts:

"We are advised ..."

And the same is also true of the second numbered paragraph, do you see that?

A. Yes.

Q. Now, I don't want to stray into privileged areas, Mr Hauser, and I don't want to ask you about any advice that you received from your client, but can you tell me this. I think you may have given these answers already or at least the first two. Did Mr Abramovich's representatives provide you with the advice that you're referring to here?

A. No.

Q. Did Mr Patarkatsishvili's representatives provide you with the advice that you're referring to here?

A. No.

Q. And when you refer to "advice", you are not referring simply to the newspaper reports or information in the public domain, were you, Mr Hauser? That would be an odd use of language, would it not?

MR STANLEY: My Lady, I think that is going too far. He's going beyond asking whether there was information from particular people and he's asking: what did you mean by "you were advised"? If you ask -- your Ladyship can see

where the question is going, you eliminate all possibilities and whatever remains is that this must have come from your client.

MRS JUSTICE GLOSTER: Well, I don't see why he shouldn't ask whether the information that is in that paragraph came from what he'd seen in the newspapers.

MR STANLEY: Yes, very well my Lady.

MR MASEFIELD: Would you answer the question, please, Mr Hauser. Would you like me to put it to you again?

MRS JUSTICE GLOSTER: I think you should put it in the way I've just formulated it, please, Mr Masefield. Did you get what you've seen in paragraph 1 --

MR MASEFIELD: Was the information that we see in that paragraph, did that come from what you had seen in the newspapers, Mr Hauser?

A. The specific information, no. The only newspaper account I had was the Moscow Times article, and you can see what's in the Moscow Times article.

Is it the case that the memorandum in part took account of what was in the Moscow Times article? Yes, it did.

Q. I'm grateful for that answer, Mr Hauser, and in particular the word "in part".

Can we turn next to bundle H(A)75, we can put away bundle H(A)74, and turn within bundle H(A)75 to

page 228.001 H(A)75/228.001.

This is the table headed "Madison Representations and Warranties", Mr Hauser, that we've looked at already and which was drawn up by Bryan Cave on 14 June 2004.

Do you remember that?

A. Yes.

Q. And this therefore followed the meeting that I think you have already explained to the court that you had with representatives of Mr Patarkatsishvili on 12 June 2004?

A. On the 11th.

Q. On the 11th.

A. Yes.

Q. I'm grateful. This was a document which was produced not just for Bryan Cave's or your client's internal purposes, Mr Hauser, we know that it was sent to Mr Patarkatsishvili's representatives, do you remember that?

A. Yes, eventually it was sent to them, yes.

Q. I think you've said that you don't recall tabling this document at the meeting which had with Mr De Cort on 15 June 2004, but would you accept that you were likely, at the very least, to have raised at that meeting with Mr De Cort the matters that have been carefully set out by you in the schedule the day before the meeting?

A. No. I don't accept that. First, I think the question

was: I don't recall tabling the document at the meeting I had with Mr De Cort? No, I think my evidence is I didn't table it at the meeting with Mr De Cort.

With respect to discussing what was laid out in this note, no, Mr De Cort told me he didn't know anything -- he had no instructions from his client, and so there was no point in having any more specific discussion with Mr De Cort as to how, for example, representations and warranties as to title might be divided up between Mr Abramovich on the one hand and Mr Patarkatsishvili on the other, because Mr De Cort had no instructions one way or the other.

- Q. Mr Hauser, what was Mr De Cort doing arriving at this meeting with no instructions from his client? What was the purpose of him meeting with you?
- A. I think he was meeting with me in order to be briefed as to what had been discussed on the previous Friday, and that was the principal function of the meeting, for me to tell him what we had discussed --
- Q. For you to update him with what you had heard from Mr Patarkatsishvili's representatives?
- A. Yes.
- Q. Once again, Mr Hauser, I'm not going to ask you detailed questions about what this document says because we can all see what it says, and, in particular, we can see in

the "Comments" section on the second page over, the references to X and Y.

But can I ask you this: in the "Comments" column on that right-hand side of the document, various factual propositions are set out, including the statement that Mr Abramovich was a trustee holding the stake in Rusal on trust for known beneficiaries described as X and Y. Can you tell me this, did Mr Abramovich's representatives provide you with that factual information?

A. No.

Q. Did Mr Patarkatsishvili's representatives provide you with that factual information?

A. Well, no, the answer is no. I think -- I'm trying to see what you're referring to, I think you're starting with the last full paragraph on page 2?

Q. And higher up the page:

"X and Y can give only a 'knowledge and belief' assurance..."

A. I think the reference you quoted was:

"In such a case, RA would hold the interest as trustee for X and Y who in turn would hold the interest as trustee for someone else."

Q. And there's a reference to trust back on the first page as well.



- A. Yes, all right. All I'm -- I'm looking at this particular paragraph. The opening sentence says:
- "It is possible in theory..."
- And then it indicates "In such a case". It seems to me that on the face of it, the paragraph makes it clear that there is a certain degree of speculation that's going on at that point.
- Q. And the speculation involved in that paragraph is the question of whether X and Y are fronting for further individuals, but it's not speculation about whether X or Y existed, or whether Mr Abramovich was holding on trust --
- A. In respect of that paragraph, yes, you're right.
- Q. Now, I was asking you whether Mr Patarkatsishvili's representatives had provided you with that factual information, Mr Hauser, and I think your answer is no, but can you confirm that?
- A. Sorry, which -- I'm beginning to get a little lost. Which factual information are you asking me they did not confirm?
- Q. Did they provide you with the information that Mr Abramovich was holding on trust for X and Y?
- A. No.
- Q. I'm grateful. And can you confirm to the best of your recollection that that was not information that was

based solely on newspaper reports?

MR STANLEY: Well, my Lady, it's the same question, the same problem again; "not ... based solely on" is an attempt to discover whether it came from the client. It's the only purpose that question can serve.

MRS JUSTICE GLOSTER: You can ask the question.

MR MASEFIELD: I'm grateful, my Lady.

Can you confirm to the best of your recollection that that was not information that was based solely on newspaper reports?

A. The issue I think is -- the question, to go back to it, is did they provide me with the information that Mr Abramovich was holding on trust for X and Y, is that the question?

Q. That is the question.

A. The answer to that is, in the course of the meeting we had on the Friday, Mr Patarkatsishvili's representatives said that Mr Patarkatsishvili was the beneficial owner of the shares.

Q. Yes.

A. Now, if that was the case, and if Mr Abramovich or one of Mr Abramovich's companies was actually the legal owner of the shares, then it would logically follow that that company was holding either as nominee or perhaps as trustee for Mr Patarkatsishvili.

Now, with respect to whether there was a Y issue, then we, as I think I previously said, did discuss in the Friday meeting the Moscow Times article and the possibility that Mr Berezovsky may have an interest as well. Now, Mr Patarkatsishvili's representatives told me on the Friday that Mr Berezovsky did not have such an interest, but on the other hand, as I think we started this cross-examination, and you asked me if I'm a careful lawyer, and the answer is yes, and I don't always believe everything that I've been told.

Q. I'm very grateful for that answer, Mr Hauser.

Now, moving on to the second stage in the Rusal sale transaction, do you recall that on 17 June 2004 Mr De Cort sent you an email stating, for the first time so far as we're aware, that his client would not be making any warranties regarding beneficial ownership?

A. Well, in answer to the second part of the question, do I recall that Mr De Cort sent me an email, yes, I do. Do I accept that in fact the negotiations could be divided up into three stages, no.

Q. I'm not worried about that. Can we turn the email up briefly, Mr Hauser, it's bundle H(A)76/69 H(A)76/69. You can put away bundle 75. Perhaps you would like to read the email quickly to yourself, Mr Hauser. (Pause)

A. Yes.

Q. We can see that in the second numbered item here, Mr De Cort has told you that there would be no warranties about beneficial ownership. Do you see that?

A. I do.

Q. Do you recall whether Mr De Cort explained the reason why there would be no warranties about beneficial ownership, Mr Hauser?

A. No, I think the email speaks for itself. That was what I received, was the email.

Q. There was no follow-up discussion between you and Mr De Cort explaining why he could not provide any warranties about beneficial ownership?

A. Yes, there were discussions with Mr De Cort as to why his client didn't want to provide warranties about beneficial ownership and what they all had to do with was his understanding, which was something that we discussed openly, that following the acquisition of the shares, in the following years, it was likely that Mr Deripaska would attempt to list Rusal. There would be an IPO, and Mr De Cort made it very clear that he didn't want Mr Abramovich to have to assume liabilities in connection with the listing.

Of course, as far as I was concerned, the arguments as to why Mr De Cort didn't want Mr Abramovich to give warranties as to ownership were precisely the reasons

why I wanted Mr Abramovich to give warranties or someone to give warranties as to beneficial ownership.

Q. Indeed. And if matters had proceeded as had originally been envisaged where there were warranties of beneficial ownership in favour of X and Y, and X and Y were also involved in documentation including releases, that would have meant that there would be no prospect of the IPO subsequently being derailed by X and Y coming forward. That logically follows, doesn't it?

A. I think this goes to the issue of your dividing the negotiations up into different phases. I don't accept --

Q. I'm not sure that it does, Mr Hauser, don't worry about the phases.

A. No, but let me answer your question.

Q. Yes, please do.

A. The position was, from the beginning of June up to and into the beginning of July, I had asked repeatedly from both Mr De Cort as well as from Mr Patarkatsishvili's representatives as to the nature of the beneficial interests and when the beneficial interests had arisen.

That was -- as far as I was concerned, it was a single continuum of negotiations, there was no break, there was no first stage, there was no second stage. The only stage was me asking the questions. Up until

the beginning of July, I didn't get an answer to those questions and that was the principal focus. And it struck me that in terms of, for example, this answer, this answer didn't take us any further because this answer simply said there would be no warranties about beneficial ownership with no explanation as to what the underlying beneficial ownership was.

Q. So up until the beginning of July, you were not getting clear answers from Mr De Cort about who, if anyone, the beneficial owners were, is that correct?

A. Or from the representatives of Mr Patarkatsishvili as to the nature of his interest and in particular when it arose. So, yes, it's the case that Mr De Cort was not giving me clear answers but let's not single him out as an individual, I also wasn't getting clear answers from Mr Patarkatsishvili's representatives either.

Q. I'm grateful for that too.

Now, can we turn to bundle H(A)76, page 106 H(A)76/106, which is your memorandum dated 18 June 2004 which you drew up the day after the email that we've just looked at, the email in which Mr De Cort said there would be no warranties regarding beneficial ownership. Do you see that memorandum?

A. I do.

Q. Again, to set your mind at rest, Mr Hauser, this is

a memorandum that we know was sent by Mr Mishakov to Mr Patarkatsishvili's representatives so it's a communication that crossed the line and is no longer privileged. But tell me this, do you recall whether it was also sent to Mr Abramovich's representatives, Mr Hauser?

A. No. In fact, I should say with respect to both of these memoranda, until the commencement of this action, I was not aware that either of these documents had been sent by Mr Mishakov or anyone else, either to Mr Abramovich's representatives or to Mr Patarkatsishvili's representatives.

Q. Because it was Mr Mishakov who had sent on the 9 June memorandum to Mr Patarkatsishvili's representatives and to Mr De Cort.

A. Well, if you say that's the case, that's the case.

Q. You were unaware of it?

A. I frankly don't know. I was not aware of it. And it also -- the conclusion or the further conclusion from all of that is that, during the course of these negotiations in 2004, I never had any discussions either with Mr Patarkatsishvili's representatives or Mr Abramovich's representative as to anything to do with either of these memoranda.

Q. That's fine and I accept that.

Now, this memorandum refers to a telephone conversation that you had with Mr Mishakov and I don't want to go into the contents of that telephone conversation because that may be privileged, but the second paragraph commences by saying "As I understand the position..." Do you see that, Mr Hauser?

A. I do.

Q. Again, without wishing to stray into any areas of privilege, Mr Hauser, and without referring to any information that you received from Mr Mishakov or your client, can you tell me whether your understanding was based on what Mr Abramovich's representatives had told you?

A. I think I previously indicated that this second paragraph is not drafted on the basis of any information I obtained from Mr Abramovich's representatives.

Q. Nor indeed from Mr Patarkatsishvili's representatives?

A. Nor indeed from Mr Patarkatsishvili's representatives.

Q. And nor was it derived solely from information that was available in the newspapers?

A. Well, this was not derived from -- I think the newspaper article that I referred to speaks for itself.

Q. I'm grateful, Mr Hauser.

Now, we know that your proposal in this memorandum which was to transfer the trust relationship was not in



fact taken up and that, until early July 2004, a table entitled "Key Issues" passed backwards and forwards. That's Mr Faekov's table that you've referred to earlier in your evidence. Do you remember that table that Mr Faekov had drawn up?

- A. Yes, if we start with your comment, my proposal in the memorandum was not in fact taken up. The answer is that I was not aware that this memorandum had ever been even sent to Mr Patarkatsishvili's representatives or Mr Abramovich's representatives so it follows from that that we never negotiated the proposals that were set out in the memoranda because I didn't even know they had it.

