

Monday, 14 November 2011

(10.15 am)

(Proceedings delayed)

(10.24 am)

MRS JUSTICE GLOSTER: Yes, Mr Sumption.

MR SUMPTION: I call Mr Voloshin.

MR ALEXANDER STALIEVICH VOLOSHIN (affirmed)

MRS JUSTICE GLOSTER: Please sit down, Mr Voloshin.

Examination-in-chief by MR SUMPTION

MR SUMPTION: Good morning, Mr Voloshin. Could you please be given bundles E1, E4 and E8. You have made three witness statements, I think, for this action and you'll find the first of them in bundle E1 at flag 1 E1/01/1. Is this your first witness statement?

A. Yes, it is indeed.

Q. And if you turn to the back of the tab at page 23 of the bundle, is that your signature on the Russian version?

A. Yes, this is my signature.

Q. And if you'd like to turn to paragraph 2, is there a correction that you want to make to the date at the end of paragraph 2?

A. Yes, that is correct. So far as the year where I graduated from the Academy of Foreign Trade is concerned, the year is 1996 (sic). There was a mistake here. It says 1990, I'm sorry, it's 1986, my apologies,

sir.

Q. 1986, fine. With that correction, is that statement true?

A. Yes, definitely.

Q. Would you like to take bundle E4, please, and turn to flag 7 E4/07/115. Is this your second witness statement in this action?

A. Yes, it is indeed.

Q. If you turn to page 147, is that your signature at the end of the Russian version?

A. Yes, this is my signature.

Q. Is that statement also true?

A. Yes, it is indeed.

Q. Finally, Mr Voloshin, your third statement will be found in bundle E8 at flag 15 E8/15/184. Is this your third statement at flag 15?

A. Yes, it is indeed.

Q. And is that your signature at page 190?

A. Yes, it is my signature.

Q. And is that statement also true?

A. Yes, it is indeed.

MR SUMPTION: Thank you. If you'd wait there, Mr Rabinowitz will have questions for you.

Cross-examination by MR RABINOWITZ

MR RABINOWITZ: Mr Voloshin, can you go, please, to

paragraph 8 of your first witness statement, E1, tab 1, page 4 in the English E1/01/4, page 16 in the Russian E1/01/16. Can I ask you, please, to read what you have said at paragraph 8 to yourself and let me know when you've finished reading it. (Pause)

A. Yes, I have read this.

Q. And you say there, and you are talking here about 1993 or 1994, that you had a consultancy role in relation to AO All Russia Automobile Alliance, that's AVVA, a company headed by Mr Berezovsky, and that you helped with the preparation of the paperwork to set up AVVA.

Can I ask you next, please, to look at your second witness statement, paragraph 5. You'll find that at bundle E4, tab 7, page 117 in the English E4/07/117 and 133 (E4/07/133 in the Russian.

Again, if I can ask you to read paragraph 5 to yourself. Let me know when you've finished reading it.

(Pause)

A. Yes, I have read this.

Q. What you say here is that your consultancy in relation to AVVA:

"... consisted of helping to prepare the paperwork (including the preparation of the prospectus) for and assisting with the public placement of the company's securities ..."

If you helped prepare AVVA's prospectus and assisted with the public placement of its securities, you must have known how AVVA was to operate. That's right, isn't it?

A. I'm not sure I understand your question as to how AVVA was to operate.

Q. Did you understand, when you were preparing the paperwork and helping with the prospectus, how AVVA was to operate as a company? What it was going to do?

A. On the whole, yes. Now, if you mean the purpose, the mission of the company, I can explain what my understanding was at that time.

Q. Well, let me ask you questions and you can answer the questions, and then if you have some comment to make you can make your comment, okay?

In working on the AVVA project I assume you would not suggest that you were involved in any unlawful or fraudulent activity, is that correct?

A. Your understanding is correct.

Q. And it follows that you would not suggest that the AVVA project was a fraudulent pyramid selling scheme, is that correct?

A. No, I am not certainly suggesting that and this is not what I think.

Q. So if anyone were to suggest that AVVA was a fraudulent

pyramid scheme, your evidence would be that they were wrong, is that right?

- A. Well, you know, at a time where this project was being run and it was never completed, it was never finished, but when the securities of AVVA, securities were being placed, there were many things that happened on the securities market that you could describe as a pyramid, a Ponzi scheme.

The project that we were handling, I'm definitely certain that it was not one of those schemes, but at that time there were many articles that were wrote in the media about that and attempts were being made to put that project on a par with other projects. So there was a lot of talk around this and I do not believe that there is any truth to that.

- Q. Thank you very much for that.

Now, Mr Voloshin, I want to move to a different topic, and you accept in your evidence that you met with Mr Berezovsky towards the end of August 2000? That's right, isn't it?

- A. Yes, that is true.

- Q. And Mr Berezovsky's evidence is that this meeting occurred on 23 or 24 August, I don't suppose you're in a position either to confirm or deny those specific dates, are you?

- A. It is true, I do not recall the exact dates but it was late August. That is true.
- Q. Now, before we look at what you say happened at this meeting, can I just identify for you some of the events that had occurred in the summer of 2000 in order to put this meeting into some sort of context. Now, first, in June and July 2000 there was the arrest of Mr Vladimir Gusinsky and the sale of his company Media Most to Gazprom, that's correct, isn't it?
- A. So is your -- I beg your pardon, what is your question? I'm not sure I understood the question.
- Q. I'm just going through with you the events in the summer of 2000 which were a prelude, or which happened before your meeting with Mr Berezovsky. One of those events was that in June and July 2000, Mr Gusinsky, who was the owner of Media Most, was arrested and there was an incident in which he sold his company to Gazprom.
- A. I believe that some events did occur. I'm not sure I can recollect whether the sale and purchase of the shares that you're referring to had already happened by that time, but it is true that he was in custody, he did spend a few days in custody. That is true, yes.
- Q. And Media Most, Mr Gusinsky's company, was the owner of the independent television station NTV, that's right, isn't it?

- A. So far as I can recall, yes, that is true.
- Q. And in that summer of 2000, NTV had adopted an editorial policy which was generally critical of the Putin administration. That's right, isn't it?
- A. I believe that NTV as a TV channel had always had a rather sharp view of all the things that happened around it. It was quite critical or sufficiently critical of the various events that occurred at that time, including to the powers that be, yes, that's true.
- Q. And they were often critical of President Putin and his policies?
- A. Amongst other things, yes.
- Q. Now, Mr Gusinsky was arrested on 13 June 2000. You won't remember the exact date, I suppose, but you will agree, I think, that it was around this time, is that right?
- A. It is true that I do not recollect when that happened but it was some time in the summer, yes.
- Q. Thank you. While Mr Gusinsky was in prison, Mr Lesin, the Acting Minister for Press and Communications, offered to have the criminal charges against Mr Gusinsky dropped in return for Mr Gusinsky selling Media Most to the government-owned company Gazprom. Again, you may not remember the precise details of this but you will, I think, agree that this is broadly correct?

A. I'm not sure that your description is correct. I do not recall that in those days, where Gusinsky was in prison, certain documents were signed. I have no recollection of that in my memory.

Q. Your evidence is that you do not recall that in those days when Gusinsky was in prison certain documents were signed. Is that your evidence?

A. So far as I recollect, some documents were signed but they were signed later on.

Q. Can I just, if I can, ask you to be given bundle O2, tab 8 -- sorry, O2/8, tab 109, which is a judgment of the European Court of Human Rights O2/8.109/1.

I don't seem to have the bundle in court. Perhaps I can just read you a paragraph from the judgment of the European Court of Human Rights which had to consider all the facts here. Paragraph 27 on page 6:

"During the applicant's detention between 13 and 16 June 2000, the Acting Minister for Press and Mass Communications, Mr Lesin, offered to drop the criminal charges against the applicant in connection with the Russian Video case if the applicant sold Media Most to Gazprom, at a price to be determined by Gazprom."

Okay? Does that help your recollection?

A. Yes, I've heard an excerpt from a judgment of the European Court, so what is your question?

Q. My question to you was, whilst Mr Gusinsky was in prison, Mr Lesin, the Acting Minister for Press and Communication, offered to have the criminal charges dropped in return for Mr Gusinsky agreeing to sell Media Most to the government-owned company Gazprom, and that is right?

A. The way I see it, it is not the case. This does not flow from the judgment of the European Court that has just been read out.

Q. I suggest it flows precisely from that.

Let me ask you this: Mr Lesin was first appointed minister for press in July 1999, do you recollect that?

A. To be honest, I do not recall when he was first appointed minister but it may well be the case.

Q. And he was reappointed to the post by President Putin after the 2000 presidential election in May 2000. Do you recollect that?

A. Yes, I do recollect that.

Q. Now, the agreement made with Mr Gusinsky contained a protocol called Protocol 6 which provided for the termination of the prosecution of Mr Gusinsky. Again, you may not remember the details but this is generally what happened, is it not?

A. I'm not sure I understood your question. Would you mind repeating, please?

Q. The agreement made with Mr Gusinsky contained a protocol called Protocol 6 which provided for the termination of the prosecution of Mr Gusinsky. That is broadly what happened, is it not?

A. I do recollect that a lot was written at that time about the existence of a Protocol 6. To be honest, I had never seen that protocol in my life, and nor do I recall anyone asserting that it had been signed by the government or by a representative of the government or at the instruction of the government.

So far as I can recollect, it turned out that Mr Lesin had put his approval under this protocol but he had not been a party to the protocol, and once again I have not seen this protocol and all I can do is make a judgment based on press reports at the time.

MRS JUSTICE GLOSTER: Mr Voloshin, were you involved in the events relating to Gusinsky at all?

A. The events that are being referenced now I had nothing to do with. But in general, I did have numerous meetings with Mr Gusinsky. I had several meetings with him prior to that, maybe even after that, but I did not have any involvement in the events which have just been described here. I had no part in those events.

MRS JUSTICE GLOSTER: That includes his arrest, his subsequent release and the sale of the shares in his

television company?

- A. That is exactly the case, my Lady. And I can clarify that -- I can clarify the situation, the way I see it, if I have your --

MRS JUSTICE GLOSTER: Maybe in due course.

MR RABINOWITZ: But you were part of an administration of which Mr Lesin was also a part, were you not?

- A. Mr Lesin was not a -- was not part of the administration, definitely not at that time. He had worked in the administration many years prior to that but at that time he was in the government and I was head of the presidential administration. These are two different bodies and they do not report one to the other.

Q. But you would have been aware of what was happening with Mr Gusinsky at this time, would you not?

- A. I did learn what had happened, that is true, yes.

Q. And just in terms of what did happen and the Protocol 6, you say there was reporting about this at the time. We have in the judgment of the European Court of Human Rights at paragraph 28 this finding, that:

"While the applicant was in prison, Gazprom asked him to sign an agreement in return for which the applicant was told that all criminal charges against him would be dropped. The agreement between Gazprom and the

applicant was signed on 20 July 2000 ... It included a provision in annex 6 calling, inter alia, for the termination of the applicant's criminal prosecution in relation to Russian Video and for an undertaking regarding his security."

I'm not going to read the whole of annex 6.

Paragraph 29 then explains that:

"Annex 6 was signed by the parties and endorsed by Mr Lesin's signature."

Later, Mr Gusinsky refused to comply with the agreement that he had made in these circumstances because he said it had been signed under duress. Do you recall that?

A. To be honest, I do not recall those nuances.

Q. Right. Again, that is dealt with in the judgment of the European Court at paragraph 72, page 19 02.8/109/19. I'll read you the relevant part which is fairly short.

Paragraph 72:

"The applicant submitted that the facts of the case spoke for themselves. He reiterated that the authorities were motivated by a wish to effectively silence his media and, in particular, its criticisms of the Russian leadership. The applicant drew attention to the fact that when Media Most did not comply with the July agreement, on the ground that it had been

signed under duress, the GPO initiated the Media Most loan investigation."

The GPO is the prosecuting authority, is it not?

A. Yes. The General Prosecutor's Office does -- is directly related with the prosecution of criminal cases, yes.

Q. And I just very briefly want to tell you or show you what was said about what happened to Mr Gusinsky by the European Court of Human Rights. Can I hand up to you a translation of paragraphs, there are just two paragraphs, paragraphs 75 and 76, of the judgment.

(Handed). Just so that we can see what the European Court found here, paragraph 75:

"The government did not dispute that the July agreement, in particular Annex 6 to it, linked the termination of the Russian Video investigation with the sale of the applicant's media to Gazprom, a company controlled by the state. The government did not dispute either that Annex 6 was signed by the Acting Minister for Press and Mass Communications. Lastly, the government did not deny that one of the reasons for which Mr Nikolaev closed the proceedings against the applicant on 26 July 2000 was that the applicant had compensated for the harm caused by the alleged fraud by transferring Media Most shares to a company controlled

by the state.

"In the court's opinion, it is not the purpose of such public law matters as criminal proceedings and detention on remand to be used as part of commercial bargaining strategies. The fact that Gazprom asked the applicant to sign the July agreement when he was in prison, that a state minister endorsed such an agreement with his signature and that a state investigating officer later implemented that agreement by dropping the charges strongly suggests that the applicant's prosecution was used to intimidate him."

Now, that's what the European Court found. Can I ask you, please, to go to bundle H(A)22 at page 34 H(A)22/34. This is an article from the Moscow Times, I'm afraid it is only in English but it may be you understand English. I will read you the relevant paragraphs anyway which are short.

In the first paragraph the report says that:

"Press Minister Mikhail Lesin conceded Wednesday [that is the day before the article was written] that 'as a minister' he had made a mistake by putting his signature on a deal selling Vladimir Gusinsky's Media Most to state-controlled Gazprom-Media."

Then in the sixth paragraph, the paragraph beginning "The disputed deal", it says this:

"The disputed deal, known as [protocol] 6 in a document signed by Gusinsky and Gazprom-Media head Alfred Kokh, links the sale of Media Most to criminal charges being dropped against Gusinsky and his freedom to travel abroad."

Now, can I ask you this, is it right that Mr Lesin did not lose his job as a result of entering into this agreement with Mr Gusinsky? He stayed in his position, did he not?

- A. So far as I can recollect, he did stay in his position and I still do believe that he did not enter into a deal, he just endorsed, and that might have been -- that must have been a mistake. He has endorsed the document but this was not a deal, and this does not flow from the documents that have been presented by the way.
- Q. And Mr Lesin remained involved in the Putin government's policy towards the mass media, is that right?
- A. Yes, he remained as part of the government, as a government minister, that's true.
- Q. And part of what he would be responsible for is the government's policy towards the mass media?
- A. Well, the policy is decided upon (sic) the government. What the minister does is submit proposals and ideas as to what they believe that policy should be.
- Q. So he would have remained involved in dealing with the

policy towards the mass media?

A. Well, his ministry, the ministry of which he was head, was directly linked to the working out of that policy, yes.

Q. You can put that bundle to one side. Can you please be given bundle G(B)2/6 and if you can go in it to page 171 in the Russian G(B)2/6.177/171 and page 173 in the English G(B)2/6.177/173. 2/6, tab 177, and then I think it's page 171 in the Russian and 173 in the English.

Now, this goes somewhat later in time but I just want to check this with you. This is an order of the Russian prime minister, is that correct? You can see it's made on 30 January 2001.

A. Yes, it's a government order.

Q. And this is made after Mr Abramovich acquired the ORT shares from Mr Berezovsky, and the order accepts a proposal from the Ministry of Property Relations, approved by the Ministry of Press and Communications, and the second of those ministries was Mr Lesin's ministry, was it not?

A. Yes. Mr Lesin at that time was the minister and there is a direct reference to that in the text.

Q. And it instructs the Ministry of Property Relations to make arrangements for appointing directors of ORT. One

of the directors appointed is Mr Lesin, do you see that?

It's the fourth one down.

A. Yes, I can see his surname here.

Q. So in January 2001, the Russian government approved the appointment of Mr Lesin as a director of ORT. That's right, isn't it?

A. So far as I can recollect, the procedure was a staged one, and this was stage one of the procedure, and the document that you're looking at now is a nomination of candidates to the board of directors. Now, later on, there had to be a separate, a further decision in terms of whom they should be voting for at the general meeting of shareholders. That might be a different decision.

So based on this document alone it is difficult to make final decisions, and it happened quite often in practice where the opinion of the government in terms of who they should be voting for at the general meeting of shareholders, during the voting for the members of the board of directors, did change.

Q. But the point at this stage is that the government approved, certainly as at January 2001, the appointment of Mr Lesin to the board of ORT; things may have changed later but that is the position then, is it not?

A. Yes. If we follow the text, what the government did was nominate a candidate for the board of directors but it

had not yet voted in favour or against that nominee.

Q. Now, you can put that to one side for the moment.

Can you answer this question: the arrest of Mr Gusinsky and his dispute with the government had been very widely publicised in June, July and August 2000. That's right, isn't it?

A. Well, you know, those were the sort of events that did cause quite a few informational tidal waves, as it were. It was being heatedly debated. And in terms of the question which we are now -- which is now in dispute here, I can recall that Mr Berezovsky, and I think it was two to three months prior to those events, in the summer, that he made a public statement where he said that he was going to ask the General Prosecutor's Office to look into the link between Gusinsky and the Chechen terrorists and to investigate those possible links, and I think he made that statement in February or in March, it was made publicly.

Now, when those summer events took place and Mr Gusinsky was taken into custody, Berezovsky was the only major businessman who did not sign a letter demanding his release. So that was the informational background for all of this, as it were.

Q. Mr Voloshin, can you listen to the question and try to answer the question, please. The question was that the

arrest of Mr Gusinsky and his dispute with the government was very widely publicised in June, July and August 2000; that is right, is it not?

A. Definitely. It was widely covered in the press.

Q. Yes, and so by the time of your meeting with Mr Berezovsky in late August 2000, both of you would have been aware of the fact that Mr Gusinsky had been arrested and of the fact that he had been required to sell Media Most to Gazprom. That's right, is it not?

A. I do not believe that anyone demanded that he sell Media Most to Gazprom in the course of his custody, therefore I would beg to differ and I cannot agree with your statement.

Q. All right. Well, let me break it down. By the time of your meeting with Mr Berezovsky in late August 2000, both of you would have been aware of the fact that Mr Gusinsky had been arrested and imprisoned, is that right?

A. Yes. We also knew that he was subsequently released, a few days after that.

Q. And both of you would have been aware of the fact that he had, whilst in prison, sold Media Most? I don't want to get into the circumstances of that.

A. No, that was not the case. So far as I know, he sold Media Most after that, not during his being in custody.

Q. Well, we've in fact seen from the court -- sorry, the European Court judgment that, certainly by August 2000, he had sold Media Most which is when you met Mr Berezovsky, in August 2000?

A. I think that the sale can be best confirmed by sale documents rather than the judgment of the esteemed European Court. And I think that the documents, with respect to the sale of that media asset, were signed much later, way later than Mr Gusinsky's being in custody.

Q. It's clear what the European Court found, I'm not going to argue with you about that. That says that it was signed on 20 July, the court says it was signed on 20 July 2000.

Now, that is one event which had occurred in the lead-up period to your meeting with Mr Abramovich -- sorry, Mr Berezovsky, the arrest of Mr Gusinsky. The other event which had occurred in that eventful summer, and this was on 12 August 2000, was that the Russian submarine, the Kursk, sank in the Barents Sea, do you remember that?

A. Yes, I do remember that.

Q. It's right, is it not, that the coverage of this incident by both ORT and NTV were critical of the way in which President Putin's administration dealt with the

incident? That is right, is it not?

A. So far as I can recall, the coverage was quite varied. It was a terrible tragedy, and I think everyone agreed that it was a tragedy, and I don't believe that anyone could have said anything other than that. There were some programmes, both in ORT and NTV, what the authorities were doing did draw criticisms, yes, that is true.

Q. And shortly after this, that is to say shortly after the Kursk incident, which occurred on 12 August, and the coverage that it received from ORT and NTV, President Putin publicly expressed his anger about the television coverage of the Kursk incident. That's right, isn't it?

A. To be honest, I do not recall such a public statement on the part of Mr Putin.

Q. All right. Well, perhaps I can get you to go to bundle H(A)21, go to page 101, please H(A)21/101. This is a press report of 25 August and it's obviously a reporting of an incident in the previous days. The first paragraph of this notes:

"Russian President Vladimir Putin has lashed out at the news media over coverage of the submarine Kursk disaster, even accusing the media of trying to destroy the navy."

If you go to the second page of this report --

- A. My apologies, what is this news report? I'm not sure I understand what this source is.
- Q. It's something called the Freedom Forum Online and it's reporting about news --
- A. It's just the first time ever that I hear about that source but, okay, that's all right.
- Q. If you go to the second page, really taking material from other news media, as you can see. They refer to the London Guardian, they refer later on to the London Telegraph.

If you look at the second page, towards the top of the page:

"Putin blamed television reporting, the two Russian journalists said, and then he launched into the strongest attack on the Russian media he has made since becoming president."

Then this is quoting President Putin:

"'They are liars. The television has people who have been destroying the state for ten years. They have been thieving money and buying up absolutely everything,' Putin said, according to Nekhoroshev, a former BBC employee. 'Now they're trying to discredit the country so that the army gets even worse.'"

President Putin directed this anger at the

businessmen who owned the media outlets who criticised him, did he not?

THE INTERPRETER: I'm so sorry, Mr Rabinowitz, could you kindly repeat the last sentence? This is a request from the interpreter, sorry.

MR RABINOWITZ: Don't worry.

President Putin directed his anger at the businessmen who owned the media outlets who had criticised him. That's right, isn't it?

A. Well, I have read this and this is what it says. But I cannot share with you my personal recollection, I cannot comment what it says here because, amongst other things, this is not a very credible source.

Q. All right. Let's go to a different source then. Go to H(A)21 at page 59, if you would H(A)21/59.

Do you consider the Financial Times as a credible source, Mr Voloshin?

A. Quite. Quite.

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

If you look at the headline:

"World news: Putin hits [out] at media 'oligarchs' over Kursk tragedy."

Just looking down, let me read the first three paragraphs to you:

"President Vladimir Putin of Russia yesterday lashed

out at individuals he claimed had attempted to make political capital out of the Kursk submarine tragedy, in a thinly veiled attack on the country's influential business 'oligarchs'."

Looking to the third paragraph:

"... in a clear attempt to deflect strong criticism of his handling of the crisis, he rounded on the oligarchs who control much of the media that led [to] the criticism of him."

Just going down a couple of paragraphs, you see that President Putin:

"... singled out 'some who have even given a million dollars to the crews' families', in an apparent reference to Boris Berezovsky, the former 'grey cardinal' of the Kremlin who controls the daily newspaper Kommersant, which organised a campaign of voluntary donations to help the grieving families."

President Putin is quoted as saying:

"They would have done better to sell their villas on the Mediterranean coast of France and in Spain."

If you go two paragraphs down, you see there's a reference to the fact that Mr Berezovsky owns a villa on the Cote d'Azur in southern France while Mr Gusinsky has a property in Spain.

So it was clear to everyone, was it not, that the

people who were being attacked by President Putin here were Mr Gusinsky and Mr Berezovsky? Correct?

- A. I think that, since this is what newspapers are writing, there must be a grain of truth to that, particularly when we talk about such a highly esteemed newspaper.

What I can say is that President Putin did have a reason to become so emotional, because he did believe, and I fully agreed with him on that, that Mr Berezovsky was using that tragedy in order to get some political capital for himself, and I'm absolutely certain that this is what President Putin thought and I completely agree with this. This is the way it was.

It was a horrible tragedy and it was not very clear what the grievances on the merits of the case were because 118 people lost their lives and they -- as the investigators found out, they died in one second because a torpedo exploded. When it happened, at that time, people had hopes that some people could be rescued but then it turned out that, unfortunately, there was no hope for that. At that time people did hope that someone could be rescued, there was a major rescue operation and it was widely covered in the world. But President Putin did believe that Mr Berezovsky and his controlled journalists were helping him in that and that he was setting himself the task of making political

capital on that, and I think that he could become quite emotional and that, I believe, does look like this is the way it was.

Q. I don't want to get into the rights and wrongs of the handling of the Kursk crisis, Mr Voloshin, but as you say, President Putin obviously felt very strongly about Mr Berezovsky's coverage of it. That's right, isn't it?

A. No. Mr Berezovsky's role is hereby overstated.

President Putin was much more concerned about the rescue operation with the submarine while there was some hope to rescue people, much more than what Mr Berezovsky was doing about that at that time.

Q. In fact your evidence was that President Putin felt strongly that -- about Mr Berezovsky's, about the coverage in ORT which he felt was wrong at the time?

A. Yes, this is what I have said, and he did believe that Mr Berezovsky was capitalising on this tragedy in order to get some political capital. This is what he thought, this is what he believed, and he believed that the coverage of the Kursk tragedy was not objective, was not impartial.

Q. I think you also explained that that was your view as well?

A. Absolutely. And this is still my position, even as we speak.

Q. Right. Now, we know that the outburst from President Putin occurred on 23 August 2000 because the report in the Financial Times is dated 24 August. We now come to the meeting itself which happened the day after President Putin's outburst, or perhaps a day after that, on 24 or 25 August 2000.

Can I ask you, please, to go back to your first witness statement and look at paragraph 13, E1, tab 1, page 5 in the English E1/01/5, page 17 in the Russian E1/01/7. Can I ask you to read from paragraph 13 to 17 of your witness statement to yourself, please, just remind yourself of what it says. (Pause)

Have you read paragraphs 13 to 17?

A. Yes, I have read those, yes.

Q. And so it's your evidence that you requested this meeting with Mr Berezovsky, that's what you say at paragraph 13. Is that right?

A. Yes, that is true.

Q. And the only thing that you say was raised at that meeting was the situation with ORT, again that's what you say at paragraph 13. Is that right?

A. So far as I can recall, yes.

Q. So I think we can agree that discussing ORT was the main or the only purpose of the meeting, is that right?

A. I think it was the only purpose of the meeting.

Q. And if you look at paragraph 15, what you say there is that:

"... the Government wanted [Mr Berezovsky] to stop using ORT for his own political and financial benefit."

You are suggesting that the message you were delivering to Mr Berezovsky came from the government rather than just you personally, is that right?

A. It was the general position. The word "Government" here is used in the general meaning of the term. It was the position held by the powers that be, and the position of the powers that be was that he had to stop using ORT for his own political and financial benefit. This is exactly what was said.

Q. And when you refer to the powers that be, you would obviously include President Putin in that, would you not?

A. Definitely. Yes, it would be difficult not to include him in that definition. He was president of the country at that time.

Q. And so you would accept then that the message that you gave to Mr Berezovsky at that meeting was one that Mr Berezovsky was intended to understand came from President Putin as well, that's right, isn't it?

A. I think so, yes. I think I made it clear to him that it was our joint position.

Q. And since you were delivering a message to Mr Berezovsky from President Putin, that was obviously something that you would have discussed with President Putin before this meeting. It must follow, mustn't it?

A. Yes, this is quite logical. I -- most probably I did discuss that. I don't recall the exact discussions but that was part of the logic of this process.