With respect to the second point, there was a table entitled "Key Issues" that Mr Faekov revised based upon the draft that I had previously produced, I think on 14 June, and, yes, that Mr Faekov, having revised it, sent it to me and sent it to Mr De Cort for us to sign off on in order that it could then be put to the principals.

- Q. Just in relation to the first part of your answer, Mr Hauser, Mr Mishakov certainly didn't pick up your proposal and carry it forward to the other parties because we don't see any communications to that effect. That may not be something you were aware of at the time though?

A. I'm not aware of that at the time. I am aware of the fact that, if this proposal had been followed through, then I would have expected to have known about it since I was principally responsible for the negotiations.

Q. Absolutely.

And then in early July 2004, you began to get answers, as I think you indicated earlier, about beneficial ownership and we can see that if we take up bundle H(A)79 and turn to page 139 H(A)79/139. Do you see there an email from Mr De Cort dated 6 July 2004 to Mr Stalbek and copied to yourself?

A. Yes, to Mr Mishakov, yes.

Q. Sorry, Mr Mishakov, my mistake. Could you just briefly read the email to yourself, to remind yourself about what it says. (Pause)

We'll come on to the response in a moment. If you want to look at that, by all means do, but I was just going to focus firstly on Mr De Cort's email to you -- which was copied to you.

A. Well, I'm just wondering if -- because Mr De Cort's email starts by saying:

"We also want to resolve this as soon as possible..."

Is he referring or is he responding to the email from Mr Mishakov which is on the next page?

Q. No, I think that is the response from Mr Mishakov on the next page that we have, given the timings. It's 13.18.55 CEST that Mr Mishakov responds to the Andre De Cort email.

A. Then presumably there is an earlier email from Mr Mishakov to which this is responding?

Q. There is but I don't think we need to go to that for the moment, Mr Hauser.

What we see being proposed by Mr De Cort in this email of 6 July 2000 to resolve the impasse in relation to beneficial ownership warranties was that, although his client would not make any warranty or representation about beneficial ownership, he was prepared to sign a document that would freeze the position and prevent Mr Abramovich saying something else subsequently which was inconsistent with it, yes?

A. Well, that's what the email says.

Q. And we can see the acknowledgement that Mr De Cort was proposing in the prepenultimate paragraph of this email, can't we, Mr Hauser?

A. Yes.

Q. And that acknowledgement which Mr De Cort was proposing did not, it seems, go far enough and we can see that if we turn over the page to page 140 where we have Mr Mishakov's response to Mr De Cort later the same day

H(A)79/140. Could you read that to yourself?

A. Yes.

Q. What he says is that they are not interested in a statement of Mr Abramovich's interactions; what they are looking for -- what you are looking for is confirmation of beneficial ownership. Do you see that?

A. Yes.

Q. And so to avoid having to follow all this through, you can take it from me that what ultimately happens is a compromise. It was agreed that Mr Abramovich would acknowledge that the only person he had dealt with was Mr Patarkatsishvili and that whomever Mr Patarkatsishvili said was the beneficial owner was the beneficial owner. Do you recall that?

A. Yes.

Q. And at the same time Mr Patarkatsishvili would warrant that at all times since 15 March 2000 he had been the ultimate beneficial owner and was acting solely on his own account, do you recall?

A. That's correct. In fact that was contained in a separate agreement that was between Mr Patarkatsishvili as an individual and Mr Deripaska as an individual.

Q. That is also correct.

A. So it was not simply reflected in the corporate

documents but there was also an individual undertaking.

Q. That is correct, Mr Hauser.

As a result your client no longer had the benefit of a direct representation or warranty from Mr Abramovich but you did have the benefit of a direct representation or warranty from Mr Patarkatsishvili. Do you recall that?

A. Well, that's right although we did have the benefit of Mr Abramovich's acknowledgement.

Q. You did, and there was some debate between the parties, which I don't think we need to go into, about quite what that acknowledgement constituted. Do you recall that?

A. Yes, there was a debate. As far as I was concerned, the acknowledgement was frankly as good as a representation because it was -- an acknowledgement was given knowing that Mr Deripaska would be relying upon it.

I was never really quite sure why Mr De Cort tried to draw a distinction between a deed of acknowledgement and a representation, but since it seemed to make him happy, then I was prepared to go along with it.

Q. Well, we can see the consequence of the representation from Patarkatsishvili, but only the acknowledgement from Mr Abramovich, reflected in an email which you sent to Mr Faekov on 8 July 2004. Can we just turn that up? It's bundle 80, you can put away bundle 79 and go to

bundle H(A)80/86.

Do you have there an email that you sent, Mr Hauser, to Mr Faekov and copied to Mr Streshinsky on 8 July 2004?

A. Yes, and copied to Mr Mishakov as well.

Q. You're correct. You say at bullet point 1:

"My principal is not prepared to cap liability equal to the value of the purchase consideration received."

The liability that you're talking about capping or not capping, because you don't want to cap it, was Mr Patarkatsishvili's liability, wasn't it?

A. That's correct.

Q. The reason that you state, the first reason, we can see in paragraph (a), and we can pick it up in the third sentence:

"Instead, my principal is taking the word of [Mr Patarkatsishvili] (and indirectly [Mr Abramovich]) that this has been sorted [out] one way or the other."

A. Yes.

Q. So you were now looking primarily to Mr Patarkatsishvili and his representation and only indirectly to Mr Abramovich?

A. That's correct.

Q. I'm grateful. Now, I'd like to look briefly with you, if I may, Mr Hauser, at an email that you sent to

Mr De Cort on 9 July 2004. Can we turn that up in bundle H(A)81, page 150 H(A)81/150.

If we could start by looking at the second email on this page which is the email which Mr De Cort sent to you on 9 July. Do you see that halfway down, Mr Hauser?

A. I do.

Q. You'll see if you read it to yourself that Mr De Cort was now proposing a slightly different acknowledgement that would be made by his client.

Do you want to just read it to yourself? (Pause)

A. Yes.

Q. And then if you look back up the page, we can see that you replied via email to Mr De Cort the same day explaining that you thought that there was a problem with his proposed wording.

Do you want to read that email to yourself? (Pause)

A. Yes.

Q. And in the light of that email, Mr De Cort ultimately backed down, didn't he, Mr Hauser? He agreed a final form of wording for the deed of acknowledgement in which Mr Abramovich acknowledged to your client that the only person he had ever dealt with or had understandings or arrangements with was Mr Patarkatsishvili, and that final acknowledgement made no reference to Mr Patarkatsishvili's affiliates and associated persons?

A. That's correct.

Q. We can see that -- we can put bundle H(A)81 away -- if we go to bundle H(A)84/82. Do you see there the deed of acknowledgement that is dated 20 July 2004 that was to be executed, and was in fact executed, by Mr Abramovich and Mr Deripaska?

A. Yes, I do.

Q. If we turn within the document to page 83, we can see that at the bottom of the page the final form of the acknowledgement that Mr Abramovich was prepared to make to Mr Deripaska is set out.

Would you like to read that to yourself, Mr Hauser?

(Pause)

A. Yes.

Q. That acknowledgement in its final form makes no reference to the beneficial owners of affiliates and associated persons also being interested in the 25 per cent Rusal shareholding, does it, Mr Hauser?

A. No, it doesn't. It says what it says.

Q. What you never got, Mr Hauser, was a deep pocket warranty from Mr Abramovich to Mr Deripaska or to Eagle Capital to the effect that Mr Berezovsky's claims that he had made in the press in early June 2004 were baseless?

A. No, I got a deep pocket warranty from



Mr Patarkatsishvili that that was the case.

Q. You did, but not from Mr Abramovich, correct?

A. That's correct.

Q. And none of the other documents that were executed by Mr Abramovich's company, Madison, included a warranty or representation or acknowledgement by Mr Madison (sic) to Mr Deripaska or Eagle Capital that Mr Berezovsky's claims were baseless; that's right, isn't it?

A. Well, none of the documents referred to Mr Berezovsky's claims in any respect. As far as I recall, I don't recall off the top of my head exactly what each and every one of the other documents said, but I think, broadly speaking, you're right. I don't think that we obtained a title warranty from any of Mr Abramovich's companies.

Q. And indeed, if you had got such a warranty or an indemnity from Mr Abramovich, is it fair to say that you would have been less concerned about getting warranties of historic beneficial ownership, Mr Hauser?

A. No. No, absolutely not.

Q. You see, if you had the benefit of a warranty that third party claims to the Rusal shares were baseless, or an indemnity against such third party claims, a warranty relating to present beneficial ownership of the 25 per cent stake in Rusal would most probably have been

sufficient for your purposes?

A. Absolutely not. Absolutely not.

MRS JUSTICE GLOSTER: Why do you say that?

MR MASEFIELD: Why do you say that?

A. We have to go back to what had happened in 2003 and 2004. Insofar as 2003 was concerned, my client had agreed to pay a substantial amount of money to Mr Abramovich in respect of half of the Rusal shares. The parties had been parties to a shareholders agreement and other arrangements that since 15 March 2000 had governed the way in which Rusal, however it was constituted, had been managed.

Most of the management responsibilities had fallen upon Mr Deripaska and Mr Deripaska's colleagues. It was Mr Deripaska who had managed Rusal from 15 March 2000 to the purchase of the first 25 per cent in the fall of 2003, and it was Mr Deripaska who thereafter continued to manage Rusal into June and July of 2004.

At the time we did the first deal in 2003, I was insistent that I wanted a release of all claims from Mr Abramovich based upon the previous management of Rusal. It was important that I had that because effectively we wanted to draw a line beyond which there would be no further claims. Once Mr Abramovich had sold his shares to Mr Deripaska, that was the end of it.

What had happened between 2003 and 2004 was that when we got into 2004, I was then told by Mr Patarkatsishvili's representatives for the first time that he was in fact a beneficial shareholder of Rusal. That raised the possibility that, as a beneficial owner, Mr Patarkatsishvili might have made claims relating to Mr Deripaska's management of Rusal all the way back to 15 March 2000.

So as far as I was concerned, the fact that I wanted a title representation and warranty back to 15 March 2000 was because I needed that in order to buttress the release that I had gotten in the first instance from Mr Abramovich in 2003, and then, critically, the second release that I received from Mr Patarkatsishvili in 2004.

If I hadn't had the representation and warranty as to beneficial ownership back to 15 March 2000 then it always raised the possibility that some third party might show up, claim to have had an interest some time during that period, and then had asserted a claim against Mr Deripaska relating to the management of Rusal at that time.

Q. But if you had a warranty or release in respect of third party claims that would have been sufficient for the purposes of title, and you could have had releases as

against management claims dealt with separately?

A. I did have releases -- I did have a separate document that released Mr Deripaska and all of his affiliates from management, and frankly any other claim at all. I got one of those in 2003 and another one in 2004. But in order for those releases to be regarded as comprehensive, I needed to have strong title representations and warranties back to 15 March 2000. If I didn't have that, then there was always the possibility that the releases that I had were not sufficiently comprehensive and there was someone else that was out there who hadn't released and who might then assert a claim against Mr Deripaska.

Q. But what I think we can agree, can we not, Mr Hauser, is that you did not get any warranty or representation from Mr Abramovich or his company, Madison, that Mr Berezovsky's claims were baseless?

A. No, I got that representation and warranty effectively from Mr Patarkatsishvili.

Q. You say effectively, but it was from a different --

A. Well, it was effectively in the sense it did not refer to Mr Berezovsky by name. It was couched in universal language so that it would, by definition, have included such claims.

MR MASEFIELD: My Lady, I've got no further questions.

MRS JUSTICE GLOSTER: Thank you very much, Mr Masefield.

Yes, Ms Davies.

Re-examination by MS DAVIES

MS DAVIES: Mr Hauser, just a few questions, if I may.

At the outset of his cross-examination, Mr Masefield asked you a few questions about your general approach in relation to agreements of the nature that we've been looking at today, and I'm not asking you in the questions that I'm about to ask you anything other than your general approach to negotiating these kinds of agreements. I make that clear.

But as a matter of your general approach to agreements, selling shares or merging business interests, would you be happy to allow your client to enter into an agreement which you believed to be factually inaccurate?

A. No.

Q. If you could take bundle H(A)18, at page 124 H(A)18/124, you should find the share purchase and sale agreement dated 15 March which both I and Mr Masefield asked you some questions about.

A. Yes.

Q. Now, Mr Masefield took you to clause 6.1.1 on page 131 of this agreement and specifically to the reference to "Other Selling Shareholders" in that clause.

For my Lady's reference, at [draft] page 42 of the transcript you referred to discussions that you had had with Mr Schneider in relation to other selling shareholders and to the possibility that Mr Abramovich had one or other parties that had interests of one sort or another, and said that you were focused -- the person you were focused on was Mr Shvidler.

A. Yes.

Q. Did you discuss with Mr Schneider the names of any other individuals in the context of your discussions about other selling shareholders?

A. No.

Q. You can put away bundle H(A)18. If you could be given bundle H(A)19 at page 22 H(A)19/22. This is the amended and restated share purchase and sale agreement dated 15 May 2000 which both I and Mr Masefield asked you some questions about, and in particular Mr Masefield asked you some questions about the definition of "Other P1 Shareholders" that we see on page 23.