Q. Now, Mr Voloshin, you don't explain in your evidence in these paragraphs why you called Mr Berezovsky to this meeting at the specific time you did, that is to say at the end of August 2000. Can you please explain why you say there was, in late August 2000, a concern about the situation with ORT given that, as you say, Mr Berezovsky had been exercising de facto control there for some time?

A. Well, there is an end to everything sooner or later. He did exercise control over the company for a long time, and the situation around the Kursk submarine disaster was so dramatic, and the position of his controlled journalists was so flagrant and the (inaudible) was not consistent with the horrible tragedy, with that tragic situation, it became clear that informal governance of ORT on the part of Berezovsky was something that needed to be put an end to.

Q. I think you're accepting in that answer that what

actually provoked that meeting at this time was the ORT coverage of the Kursk incident, that's right, isn't it?

A. Yes, your understanding is correct.

Q. Can you explain why you don't anywhere in paragraphs 13 to 17 even mention the Kursk incident as being either something which provoked this meeting or as something which was discussed at this meeting?

A. I don't know. I do not refer to that. I think it was quite obvious, it was so obvious that it did not require any additional explanation. I think that this whole story was so clearly linked to the submarine disaster, and there was no doubt in anyone's mind as to one being the consequence of the other.

Q. And does it follow from what you are saying now that, in the course of this meeting, you would have complained to Mr Berezovsky about the way in which ORT had covered the Kursk incident?

A. I do not recollect the -- that being or not being said in the course of our discussion, to be honest. I think that it was quite obvious to both of us, all the things that had happened had become so obvious to us.

Having said that, this is not something that I would rule out. I wouldn't rule that out.

Q. In fact, Mr Voloshin, isn't it obvious that it is one of the things that you would have discussed, given that

that was the very reason why you had called the meeting at this time, namely the way in which ORT had covered this incident?

A. I beg your pardon, what is your question?

Q. My question is this: isn't it obvious that the way in which ORT had covered the Kursk incident would have been what you discussed, or one of the things that you discussed, at this meeting at the end of August with Mr Berezovsky?

A. Truly I do not recall that. Most probably it was discussed. Chances are it was not discussed. We might have discussed that prior to that, over the telephone. It's very difficult for me to recollect.

I had one real and very serious objective in the course of that meeting and that was to explain, to convey to Mr Berezovsky that an end had come to his governance of ORT. That was the end. The end had come, and this is what I conveyed to him, this is what I declared to him, and that was what made this meeting so dramatic.

Q. Well, you say it was a dramatic meeting. Just checking one thing in your answer, what the translator has translated you as saying about whether you discussed Kursk was:

"Most probably it was discussed. Chances are it was

not discussed."

Now, what is your evidence? Most probably it was discussed or that it wasn't discussed?

A. To be honest I do not -- I'm not sure I feel all those fine nuances. I think that the way ORT covered the Kursk tragedy was something that we did discuss. What I'm saying is that chances are we had discussed that prior to that meeting over the telephone, or we may have discussed this question in the course of that meeting. I cannot rule that out.

Q. And you say it was a dramatic meeting, is that right?

A. Yes, it's true, both the first and the second meetings -- the second meeting I'm sure is something that you'll be asking me questions about -- were quite dramatic, but the dramatism was different. For us the drama was that he was using a horrible tragedy to capitalise on this and to do some political public relations campaigns for himself. And for him the tragedy was that his hobby horse would be taken away from him and that he would no longer be able to manage ORT starting from that point in time.

Q. When you say it was a dramatic meeting, presumably emotions were running high at both meetings? Is that your evidence?

A. So far as I can recollect, yes.

MR RABINOWITZ: My Lady, this may be a convenient time.

MRS JUSTICE GLOSTER: Thank you.

Ten minutes' break.

Please don't discuss your evidence with anyone or the case with anyone. Thank you.

(11.31 am)

(A short break)

(11.45 am)

MR RABINOWITZ: Mr Voloshin, we will go back to the first meeting that you had with Mr Berezovsky in a moment.

I just want to go back to an answer that you gave earlier at [draft] page 18, lines 16 to 20. You were talking about a letter which businessmen signed when Mr Gusinsky was arrested and what you said was, in relation to this letter, that:

"... Mr Berezovsky was the only major businessman who did not sign a letter demanding his release."

And they're talking there about Mr Gusinsky's release. Do you remember that answer? Do you remember giving that evidence this morning?

A. Yes.

Q. Mr Abramovich did not sign that letter, did he?

A. To be honest, I do not recall who specifically signed that letter. I remember my feelings about that moment. Mr Berezovsky was not just a major businessman, he was

also a very active public person, he always was present in any more or less important public proceedings. And if he was absent in such a situation, that certainly would draw attention. Whether Mr Berezovsky was present -- be present or absent in such a proceeding, it would not go unnoticed, because he was always quite active in political or public activity.

Q. Let's just go back to your evidence about this first meeting on what was 24 or 25 August. We've talked about Kursk and whether that was mentioned at this meeting. You also say at paragraph 17 of your witness statement that you do not recall having mentioned Mr Gusinsky. Do you see that? Halfway through paragraph 17 you say you do not recall having mentioned Mr Gusinsky.

A. One second, let me read, please.

Yes, this is correct.

Q. Now, we have seen that at the time of your meeting Mr Gusinsky had recently been arrested, put in jail, because of an investigation. And it's right also, we've seen this, that NTV, Mr Gusinsky's channel, was the other major television station that was highly critical in its coverage of the Kursk incident. Would you accept that, whether or not you remember it, it is highly likely that you did mention Mr Gusinsky at some point during this conversation?

A. This is not necessarily that we had to mention him, because the incident with Mr Gusinsky, when he turned out to be in custody, that was -- that happened, as far as I recall, two months earlier. And from that moment on we surely have met with Mr Berezovsky and certainly discussed -- spoke with him over the phone, and we had the opportunity to discuss this situation earlier.

So it's not necessarily the case, it doesn't have to be a fact that we had to discuss this situation during that meeting. That's the way it seems to me.

Q. I'm not saying it necessarily has to be the case that you would discuss Mr Gusinsky, I'm asking whether, in the circumstances in which this meeting took place, it is likely that you would have discussed Mr Gusinsky, given in particular that his channel, NTV, the other independent channel, was also critical of the way the administration had responded to the Kursk tragedy. Do you accept that it is likely that you would have discussed Mr Gusinsky?

A. To be exact, to be completely precise, I do not recall the position of NTV channel at that point in time. I remember well all the drama around ORT around this event, but nothing stayed in my memory with regard to NTV and NTV's coverage of the tragedy, the tragedy with the Kursk submarine. And it doesn't seem to me that it

was something special at NTV during that period of time, at least I do not recall it.

Q. Can I ask you this, Mr Voloshin. Am I right to think that you don't have a clear recollection of this meeting, so that when you say you don't recall, are you saying it's just that you don't have a memory one way or the other, or are you saying that you specifically recall that you didn't mention Mr Gusinsky?

A. As I -- these nuances, I think I've got quite confused in these nuances. I do indeed not recall this meeting well. I had quite a specific task with regard to that meeting. I remember well about this task, this objective, and I have said about that. I have resolved that objection (sic) during that meeting. I announced to Mr Berezovsky what I announced to him, that for him in the future not to give instructions to ORT management with regard to the content of TV programmes, and for the ORT managers to be given the appropriate information from us so that they should not follow Mr Berezovsky's instructions with regard to the content. That was my objective, I recall that well, because that was the objective for that meeting, and naturally I recall the nuances a lot less well. And also I have some memories about the general emotional background about that meeting, and that's quite all right, and I indeed do not

recall the rest of it.

It wasn't such a lengthy meeting. As far as I recall it was, well, give or take, half an hour.

- Q. So if Mr Berezovsky has a clear recollection of Mr Gusinsky being mentioned in this meeting you would not say that he was wrong about that. Is that right?
- A. I would say that he is wrong. I do not recall that that was mentioned at that meeting. It would seem very strange to me that, for some reason, I would have to mention Mr Gusinsky at that meeting. It would seem strange to me.
- Q. You see, Mr Voloshin, I suggest that at this meeting you informed Mr Berezovsky that the president considered that ORT was working against him and that he, the president, wished to have Mr Berezovsky out of ORT so that he could manage it himself. That's right, isn't it?
- A. No, this is not right. I've conveyed my opinion with that regard, and it seems to me my opinion is a lot more credible because I was present in person during that meeting. I remember exactly what was the objective of that meeting and what I was doing there.
- Q. Your recollection may be more credible than my opinion, but Mr Berezovsky was also at that meeting and that is his evidence of what you said. Do you follow?

MRS JUSTICE GLOSTER: Well, what's the question there?

A. Yes, I do follow, and I've heard that Mr Berezovsky said a different thing.

MR RABINOWITZ: You also directed Mr Berezovsky to surrender his shares in ORT. That's right, isn't it?

A. This is completely incorrect. No shares were discussed at that meeting, there wasn't any point in that. The objective of our meeting was to inform Mr Berezovsky that the concert is over, the show is over, and he won't be able to impact the journalists, and he should not do that, and the journalists have the right to be free from his influence.

We implemented this within the next few days over these meetings and nothing else was required. Actually, events speak for themselves. For example, one of preachers of Mr Berezovsky's position at ORT was Mr Dorenko, a very talented journalist, and his show was closed at the end of December after it last has been aired, and nothing else was required. Everything we wanted to do we've done at that point in time, and I've informed Mr Berezovsky about that.

So a week later we basically didn't have any problems. He already was stripped of his influence and, therefore, could not bring that influence back.

Q. Well, you say you told him that the show was over and

that a week later you say he was stripped of his influence. But as long as he held 49 per cent of ORT he was plainly in a position where he could affect the coverage that ORT gave of events in Russia. That is right, is it not?

A. No, I disagree. He had no opportunity to do so with holding 49 per cent. He had no opportunity to impact the position of journalists. Prior to that, it was some informal relationship system between him and the journalists, and that system was destroyed, nothing else was left. Actually he didn't even have 49 per cent because part of the shares was pledged at Vneshekonombank against a loan that the government extended to support ORT.

Q. When you say the show was over, you are saying also --

A. Sorry, the last phrase. The package owned by Mr Berezovsky was partially pledged against the loan that was issued by Vneshekonombank to ORT. As far as I recall, the share package was 6.5 per cent, so in actuality Mr Berezovsky didn't hold 49 per cent of shares but even a smaller package. But even having 49 per cent, he would not be able to impact the journalists. 49 per cent, the block of shares, 49 per cent does not allow to appoint anyone or doesn't allow to control the process.

Q. But what it does allow you to do, Mr Voloshin, is to block anyone else trying to make appointments because it's right, is it not, that for certain decisions within ORT one needed a two-thirds majority? And as long as Mr Berezovsky held the block of shares he did hold, he could block any two-thirds majority being obtained?

A. I do not recall in detail what the ORT charter was saying. A lot of time has passed since then and I don't think I was well aware of it at the time. But there was no need, we didn't have the need to do something radical with ORT. We didn't need it, we haven't got it and we won't have it in the future. And Mr Ernst, who was head of ORT at that point in time, he is continuing to manage it, he is a talented journalist, he is a talented manager. There was no need to replace him or change him and there was no need to do any -- have any majority of voting et cetera.

All that we had to do is to get Mr Ernst rid of the impact of Mr Berezovsky, and that's exactly what has been done, and to give Mr Ernst the freedom to solve all the problems within the team internally, and that was done as well. As I said, one could have seen the results of that in a few days' time without any blocking share packages. Mr Ernst put everything in its place and all the problems had ceased already a week after our

conversation.

Q. So you say you told him that the show was over. How did you express to him that the show was over?

A. Obviously "the show is over" is a figure of speech.

I do not recall the exact words that I used, but I was trying to convey the meaning today several times.

The point was, the meaning was that you should not impact the journalists or the ORT management any longer. And secondly, that the management and the journalists of ORT shall have the same message from us, and that has been done. Not only it has been done, and there were some consequences confirming what I've been saying here and now. Within a week everything was put in its place and this is it. And the point of that meeting was to announce, to inform Mr Berezovsky about that, and that objective was achieved.

MRS JUSTICE GLOSTER: Could I ask you, Mr Voloshin, please, you said a moment ago that you implemented your decision "within the next few days". What did you actually do in order to take steps to ensure that Mr Berezovsky wouldn't be able to impact the journalists?

A. Everything that I've done, it wasn't much. I had a chat with Mr Ernst, that was and still is the director general of that channel. I told him that a decision had been made that Mr Berezovsky should not have any impact

on the journalist team and personally on Mr Ernst, and that was told to Mr Berezovsky himself. And from now on Mr Ernst shall be free from any influence of Mr Berezovsky, and Mr Ernst was delighted to hear that from me.

MRS JUSTICE GLOSTER: And were there any formal steps you took to implement your objectives?

A. Your Ladyship, there was no need to implement any formal steps basically because the impact of Mr Berezovsky was informal. He was calling on the phone Mr Ernst and journalists, and the journalists, he was telling them how to cover this or that event. And these powers, these powers of his to call or not to call, they were not formally documented in any way. So therefore, refusal to do that did not require any formal decisions.

MRS JUSTICE GLOSTER: So there was no mechanism under the ORT charter that you had to go through so as to ensure that Mr Berezovsky's influence was withdrawn?

A. Indeed, there were no such mechanisms.

MR RABINOWITZ: Mr Voloshin, the evidence you've just given about phoning Mr Ernst is not evidence that you have given in the three witness statements you have made, is it?

A. I think I didn't give that.

Q. What you actually said to Mr Berezovsky is he should

clear out of ORT, that's right, isn't it?

A. I do not recall the specific words. I've said that several times. I cannot now vouch for the wording and what exact wording I've used but I think I have described the meaning in quite sufficient detail.

Q. And what you eventually said in anger was to threaten that if Mr Berezovsky did not fall in line he would end up like Gusinsky. That's right, isn't it?

A. No, that is not correct at all, and basically there was no need to do that. There was nothing to discuss with Mr Berezovsky. The point of our meeting was to inform him about the decision that has been taken, and this has been done.

MRS JUSTICE GLOSTER: What was the basis upon which Mr Berezovsky was exerting influence beforehand? Was there some agreement that he should be allowed to do that? What was the position?

A. Your Ladyship, that was a certain situation that came to be. I've inherited it when I've arrived to work at the president's administration, this situation already existed, ORT existed in the way it was, and Mr Berezovsky informally was exerting influence on everything that was done at ORT. If not upon everything, then at least upon the lion's share, at least the political coverage and publicly notable

coverage. That was a fact of life.

It was not formalised in any way. It was a certain tool of influence for him, and that tool of influence has arisen prior to me being involved in all these things. And for some point in time it was tolerated, I can't say that everyone was happy with that but it just was going on, and obviously that awful tragedy with Kursk has pushed us to stop, to cease that impact that came to be.

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

MR RABINOWITZ: And he was able, was he not, to appoint his own people as directors of ORT?

A. Do you mean the board of directors or executive directors?

Q. The board of directors of ORT.

A. Naturally, any shareholder has the right to nominate people into the board of directors and to vote for them at meetings. Yes, this is correct.

Q. And is it not right that in the summer of 2000 Mr Berezovsky appointed his daughter, Yekaterina Berezovsky, as a director?

A. To be honest, I do not recall.

Q. And he appointed the anchor Sergei Dorenko as a director?

A. I do not recall this. I do not recall who was on the

board of directors. To be honest, I do not recall precisely who was in the board of directors on behalf of the state. The board of directors of ORT usually had nothing to do with the content of ORT coverage, and anyone who is involved with that company would know that.

The board of directors would look at some general organisational or financial aspects of the company activity, but it never scrutinised the content of the coverage.

I was more involved with the politics because I worked at the president's administration, and I wasn't much concerned with the composition of the board of directors. I do not recall their composition.

Q. Perhaps I can just refer you to some coverage of this at H(A)19, page 217.001 H(A)19/217.001.

MRS JUSTICE GLOSTER: Mr Rabinowitz, in due course will you show me, please, the charter of ORT so --

MR RABINOWITZ: I can give your Ladyship the reference.

MRS JUSTICE GLOSTER: If you just give me the reference, I can look at it.

MR RABINOWITZ: It's H(A)20, page 240 H(A)20/240.

MRS JUSTICE GLOSTER: Thank you.

MR RABINOWITZ: So this is, if you are at H(A)19, page 217.001, a report in the Moscow Times of June 21,

2000. The first paragraph says:

"If there was any doubt about who controlled ORT television, Boris Berezovsky made it clear Tuesday when he put his daughter Yekaterina [Berezovsky] and his favourite anchor, Sergei Dorenko, on the board of directors. ORT, the country's largest television station, is 51 per cent state owned, but its ownership structure has always been ambiguous."

Does that help you in terms of whether these people were appointed to the board of ORT?

A. I didn't know at that point in time that these people were appointed. It wasn't crucial for me. It's impossible to recall what you didn't know. Now I've read this paragraph and this esteemed publication surely wrote it -- written it for a reason, but at that point in time I didn't know that and I wasn't interested in this at that point in time.

Q. And the people Mr Berezovsky appointed to the board were not replaced until after his shares in ORT were sold. Are you aware of that?

A. I do not know that. I am not aware of that. I have never followed that.

Q. I want to turn next to the second of the meetings which took place at the end of August 2000, and that is the further meeting between Mr Berezovsky, President Putin

and yourself in your office in the Kremlin.

Mr Berezovsky said this occurred the day after the previous meeting and I think you accept that that might be right? Is that right?

A. I'm not convinced that it happened the day after the meeting but it definitely happened soon after our first meeting.

Q. You say that at this meeting President Putin told Mr Berezovsky that he wanted Mr Berezovsky to stop his involvement in ORT and to step away from managing the channel. Is that right?

A. Mr Putin, at that meeting, has confirmed that what I said to Mr Berezovsky at our first meeting was correct. The need for the second meeting actually has arisen due to the fact that Mr Berezovsky was so upset that he is stripped of the opportunity to impact ORT that he wanted to hear it personally from the president himself. And he asked me then, "Is it possible to organise such a meeting with the president?" He asked me that during the first meeting. And I told him that I'm not sure that the president would like to meet him but I promised to ask the president.

After that, I had a word with Mr Putin, I've informed him about the meeting that was held, and I told him that such a request has arisen to meet with him, and

to my surprise the president has agreed and said, "Yes, I've got nothing against it. I'll tell him everything I think about the matter. Do organise that meeting". I did organise that meeting, it indeed was held at my offices. It was a very brief meeting, there was not much of substance that was discussed, there was nothing new as compared to the first meeting, nothing new arisen as compared to the first meeting.

- Q. So you say that President Putin was happy to have this meeting because he wanted to tell Mr Berezovsky everything he thought about the matter, and one of the things he would obviously have talked to Mr Berezovsky about at the meeting is the Kursk incident. That's right, isn't it?
- A. To be honest, let us imagine how much can be said within the five minutes considering there are three speakers and each of them would have 1.5 minutes or so, taking into account that everyone is taking part in this conversation.

I do not recall that we have discussed the situation in great detail and in depth. I remember that the meeting was emotional, emotions indeed were flying high, and there was no substantial discussion, no discussion on the merits.

The president did warn, yes, indeed, that

Mr Berezovsky should not impact ORT anymore and that the journalists will be relieved from the need to listen to his instructions, and that was all. Nothing else was discussed at that meeting, if to discount various interjections and emotions.

- Q. Well, given how emotional you tell us President Putin felt about the Kursk incident and Mr Berezovsky's coverage of it, that would have been something that President Putin would have brought up. That's right, isn't it?
- A. Do you know, when people meet up they discuss some things -- it's not necessarily the things that they discuss. The situation was so clear to Mr Berezovsky and Mr Putin and myself, it was extremely clear, and I said, indeed, that it was dramatic at different points for each of the parties, but there was no need to discuss something, to chew over something. The situation was clear and Mr Berezovsky simply was informed about the decision that has been taken. He didn't like that decision one bit and that was his problem.
- Q. You see, I suggest to you it's very likely that the Kursk incident would have been raised by President Putin but you dispute that, do you?
- A. I cannot rule this out. I indeed do not recall the

specific words that were said during the discussion. He might have mentioned that or not. The situation with Kursk was quite clear, was quite obvious for Mr Berezovsky, for myself and for the president. It was obvious for everyone. And it was obvious that Mr Berezovsky, in this dramatic -- in this catastrophic situation where people died, that was a real drama and a real tragedy, he used this situation in a cynical way in order to gain political capital, in order to get engaged in political PR. And it was so obvious it didn't need any qualification and we had nothing to discuss during that meeting.

- Q. Well, in this emotional meeting, do you accept that Mr Gusinsky's name was brought up again?
- A. I do not think that mention of Mr Gusinsky was something that was mentioned at that meeting. He had nothing to do with that meeting and there was no reason to mention him, so I do not think so.
- Q. Can I ask you, please, to go to bundle H(A)21 and turn to page 169 in the English H(A)21/169, 167 in the Russian H(A)21/167.

This, as you probably recognise, Mr Voloshin, is an open letter from Mr Berezovsky published in the Kommersant Daily on 5 September 2000. Just looking at -- it's an open letter to President Putin. Just

looking at the first paragraph:

"Last week, a high-ranking official in your administration issued me an ultimatum: to transfer the stake in ORT -- which I control -- to state management or follow Gusinsky; apparently he meant [to] Butyrka prison. The reason behind this proposal is your displeasure over ORT's coverage of the Kursk submarine accident. 'The president wishes to run ORT himself', your representative [said] to me."

The representative that Mr Berezovsky is referring to here would have been you, Mr Voloshin, that's right, isn't it?

- A. I think that he meant -- I think -- I mean Mr Berezovsky, when he was addressing Mr Putin with this open letter, he meant myself. I think it was too daring to him to mention Putin himself, therefore he mentioned myself. I think that's the way it was.
- Q. You'll see that he refers to you having issued an ultimatum to him to transfer the stake in ORT "to state management or follow Gusinsky". And that is exactly what happened at that meeting, Mr Voloshin, that's right, isn't it? You issued him an ultimatum?
- A. Certainly this is not the way it was. This is the fantasies of Mr Berezovsky, and the fantasy here is not just about the threats, it's the fantasies about all the

various conversations about shares.

And I would like to draw your attention to the fact that, compared to what he said on other occasions, here it looks like it's discussed that we supposedly wanted to pass the stake into state ownership. In my understanding, to pass something into state ownership this is not to sell.

And there are lots of other things in this open letter. I psychologically understand why Mr Berezovsky did this, but it's quite obvious that in these documents things are not true.

- Q. At no stage, Mr Voloshin, did you or anyone else at the time come out and say that anything that Mr Berezovsky had said in this open letter was not true. That's right, isn't it?
- A. I never publicly commented this open letter, this is true. However, it would have been impossible, we would have had to double the staff of Mr -- of the president's administration to be able to comment on every utterance of Mr Berezovsky, including utterances directed at us. Also he constantly was saying different things, we would never, ever catch up with him to comment on his utterances every time.
- Q. Mr Voloshin, the incident with the Kursk and what happened afterwards was something about which you have

told us both you and President Putin felt very strongly. If what Mr Berezovsky was saying about it through the media was utterly false, as you are suggesting, you would at the time have issued a denial, but you never did, did you?

A. Sorry, the denial of what? I beg your pardon.

Q. That what he was saying here was in fact what had happened?

A. This statement is about the fate of ORT overall.

Mr Berezovsky, over the course of year 2000, I think had about ten utterances with regard to ORT. He was talking about selling these shares to the state, that he wanted to sell them to private investors, that he doesn't want to sell them to the state or to private investors, that he wants to pass them into management -- into the trust management of the state or he doesn't wish to do so.

Then he wanted to create some teletrust and pass the actions -- the shares to be managed by a team of journalists. Then he changed his mind again. And do believe me, we had no need to comment on this every time and we couldn't do so. You have to look at the context, and obviously now we're inside these complicated proceedings.

But if you look at it, in Russia, year 2000 was quite dramatic. Apart from Mr Berezovsky, there were

lots of other things happening in the country. We had were several tragedies, a string of tragedies. We had an explosion at Pushkinskaya Ploshchad metro station, that was in August. Then there was a dreadful Kursk incident when 118 people died with everyone watching, that was a real tragedy.

A bit later, Ostankino TV tower burnt down, and at some point I thought that everything was just crumbling down. At the same time we were adopting new political laws, promoting new economic laws, for example introducing the new tax laws, looking at the budget. We had plenty to do apart from commenting on the nonstop utterances of Mr Berezovsky. Do take my word for it, we simply didn't have time.

Q. Mr Voloshin, you have mentioned utterances that you say Mr Berezovsky had made about the fate of ORT, but what is clear about your evidence here is that none of those utterances relate to a conversation that you were supposed to have had with him, and that makes this utterance, if you want to call it that, very different.

You were in a position where someone had claimed that you had had a conversation with them and made a threat to them. The fact that you had not responded to the other utterances is not possibly a reason why you wouldn't want to respond to this one if what he was

saying here was untrue. That's right, isn't it?

A. I disagree with that. I shall repeat, (a), there was no opportunity to comment Mr Berezovsky's utterances because he was making his comments on a daily basis about this thing or another, and each of these comments could have been commented upon. And then, with regard to me personally, apart from some extreme cases, I avoided any public activity, I'm not a public person at all, I never liked any public comments and statements of any sort so I tried to avoid it. I'm not a public politician.

Q. Mr Voloshin, I'm going to suggest to you that your account of your meeting with President Putin and Mr Berezovsky is not accurate and that what happened at that meeting was this: that Mr Berezovsky tried to explain and justify ORT's coverage to President Putin, do you accept that that is what happened there?

A. I disagree. I have absolutely no certainty that that was the case.

Q. And that President Putin said to Mr Berezovsky that he had to give up his shares in ORT to the state or an entity acceptable to the government and that President Putin himself intended to control ORT.

A. Again, this is not the truth. No shares were discussed at these meetings. May I repeat myself, there was no

need to do that. All objectives that we had have been resolved during these meetings and within the next few days after the end of these meetings. And after that, everything with ORT was to our satisfaction.

- Q. And President Putin confirmed at this meeting that the threat -- that unless Mr Berezovsky did as he said he would go the way of Mr Gusinsky -- sorry, he explained that the threat that he would go the way of Mr Gusinsky had emanated from President Putin, the threat that you had made to him at the previous meeting?
- A. No, there were no threats, that I recall correctly. Why would we need to threaten because we've solved all the objections during these meetings. If one wants to get something from a person, in theory, one could suppose that the person that you wanted to get something from can be threatened. But we didn't need to get anything from Mr Berezovsky, we've resolved all the objectives during the meetings and several days after the meetings. We simply didn't have the subject of our conversation, of our discussion anymore.
- Q. You could only have solved all of your objectives during these meetings if Mr Berezovsky was going to do what you told him to do, which was to stay away from trying to control ORT. You don't solve the objectives simply by having that conversation, or do you say that you do

solve it?