He asked you, and for my Lady's reference, this is page 51 of the draft transcript anyway, whether that was the subject of discussion with Mr Abramovich's representatives and you said that it was.

A. Yes.

Q. Do you recall that evidence?

A. Yes.

Q. Now, in that context of your discussions with Mr Abramovich's representatives about other P1 shareholders --

A. I should say it was Mr Schneider that I talked to about this. It's maybe just easier to refer to him by name.

Q. In your discussions with Mr Schneider about the term "Other P1 Shareholders" were the names of any individuals discussed?

A. No.

The discussion at that stage was frankly simply to carry over the definition with I think some slight modifications of "Other Selling Shareholders" and rephrase it as "Other P1 Shareholders".

Q. Put that bundle away and be given bundle H(A)75 at page 228.001 H(A)75/228.001.

A. Yes.

Q. You should have the memorandum dated 14 June 2004 that both Mr Masefield and I asked you some questions about.

A. Yes.

Q. Again the reference for my Lady is page 73 of the draft transcript.

You were being referred to this memorandum, and in particular the references to X and Y that we see in this memorandum, and you explain that you'd been told by

Mr Streshinsky or Ms Arbatova at the meeting on 11 June that Mr Berezovsky did not have a beneficial interest in Rusal but you did not always believe what you were told.

A. Correct.

Q. Can you recall whether or not either Mr Abramovich's representatives or Mr Patarkatsishvili's representatives ever indicated to you, in the context of the 2004 transaction, that Mr Berezovsky had a beneficial interest in Rusal?

A. No. They didn't do that at all.

MS DAVIES: Thank you very much, Mr Hauser.

MRS JUSTICE GLOSTER: Thank you very much, Mr Hauser, for coming to give your evidence. You may be released.

(The witness withdrew)

MR SUMPTION: My Lady, that concludes the evidence on behalf of Mr Abramovich apart from Mr Bulygin's witness statement which your Ladyship will have read which I would ask to be treated as part of the record.

MRS JUSTICE GLOSTER: Very well. Thank you very much.

Yes, Mr Malek.

MR MALEK: My Lady, the next witness is Mr Anisimov and he will be giving evidence in Russian.

MRS JUSTICE GLOSTER: Fine.

What bundle is it for his --

MR MALEK: F1, my Lady. F1, tab 1.



MRS JUSTICE GLOSTER: Just a second, please.

MR VASILIIY ANISIMOV (sworn)

MRS JUSTICE GLOSTER: Please sit down if you would like to.

THE WITNESS: (Not interpreted) Thank you.

Examination-in-chief by MR MALEK

MR MALEK: Mr Anisimov, can you hear us? Can you tell the court your full name, please.

A. Anisimov Vasiliy Vyacheslav.

Q. And it's right to say that you do not speak English?

A. I do not speak English, no.

Q. And it's also right that you do not read English?

A. No, I don't read English.

Q. Could Mr Anisimov be provided with his witness statement.

While that's being turned up, could you confirm that you do not have a mobile phone on you?

A. I have nothing on me, neither a mobile phone nor any other device, no other technical equipment.

Q. Could you please turn to your statement, which you will find in the Russian text at F1/01 at page 26 F1/01/26.

Do you have that in front of you?

A. Yes.

Q. And is that the first page of your statement?

A. Yes, that is the first page of my statement.

Q. And could you now turn to the end of that statement

which is F1/01 at page 52 F1/01/52.

Do you have that in front of you?

A. Yes.

Q. Now, the signed version is not I think in this bundle, but if you look on the screen next to you, you should see -- is your signature there?

A. No, it's not my signature on the screen, but in fact I have a hard copy with my signature in front of me.

Q. Can you confirm that that is your signature?

A. Yes, it's my signature right here on page 52 in the hard copy.

Q. Can you confirm that your witness statement is true?

A. My witness statement is true.

MR MALEK: Thank you.

MR SUMPTION: My Lady, I think it's convenient --

MRS JUSTICE GLOSTER: Sorry, I couldn't hear.

MR SUMPTION: I think it's convenient that I should ask any questions on behalf of Mr Abramovich before Mr Anisimov --

MRS JUSTICE GLOSTER: You're content with that, Mr Rabinowitz?

MR RABINOWITZ: I am.

Cross-examination by MR SUMPTION

MR SUMPTION: Mr Anisimov, do you know how relations were between Mr Abramovich and Mr Patarkatsishvili between

2000 and 2008? How did they get on?

A. Well, during the time that I was friends with Badri we often discussed Mr Abramovich and, as far as I remember, he always spoke very nicely, very kindly and favourably about Mr Abramovich. He liked him. He liked him, to be concise, until the very end, until a month before his death. We discussed it, I don't know why, but it sort of turned out that we discussed Abramovich, and Badri always had very nice memories, and he always spoke very nicely about Roman Abramovich.

Q. You said this is during the period that you knew Mr Patarkatsishvili. When did that period begin?

A. I met Badri in 1999 in the summer of '99.

MR SUMPTION: Thank you.

A. You're welcome.

MRS JUSTICE GLOSTER: Yes, who is going next?

Mr Rabinowitz.

Cross-examination by MR RABINOWITZ

MR RABINOWITZ: Good afternoon, Mr Anisimov.

A. Good afternoon.

Q. You tell us you're a Russian businessman based in Moscow, is that right?

A. Yes, I mainly live in Moscow but very often I am in Switzerland and in Italy and occasionally I come to England.

Q. And I think that you say in your witness statement, and you have just said again -- perhaps I'll put the question this way.

Since 2000 you have been on good terms with Mr Abramovich, both from a personal and a business perspective, is that right?

A. Well, not quite so. I am on good terms with him but we don't have any joint business, and practically we've never had any business relationship with Abramovich. But we're on good terms, yes.

Q. Can you look, please, at paragraph 56 of your witness statement, you will find it in the Russian at page 42 F1/01/42 and in the English at page 15 F1/01/15.

A. I'm looking at it.

Q. You see here you are talking about Mr Abramovich, and around the third or fourth sentence you say that you tended not to discuss business with Mr Abramovich:

"... although I was (and still am) on good terms with him from both a personal and a business perspective."

So when I asked you whether you had been since 2000 on good terms with Mr Abramovich from both a personal and a business perspective, the answer to that was --

A. Okay, I got the question, I understand it. May I answer?

Q. Yes, please do.

A. Thank you. The thing is that when we talk about in terms of business, that doesn't mean we have joint business, that means you can come to a person and you can ask for his advice, and he was always very friendly, he'd always answer. He had good opportunities, he would recommend where I might turn, to which people I might turn who could assist me.

So that's not joint business that we would undertake together, because after the sale of my share in Krasnoyarsk assets we've never had any joint business, but that's what I meant.

Q. Okay. Are you still on good terms with Mr Abramovich?

A. Yes. Normal good terms. We don't often meet or see each other but we're on good terms, yes.

Q. Do I understand from your previous answer that you have never had any joint business interests with Mr Abramovich, is that what you're saying?

A. Well, I've already said that -- is this a question? This is a question, is it?

Q. It is a question.

A. Thank you. Well, we only had one joint business when we were selling Krasnoyarsk assets to Mr Abramovich, and the second time we met when 25 per cent of Rusal was sold off on behalf and on request of Badri. And

I don't -- didn't have any other business with him,  
I just can't remember anything else.

Q. Now, Mr Abramovich is obviously an extremely influential  
businessman in Russia, isn't he, Mr Anisimov?

A. Perhaps he is influential, I suppose. I suppose he is  
influential, yes, you could say so. What do  
I understand by the word "influential"? I know that  
he's on good terms with people in business, he is on  
good terms with state authorities. But I have never  
seen any influence. I mean, the word "influence" in  
Russian, it has a connotation, it has a slightly  
ambiguous connotation. I think he is an honest  
businessman, that's what I think.

Q. And no doubt you would want to preserve good business --  
good relations with Mr Abramovich, Mr Anisimov, because  
that might be useful to you in the future, correct?

A. You know, I am 60 years old and my relations are  
important to me when I have comfortable relations with  
people just as people, and I'm not seeking people with  
influence. At my age, you are seeking warmth from  
people --

Q. At my age as well.

A. -- you are not seeking influence et cetera.

Q. You also tell us at paragraph 67 of your witness  
statement, you'll find that at page 46 in the Russian

F1/01/46 and page 18 in the English version

F1/01/18, that you were in 2004 on good terms with Mr Deripaska, is that right?

- A. Yes. Yes, that is so. I've known Deripaska for a long time. I met him before I met anyone else. I'd known him since '92/'93 I think. We didn't meet often, not at all, and in fact we have met very few times, but there's always been some respect. He was the most -- the youngest person in aluminium business, and I was the veteran, I suppose, in aluminium business, so we had good relationship. It's not a friendship but healthy, normal, good relationship as between people who are not military.

- Q. Are you still on good terms with Mr Deripaska, Mr Anisimov?

- A. You know, we're of different age, we're people of different age, and watching the process or the proceedings that Mr Deripaska has burdened himself with, nobody can be close to him.

The business that -- I mean, I fly a lot, but he must fly all the time, he must live in the aircraft. His business is huge and this life must be so hard, totally unrealistic. So we hardly ever meet, there's no friendship, we meet hardly ever, for a couple of minutes, each of us flies on our own plane, so it's

very, very infrequent. For a year or 18 months we may never meet.

Q. When you do meet you're still on good terms with him, is that right?

A. Yes, I'm on good terms with everyone who is present here. What do you mean? We don't visit each other in our homes, our families are not friends, I am not interested in his marital status or anything like that, just ordinary relationship between people. He hasn't done anything wrong, I've never done anything wrong vis-a-vis him, so, yes, a normal relationship.

Q. You see, at the same time as explaining your friendship and good relations with Mr Abramovich and Mr Deripaska, you also tell us, this is at paragraph 19 of your witness statement, you appear to be talking about some time in the mid-2000s --

A. (Untranslated).

Q. Sorry, paragraph 19, page 32 of the Russian F1/01/32, page 6 in the English F1/01/6.

So you've told us you have good relations with Mr Deripaska and good relations with Mr Abramovich. And you explain here, and I think you're talking about a period in mid-2000, you say you did not like or trust Mr Berezovsky, is that statement correct?

A. Yes, indeed.



Q. Is it still the case that you do not like Mr Berezovsky?

A. I don't like him.

Q. Despite your age. Forget about that one.

My Lady, that's probably...

MRS JUSTICE GLOSTER: Mr Anisimov, you mustn't talk to anyone about your evidence or about the case over the lunch break, do you understand?

A. Yes, I do understand. Thank you very much.

MRS JUSTICE GLOSTER: Two o'clock.

(1.00 pm)

(The short adjournment)

(2.00 pm)

MRS JUSTICE GLOSTER: Mr Rabinowitz, I've just been given a bundle with the chronology and dramatis personae. You might not know, has it changed since the last version?

MR RABINOWITZ: I don't think so, my Lady. I don't know what bundle your Ladyship has been given and I haven't seen it so I'm slightly loathe to say anything about it.

MRS JUSTICE GLOSTER: It's just that I've been annotating my original one which I just put in a file, and if this is an up-to-date version or a different --

MR RABINOWITZ: I'm not conscious of it.

MRS JUSTICE GLOSTER: Perhaps somebody could tell me.

MR RABINOWITZ: I see Ms Davies is shaking her head.

MR SUMPTION: I think your Ladyship has just been given it

in a fancy bundle.

MRS JUSTICE GLOSTER: Right, okay. Then I will transfer it.

It's just that if it was updated -- perhaps somebody more junior than all of you here can let me know whether it has been updated.

MR SUMPTION: It's confirmed from behind me that it's the same document.

MRS JUSTICE GLOSTER: Very well, thank you.

MR RABINOWITZ: Just the fancy bundle then.

Mr Anisimov, you tell us at paragraph 2 of your witness statement, that's on page 27 of the Russian F1/01/27 and page 1 of the English version F1/01/1, that in the late 1990s you were heavily involved in the aluminium industry, that's correct, is it?

A. Yes.

Q. And you had a significant stake in the Krasnoyarsk Aluminium Plant and the Krasnoyarsk Hydroelectric Power Station, correct?

A. Yes, absolutely right.

Q. You had no interest in the Bratsk assets, or at least none that was sold to Mr Abramovich in February 2000, correct?

A. No, I never had anything to do with Bratsk.

Q. Okay. And you also tell us that you divested yourself of your aluminium assets and began to invest in the real

estate market in Moscow and New York in 2000, is that right?

A. Not quite, not quite.

Q. Do you want to explain why that is not quite right?

A. If necessary, yes, I can explain. I did not divest from Krasnoyarsk but the situation was such that other people created conditions for us that forced us out of this business and therefore we were forced to sell our assets, because the situation in Krasnoyarsk was very complex from all points of view. From the point of view of Governor Lebed and the authorities of Krasnoyarsk region there was pressure and there was a very difficult situation with the criminal gangs that were very strong in Krasnoyarsk. I would say that unbridled criminality reigned from '94 to '97. Seventy people were murdered in Krasnoyarsk.