- A. To be precise, perhaps we were exceedingly polite with regard to Mr Berezovsky. We didn't have to meet with him at all, it would have been enough to instruct the ORT management and ORT journalists not to listen to Mr Berezovsky anymore, but then we would have embarrassed us -- embarrassed them, inconvenienced them because he would have continued to call them and they would somehow have to dodge his phone calls. So we wanted to be direct and we wanted to inform Mr Berezovsky himself about that. This is the essence of what happened.
- Q. But what was it that you said which was going to ensure that Mr Berezovsky did as you were telling him to do?
- A. I do beg your pardon, I didn't understand the question.
- Q. Well, on your evidence, you were instructing Mr Berezovsky to stay out of ORT and not get involved. Are you saying that merely telling him this would have been enough? Politely? Or were you identifying what would happen to him if he didn't do as he was told?
- A. No, I didn't tell anything of sorts to him. Let me repeat, everything that was said has been already described by me. There was no need to discuss that with him in detail. Everything that would have happened if he did not follow these -- this advice, and I think he

did start to follow this advice because, strangely enough, he stopped calling to ORT. But even if it were not the case, the journalists would have not been listening to him anyway. This is all that's happened.

And I'll tell you, the journalists were delighted to be rid of this influence. And those that were not happy to be rid of this influence, for example, as in the case with Mr Dorenko that couldn't get rid of this influence, his show was closed, and I think that happened a week or a week and a half after our conversation. This is all.

Q. I want to just move to what you say at paragraph 19 of your witness statement, E1, tab 1, page 7 in the English E1/01/7 and page 19 E1/01/19 in the Russian.

You say there, and you're talking here I think about your first meeting with Mr Berezovsky, you say:

"In view of my friendship by that time with Mr Abramovich, I believe that I probably discussed my meeting with Mr Berezovsky with him..."

Then, if you go to paragraph 23 of this witness statement, you say there that you also discussed the second meeting. You say it's "probable" that you would have discussed your second meeting with Mr Berezovsky with Mr Abramovich.

Now, the meetings that you had with Mr Berezovsky were part of your official business as the head of the

presidential administration, they were not social calls, were they?

A. Do you mean, the meetings with whom?

Q. The two meetings that you had with Mr Berezovsky on --

A. Certainly they were purely business meetings.

Q. And they were part of your official business as the head of the presidential administration, is that right?

A. One could put it this way, although we've discussed, we were talking about stopping some sort of informal impact or influence. This is a nebulous substance, it's very hard to place it whether into a formal or informal function box, but overall I could agree with your definition.

Q. And are you suggesting in your evidence that at this time, in the summer of 2000, it was commonplace for you to keep Mr Abramovich informed about your government business generally?

A. I disagree. I've never stated this.

Q. I think you are saying that it was not commonplace for you to keep Mr Abramovich informed about your government business generally. Is that what you're saying?

A. Yes, you're absolutely correct, there was no practice for me to inform Mr Abramovich about my government business. There wasn't such practice.

Q. Can you explain to us why you spoke to him about these

conversations with Mr Berezovsky then?

- A. I certainly could clarify, and once more I would like to draw your attention that I indeed do not recall these meetings with Mr Abramovich when I spoke about them with him, and in my witness statements I have stated, and I can confirm this now, and it seemed to me quite likely that I did discuss it with him. That follows from the logic of our friendly relationship with Mr Abramovich and this is so indeed.

Why I do not -- why I discussed these meetings with him with a high degree of certainty was because these meetings have touched upon Mr Berezovsky with whom Mr Abramovich had business relationship. And they were quite closely linked in business and, naturally, it had to worry him and I think it's quite logical.

- Q. Are you suggesting that whenever you had a government meeting touching on business to do with Mr Berezovsky, you would tell Mr Abramovich about it?

- A. I didn't have so many business meetings with Mr Berezovsky, and the activity of Mr Berezovsky is highly exaggerated in history. But if this -- if my meeting with Mr Berezovsky in any way would touch upon Mr Abramovich, who was and is my friend, then certainly it would have been logical that I would share this with him later. There was no such governmental secret that

I would discuss with Mr Berezovsky and something that I would not be able to tell Mr Abramovich about later on, if I considered that to be interesting, useful or necessary.

Q. Did you tell Mr Abramovich about these meetings because you wanted him to act as an intermediary with Mr Berezovsky?

A. I beg your pardon, an intermediary? Who had to be an intermediary?

Q. Mr Abramovich, to be an intermediary between the government, you and President Putin, and Mr Berezovsky?

A. Not at all. We have just discussed this in detail, all our meetings with Mr Berezovsky. We didn't need intermediaries in this, we discussed everything directly and even with a deal of emotion.

Q. Well, we've had evidence that on or about 31 August, Mr Abramovich visited Mr Berezovsky in his chateau in France to pass on to him the message that the Kremlin were angry with him. Did you ask Mr Abramovich to pass on that message?

A. I completely do not recall this. I do not recall the fact of such meeting. I don't think I would have even known about this. They communicated between themselves on a regular basis and I didn't track the schedule of their meetings.

Q. Can I ask you next to go to paragraph 29 of your second witness statement. That's in bundle E4, tab 7, page 126 in the English E4/07/126 and 143 in the Russian E4/07/143. Do read it to yourself, if you will.

A. Which point?

Q. Paragraph 29. (Pause)

A. Yes, I have read it.

Q. You explain here that you do not recall having any discussions with Mr Abramovich about the Aeroflot investigation before Mr Glushkov's arrest. You then say:

"After Mr Glushkov's arrest, I remember discussing it with him a few times and Mr Abramovich expressing the view that it was a pity, in light of his medical condition, that Mr Glushkov was held in detention."

And you say that you had this discussion a few times but you don't here identify when you think these discussions were. Presumably, 11 years later, it is difficult to remember exactly when those discussions took place, especially if, as you were, very busy in your job, is that right?

A. I would agree with that. I do indeed not recall the dates of these meetings and discussions.

Q. Now, that was the position in your witness statement until just before the start of the trial. Then on

26 September, that's about a week before the trial, Mr Abramovich served a sixth witness statement, and can I just ask you to look at. That's in bundle E8, behind tab 8. I want you to look at paragraph 13, in the Russian it's at 119 E8/08/119 and in the English at 105 E8/08/105.

Do you see at this point Mr Abramovich suddenly saying, I think this was for the very first time, that he in fact visited you with Mr Krasnenker on the evening of 7 December, do you see that?

A. Yes, indeed, 7 December.

Q. And he says that you discussed the risk of Mr Krasnenker's arrest, and this was on the very day of Mr Glushkov's arrest, yes, 7 December?

A. Yes.

Q. Then what happens is that following this witness statement from Mr Abramovich, four days later, on 30 September, you served a further witness statement. This is your third witness statement, do you remember that?

A. I do not recall the date when I submitted my witness statement.

Q. Okay, take it from me it was four days later. And you exhibited to that witness statement some phone records that had been provided by your former secretary at the

Kremlin. We can see those records if we go to bundle H(A)25 at page 162.007T in the English H(A)25/162.007T and 162.007 in the Russian H(A)25/162.007.

If you could turn to page 007, you see that there is a record of a phone call with Mr Abramovich at 18.19, 6.19, on 7 December. It's the second last entry, do you see that?

MR SUMPTION: My Lady, it's actually 16, I believe.

A. Yes, I do, I do see that.

MRS JUSTICE GLOSTER: Yes, 16, not ...

MR RABINOWITZ: If you go three pages on to .010, 0.10T, again there is a telephone call from Mr Abramovich at 14.12, 2.12, on 8 December. Do you see that?

A. Yes, I can see that. In the first case, indeed, it was 16.19 and the second time it was 14.12.

Q. We obviously can't see from these phone call logs the number which Mr Abramovich telephoned from so one can't really work out from this where Mr Abramovich was telephoning you from, can one?

A. It is indeed, it doesn't follow from these logs where the phone call was placed from.

Q. Can I then ask you, please, to go to your third witness statement. It's at E8, tab 15, I want to look at paragraph 2, and that is at page 189 in the Russian

E8/15/189 and 185 in the English E8/15/185.

You say at paragraph 2 that you:

"... recall speaking to Mr Abramovich shortly after the arrest of Mr Glushkov on 7 December 2000."

And that is a discussion that you don't refer to as having taken place on 7 December in your earlier witness statements.

That's right, isn't it?

A. One second, let me read this.

I think there is no contradiction here.

Q. I'm not suggesting there is.

A. I think we're discussing the same meeting here.

Q. Is what's happened here, Mr Voloshin, that you were shown the phone logs that your secretary produced and from that you have reconstructed that there would have been a meeting with Mr Abramovich following that conversation?

A. No, this is not the case. This is not the case at all. I remember well the meeting itself, and since in my evidence we were discussing these days, I did ask my secretary to reconstruct the schedule of my telephone conversations. And I have seen this conversation; based on the logic of events it was clear that it was during this very conversation we had set up a meeting, and it was quite a dramatic day. I remember about the fact of

that meeting, even without the reminder from my secretary. That was indeed a very dramatic day.

I remember the terrible state of Mr Krasnenker, he was indeed just about -- he was really shaking, because they were on the same case with Mr Glushkov, he worried about his fate and he worried that he might follow the way of Mr Glushkov. It was indeed very dramatic.

I remember that meeting and I actually can, whilst answering that question, I can say that Mr Krasnenker was doing black jokes that Mr Glushkov was imprisoned during some professional holiday, such as the airline employees day, and he was joking that, you know, how could it be, you know, a professional holiday and he was put in prison on the same day.

Q. You see, I asked you earlier about whether or not you could remember, 11 years later, when these discussions took place, and I said that 11 years later it would be difficult to remember exactly when those discussions took place, and you said:

"I would agree with that. I do indeed not recall the dates of these meetings and discussions."

That is why I suggest to you what has happened here is that you have reconstructed back from telephone logs, and perhaps talking to Mr Abramovich, a date on which you now say this meeting took place. That's right, is

it not?

- A. I disagree with you. Indeed many years on it's difficult to recall certain events. But some events, if they are linked with some internal or external dramas or dramatic events, I think it's normal quality of human memory. You remember the most vivid and memorable events, especially if they're linked to some other events. So I have no other doubts, not a slightest doubt, that the meeting happened on that very day. I remember well the state of Mr Krasnenker and I remember the worry of Mr Abramovich who was a close friend of Mr Krasnenker.
- Q. If you remember it so well, why did you not mention this meeting with Mr Krasnenker in paragraph 29 of your second witness statement?
- A. I do beg your pardon, I didn't understand the question. Why did I have to mention it again in that paragraph, in paragraph 29?
- Q. That was your earlier witness statement. It's not mentioning it again, it would be mentioning it when the point first arose.
- A. I mention it since I was asked about it by our lawyers. I don't know, I remember many things, and in my witness statements I've put not -- far from everything that I remember, to be honest.

The way the work was organised was as follows:

I recalled some things myself and I was asked about some things by my lawyers. If I didn't think it material for the case I perhaps would have omitted to mention it. If I thought that something was material or important for the case, I could have written about it. There were many serious and dramatic events that were left outside the framework of my witness statements and I think it's not the only case. There were many other events happening.

- Q. Can I just ask you this: the secretary that you had at the Kremlin who provided you with these phone logs must also have kept for you a record of meetings which you arranged while you were at work. Is that right?
- A. This is a software programme, this is not a desk diary of my secretary. That's a software programme, and I have requested it both for the first issue and the second issue when I started being interested in these dates and I wanted to restore the flow of events but, unfortunately, she didn't have the opportunity with regard to the schedule. It was some other software programme that was not preserved and it was -- it did survive with regard to telephone logs.

But in any case if you mean, and I understand from the context that you mean that that schedule should have

reflected our meeting with Mr Abramovich and Mr Krasnenker, it would have been unlikely for that meeting to be reflected there because that happened at my home and my secretaries never kept a schedule of my home meetings.

Q. Mr Voloshin, I have to suggest to you that you can't really recall that this meeting took place on 7 December some 11 years ago, can you?

A. I disagree. I do indeed recall this meeting well, and if such dramatic events didn't happen on that very day it would be hard for me to recall the date exactly. But since the arrest of Mr Glushkov happened on that day, and that was a serious event, would you agree? And then secondly, that event touched upon Mr Abramovich very closely due to the fact that Mr Krasnenker, who was a close friend of Mr Abramovich, was in the same case and he might have been facing something similar. I have absolutely no doubt, I even recall my emotions that accompanied that meeting.

Q. The fact that he was arrested that day, he was still under arrest two days later, for example, Mr Krasnenker might still have been worried two days later. That's right, isn't it?

A. He could have been still worried, indeed, but unfortunately Mr Glushkov still was in custody for

a long time after that, and of course the situation was dramatic, namely on the first day when suddenly the arrest of Mr Glushkov was suddenly announced. That was the dramatic moment. And obviously, internally, Mr Glushkov had spent several years behind bars, of course internally every day for him was dramatic, I understand that well. But for people outside of that, the external people such as myself, certainly what was memorable, that was the day when that happened.

Q. Why was the arrest of Mr Glushkov a memorable day for you, Mr Voloshin? It would obviously be a memorable day for Mr Glushkov, but why would it be a memorable day for you so that you remember it 11 years later?

A. Firstly, I personally knew Mr Glushkov, I wasn't a close associate of his but I did know him, and if someone who you know is put in prison that affects any normal person, in my opinion. And secondly, Mr Glushkov was involved in quite a publicised Aeroflot case and that was in the public view, it was a publicly important event. Thirdly, it directly touched upon a friend of Mr Abramovich who, in his turn, was my friend and he was worried about this as well. So I had many reasons to remember this event well.

Q. You see earlier, when we were talking about Mr Gusinsky's arrest, you said you couldn't remember

when he was arrested at all. But now with Mr Glushkov you say you've got a clear recollection of the exact day he was arrested, is that your evidence?

- A. Exactly, because Mr Gusinsky, I might have met him once or twice in my life, and with Mr Glushkov I knew him a lot better and we had shared circle of friends. Whereas with Mr Gusinsky I had no shared circle of friends.

I recall the arrest of Mr Gusinsky, I just simply don't recall the date because, on that date, I personally wasn't involved in this in any way. And in the case of Mr Glushkov, that happened with people that I was linked with in close friendship, and on the day of arrest of Mr Gusinsky I didn't meet anyone with regard to arrest of Mr Gusinsky. And on the day of arrest of Mr Glushkov, there was a reason to have a meeting between me and Mr Abramovich and Mr Krasnenker, and this is exactly -- it's logical that I recall this date well.

- Q. Can I just ask you to look at paragraph 6 of your third witness statement, please. You are giving evidence here about a birthday party on the 9th, late in the day on 9 December. You explain that the birthday party was at Mr Mamut's house, and is it right that there were around ten guests? A small party, yes?

- A. Yes, there was such a party.

Q. And you say that Mr Abramovich was there, is that right?

A. Yes, this is the case.

Q. And you were there with your wife, you say?

A. And this is true as well.

Q. And you were President Putin's chief of staff at the time, that's right, isn't it?

A. This is correct.

Q. And Mr Kasyanov, who was there, was the prime minister of the Russian Federation, is that right?

A. As far as I recall, this is true.

Q. The other couple who were there, Mr Valentin Yumashev and Ms Tatyana Dyachenko, Tatyana Dyachenko is President Yeltsin's daughter, correct?

A. Yes, this is correct.

Q. And Mr Yumashev, her husband, was President Yeltsin's son-in-law and his former chief of staff?

A. This is partially true. I think at that point in time he wasn't a son-in-law but he was already an ex-chief of staff.

Q. And would it be fair to say that this was a party attended by people who made up, in part at least, the inner circle of President Putin's advisers?

A. I wouldn't put it in this way. I think there were people not based on the principle of whether they were advisers of Mr Putin or not, there was some other

principle of inviting them. And, as far as I recall, there were people that only saw Putin on TV, for example Mr Golukhov. I'm not quite sure that he met Mr Putin at that point in time, but surely he had seen him on TV many times.

MR RABINOWITZ: My Lady, I'm going to try to finish with this witness if I may, I don't have very much further to go. I'm in your Ladyship's hands.

MRS JUSTICE GLOSTER: How much longer?

MR RABINOWITZ: Five minutes.

MRS JUSTICE GLOSTER: I'll sit for five minutes but if it's longer than that I'll rise.

MR RABINOWITZ: I suppose we have re-examination as well.

MRS JUSTICE GLOSTER: Then I'll rise now.

MR SUMPTION: Not so far.

MRS JUSTICE GLOSTER: Then I'll go on.

MR RABINOWITZ: Mr Voloshin, Mr Berezovsky's evidence is that when he and Mr Patarkatsishvili met with Mr Abramovich in Cap d'Antibes in early December, Mr Abramovich made threats to Mr Berezovsky and Mr Patarkatsishvili and demanded that they sell him their shares in ORT. I'm not going to ask you to comment on that, Mr Voloshin, you weren't there.

At that meeting, however, Mr Berezovsky says that Mr Abramovich told him that he had come to deliver

a message at your request as well as at President Putin's. Do you deny that you did ask Mr Abramovich to go to Mr Berezovsky and tell him that unless he surrendered his shares in ORT, Mr Glushkov would remain in prison and the shares would be expropriated?

- A. It certainly is not true.
- Q. Mr Patarkatsishvili told Mr Berezovsky's lawyers in 2005 that some time after this meeting he had a further personal conversation with you at which you also promised that Mr Glushkov would be released. I'm not going to show you that, but in your witness statement you refer to an interview which Mr Patarkatsishvili gave to Kommersant Daily on 4 July 2001.

I wonder if I can show you that document. H(A)37 at page 4 in the English H(A)37/4 and 4R in the Russian H(A)37/4R. If you go to -- make sure you recognise the document and you know what it is, you can see it's an interview with Kommersant Daily on 4 July 2001. If you go to page 6 of the document, perhaps we can pick it up at page 5, Gevorkian says to Mr Patarkatsishvili:

"In actual fact, they dealt a blow to Glushkov."

Mr Patarkatsishvili says:

"The Kremlin decided to ostracise Berezovsky by pressuring his close associates. That is why they

picked out Nikolai Glushkov, the former deputy director general of Aeroflot and close friend of Berezovsky's and mine. He was arrested December 7, 2000. It became clear some time later that the organisers had failed to attain a resounding effect, and the Aeroflot case began falling to pieces. The charges against Glushkov kept changing at an astonishing pace. One might wonder, why all that fuss if you claim to have reliable evidence, gentlemen."

Then Gevorkian said:

"You mentioned attempts to pressure Berezovsky.

What could the actual motif behind it be?

"Boris Abramovich and I underwent all sorts of pressure, before and after Glushkov's arrest. They tried to bargain the Aeroflot case closure for the shares of ORT television. We agreed to it when Glushkov was arrested. We sold our shares. Alexander Voloshin promised that Glushkov would be released, but he cheated us."

I suggest to you, Mr Voloshin, that what Mr Patarkatsishvili said here, and indeed to his lawyers, was correct, that there was a conversation between you and him after Mr Glushkov's arrest during which you promised that Mr Glushkov would be released, and that is true, is it not?

A. This is untrue for one simple reason, actually two simple reasons. (a), I couldn't promise to anyone that Mr Glushkov would be released because I had nothing to do with it, and I myself sincerely believed that it would be better if people were put behind bars for economic crimes less. So I had nothing to do with this case or any other similar cases, I couldn't promise anything of that sort to anyone.

And secondly, never in my life I met one-to-one or communicated in any way with Mr Patarkatsishvili. I saw him several times in the company of Mr Berezovsky but I never -- we didn't have that sort of relationship that we would meet one to one. I cannot recall a single case of that. And I cannot recall a single telephone conversation. Maybe he might have passed some request via third parties to myself, or maybe he meant something of that sort, but we never communicated with him directly. It's very easy for me to disprove it -- this.

MR RABINOWITZ: Thank you, Mr Voloshin, I don't have any further questions for you.

MRS JUSTICE GLOSTER: Mr Malek?

MR MALEK: No questions, my Lady.

MR ADKIN: No questions, my Lady.

MR SUMPTION: No re-examination.

MRS JUSTICE GLOSTER: Thank you very much indeed,

Mr Voloshin, for coming along to give your evidence.

You may be released. Thank you.

(The witness withdrew)

Very well, I'll sit at 2.10.

(1.05 pm)

(The short adjournment)

(2.10 pm)

MS DAVIES: My Lady, I call Mr Kapkov.

MRS JUSTICE GLOSTER: Yes, very well.

MR SERGEY KAPKOV (affirmed)

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

Examination-in-chief by MS DAVIES

MS DAVIES: Mr Kapkov, could you be given bundle E8 at
tab 10, please.

You should find there your witness statement in this
action, do you see that? The Russian version starts at
page 38 E8/10/38. If you turn forward to page 140, do
you see your signature?

A. Yes.

Q. There are two corrections you wish to make to that
statement, there should be a sheet on the table in front
of you with the corrections in English and in Russian.
Could you have a look at that.

Firstly at paragraph 4 there's a correction
underlined in blue. And also then at paragraph 8,

there's a correction to a date, again underlined in blue.

Can you confirm that they're corrections you wish to make to your witness statement?

A. Yes, these are the corrections that I would like to make.

Q. Subject to those corrections, is your witness statement true?

A. Yes, they are.

MS DAVIES: Could you wait there, please. There will be some questions on behalf of Mr Berezovsky.

Cross-examination by MR GILLIS

MR GILLIS: Good afternoon, Mr Kapkov.

A. Good afternoon.

Q. You have indicated in your witness statement that in December 2000 you'd been living in Moscow for just over a year, is that correct?

A. Yes.

Q. And that you were working for a company called UPI which provided campaign advice to a number of Russian politicians. Is that correct?

A. That is correct.

Q. And that you had met Mr Abramovich the year before at the end of 1999, is that correct?

A. Yes, that is true.

- Q. And that in the corrections we see, you say that you were asked to help him to campaign to become a member of the Duma and to organise the Chukotka part of his electoral campaign to run for the governor of Chukotka?
- A. Well, first I worked for Mr Abramovich when he was running for the State Duma, then when the gubernatorial campaign started I was head of his campaign in Chukotka.
- Q. Later on you state that you were formally appointed to assist Mr Abramovich who was then a member of the Duma. Can you recall on what date you were appointed as his assistant?
- A. I believe that it was in the spring 2000, I think I was appointed assistant of the MP for Chukotka, I worked with the local community, local population, and I answered the letters that MP Abramovich received from the local population, from people living in that community.
- Q. So is it correct that you became one of Mr Abramovich's deputies in Chukotka?
- A. No. Under Russian law an MP has the right to have five assistants, five aides, whose salaries are paid by the local budget, by the budget, two working for the Duma and three working in the region for which he was elected, and I worked as his assistant in that region. And I was paid, my salary was paid by the local

government, by the government of the okrug or region of Chukotka, out of the Chukotka budget, out of the coffers of the Chukotka okrug.

Q. Can I just get this clear, are you saying that you did or you did not act as a deputy to Mr Abramovich in Chukotka?

A. In the year 2000, until such time as Roman Abramovich became governor, I was his assistant in the State Duma. And then, when he was elected, I no longer worked for him. And in 2001 I wanted to work for him and he offered me a position of the assistant to the governor in charge of the press relations. And when I started working in Chukotka, I made a career and I became head of the culture, sport, tourism and youth policies department of Chukotka. But by that time, he had already been elected governor of Chukotka.

Q. So you say you were not one of his deputies?

A. You see, the structure of the government of the autonomous okrug of Chukotka is such that a governor has deputies and has heads of department. I was head of the department and member of parliament of the Chukotka Autonomous Okrug or region.

Q. So is this fair, that you were working closely with Mr Abramovich in Chukotka?

A. Yes.

Q. Is it right to say that you could be fairly described as an ally of Mr Abramovich or a close associate of Mr Abramovich? Would you agree with those descriptions?

A. So far as the tasks were concerned that we were in charge of in Chukotka, that was the case. My remit was to develop culture, sports and tourism in the Chukotka Autonomous Okrug.

Q. And more generally, moving from Chukotka, would you describe yourself as being an ally or a close associate of Mr Abramovich?

A. I would agree with this statement within the framework of the Chukotka okrug only. We had a large team of new people who worked there, who developed the region, who lived there, and I lived there at that time as well.

Q. Could I ask that a newspaper, the Moscow News article dated 16 March 2011 be provided. (Handed)

THE INTERPRETER: Excuse me, does the article give a Russian translation?

MR GILLIS: I'm afraid we only have it in the English but there are just one or two passages I would ask you to look at.

This is a Moscow News article dated 16 March 2011 and the headline describes you as an ally of Mr Abramovich, do you see that?

The title indicates:

"Abramovich ally becomes Gorky Park director."

Then if I could take you to the first paragraph, it says:

"Run-down Gorky Park has a new boss and the appointment of Sergey Kapkov as director could add weight to rumours that Roman Abramovich is ready to bankroll planned refurbishment."

Would you disagree with that description of yourself as being an "ally" of Mr Abramovich?

- A. I think that the word "ally" has a broad range of meanings, and if you look at this word from a broad range of perspectives then I would agree with this.
- Q. I'm just trying to understand the nature of your relationship with Mr Abramovich. Could I ask you to look at another newspaper article and, again, I'm afraid this is just in English, and this is a Daily Telegraph article, dated 31 March 2011. (Handed)

Mr Kapkov, if I could again just indicate that this is an article which is headlined:

"Roman Abramovich to help turn Gorky Park into Moscow version of Hyde Park."

If I could take you to the top of the second page, maybe the translator could show you the top of the second page. At the top of that second page, you are quoted as saying:

"'What is there in Hyde Park that we cannot have in Gorky Park?' Sergey Kapkov, the park's general director and a close associate of the oligarch's, told the Gazeta.Ru online."

Again, would you accept that as being an accurate description of your relationship with Mr Abramovich, "a close associate"?

- A. No, this is not a fair characterisation because I worked in Chukotka for three years, I spent three years in the administration of the okrug, then I was elected to the State Duma from the Mardovi(?) and Samara region, not from Chukotka mind you.

And after that, for a second time I was elected to the State Duma, and when the new Mayor of Moscow was appointed he invited me to become head of the Gorky Park, being aware of the -- my track record and my successes in the field of culture in Chukotka.

Throughout all that time, during ten years, my salary was paid in the State Duma, in the administration of the Chukotka okrug, and I had an income from my investment activity during ten years -- for a period of ten years I was a state employee, state official.

- Q. Just sticking with your relationship with Mr Abramovich, is it not the case that he also put you in charge of the National Football Academy which he had set up and which

he was very proud of?

A. Well, because under Russian law an MP, a deputy member of the State Duma, cannot carry on any activity in the National Football Academy. I worked for free, it was volunteering work for me, and my task was to work on the policy of the development of football in the country because I am the vice president of the Russian Football Union, which basically is the Russian football association for all practical purposes.

Q. Putting aside the question of whether you were being paid, is it the case that Mr Abramovich was involved in putting you in charge of the National Football Academy of which he is proud?

A. Well, the National Football Academy was put together by myself, together with my like-minded colleagues and comrades, and the trusteeship council of the academy was indeed headed by Roman Arkadievich Abramovich.

Q. Can I just ask you to go back to the first newspaper article I handed up, the Moscow News, dated 16 March 2001 (sic).

Looking at the third paragraph, that reads in relation to you:

"More recently he has been in charge of Russia's National Football Academy set up and funded by the soccer-loving tycoon."

That's referring to Mr Abramovich. Now, do you accept that Mr Abramovich set up the National Football Academy?

A. I agree with the statement that Mr Abramovich, acting through the National Football Academy, did help the Russian national football association.