MRS JUSTICE GLOSTER: Could I just understand, how did that impact on the production of aluminium, and how did it interfere with the business?

A. Well, I'll give you a couple of examples so it will be clearer. We had a case when my staff, they came to Krasnoyarsk, they were met in the airport, they boarded a bus, clearly these were criminal gang people. They were brought to a cemetery and they were shown the graves and said, "If you continue working in Krasnoyarsk

this is the fate that awaits you." And of course it impacts the psychology of normal people that are not connected with the criminal gangs.

And then another side was even sadder for us, because the governor, the governor ordered law enforcement authorities to come with raids to the plant wearing masks, and particularly when our main raw material, alumina, that was supplied by our enterprises, this alumina would stay at railway junctions for weeks and weeks and weeks, and they would find all kinds of pretexts why we couldn't unload it, they said that there would be bombs there or something, and the situation didn't allow us to operate.

We also worried about our personal safety, we worried for our lives, and that had a very negative effect on myself and the people who worked in our company, and this carried on for a long time.

MRS JUSTICE GLOSTER: Yes, I see, thank you.

MR RABINOWITZ: You mentioned the governor ordering law enforcement authorities to come with raids to the plant wearing masks, that was Lebed, was it?

A. Yes, it was General Lebed.

Q. Now, in fact I think we were at cross-purposes. I used the word you "divested" yourself of your aluminium business, because that's the word that in the English

translation of your witness statement is used. I didn't mean to suggest it had any connotations as to why you sold your interests, I just wanted to confirm with you that that is when you sold your interests?

A. Yes, naturally, I was forced to sell my shares.

Q. All right. Now, in addition to investing in the real estate market -- let me ask it this way: you did however with the money you received, part of the money, invest in the real estate market in Moscow and New York, is that right?

A. Yes, I was involved in real estate, and naturally I was looking for quieter spheres of investing my money, so we invested in New York and in Moscow and in Moscow region, invested in real estate, yes.

Q. But you also made a substantial investment in the Russian metals company MGOK, didn't you, Mr Anisimov, in 2004?

A. This was a while later when, in my view, Russia was more stable, the situation was more stable. And when we saw that there were some limits to criminality, limits to what was being done, then Mr Usmanov suggested I acquire Mikhailovsky GOK, or MGOK as you call it, and I took part, personally took part in acquiring Mikhailovsky GOK.

Q. And that was in 2004?

- A. Yes, it was 2004, you are right.
- Q. And is this right, MGOK subsequently emerged with Metalloinvest, is that right?
- A. Yes. I don't remember exactly, but I think a couple of years later, with another group, we managed to merge these assets and a group called Metalloinvest was born.
- Q. I think you tell us at paragraph 78 of your witness statement that that was in 2006 F1/01/21?
- A. Yes.
- Q. Now, following the merger between MGOK and Metalloinvest, you have held a 20 per cent stake in Metalloinvest, is that right?
- A. Absolutely right.
- Q. Are you aware that in October 2010 Reuters issued a report suggesting that a 20 per cent stake in Metalloinvest was worth about \$4 billion? If you're not aware of that, just say so.
- A. No, I didn't read the article, because the prices in metals business have a tendency of volatility, of jumping up and down. So there's no point in paying attention to any of these reports because nobody was about to sell anything, so no, I didn't read it.
- Q. Thank you.

You would presumably accept that your 20 per cent stake in -- the 20 per cent stake in Metalloinvest is

worth a very substantial amount of money, is that right?

A. I would very much like to think so.

Q. And you are currently in litigation with Mr Berezovsky in the English courts in the Chancery Division, that is right, isn't it?

A. Yes, well, I'm here so it must be right.

Q. I'm not going to trespass on the merits of that dispute and, in particular, whilst I do not accept the truth of your evidence on these matters, I'm not going to cross-examine you on evidence you have given in this case which is relevant only to that dispute. Do you understand?

A. Well, I don't understand it in great detail but I'm listening to you very attentively. You have your own opinion and naturally you are perfectly entitled to your opinion, although that is not so.

Q. I haven't expressed an opinion, Mr Anisimov, I'm just trying to explain to you about the things I'm not going to ask you about. I'm not going to ask you about evidence you have given which is relevant to that action but not this action.

A. That's your right.

Q. So I'm not going to get into the detail and the merits of either side's position in Metalloinvest, but can I just see if we can agree what in summary the dispute

there is about.

Let me put a proposition to you and then you can agree with it or not.

For those who want to follow this, this is all taken from the pleadings in that action, Mr Berezovsky's claim and Mr Anisimov's defence.

Now, in the Metalloinvest claim, Mr Berezovsky is saying that of your 20 per cent stake in Metalloinvest a quarter of that, or 5 per cent of Metalloinvest as a whole, belongs to him. Now, I know you don't agree with that but it's right, isn't it, that that is what he's claiming? Is that correct?

- A. I've read the documents, yes, and I can see that it is right.
- Q. And it's common ground in that action between you and Mr Berezovsky that the MGOK acquisition was made in part using monies received by Cliren, that's the company that was set up for Mr Patarkatsishvili, and derived from the proceeds of the second Rusal sale, that's the sale of the Rusal shares in 2004. Do you agree with that?
- A. I didn't quite understand the question because it was a bit long so I'd like to really, really understand what it is that you're aiming at.
- Q. Let me see if I can break it down.

In the Metalloinvest action --



- A. Yes, be so kind.
- Q. In the Metalloinvest action you and Mr Berezovsky both say that the acquisition of the MGOK shares was made using money received by Cliren, the company set up for Mr Patarkatsishvili, and derived from money obtained out of the sale of the 25 per cent of Rusal shares in July 2004.
- A. Yes, indeed. The funds came from the 25 per cent sale of Rusal shares which we, with my friend, agreed to split 50/50. Indeed 250 were then used to acquire Mikhailovsky GOK although the price was 1.65 billion on the whole.
- Q. Now, I'm not going to get into the two sides of the story, I just want to make sure that we agree about what is in dispute and not in dispute in that case.
- In that case Mr Berezovsky is saying, and again I know you don't agree with this, but what he is saying is that you agreed in 2004 to reinvest the proceeds of that Rusal sale in MGOK for and on behalf of both Mr Patarkatsishvili and Mr Berezovsky. I know you don't agree with what he is saying, but that is what he is saying, correct?
- A. Yes. I did not agree -- I do not agree with that but that's what he is saying.
- Q. Mr Berezovsky also says that you knew in 2004 and after

that that he, Mr Berezovsky, had a 50 per cent interest in the Rusal proceeds. Now, again, I know you don't agree with that but that is what he is saying in that claim. Is that right?

A. Well, I read it, I read it, and this is what I read. But clearly I don't agree with it.

Q. No. In that action you are saying this: first you say that Mr Berezovsky never had an interest in Rusal or the Rusal proceeds, is that right?

A. I claim that I have never seen or heard him to take part in any negotiations, he was never at any meetings, and these things were never discussed.

Q. So you say in that litigation that Mr Berezovsky never had any interest in Rusal or the Rusal proceeds?

A. Yes, that's what I say. I say that he didn't.

Q. And in that litigation you also say that even if Mr Berezovsky did have an interest either in Rusal or the Rusal proceeds, you were not aware of it, is that right?

A. It's all correct, but may I ask you a question? I don't quite understand what other -- what other court proceedings are you talking about? This is my first ever appearance in any court.

Q. I'm not talking about a court --

A. What kind of proceedings are we discussing? We're

discussing some other proceedings, and this is my first ever appearance in any proceedings.

Q. I'm just discussing that --

A. Maybe I'm just not understanding what you mean.

Q. No, Mr Anisimov, don't worry. What I'm saying is not that you've appeared in court and you have given evidence in any proceedings, I'm simply trying to identify the dispute between yourself and Mr Berezovsky and what is at the centre of it. Okay?

A. Okay.

Q. Given that this is what you and Mr Berezovsky are in dispute about, would you accept, Mr Anisimov, that you have a very real financial incentive in seeking to deny that Mr Berezovsky had any interest whatsoever in Rusal?

A. I don't quite understand the question. I never have any motives or -- to deny anything. I just know that Mr Berezovsky was not present in this process. I'm not denying anything, I'm just stating the fact.

MRS JUSTICE GLOSTER: I think you had better put the question again.

A. And I'm here in these proceedings because -- to deny this.

MR RABINOWITZ: Mr Anisimov, I'll ask the question again, and it's not your fault, there is obviously a language barrier between us.

What I'm asking you is this: in light of the fact that you and Mr Berezovsky are in a dispute about the MGOK shares, which turns on whether or not --

A. Oh, you mean future hearings? Because it's not quite clear. Now I understand.

MRS JUSTICE GLOSTER: In the Chancery actions.

A. Right, now I understand, because it's not happening yet. Thank you.

MR RABINOWITZ: Because of your involvement in those Chancery actions with this dispute, which turns on whether -- which depends on whether Mr Berezovsky had an interest in Rusal and whether you knew he had an interest in Rusal, do you accept that you have a very real financial incentive in seeking to deny that Mr Berezovsky did have any interest whatever in Rusal?

A. Once again, I repeat I have no interest or no motives to deny anything had I known it. Naturally I would not deny it if I knew it. But the thing is that I know that in the course of all the negotiations, and in the course of all my conversations with my close friend, Berezovsky's surname was never mentioned.

Q. Well, let's see if that's the case, Mr Anisimov, but I'm going to move on.

I want to ask you about the sale of the KrAZ assets in February 2000 and the second Rusal sale in June and

July 2004.

A. Go ahead.

Q. While you were involved in both transactions, you've explained in your witness statement -- this is at paragraph 9, page 27 of the Russian F1/01/27 and page 3 in the English F1/01/3 -- that your involvement was at a fairly high level, and that you delegated much of the detailed work to your assistants, Mr Mark Buzuk and Mr Ivan Streshinsky, is that right?

A. Absolutely correct.

Q. And both Mr --

A. On the first deal the main person, my main adviser, was Mr Buzuk, and Mr Streshinsky assisted him. As far as the second deal is concerned, only Mr Streshinsky was assisting me because Mr Buzuk by that time was not employed in the company any more.

Q. You tell us that you had full faith in both Mr Buzuk's and Mr Streshinsky's ability and that you trusted them to get the details right, is that correct?

A. Absolutely correct, because those people were very professional, and I think that at that time I had the strongest teams of advisers in Russia in this business.

Q. And it's also clear from the evidence you give about the second Rusal sale in June/July 2004 that although you had delegated the detail of that transaction to

Mr Streshinsky, he kept you updated on progress of the transaction on an almost daily basis, is that right?

- A. Yes, with a small explanation: I was involved in business and generally I'm a very active person. By that time we have -- had been working together with Mr Streshinsky for a long time and naturally I fully trusted him, and, yes indeed, he just showed me some documents and I just asked him, "Is everything okay?" He said, "Everything okay." So I trusted him completely. He went away and continued working.
- Q. You tell us at paragraph 73 of your witness statement, that's at page 20 in the English F1/01/20 and page 48 of the Russian F1/01/48, that you would ask him --
- A. (Untranslated).
- Q. Page 48 of the Russian. So you say this, that you would ask him from time to time if there were any important developments or problems with the deal that you needed to know and, if there were, presumably he would tell you?
- A. Yes. I confirm that.
- Q. Is that the way your relationship with Mr Streshinsky normally worked, Mr Anisimov, that you would delegate the detail to him, but he would then proceed to keep you updated of important developments?
- A. Yes, absolutely.

- Q. And you trusted that Mr Streshinsky would bring important matters to your attention, is that right?
- A. Yes, I think so, yes.
- Q. And I think you may already have given a partial, at least, answer to this, Mr Anisimov, but would you say having employed Mr Streshinsky over a number of years that he is a careful and diligent lawyer?
- A. Well, I wouldn't characterise him like that. He's not a lawyer.
- Q. Sorry, a careful man?
- A. Yes, he is, indeed he is careful, professional, that's the most important thing, and he understands what he's dealing with and what he's doing.
- Q. And he's fluent in Russian and he has a reasonably good grasp of English and western business concepts, is that right?
- A. Yes, he had worked for many years with my company in Switzerland. I think he's not fluent but he speaks English well, he speaks Russian, and he's worked a lot in contact with western companies.
- Q. Now, I'd like to move on to consider with you the sale of your KrAZ assets in February 2000. You tell us at paragraph 37 of your witness statement, that's at page 37 in the Russian F1/01/37 and page 11 in the English F1/01/11, that when you came to consider

divesting yourself of the KrAZ assets in the course of 1999 you got in contact with Mr Patarkatsishvili, correct?

A. Yes, that's true.

Q. And you say it was Mr Patarkatsishvili who suggested that you should approach Mr Abramovich to see if he would be interested in buying, is that right?

A. Yes. Yes, it did happen.

Q. And you also say that you did then make contact with Mr Abramovich, and that Mr Abramovich appeared reluctant at first to make the acquisition, correct?

A. Yes, absolutely right.

Q. But you say that subsequently Mr Abramovich agreed to enter into negotiations in which you recall yourself and your representatives, Mr Abramovich and his representatives and Mr Patarkatsishvili all being involved, along with Mr Chernoi and Mr Reuben, is that right?