Q. And is it the case that you have continued dealings with Mr Abramovich through the National Football Academy?

A. The objective of the National Football Academy was to decide on the strategy for Russian football and for the strategy for developing youth football, and we worked on this together with the Russian Football Union.

Part of the money was provided by Mr Abramovich, part of the money was funded by the local authorities in the various regions, and part of the funds came from other private sponsors.

Q. But my question was whether you continued to have dealings with Mr Abramovich through the National Football Academy. Do you?

A. Once a year I made a presentation to Mr Abramovich, the whole team, a large team of our people came to him and made a presentation of our plans for the next year, how many fields we're going to build for the youngsters and what programmes we would be putting in place for youngsters, and we presented a budget for him, and

a part of this was funded by Mr Abramovich.

Q. Well, Mr Kapkov, you've been described as Mr Abramovich's closest ally in Russian football. Would you agree with that description?

A. I would be prepared to agree with the statement that we shared the same views with Mr Abramovich with respect to the strategy for the development of Russian football.

Q. Can I please just pass up another newspaper article, this time from the Daily Mail, dated 14 January 2010.

(Handed). This is dealing with the position of Mr Hiddink, who was the manager of the Russian national football team. If I can just read to you the third and fourth paragraphs:

"It last night emerged that the agreement came to an end at the turn of the year, and NAS [that's the National Football Academy] boss Sergey Kapkov said he was relaxed about reports that Hiddink was being lined up to take over at Juventus. 'He is free to take any decision', said Abramovich's closest ally in Russian football."

I put to you that's a fair description of the nature of your relationship, in relation to football, that you are closest allies.

A. Roman Arkadievich Abramovich, and this is not a secret, did fund the arrival of Guus Hiddink to Russia, and he

paid his salary, after the president of the Russian Football Union was replaced by someone else, and the new person believed that Hiddink should no longer be working in Russia and that he would be bringing in someone else, and that explains this comment.

Q. So are you agreeing or disagreeing with the suggestion that you can be regarded as Mr Abramovich's closest ally in Russian football?

A. One can consider me as a like-minded person with Mr Roman Abramovich insofar as the development of Russian football is concerned, and when we, together, invited a foreign trainer to become the head trainer of the Russian national team, in that sense, we were like-minded individuals.

Q. You say in your witness statement at paragraph 3 that you're the deputy director of the Moscow city government department of culture. Do you see that?

A. Yes, I can see that.

Q. And it's right, isn't it, that that department appointed you as a director of the project to regenerate Moscow's Gorky Park, is that correct?

A. Yes, I was appointed director of Gorky Park, I was appointed by the director of the culture department of the city of Moscow, and now I am director of the department of culture of the city of Moscow. And

Gorky Park is a cultural establishment of Moscow, it's owned by the government, it's owned by the state, and therefore I, according to the charter of the city, I am appointed by the director of the culture department of the city.

Q. And it's been reported that Mr Abramovich is helping to bankroll the regeneration of Gorky Park, is that correct?

A. Mr Abramovich showed his interest in restoring a cultural monument, an exhibition pavilion called the Hexagon in Gorky Park. All the rest is funded out of the budget of the city of Moscow.

Q. Do you have continuing relationships with Mr Abramovich in relation to the Gorky Park development?

A. Well, over the past month and a half I'm no longer director of Gorky Park. I was appointed deputy director of the department of culture, and I'm now director head of the department of culture of the city of Moscow. Therefore Gorky Park is one of the 917 establishments or agencies that I govern.

Q. So I ask again, do you have a continuing relationship with Mr Abramovich in relation to the Gorky Park development?

A. Well, as of today, at the time of speaking, Park Gorky is funded by the city of Moscow budget.

Roman Abramovich did have an idea to restore a monument, an exhibition pavilion called Hexagon, on the territory of Gorky Park. That idea has not thus far been implemented.

- Q. Mr Kapkov, would you agree with me that your witness statement gives no indication that at the present time you have a continuing relationship with Mr Abramovich and it creates the impression that, from December 2000, really your paths separated?
- A. It's not entirely the case. I think until December 2003 I was head of the culture department of the Chukotka okrug, then I was -- then I had a second baby, a new baby, it was difficult for me to work there and so I came to Roman and I told him that, for family reasons, I can no longer keep up with the speed and I asked for his indulgence, and I ran for -- I stood for the Duma and so I moved, or basically I came back to Moscow.
- Q. I suggest to you, Mr Kapkov, that you had a continuing relationship through Chukotka, you have a continuing relationship with Mr Abramovich now through football, and equally so through the Gorky Park development. Is that correct?
- A. No.
- Q. Would you describe Mr Abramovich as a friend?
- A. I believe that Roman is my friend, yes. I consider him

as a friend.

Q. You socialise with him?

A. From time to time, yes, definitely.

Q. And Mr Kapkov, do you not think it would have been relevant to tell this court of your continuing relationship with Mr Abramovich?

A. I have an ongoing relationship with Mr Abramovich and I'm his friend, and the various stories in the press basically say that if he goes to a football match, because he is a high profile individual and his appearance draws a lot of attention, and when he goes there I'm there as well because I'm vice president of the national football union. And if he goes to an exhibition, a high profile exhibition in Moscow, I'm also present there in my capacity as director of the culture department of the city of Moscow.

It's simply that every time, every time he appears in public means additional work for me because he comes to an exhibition as a member of the public and I in my capacity as director of the department, or if he goes to see a football match, he goes there to root for a team and then I come there in my capacity as head of the football union.

Q. All right, well, let me move on.

As you are aware, the question of Mr Abramovich's

whereabouts in December 2000 is an important issue in these proceedings. You're aware of that, aren't you?

A. Yes.

Q. And it's in relation to that issue that you have given evidence on Mr Abramovich's behalf, so I'd like to go back to December 2000, when you were helping to organise Mr Abramovich's campaign for the governorship of Chukotka. In that role, did you keep diaries of your meetings in connection with the campaign, or was one kept for you?

A. Well, we definitely did have an election campaign plan because in the course of the elections every day is precious, and because this was a very high profile election campaign, and the first election campaign where I was head of the campaign staff, I definitely remember that campaign very well. And also after that campaign I have never done anything remotely related to elections because, after that, I became a government official.

Q. My question was in relation to whether there were any diaries that were being kept.

A. Yes, things were recorded but I have not retained any of those documents.

Q. Did you look for them?

A. Well, I did look for some of the things, but then there were others that I knew that it made no sense to look

for them because we did not retain past electoral campaign plans, for instance, because after the election they make no sense, they're not important, because either the candidate has been elected or they have not been elected. It's either/or.

Q. You said in your witness statement that the campaign was being led by Ms Russova, and that you reported to Ms Russova at a company called UPI which provided campaign advice to a number of Russian politicians, do you recall that?

A. Yes. Yes, that is the case.

Q. Do you know whether UPI still exists?

A. No, due to the tragic death, passing away of Julia Russova, the company was wound up.

Q. So is this right, you have not been able to obtain any documents from UPI in relation to meetings that were taking place in December 2000?

A. I did not even look for those because, first of all, certain things I remembered, and then there were others that I knew that I could no longer locate.

Q. So is this right, there is no documentary evidence that supports your dating of the meetings that you say took place 11 years ago?

A. Well, I have my recollections, I have my memory, and I remember those things because those dates were very

important to me, so there is just me.

Q. So I think you're agreeing with me, then, are you, that there's no documentary evidence?

A. I have no documentary evidence. All I have is, well, my words.

Q. Now, is this right, that during the gubernatorial campaign in relation to Chukotka, that was originally due to start in the first week of December but was delayed, is that correct?

A. Yes.

Q. In the progress of that campaign, is it right that you would have had fairly frequent meetings with Mr Abramovich?

A. Well, I don't know how many times a day I met with Abramovich, it's hard to recall now, but I do know that every day, at least several times a day, I spoke with him on the phone because it was our tradition and it was extremely important for the election campaign.

Q. And you suggest that you have a clear and distinct recollection of each of those meetings, even though they were 11 years ago?

A. Yes.

Q. You say you have a clear recollection of all those meetings, even though they were 11 years ago and even though there are no documents?

- A. Well, first of all, those meetings were extremely important and also we met to discuss business and that's why I remember them all.
- Q. You remember all the meetings? Not just the meeting that you've referred to on 9 December, but you say you recall all of the meetings?
- A. I remember the -- how the election process in Chukotka was structured while I was there and while I was in Moscow. Roman was a very systematic, very focused person, more than any other candidate in my life, and I was greatly impressed by that, and I can tell you how that system worked. I may not recall all the discussions that we had about the elections and how that was structured and the principles of our work with him, the way he explained it to me I remember vividly and I still remember them now.
- Q. You say in your witness statement that you do not remember seeing Mr Abramovich on 8 December but you say you believe he was in Moscow because you were trying to arrange a campaign meeting with him, is that right?
- A. Yes.
- Q. Now, I think you indicated that you've got no documentary evidence to aid your memory, is that correct?
- A. Yes, but I do remember exactly the 9th and the 10th

because, on the 10th, we were leaving for Chukotka and 10 December is my birthday, and it was my first birthday that I celebrated in Moscow and I was quite nervous as to whether I should be leaving or whether I should be celebrating my birthday and seeing friends and booking a restaurant and things like that in Moscow, so I was really on tenterhooks.

Q. Mr Kapkov, I'll come to the 9th in a moment, but can I just ask you about the 8th, because you say you remember trying to arrange meetings with Mr Abramovich on the 8th and I suggest to you that it's unrealistic to suggest that you would have memories 11 years after the event of having tried to arrange a meeting with Mr Abramovich. Do you wish to comment?

A. Yes. Well, as a matter of fact, the way elections, an electoral campaign works is that the early period, which can be 30 to 45 days, you work actually with the press, you give out fliers, booklets, and for the last two weeks you only have personal meetings with -- between the candidate and other people. And the more meetings he has, the more hands he shakes, the better for him.

So I do know exactly that I was in Chukotka until the end of November, then I came back and he was still not coming back, and I went there to tell him that we are way past our schedule, we have to organise meetings

with electorers(?), and the problem was that PR and advertisements are one thing, and personal meetings in such a large region as Chukotka is really the most important thing. So I tried to explain to him that unless he meets with people and presses flesh the chances are we will lose the election.

So I came there and every day I spoke to him, I told him that we need to go -- I had to approve the final specimens of the various hand-out materials. So we had to hop on the plane. Time was for us to hop on the plane.

Q. Mr Kapkov, I'm asking you about on what basis you can possibly suggest that you can date a failed attempt to arrange a meeting as being 8 December. Now, do you wish to reply to that question or not?

A. Well, I do know that on the 9th we did have a meeting, that's for certain, because on the 9th the situation was that I think Mr Abramovich was sick and tired of my telephone calls and so he told me, okay, all right, so tomorrow morning -- we spoke on the 8th -- so tomorrow morning let's have a meeting at my place.

And it was important for me to have a meeting with the candidate and with my official boss, and on the 9th we came to his office, but in the office the bodyguards told me that Roman was not there, so we crossed the

street to Baltshug(?) Hotel to wait -- to have some coffee and wait for Roman to arrive. It was not -- it was only an hour after that that he called Julia and he said, "Where are you? I'm waiting for you." And apparently he was waiting for us at his dacha, at his countryside home outside of Moscow. And we got on the car and went to see him at his place, and that was my first time where I saw him, where I was meeting with Roman at his place.

Q. Well, I've tried asking you about the 8th so I'll ask you about the 9th.

You say that you attended a meeting with Mr Abramovich on the Saturday, the 9th, to discuss last-minute campaign issues. Is that correct?

A. Yes.

Q. And, again, do you say that you can actually recall even now the issues that you were discussing?

A. Yes. As a matter of fact these were standard issues, the number of meetings, the number of flashpoints, the sociological reviews, TV programmes and discussions with the people. And I also remember that we discussed the new anthem, I think that on the 8th the Duma was voting for the new anthem because at that time the country only had the music and had no lyrics of the national anthem, and it was an important period of time for the country

because, at the end of the day, the country did have an anthem, a national anthem with actually the lyrics in it.

Q. I don't think you refer to any of that in your witness statement, do you?

A. I did not know that I had to go into all those details. I just have a vivid recollection of all that, I did not know that I need to drill down to that extent of detail in my witness statement.

Q. Mr Kapkov, would you not agree with me that trying to identify what happened on exact dates 11 years ago, without any documentary evidence to assist memory, is an exceedingly difficult task?

A. Yes. I do not have any documents. Having said that, I do have my memory, and I was a young person at that time. I remember the impression that Roman's house made on me, and I remember how important it was for me to make sure that on the 10th we go back, and that I would be able to gather my friends in Moscow and celebrate my birthday, because we were leaving before the date of election so we needed to celebrate my birthday.

It was a vivid memory, it was my first time, my first year in Moscow where I had friends, where I had company.

Q. Mr Kapkov, I can understand that that may assist you in

remembering that the departure was delayed. I put it to you that it does not assist in dating the meeting.

A. Sorry, when you say dating, which date do you mean?

Q. 9 December.

A. On 9 December, I had a meeting with Roman Abramovich at his home in Sareevo.

Q. Can you be clear it was not on 10 December, the day you left for Chukotka?

A. I'm certain because on 10 December we met on the plane, on board the plane. Roman congratulated me, wished me happy birthday and gave me a present, it was a watch, and that I remember vividly, and then we left. It was a very dear present for me, both in terms of money and in terms of his personal attitude towards me, because at that time we were not friends yet, I was just one of the people who worked in the organisation which was working on his election campaign.

Q. And can you be clear that the meeting did not take place the previous weekend?

A. I am certain about that.

Q. Mr Kapkov, I suggest to you that the reason that you are not willing to admit to any doubt as to when this meeting took place is because of the relationship that you still have with Mr Abramovich and your desire to assist his case.