A. You know, that was quite a while ago, but approximately what you are saying reflects the truth. Badri and Mr Chernoi and Mr Reuben, although we discussed different aspects with different people, because Chernoi and Reuben also owned Bratsk assets, so often we talked -- the negotiations on Bratsk enterprise did not involve us very often.



- Q. And that reflects your witness statement where you very fairly say you were not present at all the negotiations, and in particular you weren't present at the negotiations that focused on the sale of the Bratsk assets in which you had no interest, is that right?
- A. Yes, that's correct. Completely correct.
- Q. It's obviously likely that Mr Chernoi and Mr Reuben, or their representatives like Mr Bosov, would have been present at those meetings involving Bratsk, is that right?
- A. In Krasnoyarsk and in Bratsk the shareholders counted Chernoi and Reuben. And their share, if I remember correctly, Mr Bosov was simply managing those assets, or maybe perhaps just on Krasnoyarsk. I don't remember correctly.
- Q. So you accept that there would have been meetings which you did not attend?
- A. Perhaps yes, I suppose so, yes.
- Q. Now, can I ask you then to look at paragraph 43 of your witness statement, page 38 of the Russian F1/01/38, page 12 of the English F1/01/12. You explain there that in February 2000 the sale of the KrAZ assets was agreed, and that you also say the agreement dated 10 February was drafted, so far as you're aware, by your in-house team and Mr Abramovich's in-house team, is that

right?

A. Yes, all correct.

Q. And from your side, again, that would have included Mr Streshinsky and Mr Buzuk?

A. Most likely Mr Buzuk was involved, because Mr Streshinsky reported to Mr Buzuk and I would imagine it was Mr Buzuk. I can't be completely certain but I think it must have been Mr Buzuk.

Q. But Mr Streshinsky was, I think you already told us, involved in the February 2000 sale?

A. He was involved, but once again the director general of my company was Mr Buzuk. Mr Streshinsky dealt with the financial aspects and he reported to Mr Buzuk. Although further on I had closer relationship with Mr Streshinsky, but at that time the most important person for the business was Mr Buzuk.

Q. I don't think we're disagreeing about this but your own evidence, Mr Anisimov, is that Mr Streshinsky was involved in the KrAZ assets, that's what you say at paragraph 9.

A. Yes, yes, yes, he was involved, he was involved. I'm not denying it. I'm just saying that Mr Streshinsky was less involved than Mr Buzuk in this deal because Mr Streshinsky was a deputy for Mr Buzuk.

Q. Now, can we just look, please, at the agreement that was

made at that time. It's in bundle H(A)70, and you will be given this Mr Anisimov. Bundle H(A)17, page 38 H(A)17/38 for the Russian and page 38T in the English H(A)17/38T. You will be given, I'm sure, the Russian.

A. Thank you. Yes, I can see it now.

Q. Thank you, Mr Anisimov. If you go to page 43, this is only in the Russian, there's a signature page with signatures, and can you confirm that your signature is the signature under "Party 5", please?

A. Yes, this is my signature.

Q. And just looking at the signatures under "Party 1", there are three signatures there, and you may not be able to say, but insofar as you are aware can you confirm that those are the signatures of Mr Abramovich, Mr Shvidler and Mr Patarkatsishvili, please?

A. Honestly, it was a long time ago, but I think these are their signatures. I don't remember where we were signing this document, whether we -- this document was bought to each one of us in turn. But I knew, and I know, that these signatures existed.

We concluded this agreement, it's like a protocol of intent, that people would like to sell their assets, no more than that.

Q. You say in your witness statement, Mr Anisimov, this is at paragraph 44, page 12 of the English F1/01/12,

page 39 of the Russian F1/01/39. Don't put that away, but if you take your witness statement, in the Russian page 39 and in the English page 12, paragraph 44, do you see that you say there that party 1 and each of Mr Abramovich, Mr Patarkatsishvili and Mr Shvidler is defined in this agreement as the purchasers.

And then you say:

"As far as [you were] concerned at the time, as a result of their signature on this document, and as a consequence of the way they acted at the meetings which I attended, there was no reason for me not to believe that they had each acquired some form of interest in the KrAZ assets as a result of the sale."

Is that right?

A. Well, it's just a small part of my explanation because, in fact, yes I confirm it, but at the same time I never knew what share, how much and what agreements existed between Abramovich and Shvidler and my friend Patarkatsishvili.

Q. Now, just focusing on the part of that statement where you explain that, in part as a result of the signature but also as a consequence of the way they acted at the meetings you attended, there was no reason for you to believe that they had -- for you not to believe that they had each acquired some interest.

Presumably you formed this view as a result of the way in which they did act at those meetings, and what I wanted to ask you was this. What was it about the way that they acted at these meetings that made you consider that they were the acquirers of these interests?

- A. You know, honestly speaking, regarding their behaviour, they behaved like normal people. They were given the documents, they signed them, they confirmed that yes, this document exists. And for me the most important thing was not this. For me the most important thing was to get my money, because I had other plant in the Urals and I didn't really pay much attention to their behaviour, everything was very calm.

I knew Mr Shvidler, I knew my friend Badri, they nicely, calmly signed the documents, the documents on the table, we signed the document. I just don't remember where it took place. It's a long time ago.

- Q. Never mind about where it took place, that probably doesn't matter very much. What I was asking you about is this. First, I understand that the important thing for you was getting your money and selling the shares, but in your witness statement you have explained that as a result of their signature on the document, but also as a consequence of the way they acted at the meetings that you attended, you formed the impression that they were

the acquirers of the assets.

What I want to ask you again is what was it about the way that they conducted themselves at these meetings that led to you forming the impression that they were the acquirers of the assets?

- A. You know, I of course can't remember the details, but on the whole I think I understand what was going on. The times were hard, we had little time left. My friend Badri and Mr Shvidler were confident people, self-assured people. So to read more into this, to try and read into this that there were some kind of actions, no, there weren't any specific behavioural actions. They just calmly signed these documents and that's it. And indeed I didn't quite know what kind of arrangements might have existed between Abramovich, Shvidler and Badri, and to be honest I wasn't all that bothered at that time.
- Q. Now, just looking at the agreement itself, Mr Anisimov, which you have in bundle H(A)17, which is purple -- that's the one.

If you look at the -- yes, on that page, if you stay on that page, if you look at the opening words of the agreement H(A)17/38T, do you see that it says that Roman Abramovich, Eugene Shvidler, Badri Patarkatsishvili and the companies represented by

them are to be called party 1? Do you see that?

A. Yes, I can see that.

Q. Do you recall that there were four such companies which were in fact party to the various underlying sale and purchase agreements that acquired the aluminium assets?

A. No, I don't remember the details.

Q. Let me mention the names and see if you remember them. Runicom Fort Limited, Palmtex, Galinton and Dilcor, do you remember any of those companies?

A. Runicom I remember but I don't remember any of the others.

Q. Did you or do you now or did you at the time -- let me ask that question first. Did you at the time know which of those companies Mr Abramovich was representing?

A. No. I wasn't getting involved in these details, no. I didn't know.

Q. So I take it you didn't know --

A. When you see a person in front of you and you know he's Abramovich, he is a reasonably well-known figure, this is a deal, assets are being acquired, I wasn't really bothered which companies would eventually own the shares.

Moreover, this was the first part of our agreement with no legal force. This was just a -- we could have actually agreed all that orally and then go on with

the contract. But because there were -- because Bratsk was involved we drew up a document, Buzuk from our part, Mr Streshinsky must have been helping him. And from their side I don't even remember who was dealing with drawing up this document.

Q. I take it that your answer is the same in relation to which of the companies Mr Shvidler or Mr Patarkatsishvili was representing of the four companies I've identified?

A. Absolutely, I've no idea. You're quite right, I just don't remember. Eleven years ago.

Q. No, I understand, Mr Anisimov.

Is it also the case, Mr Anisimov, that you would not know who was behind any of these companies in the sense of being the ultimate owner of those companies?

A. Naturally I didn't.

Q. Now, I want to move on to a slightly different topic. You say at paragraph 10 of your statement that you established a very close relationship with Mr Patarkatsishvili and that you were like family to each other and that you trusted each other completely. Paragraph 10 you'll find at page 29 of the Russian F1/01/29, page 4 of the English F1/01/4. Is that right?

A. Yes, I remember it even without referring to the page.



Q. Do you recall advising Mr Patarkatsishvili in the spring of 2000, following the KrAZ assets sale, about moving his assets offshore and setting up a Liechtenstein anstalt?

A. No, I don't remember this.

Q. Okay, let me see if I can show you a document which will assist your recollection. Can you please go to --

A. It's all possible. It was all 11 years ago.

Q. No, absolutely.

Can you please be given bundle H(A)18, opened at page 200.001 H(A)18/200.001.

A. This is in English, isn't it?

Q. It is in English and there isn't a translation of this. It may be that I need to ask --

A. Sadly I don't read English.

Q. No, I understand. The translator will help you with any assistance that you need in understanding what the document says, Mr Anisimov.

What you have in front of you, Mr Anisimov, is a fax addressed to Mr Streshinsky, who was your person, employee, from a company called Syndikus Treuhandanstalt, and it's dated 27 March 2000. If you look at the bottom of the page you will see that this is from -- sorry, the company has a Liechtenstein address, okay? The translator can help you with that if you need

help.

A. Yes, I can see that.

Q. Thank you.

A. I mean, I know English letters.

Q. Okay. Are you aware of the services that Syndikus Treuhandalstalt provides, Mr Anisimov?

A. No.

Q. Well, would it surprise you to learn, given Mr Streshinsky's involvement, that it's a company which specialises in private client advice and offshore structures?

A. Well, nothing can surprise me because this is what Liechtenstein was created for, to set up various offshore structures, surely?

Q. I'm sure they'll be pleased to hear that, Mr Anisimov.

A. I think they know it all without us.

Q. If you look -- well, I'm going to tell you what the beginning of the fax says, and the translator will help you with this, but I will read out what it says and the translator will then translate it for you. It says:

"Dear Mr Streshinsky.

"Reference is made to our meeting of last Thursday and to our telephone conversation on Saturday. We may inform you that we have already ordered all companies, and most of them have just arrived. In the meantime, we

have examined all documents given to us."

Just pausing there, Mr Anisimov, what Syndikus, I'm not going to try the second name again, what Syndikus appear to have been doing is setting up companies at Mr Streshinsky's request, okay?

A. Well, I suppose so. I cannot comment it really.

Q. The fax then goes on as follows:

"As you know, we have our due diligence, and we would like to have the following additional documents or inquiries."

So they seem to be carrying out some sort of money-laundering checks, would you agree, Mr Anisimov? That's what they seem to be doing?

A. Well, I suppose so. All banks are meant to do this because money-laundering is not good.

Q. No. If you then look at the first item they have asked for, what they've asked for is this:

"Valuation Report of Bratsk Aluminium Plant ..."

And they say this:

"... (same as we have got from KRAZ and KrGES)."

And they ask this question:

"Who has originally established these reports?"

In other words, who has made these reports?

So it looks as if this is in some way connected with the aluminium assets, correct, with aluminium

acquisitions?

A. I don't really understand. I have never seen this document before, I don't even understand what we're talking about.

Q. Well, you may not have seen it before, Mr Anisimov --

A. I have never seen it.

Q. -- but even without seeing it you could answer the question that I asked.

Given the reference to KrAZ and KrGES, and indeed a reference to Bratsk Aluminium Plant, would you accept that what they are looking at has got something to do with the assets that you sold or you were part selling in February 2000?

A. I can agree or disagree, but the point is that I have never seen this document. Moreover, it's addressed to Streshinsky. It deals with Bratsk and KrAZ. I simply cannot comment on this document because I don't really understand what it's all about. Perhaps they heard about something and they wrote a letter to Streshinsky. Maybe they wanted to create another stiftung of theirs. I just don't know. I don't understand the questions.

Q. Well you have already explained that you haven't seen the document before, and we can all see that it's written to Mr Streshinsky, Mr Anisimov. And if you are unable to answer the questions I ask you by reference to

this document because you simply are unable to answer them, that is fine.

But you can plainly answer the question I just asked you about KrAZ and KrGES, those were part of the assets that you had sold, that's the Krasnoyarsk plant and the Krasnoyarsk hydroelectric power station, is it not?

A. I did indeed sell them, and I don't quite understand -- I don't quite understand what you're aiming at. Can you formulate your question more specifically?

Q. Mr Anisimov, it doesn't really matter what I'm aiming at. If you're able to answer the question that I'm asking you then it would be helpful if you did that. Don't worry about what I'm aiming at, please.

Anyway --

A. Could you please formulate the question again.

Q. All right.

The references to KrAZ and KrGES are a reference to the Krasnoyarsk Plant and the Krasnoyarsk Hydroelectric Power Station?

A. Yes. I confirm that when I read KrAZ and KrGES, yes, this is a reference to these two enterprises.

Q. Mr Anisimov, I'm not trying to trick you, I'm just trying to get your assistance on something, and --

A. I'm not afraid of being trapped, and I'm very grateful, and I confirm that, yes, I'm reading here KrAZ, this is

KrAZ, and I'm reading Krasnoyarsk GES, and yes, these are those plant that you referred to. I don't think there are other companies called KrAZ and KrGES in the world.

Q. No. Well, that does help us, thank you.

Could I ask, please, don't put bundle H(A)18 away, but could you also be given bundle H(E)2 opened at tab 21 H(E)2/21/1.

My Lady, there is an English translation of this document right at the back of H(E)2 file, the reference is H(E)2/21/1T.

MRS JUSTICE GLOSTER: Thank you.

MR RABINOWITZ: Do you have there, Mr Anisimov, a document, it's in Russian obviously, the one you're looking at, entitled "Krasnoyarsk GES"?

A. Yes, yes, I can see it.

Q. And it's also entitled "Explanatory note to the analytical materials regarding financial and business activities", correct?

A. Yes.

Q. Have you seen this document before, Mr Anisimov?

A. Never.

Q. Do you want to just have a look at it, just page through it, because you may not be able to tell that just by looking at the first page.

- A. Just to leaf through it? Please tell me what I'm looking for, it's quite a hefty document.
- Q. Well, just to see if you recognise -- I don't want you to give an answer on the basis of whether you've seen a document just by looking at the front page.
- A. There are so many documents of this nature in our company that it's absolutely unrealistic for me to answer whether I'd seen one or not.
- What should I look at specifically? Lots of pages here.
- Q. Let me ask you this: do you think this did come from your company or from someone within your company?
- A. I can't tell you.
- Q. Can you answer this: do you think Mr Streshinsky might have authored this document?
- A. Unlikely. I think it's unlikely, I'm not sure, but I think it's unlikely, because Krasnoyarsk power station -- I mean, we had few shares, a small share in Krasnoyarsk GES. Perhaps we took part in preparation, but we asked someone to deal with it, but I'm not sure at all.
- Q. You say you had a small share in Krasnoyarsk GES --
- A. In the hydroelectric power station, yes.
- Q. Are you able to identify who else, other than Mr Streshinsky, might have been able to produce this

sort of report in your company?

- A. In my company? I don't know, I can't tell you. I'm looking at surnames, I don't see a single surname of our staff, and I don't quite understand the point of this document, to be honest.

It's an analytical note. Well, that's perfectly normal. Many, many documents like that are drawn up for each enterprise. There's nothing -- I don't understand the point of it. Maybe you would explain it to me and then I could explain in greater detail.

- Q. Mr Anisimov, you can put that to one side. We'll get to the point about this in a moment.

Can you please be given another document which you'll find at H(E)3, tab 22, please H(E)3/22/1.

Again your Ladyship will find the translation of this document in the very last document of the bundle at H(E)3/22/1T.

MRS JUSTICE GLOSTER: Well, I only seem to have the first page of it.

MR RABINOWITZ: That's all your Ladyship needs to have.

- A. Thank you.

- Q. Now, again, Mr Anisimov, this is as you see entitled "Krasnoyarsk Aluminium Plant", and it's an explanatory note to the analytical materials regarding financial and business activities, dated 1999. Can you tell us



whether you've seen this document before, Mr Anisimov?

A. No, I don't remember. I don't remember. I'm looking through it and I think it's more to do with some kind of arbitration proceedings perhaps, perhaps somebody was undertaking an analysis.

I can see the document. I've never seen it before.

Q. And you can't help us with who might have authored it, is that right, whether it was Mr Streshinsky or someone else?

A. Sadly, no. Sadly, I can't. Unlikely -- I think unlikely that it was Mr Streshinsky, in my opinion. But I think we should ask him, we should ask Mr Streshinsky, I think he might come after all. He is having a visa problem but hopefully it will be sorted out.

Q. Very well. You can put -- thank you for that. You can put away H(E)3, thank you, and can you go back then to the document we were looking at, H(A)18 at page 200.001 H(A)18/200.001.

A. So we're coming back to the same document, right?

Q. I'm afraid so.

A. Why? Why are you afraid? Why unfortunately?

Q. Never mind.

MRS JUSTICE GLOSTER: It's not for you to ask the questions, Mr Anisimov.

MR RABINOWITZ: The document that you have at 200.001 refers

to valuation reports from KrAZ and KrGES, and the question which was asked is: who has originally established these reports? You're not able to assist us as to whether that reference might be a reference to the two documents we've just looked at, Mr Anisimov, or are you?

A. No, I don't know.

Q. All right. If we look at the next bullet point in this document, and again you may need assistance from the translator, I will read it to you and it will be translated for you.

A. I'd be grateful.

Q. "We need the enclosed declaration signed by the client (Mr P), that he executes the business for himself and that no members of the government, parliament, or any politician people are involved."

Now, as to whether -- as to who Mr P is, Mr Anisimov, if you go over the page you can see there was a second page of this document from Syndikus Treuhandalstalt, and it's a declaration to be signed by a Mr AP. That, would you accept, is very likely to have been Mr Patarkatsishvili?

A. Well, to be honest, I can't speculate. I can see that it says "AP", I can see the document, but I had never seen this document before, and I don't quite understand

what I have to do with it. I can't comment.

Q. Mr Anisimov, all you actually have to do is to answer my questions if you can. Okay? If you can't then you should just say so, please.

A. In which case, can I hear the question, please.

Q. All right. My question I think to you was whether you thought -- sorry, let me just see what the question was.

Would you accept that the reference to AP is very likely to have been a reference to Mr Patarkatsishvili?

A. Possibly. Possibly.

Q. Well, who else who had a connection to the KRAZ assets in March 2000 do you think that might have been a reference to if it wasn't to Mr Patarkatsishvili?

A. Well, I'm saying possibly. I can't speculate so I think I've assisted you and I answered, I think, that possibly, yes, it might have been Badri.

Q. Thank you for that. Then if you skip down to the next bullet point H(A)18/200.001, you see -- well, you won't see, I'll tell you what it says. It says:

"How is the relation between Sibneft and the four intermediary companies (subsidiaries or affiliated companies)?"

So would you accept that what appears to have happened is that they've been provided with something that has meant that they understand that there's a link

between Sibneft and what they refer to as "the four intermediary companies"?

A. I cannot speculate so I can't answer, can't comment.

Q. Okay. Do keep that open but can I ask you, please, to be given bundle H(A)17, opened at page 37.002 H(A)17/37.002.

This is a diagram -- do you have it?

A. (Untranslated).

Q. This is a diagram, Mr Anisimov, showing the February 2000 aluminium acquisition. And do you see in the middle of the page there is a circle called "Sibneft"? It's not really, but it's a sort of circle.

A. Yes.

Q. Below that there is a further circle called "Intermediary" in which there are four companies?

A. Yes. Yes, I can see.

Q. And would you accept that it may be that what Syndikus Treuhandalstalt have is this diagram, and that is what has given rise to the question they're asking Mr Streshinsky?

MRS JUSTICE GLOSTER: Well, isn't that speculation, Mr Rabinowitz?

MR RABINOWITZ: It is.

MRS JUSTICE GLOSTER: I mean, from what Mr Streshinsky was doing at the time, are you in a position to comment?

A. I can't comment because I didn't know about it.

MR RABINOWITZ: All right.

MRS JUSTICE GLOSTER: Did you know Mr Streshinsky was dealing with Treuhandalstalt, whatever they were called?

A. No, we did work, we did work with Liechtenstein, had been for a while, but to a limited extent.

On this subject I cannot comment. My private life has nothing to do with this so it's very difficult for me to comment because it's all mixed up in here, Sibneft, KrAZ, KrGES, all mixed in, I just don't understand it.

MR RABINOWITZ: Can I ask you this, Mr Anisimov, have you seen this diagram before?

A. No.

Q. So you don't know who would have authored it?

A. I don't know.

Q. All right.

A. If I had known I would have told you. I can't see any great mystery here or any need to keep a secret.

Q. And you can't help us as to whether Mr Streshinsky was in fact assisting Mr Patarkatsishvili with Syndikus Treuhandalstalt at this time?

A. I simply don't know. I would be delighted to help but I just don't know. The only thing I know is that Streshinsky knew that Badri was my friend, and if Badri

had asked Streshinsky for any assistance, Streshinsky would have assisted him.

Do I still need this folder?

Q. You can put that folder away I think.

A. Thank you.

Q. Let me ask you this, Mr Anisimov, do you recall in March 2000 offering to help Mr Patarkatsishvili to get certain agreements notarised relating to commission that he was to be paid, arising out of the aluminium transactions?

A. No, I don't remember.

Q. Let me again show you a document and see if you can help us with this.

A. Please.

Q. H(A)18, page 155 in Russian H(A)18/155, and 161 in English H(A)18/161.

A. 155?

Q. 155 in Russian.

Now, you should have there a document entitled in Russian "Material Evidence Examination Protocol", do you have that?

A. What I see is the protocol of 3 February 2000.

Q. Right, sounds like...

A. Well, I'm looking at what I've been given.

Q. Above that, is the heading of the document "Material

Evidence Examination Protocol"? No?

MRS JUSTICE GLOSTER: Do you want me to take the break,

Mr Rabinowitz, so you can find the document?

A. It's 0017 but it's a different document.

MR RABINOWITZ: That might be wise.

MRS JUSTICE GLOSTER: Right, I'll take the break for ten

minutes so that you can find the document.

(3.08 pm)

(A short break)

(3.25 pm)

MRS JUSTICE GLOSTER: Yes, Mr Rabinowitz.

MR RABINOWITZ: Mr Anisimov, I hope you now have the correct

document in front of you. Is it headed "Examination

Protocol" and then below it, it says "Moscow, 16 March"?

A. Yes.

Q. Now, just so you know what it is, this is the Russian public notary's document which formally notarised one of four commission agreements that Ms Panchenko, who is one of Mr Abramovich's people, drew up for Mr Patarkatsishvili in the year 2000.

What I wanted to ask you was this, Mr Anisimov. If you look down the document, you I think on the Russian version will see a signature for someone called Ms Tatyana Vladimirovna Zaitseva?

A. Yes, I can see that.

Q. Ms Zaitseva, we know from documents you have disclosed, was an employee of Coalco, your company, is that right?

A. Absolutely right.

Q. Can I ask you about this, Mr Anisimov: Dr Nosova, who works with Mr Berezovsky, has given evidence in which she says she remembers you providing advice to Mr Patarkatsishvili at around this time. She thinks that the meeting that she was aware of happened in the late spring of 2000. Do you have any recollection of that?

A. No.

Q. If I can just show you what Dr Nosova says and then ask you to comment on it. It's at bundle D1. In the Russian you'll find it at D1R, tab 9. Page 158 of the English D1/09/158 and page 135R in the Russian D1R/09/135R. Paragraph 249.

Can I ask you to read that to yourself, please, Mr Anisimov.

A. I've read it.

Q. Thank you. Now, although I think Dr Nosova's timing may be a little out, do you remember now a meeting with Mr Patarkatsishvili in the early part of 2000 in which you offered to advise him with regard to establishing offshore structures in Liechtenstein?

A. No, I don't remember it.



- Q. Can I just show you a document and ask you whether you've seen this before. Can you please be given bundle H(A)18 at page 221.003 in the Russian H(A)18/221.003, 221.003T in the English H(A)18/221.003T.
- A. I have it in front of me.
- Q. Can you say whether you recall seeing this document before?
- A. No. I've never seen it before.
- Q. Very well. You can put that away then, Mr Anisimov.
- A. Thank you.
- Q. Now, you tell us at paragraph 48 -- let's just wait for you to get rid of some of these documents.
- You tell us at paragraph 48 of your witness statement that Mr Patarkatsishvili and his family had a holiday home in Baden Baden and that you recall visiting Baden Baden on occasions, is that right?
- A. I've never been to their house but I have been to Baden Baden. I stayed in a hotel.
- Q. I would like to take you to an attendance note made by a solicitor, Mr Moss of Reid Minty, in 2001, of the meeting he attended with Mr Patarkatsishvili in Baden Baden at which he recalls you being present, Mr Anisimov. Before I show you that note, can I just put the meeting into context for you and tell you -- you

probably know this -- Stephen Moss, Mr Moss and his colleague Christine Minty were instructed -- they were English solicitors, and they were instructed on behalf of Mr Berezovsky and Mr Patarkatsishvili in the summer of 2001 to represent their interests in a transaction which we have been calling the Devonian transaction.

Mr Berezovsky's case is that the Devonian transaction involved the sale by Mr Berezovsky and Mr Patarkatsishvili of their shares in Sibneft to a company called Devonian which was owned and controlled by Sheikh Sultan, okay?

- A. I am not reading anything, I'm just listening to you, and I'm listening very attentively.
- Q. Thank you very much. Mr Berezovsky's case is that there was also a back-to-back transaction between the sheikh and Mr Abramovich under which the sheikh would sell these Sibneft interests on to Mr Abramovich, okay? I'm not asking you to agree with whether that is right or wrong, I just want you to understand the context in which this meeting took place.
- A. Thank you very much.
- Q. And then Mr Moss of Reid Minty had come into the transaction to act for Mr Berezovsky and Mr Patarkatsishvili after Mr Curtis, who was the solicitor who had been acting for them, had said he

couldn't continue to act for them because he was acting for the sheikh in the transaction, okay?

A. Right.

Q. Can I then just show you the attendance note that I mentioned, it's at bundle H(A)35, page 70 H(A)35/70. You have there in fact at H(A)35 an email to which the attendance note was attached.

A. It's in English, isn't it?

Q. It is.

A. There is no Russian, or is there?

Q. No, there isn't Russian.

Now, it's an email from Ms Minty to Mr Jacobson who was the lawyer from Curtis & Co, and it was sent on 5 June 2001. You can see the date next to the name "Christine", do you see that?

A. Yes, I can see "5.6.01".

Q. Thank you. What Ms Minty is saying in this email to Mr Jacobson is that -- she's talking about the warranties in the Devonian agreement that Mr Berezovsky and Mr Patarkatsishvili were signing or making with the sheikh. And she says that she doesn't understand why Mr Berezovsky and Mr Patarkatsishvili should be giving any warranties. She says:

"... because your client [that's the sheikh] will already have received the money for the beneficial

interests and will not therefore be at risk and the ultimate purchaser knows the full circumstances and should not require warranties."

So she's making a legal point, you don't have to be worried about the legal point she's making, about whether or not Mr Berezovsky and Mr Patarkatsishvili should be giving warranties.

Then she also makes the point that what she is saying is subject to discussions between Mr Curtis and Mr Stephen Moss. She makes the point that she will not have the opportunity to go through the agreement with Mr Moss until tomorrow when he gets back from Germany.

Now, what she's referring to is the fact that Mr Moss, her partner, was visiting Germany on 5 June 2001 to see Mr Patarkatsishvili, okay?

A. Right.

Q. Thank you. Now, can I ask you next, please, to go to page 161 where you will find --

A. Of the same document?

Q. Of the same file H(A)35/161. Because what we have at page 161 is an attendance note made by Mr Moss from Reid Minty of his trip to Baden Baden to see Mr Patarkatsishvili. I will read parts of it to you so that it can be translated to you. He starts by saying:

"SM [that's Mr Moss] meeting Joseph Kay at [London

Heathrow] and starting analysis of the retainer letter the PoA and then the draft sale agreement emailed to me last night."

There's then a discussion about Mr Kay reading the retainer letter, and Mr Moss says he explained to Mr Kay why that was done. We don't need to be concerned about this.

What Mr Moss then says is this:

"We landed at Stuttgart and then drove to Baden Baden, where we met Badri [Patarkatsishvili] and Vassili Asinov [he says], who [Mr Kay] explained --"

A. It must have been me.

Q. It must have been you, indeed. I'm sure we all get more used to Russian names the longer we are involved.

He met you and Mr Patarkatsishvili:

"... who [Mr Kay] explained was [Mr Patarkatsishvili's] oldest friend and advisor."

I think you accept that that is clearly a reference to you, Mr Anisimov?

A. Well, I can't speak for him. Maybe it's a reference to me, I don't know.

Q. But the fact that you are introduced, the person was introduced as Mr Patarkatsishvili's "oldest friend and advisor", suggests that it's very likely to have been you, correct?

- A. Well, I was his friend. I wasn't his adviser. We talked and asked each other's advice, but it can't be said that I was his adviser.
- Q. All right. Now, you say in your witness statement that you have no recollection of this meeting but I don't think anyone is suggesting that Mr Moss has deliberately created a false document and made this meeting up, so I suggest that it does look as if you were in Baden Baden on this occasion and that you were assisting Mr Patarkatsishvili, even though you cannot at this distance in time remember the meeting. Would that be fair?
- A. Not quite fair, because I went there on holiday mainly. It's a beautiful place. This is an ancient playground of the Russians, the Russians have always liked going there, we love going there. There's a lovely spa, I remember the hotel very well, we had lunch there. We spent time there with Badri and we've(?) had any meetings.

But I really don't remember what they talked about, especially as I don't speak English, it would have been difficult for me to remember. They might have asked me something, I might have answered something, but I don't remember any details at all, because Badri was a very -- a real friend, a real friend, and he -- and when you

were with him he made you derive pleasure from contacts with him, and I just don't remember any details about Baden Baden.

Q. Right, well maybe we can recollect some of the details when we read through the note.

Mr Moss records --

A. With pleasure.

Q. Thank you. Mr Moss records that:

"Numerous discussions then took place throughout the meeting relating to the trust arrangement, the involvement of Roman A [who is Mr Abramovich] and Sheikh S[ultan]."

But again you say you have no recollection of that?

A. First of all, I didn't see Roman A there, nor did I see the sheikh in Baden Baden. I have seen Roman with my own eyes several times but I have never seen the sheikh. I had many visits to Abu Dhabi and to Oman, and I know many sheikhs, but I don't know which sheikh you're talking about here.

Q. No, Mr Anisimov, Mr Moss is not suggesting that they were there, either Roman or any sheikh at all. He is simply recording the fact that there was a discussion which involved references to Mr Abramovich and the sheikh, okay?

A. I can't -- I can't say that. It must have taken place,

Mr Moss is a lawyer, it must have taken place.

Q. We can skip a couple of paragraphs. I just want to pick up the note about five lines down from the first break.

I'm going to read an extract. If you find it easier, Mr Anisimov, to have this translated for you by the translator rather than just getting the translation of my reading it, then do please say so.

A. So far I'm happy with the interpreting and the translation so thank you.

Q. That's very kind, thank you.

What Mr Moss goes on to record is this. He says this about the meeting:

"We then moved to the structure of the agreement [and he's talking about the Devonia agreement] and the warranties, which I read out, and [Joseph Kay] translated to [Mr Patarkatsishvili] and VA [Mr Anisimov]. They questioned me on why [Mr Abramovich] was not a party to the agreement, as the recitals stated that there was a selling on of the interests, and I said that as far as I knew, [Sheikh Sultan] would have his own agreement with [Mr Abramovich]."

Again that's what Mr Moss records but you say you have no recollection of that?

A. I really don't remember anything because Sibneft was of



no interest to me in any shape or form. Well I just don't remember, I can't invent, can I, so I have to say that I don't remember. I'm not inventing anything, I'm telling you the truth. They must have been saying, they must have been discussing, they must have been using these words, but I don't remember.

Q. All right. Mr Moss's attendance note then goes on and he says this:

"As I explained the effect of the warranties, and [the sheikh's] entitlements, [Mr Anisimov] posed a series of questions about hypothetical agreements to work as a partner with [Sheikh Sultan] in buying shares in Sibneft, and also on verbal call options given to [Mr Abramovich] to sell at a price... agreed."

That's what Mr Moss records, that you were indeed involved in the discussion, but you say you have no recollection of this?

A. Absolutely don't remember anything, and I'm absolutely convinced of one thing only, that I could not have been saying these things, especially about shares of a company I had nothing to do with.

Q. Well, no one else has suggested Mr Moss's note is fabricated, but let me just carry on and see what he says, carry on with the note.

A. I'm not saying it's been fabricated. It must have

happened, they must have been talking.

Q. And if his note is right, you must have been involved in these discussions, Mr Anisimov. That's what he records, is it not?

A. You know, I am often present at discussions with which I have nothing to do, and if I have nothing to do with the subject, and it must have taken place as far as I understand in a restaurant, it wouldn't have been official negotiation. One is eating, the other one is talking, and I don't speak English so I'm not sure that anybody was interpreting it for me. They might have asked me questions, I don't want to contest that, but on Sibneft subject I don't remember anything, I had nothing to do with it.

Q. Well, Mr Moss records that Mr Kay was translating for you, and indeed for Mr Patarkatsishvili, so --

A. Maybe he was translating, but it's probably not quite right or ethical to insist that he was interpreting for me and for Badri. Maybe, as Badri wasn't completely fluent in English, he was interpreting for Badri, but it wasn't interesting for me so I wasn't listening. I have enough -- I have enough subjects to mull over in my mind and to think about. I just wasn't listening. I mean, this subject really cannot be developed much further because I really don't remember. If I could remember

I would have told you what happened because there's nothing here that I would not have told you. If they were discussing it, I would have said, yes, I remember.

I mean, we can twist and turn it, and I listen to you with pleasure, I have no opposition to this. And it must have happened, I just don't remember their faces. I remember Badri, because I will never be able to forget Badri, but I don't remember who Mr Moss was. I can't put a face to a name. If he was there, well, he must have been there.

Q. I just want to read what else Mr Moss has recorded. He says this:

"Before I could answer either of these [and he's talking about your questions] however, after heated discussion between all 3 [and he's referring there to yourself and Mr Kay and Mr Patarkatsishvili], we went back to a line by line analysis of the warranties schedule. I explained the effect of each one, indicating the liability if [Mr Patarkatsishvili] didn't have good title, if there were ... encumbrances, how [Sheikh Sultan] could claim damages if any lien had been created over the beneficial interest etc, how [Sheikh Sultan] could sue if any claims were made, and reading [out] each warranty ... and explaining each one. [Joseph Kay] would translate, there would then be

a discussion in Russian, [Joseph Kay] would explain that [Mr Patarkatsishvili] was satisfied of its effect, and we would move on."

A. Well, maybe I misheard you. It says "between [the] 3", now I was number four. I was not part of the discussion.

Q. In fact you were number three, or one or two, Mr Anisimov, because Mr Moss was number four.

A. I won't argue, I'm just saying that I did not take any part in this process of negotiations.

Q. You see, if Mr Moss's note is accurate then you appear to have attended this meeting at which the Devonia agreement was gone through line by line, translated for the benefit of you and Mr Patarkatsishvili, with Mr Patarkatsishvili agreeing to particular warranties. But you now say you have no recollection of it, Mr Anisimov?

A. Well, I have a request. If I don't remember, why should I agree with your statement that this was like that? Badri knew English to some extent, they must have been talking in English, I just don't remember.

Moreover, the subject matter was of no interest to me at all, at all.

Q. Was the fact that your friend, or old friend, Mr Patarkatsishvili, was to receive a very, very

substantial sum of no interest to you, Mr Anisimov?

A. I would have been delighted and -- I would have been delighted for him to receive money, to be content, but if I -- but I can't advise if I am not aware of these matters, if I don't know this subject. How can I advise? If at that time I was asked, I would have brought my team, my advisers, they would have taken part in this -- in these negotiations. Moreover, there's a sheikh involved. For me, a sheikh is a sheikh and we are separate entities, it's a different life, different life.

Q. Would Mr Patarkatsishvili not have told you that he was going to receive a large sum in respect of his Sibneft interests given that you were his close friend?

A. On the whole I knew that he was receiving some kind of money, but if somebody is not telling you something perhaps it's not terribly ethical to enquire.

I just don't remember this meeting, that's the problem.

Q. All right. I'm going to show you the Devonian agreement, which is what Mr Moss records was discussed there, but you presumably will say it's in English and you don't recognise it, is that right?

A. Well, I think you shouldn't answer for me. If you ask me a question and show me the document, I'll answer.

- Q. All right, I will show you the document. Go, if you would, to bundle H(A)35 at page 88 H(A)35/88.
- A. Yes, I can see it.
- Q. So this is a version of the agreement that Mr Moss says he went through with you and Mr Patarkatsishvili and Mr Kay at the meeting in Baden Baden. You can see from the front page that it is an agreement between Mr Berezovsky and Mr Patarkatsishvili and Devonia Investments Limited and Sheikh Sultan. Do you see that?
- A. Yes, I can see the page.
- Q. And the agreement --
- A. I can see all the pages.
- Q. And the agreement, as the front sheet makes clear, relates to the:
- "... sale and purchase of beneficial interests in part of the issued share capital of Sibneft."
- Do you see that?
- A. Yes, I can see that.
- Q. If you go to page 106 H(A)35/106.
- A. 106, just a minute. We're almost there. Right, we're there.
- Q. Thank you. You see these are a list of the warranties that Mr Moss, in his attendance note, says he went through individually and had translated for the benefit of the others at the meeting, you and

Mr Patarkatsishvili. I can take you through these warranties if you think that may help with your memory, Mr Anisimov.

- A. Well, after all the documents I've seen today, that you've just shown me, I can be perfectly convinced that I have never seen these documents before and it's useless to discuss them, because it is impossible at a table in a restaurant you discuss anything of this nature. And that's not even the point. The point is I had never seen them. This is a serious document and notwithstanding anything, Badri was my closest friend. He might have drawn up this document somehow differently. I just don't remember them.

MRS JUSTICE GLOSTER: When you say you were having lunch in the restaurant, you positively remember that, or you're speculating that you were having lunch?

- A. I'm speculating, trying to remember or reconstruct. When we met in Baden Baden what we did is we took walks, went to restaurants and we slept. That's all we did. We walked, ate and slept. Each of us had our own apartments and we could actually negotiate in our apartments, but for a detailed discussion like this, to take this in a restaurant. Well, I remember, I remember that we went to restaurants, I remember that we went to our apartments, but now that I've seen the documents of

this nature, and naturally, naturally they couldn't have happened. I would not have forgotten a meeting like this.

If I had been asked about large amounts of money, about Sibneft, if I had been asked to give my advice by Badri, I could not have forgotten.

I could have given my advice if I had seen the documents. I just simply hadn't seen them.

MR RABINOWITZ: You see, Mr Anisimov, I have to suggest to you that you did see this document and there was such a meeting because that is what Mr Moss has recorded in his note as having happened. Do you want to comment on that?

A. Well, I am not -- I cannot argue with Mr Moss. I'm saying, yes, I was in Baden Baden, yes, I did meet with Badri, we spent time together, but I don't remember Mr Moss, and that is the main problem.

It's a good thing that I'm so impressive that he remembered me but I don't remember him.

Q. Well, the difference between you and him, in that regard, Mr Anisimov, is that he made this note at the time, whereas you are now having to recollect it some ten years later. Okay?

A. So quite right, quite right, that's the whole point. I'm just saying one thing: if this amount of documents



that you're showing me was there, it's a serious job. It's not -- I mean, it doesn't matter whether a person is your friend or not, if the business is as serious as this, I just don't remember this document. There were some conversations, he had several meetings, he is a very gregarious person. But I don't remember a lawyer and I don't discuss -- remember discussing this subject.

Most likely it did not happen. I'm convinced I did not discuss this subject. There might have been other discussions on other subjects but I don't remember which.

- Q. You see, don't be put off by the number of pages, Mr Anisimov. What Mr Moss says --
- A. I'm not put off.
- Q. -- is that he took you through the warranties, which are the ones we see on page 106 H(A)35/106, and he had them translated for you, and that's only just over a page that he would have had translated for you. So --
- A. I don't think that's right. They might have been translating for Badri, yes, I can't contest that, but for me what's the point? What have I got to do with this? Nothing.
- Q. Well, you were at this meeting, as Mr Moss records. Just let me tell you what the warranties say, Mr Anisimov, because the warranties at schedule 3 make

it clear that both Mr Berezovsky and Mr Patarkatsishvili were involved in this transaction to sell interests in Sibneft, and at warranty 3, there is a warranty that they were entitled to sell and transfer their beneficial interests in these shares in Sibneft to Devonian.

Okay? Now, my question to you is this --

A. Yes, I'm awaiting your question.

Q. If you did attend this meeting in Baden Baden on 5 June 2001, as Mr Moss's attendance note suggests, and if, as Mr Moss's note suggests, you did go through these warranties with Mr Patarkatsishvili you would have understood that Mr Berezovsky and Mr Patarkatsishvili were warranting that they had ownership interests in Sibneft as at June 2001. That's to say, that they had an interest in Sibneft as at that time. Do you understand?

A. Well, I understand what you've just said and I understand what you mean but, unfortunately, I can't help you with this because I was not involved, I don't remember the subject, I didn't hear it.

I was exercising my memory because in the course of the proceedings I was told that I was in Baden Baden, and yes, indeed, I looked at the documents and I had visited Baden Baden several times. I went there alone, and also I met Badri there, but I -- for a detailed

discussion like this to happen and for me not to remember it, this is unlikely. My memory is not ideal but things like this are not forgettable.

So, I don't know, maybe he was translating for Badri, maybe they were scribbling something, although I don't remember that either. To be honest, you know, money likes silence or quiet, maybe they were discussing it quietly. At some point I might have been sitting there. But there's no point in trying to get something out of me, I simply don't remember it. I mean, I'm saying to try and get it out of me in a good sense, you know.

Q. That's very kind, Mr Anisimov, and generous. But you see, if Mr Moss's note is correct in recording what he does record then it would not be true to say that you do not know and have never known what arrangement Mr Patarkatsishvili and Mr Berezovsky had regarding Sibneft; that is right, is it not?

MRS JUSTICE GLOSTER: Well, there's quite a lot of hypothesis there, is there not, Mr Rabinowitz?

A. Please could you put your question again. We cannot speculate. We're in court, aren't we?

MR RABINOWITZ: You see, Mr Anisimov, at paragraph 48 of your witness statement you suggest in the context of this meeting that you do not know and have never known

what arrangements Mr Patarkatsishvili and Mr Berezovsky have had regarding Sibneft. I suggest to you that that is simply not true.

A. Sorry, I got a bit mixed up. Is that in my own witness statement? What should I read? Just refer me to something.

Q. Yes, it is. If you go to page 40 on the Russian version F1/01/40, page 13 in the English version F1/01/13.

A. I beg your pardon, I'm just trying to find the page. So paragraph 48, right, okay.

Q. You suggest there, in the context of this meeting, that you do not know, and have never known, what arrangements Mr Patarkatsishvili and Mr Berezovsky have had regarding Sibneft. And I suggest to you, in light of what Mr Moss has recorded, that what you say there is not true.

A. Well, I don't agree with you because I'm telling you things as they are. I'm not giving you any hypothetical suggestions that I'm hearing from you today.

I beg your pardon, perhaps you are not happy with my answer but this is as it is.

Q. It doesn't matter whether I'm happy or not, Mr Anisimov.

Can I ask you, please, to go to bundle H(A)39 at page 38, please H(A)39/38.

MRS JUSTICE GLOSTER: Can we put H(A)35 away now?

MR RABINOWITZ: You can, my Lady.

- A. Page?
- Q. 38. It's a document in English.
- A. Thank you.
- Q. Now, this, in case you don't recognise it, it contains your signature at the bottom. It's a declaration --
- A. My signature? I don't see my signature, maybe I'm looking at the wrong page.
- Q. Page 38, volume 39. You've been given the wrong bundle I think.
- A. It happens. This one I don't need.
- I can see it now.
- Q. This is a declaration that you made for the US visa immigration authorities four months after your meeting in Baden Baden, as recorded by Mr Moss.
- A. This must be linked with visa application, yes?
- Q. No, I'm just trying to place it in time, Mr Anisimov.
- It's October 25, 2001.
- Do you remember making this declaration at all?
- A. I don't remember the details of course, but I understand that the American Embassy asks us to prepare these documents and we provide them. At that time not everybody was granted US visas so they were asking more details, detailed disclosure, about oneself.
- Q. And you declare and warrant the following things to be true and correct, the things which are set out in this

statement, and one of the things that you say here is that you state categorically that last year I have sold all my shares in Krasnoyarsk Aluminium Plant and Krasnoyarsk Power Station, and you say that you sold them to the shareholders of Sibneft in February 2000.

A. All -- all correct. That's exactly what I wrote, and that's exactly how it is. I sold everything and I wrote the whole truth here.

Q. The people you were referring to as the persons to whom you'd sold the shares in Sibneft were Mr Berezovsky, Mr Patarkatsishvili and Mr Abramovich, correct?

A. No, I'll try to explain if I may. I'll explain -- I'll try to explain how we fill in these forms, if I may.

Thank you.

The thing is that when we make references to shareholders in Russian practice, until '99 I was always a single owner, a single shareholder everywhere. But at that time it was all a bit worrisome, and my company always wanted to show that I was not the only shareholder of my company, and there were many -- very often people wrote "shareholders of Sibneft" et cetera, and I never knew who were the shareholders of Sibneft.

But to a greater extent that had to do with our personal safety and security. I truly didn't know whether there were any shareholders of Sibneft there or

not. I just wrote it as we wrote in contracts,  
"shareholders in Sibneft," and that's it.

Q. What I would suggest to you, Mr Anisimov, is that following your involvement in the meeting at Baden Baden in July 2001 you knew that Mr Berezovsky and Mr Patarkatsishvili had been shareholders in Sibneft but had now sold their shares to Mr Abramovich?

A. I don't agree with you. I didn't know it, and to be honest I wasn't interested in it.

Q. And that is why, when you referred just four months later in your visa declaration to the US immigration authorities, to a sale in February 2000 to the Sibneft shareholders, the people you had in mind were Mr Berezovsky, Mr Patarkatsishvili and Mr Abramovich. That's right, isn't it?

A. No, that's not right. I would have written it, "I sold them to Abramovich, Berezovsky and Badri." But because I didn't know who was who I just wrote "shareholders of Sibneft".

Q. All right, you can put this away.

I have one more document to take this witness to, my Lady, and I can try to finish, if that is --

MRS JUSTICE GLOSTER: Very well.

MR RABINOWITZ: Can I ask you, Mr Anisimov, to go to --

A. This one I can put away, yes?

Q. -- the document that your Ladyship will find on Magnum at H(A)92 at 42.001 H(A)92/42.001. I don't know if there's yet been a hard copy put in the bundles but if there hasn't we can hand one up.

It looks like there has been.

This is an email from a Mr Sergey Gorin at Coalco, so he's one of your employees, is he not, Mr Anisimov?

A. Yes, he's one of the employees that reported to Mr Streshinsky.

Q. And can you tell us what is his position in Coalco in -- at least what was his position in 2005, do you remember that?

A. I think that it was not a very important position at that point in time, because at that time I've never even had any dealings with him.

Q. What Mr Gorin is doing is he's sending this email to various people at an organisation called MeesPierson Intertrust regarding the subject of "Completed Clients' Forms."

He explains in his covering email that the client form had been completed by Coalco, your company, and pre-approved, he says, by the UBO. Now, the UBO is short for ultimate beneficial owner. If you go to page 42.003 in the document which is attached to this email H(A)92/42.003, you can see the second shaded



block says "UBO", and then above it, it says:

"UBO is the Ultimate Beneficial Owner of the structure."

The ultimate beneficial owner here is Mr Patarkatsishvili, your friend, okay?

A. I can see it.

Q. The document that Mr Gorin has completed and Mr Patarkatsishvili has approved is -- it's a source of wealth check. You can see that if you go to page 42.002, okay?

A. Yes, I can see it.

Q. Can I ask you, please, to go to 42.003 where we can see what Mr Gorin and Mr Patarkatsishvili have put in here.

If you look -- sorry, if you go -- sorry, could you go to page 42.005 H(A)92/42.005?

MR MALEK: I wonder if we can have a copy of that because it's not on Magnum as far as we can see.

MRS JUSTICE GLOSTER: I can't find it. It's on the screen but --

MR RABINOWITZ: Can we hand up a hard copy, my Lady.

MRS JUSTICE GLOSTER: It's fine for me because I can read it on the screen here but I'd be grateful if it could go into the Magnum.

MR RABINOWITZ: We had been told that it had gone into Magnum but we will ensure that it does do so. (Handed)

So are you at page 42.005?

A. Yes.

Q. Okay. If you look under the second shaded box, you see box 3, "Source of Wealth/Source of Funds," do you see that? The compliance questionnaire is in effect asking what is the source of wealth?

And if you go over to page 42.006 H(A)92/42.006 you can see that Mr Gorin with Mr Patarkatsishvili has ticked "Other", and what they have put there as being the source of Mr Patarkatsishvili's wealth is:

"Sale of various oil and metals assets in Russia, including shares in... Sibneft, a major Russian oil-producing company, and... Rusal, the biggest Russian aluminium producer."

Now, can I ask you this, Mr Anisimov, were you aware that Mr Gorin was assisting Mr Patarkatsishvili in relation to the completion of these forms?

A. No, I wasn't.

Q. So no one reported back to you on what was being put in this document?

A. No, nobody reported to me. This is the first time I see this document.

Q. You see, Mr Anisimov, I have to suggest to you that both you and indeed everyone in your organisation -- not everyone but certainly Mr Gorin and Mr Streshinsky,

understood both in 2001 and indeed in 2005 that Mr Patarkatsishvili, like Mr Berezovsky, had sold an interest in Sibneft. Do you dispute that?

A. I don't dispute it, I just don't know it. I don't know who wrote what, and I don't know why they wrote it, and who was telling them to write it. But I think Mr Streshinsky will be able to give evidence and he'll explain.

MR RABINOWITZ: Mr Anisimov, thank you very much. I don't have any more questions for you. Thank you.

A. I'm very grateful to you too. Thank you.

MR MALEK: No re-examination, my Lady.

MRS JUSTICE GLOSTER: Thank you very much indeed for coming to give your evidence.

A. Thank you. It was a pleasure.

MRS JUSTICE GLOSTER: Right. Mr Malek?

MR MALEK: As far as the timetable, Mr Buzuk will be giving evidence tomorrow morning. I've spoken to my learned friends and they've indicated that the cross-examination is going to be fairly short, in the region of about 20 minutes to 30 minutes.

MRS JUSTICE GLOSTER: Yes.

MR MALEK: And then there's nothing else for the rest of the week.

MRS JUSTICE GLOSTER: We're not having Mr Streshinsky this

week then?

MR MALEK: It's on Monday, my Lady.

MRS JUSTICE GLOSTER: That will be on Monday. So I won't be sitting in this case basically Wednesday afternoon -- you may leave the witness box if you wish to.

THE WITNESS: Thank you.

(The witness withdrew)

MR MALEK: That's correct, my Lady.

MRS JUSTICE GLOSTER: Mr Streshinsky isn't available this week?

MR MALEK: No. He had meetings, it's always been like that, so it's Monday, my Lady.

MRS JUSTICE GLOSTER: Right. Very well. Well thank you very much.

10.30 tomorrow morning? 10.30.

(4.15 pm)

(The hearing adjourned until

Wednesday, 23 November 2011 at 10.30 am)

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