A. I am not prepared to acknowledge this. This was a very dramatic event in my life, a gubernatorial campaign, because my personal career started when he became governor. I remember I was 25 years old at that time and I remember what impression that election campaign made on me, and also the scale of the things that we were doing in Chukotka, it was a very important and a very responsible thing for me to do. It was the first election campaign that I was charged with from A to Z, to be in charge of.

MR GILLIS: Thank you. I have no further questions.

MR MALEK: No questions, my Lady.

MR ADKIN: No questions, my Lady.

Re-examination by MS DAVIES

MS DAVIES: Mr Kapkov, just one small matter of clarification. You told us that in September 2003 you went to Mr Abramovich and asked for his indulgence and then moved back to Moscow. Did you continue to be an employee of Mr Abramovich after that time?

A. When I was asking for his indulgence I was still his employee, but I got on the party list, and in December I became deputy or a member of the State Duma, so I ceased to be his employee and I became a member of parliament.

Q. And have you been an employee of Mr Abramovich since

December 2003 at any stage?

A. No.

MS DAVIES: Thank you very much, Mr Kapkov.

MRS JUSTICE GLOSTER: Thank you very much indeed for coming along to give your evidence. You may be released.

Thank you.

(The witness withdrew)

MR SUMPTION: My Lady, our next witness will be Mr Shvidler.

Would your Ladyship like to break now --

MRS JUSTICE GLOSTER: Unless you want to take him through his statements in-chief.

MR SUMPTION: I can do that and that might be more sensible.

Why don't we do that.

Mr Shvidler.

MR EUGENE SHVIDLER (affirmed)

MRS JUSTICE GLOSTER: Do sit down, Mr Shvidler, if you would like to.

Examination-in-chief by MR SUMPTION

MR SUMPTION: Mr Shvidler, you have made four witness statements, I believe, for the purposes of this action or this trial. I'm going to ask you to identify each of them.

Would you take first of all bundle E3 at flag 10, please E3/10/1. Is this your third witness statement, the first one prepared for the trial?

A. That's right.

Q. Would you please confirm that your signature appears at the end of it on page 64?

A. Yes.

Q. And is that statement true?

A. It is.

Q. Now, could you please now turn to bundle E4 at flag 10 E4/10/160. Is this your fourth witness statement?

A. That's right.

Q. And is that signed by you on page 198?

A. Yes.

Q. Is that statement true?

A. It is.

Q. Bundle E5 is next. Flag 14, is this your fifth witness statement, Mr Shvidler?

A. It is.

Q. Signed by you on page 179.

A. That's right.

Q. Is that statement true?

A. It's true.

Q. Finally, in bundle E8, would you turn to flag 16, please E8/16/192. Is that your sixth witness statement?

A. Yes.

Q. Signed on page 197 of the bundle?

A. That's right.

Q. And is that statement true?

A. Yes.

MR SUMPTION: Thank you very much, Mr Shvidler.

MRS JUSTICE GLOSTER: Mr Rabinowitz, shall I take the break now?

MR RABINOWITZ: That may be sensible, my Lady. I'm in your hands, I don't mind. We can either start and carry on for a while.

MRS JUSTICE GLOSTER: Why don't we start.

Cross-examination by MR RABINOWITZ

MR RABINOWITZ: Mr Shvidler, just so you understand the context of the questions which I'm going to be asking you, I should make it clear I'm not going to be asking you questions in relation to matters that we have already questioned Mr Abramovich about unless it appears that you have some separate independent knowledge of questions in issue. I'm also not going to be asking you questions about your belief as to the correctness or otherwise of Mr Abramovich's case or Mr Berezovsky's case. You make clear that you always tend to regard Mr Abramovich's case as more credible. And I'm also not going to ask you questions about your criticism of the evidence of Mr Berezovsky's witnesses. Your counsel has had or will have the opportunity to put these to the witnesses in question and I'm not going to take up the

court time with that. Do you understand?

A. Yes.

Q. All right. You, Mr Shvidler, I think in 1986, graduated from the IM Gubkin Moscow Institute of Oil and Gas with a masters degree in applied mathematics, is that right?

A. That's right.

Q. By 1991 you had obtained an MBA in financial accounting, and another masters in taxation from Fordham University in New York, is that correct?

A. It is correct.

Q. Following that you spent two years in the New York office of Deloitte & Touche?

A. Correct.

Q. And at Deloittes, you were a member of Deloittes international tax group, is that correct?

A. It is correct.

Q. Can you briefly describe the sort of work which you did in the international tax group?

A. It was an entry level job, I was an associate, it was called associate. I didn't bring coffee to senior partners, no, but it was a mostly menial job. I did participate in preparation of individual tax returns for wealthy individuals, international clients, and generally I was assisting others.

Q. And from your education, your work at Deloitte, you

would have gained an understanding of different tax regimes in different jurisdictions, is that right?

A. To the extent I could, yes.

Q. And you would have understood and given advice on different mechanisms for reducing tax exposure of international businesses?

A. In general, yes. Tax regimes were -- tax rules were changing very quickly all over the world, so I wouldn't consider myself to be a specialist.

Q. And you would have learnt about tax minimisation schemes using offshore structures including trusts and the like?

A. Not really, I had nothing to do with that.

Q. You are, I think, a US citizen, is that right?

A. That's right.

Q. And for how long have you been a US citizen?

A. Since 94, so whatever that was.

Q. And as such you're obliged to declare each year your worldwide income, is that right?

A. Correct.

Q. And this includes both earned income, salary and the like, and unearned income from interests, dividends and the like, is that right?

A. Correct.

Q. Can you tell me this: in your annual declarations, have you ever identified yourself as receiving any income

through owning any stake, whether directly or indirectly, of any Runicom company, or Sibneft or Rusal?

A. No.

Q. So if it were to turn out that you did in fact own a stake in the Runicom company, Sibneft or Rusal, then this might amount to an admission of tax evasion, is that right?

A. That's right.

Q. So we can be confident, I suppose, that this is not something you will be confessing to today, is that right?

A. Correct.

Q. Now, Mr Abramovich told the court that you and he had discussed the evidence you were each going to give prior to making your witness statements, and I don't suppose you dispute that?

A. No dispute.

Q. And he also explained that before finalising your witness statements, you discussed the situation so you each knew what each other would be saying in your witness statements, is that right?

A. Not in details.

Q. But in general terms, correct?

A. It's not a yes or no answer.

Q. What sort of answer is it? I'm not asking you for each

specific detail.

You accept that you discuss the evidence that you were both going to give in your witness statements before you made them.

- A. It's more like we discussed the situation, like we're going back in time, so that sort of thing. What he's going to put in his statement, what I'm going to put in my statement, we never discussed that.
- Q. What, so you compared recollections before you made your witness statements, is that right?
- A. You could say so, yes.
- Q. And so you discussed, what, the dates when things happened or what each of you remembered and were going to say about particular events?
- A. Again, not the last caveat, not what we're going to say. That we didn't discuss and we didn't decide. As for dates, I don't remember if we discussed the dates.
- Q. Can you tell us what you do remember discussing?
- A. Particular discussions I don't remember but, in general, that during this time we spend a lot of time together discussing case, yes.
- Q. And it's right, isn't it, that you've been involved in assisting with the conduct of this litigation?
- A. If I understand what that means exactly, I'll answer yes or no.

Q. Well, your counsel had previously told the court that you were someone who had been involved in assisting with the conduct of the litigation, perhaps ensuring that there were witnesses available who would be giving evidence, ensuring that when the counsel team asked for documents they could get it, that sort of thing?

A. Nothing of the above, no.

Q. So when your counsel told the court --

MRS JUSTICE GLOSTER: I don't think it's his counsel, it's Mr Abramovich's counsel.

MR RABINOWITZ: Sorry, absolutely.

When Mr Abramovich's counsel told the court that you were involved in assisting with the conduct of this litigation, can you assist us as to what it is they might have had in mind?

A. I think the main point was that I'm going to be a witness and, again I'm guessing here, I think my recollection would have been relevant, he thought, as to who else was involved in those events. But again, at this point I'm guessing.

Q. Now, you have worked with Mr Abramovich on and off since 1987, is that right?

A. Correct.

Q. And you have also been his friend since around then?

A. Correct.

- Q. And the two of you are very close?
- A. Yes.
- Q. You -- I think one of you says in your evidence that whenever you're in the same city together you have lunch and dinner together every day?
- A. More or less, yes.
- Q. And your evidence I think is that since 1994 your relationship with Mr Abramovich, in addition to being that of a close friend, has been that of a business partner with day-to-day supervision of certain of his business interests, is that right?
- A. Right.
- Q. It's your evidence, isn't it, that since the end of 1999 Mr Abramovich has had no involvement in management of any of his businesses as he has been holding various public offices in Chukotka?
- A. Correct.
- Q. Mr Abramovich told the court that you are much better at finances than he is. Would you agree with that assessment?
- A. If he says so, yes.
- Q. What if he'd said something different and it was the truth?
- A. I wouldn't agree.
- Q. But in this particular case you would agree?

A. Yes.

Q. Thank you. He said that he had never made a big acquisition, apart from real estate, without your advice and your opinion, and you wouldn't disagree with that either I suppose?

A. I agree. I think he meant personal real estate.

Q. Yes. Your evidence I think is that you and Mr Abramovich have had different arrangements for different businesses depending on the nature of the project and your role?

A. Correct.

Q. Mr Abramovich told the court that you had only been partners in terms of each having an equity stake in a business since about 2003 with the Pharmstandard transaction, is that your evidence too?

A. Plus/minus. I think it started in around 2002, this transaction he is talking about.

Q. That's fine, but my question to you was that Mr Abramovich's evidence was that you had only been partners in terms of having an equity stake in a business since about 2003, and he identified the Pharmstandard transaction.

A. That is correct. In general what I'm trying to say, that I think the transaction started in 2002, or our conversation about the pharma industry.

In general the answer is yes, I agree.

Q. Thank you. And can you clarify, then, what was the arrangement between you and Mr Abramovich in relation to the Runicom companies?

A. There was no arrangement. It was his company, I was the one who incorporated it.

Q. You effectively ran the Runicom companies, didn't you?

A. I would say financial part of it, yes, and organisational part; I was not a trader. Traders were different people.

Q. So the financial part of it, yes, and the organisational part of it, yes as well?

A. Correct.

Q. In relation to the other companies that you refer to as the trading companies, and just so that we're clear which companies we are talking about, you identify what you mean in your witness statement: Sibreal, OilImpex, Servet, Branco, Forneft, Petroltrans, Ellipse, CJSC Oil Trading, AOZT Mikom. In relation to those trading companies, what were the arrangements there? Were they other companies where you effectively ran the company?

A. More or less, yes.

Q. But do you say you had absolutely no equity stake in any of those companies?

A. Correct.

- Q. In relation to Sibneft what do you say was the arrangement? Did you run the company there?
- A. From some point onwards, yes.
- Q. But you say that there too, although you ran the company, you never had any interest at all in any Sibneft shares, is that your evidence?
- A. Correct, except for maybe ten shares which every employee had, for some reason I forgot what it was.
- Q. And what do you say was the arrangement between you and Mr Abramovich in relation to Rusal, Mr Shvidler? Do you say there that again you had absolutely no equity interest at all?
- A. Correct.
- Q. So, Mr Shvidler, let's just see if we understand this. Although you are the financial expert and you are the one who has day-to-day supervision of all of these businesses of Mr Abramovich, you had to make do with a salary but no ownership stake in any of Mr Abramovich's major businesses. Is that your evidence?
- A. That is my evidence. On top of that, for a long time, I think about five/six years, Roman basically paid for my lifestyle; not just mine, some other managers as well.
- Q. He basically paid for your lifestyle. This is, what,

not a salary?

- A. I'm trying to say nicely that he paid for vacations. I lived in the house from about '98 which was a gift from Abramovich family, himself and his wife, when our family had no(?) kids. All the vacations, like those boat trips, were paid by him.
- Q. This was as a result of the work you were doing for him, was it?
- A. As a result.
- Q. Did you declare on your tax returns that you were getting these payments from Mr Abramovich?
- A. No, and I didn't have to, being a tax expert as you say.
- Q. It's a most extraordinary story, Mr Shvidler, is it not?
- A. No, it's not. When I was in school -- okay... I'm not going there. I had a case on this at school, what is benefit in kind and what is not, and that was not because it was provided at the workplace. It's like meals at work.
- Q. No, the extraordinary story is not whether you declared this for your tax or not; it's the fact that you, being the financial expert and the one who ran all these businesses, made do with a salary and never got any equity stake at all.
- A. That was the arrangement, not just for me, for the whole group of us. And Roman actually did live the same life,

same lifestyle.

Q. Can you help me with this: what arrangement do you have with Mr Abramovich concerning this litigation?

A. Financially?

Q. Financially.

A. No arrangement at all.

Q. Would you accept that you cannot really be described as an independent witness in this litigation?

A. I would say I am.

MRS JUSTICE GLOSTER: It depends how you define independent, and I think that's a matter for me at the end of the day. I mean, he's obviously a friend and a close associate, over many years, of Mr Abramovich, and he's not denying that.

MR RABINOWITZ: I know he's not denying that.

MRS JUSTICE GLOSTER: Whether one defines independence as equivalent to a witness of integrity et cetera et cetera, that's a matter for me.

A. May I comment on this as well?

MRS JUSTICE GLOSTER: Yes, please do.

A. I thought about it a little bit while Mr Kapkov was answering, and I think the fact that I have some money makes me independent.

MRS JUSTICE GLOSTER: Okay.

MR RABINOWITZ: Can I just ask one question.

MRS JUSTICE GLOSTER: Yes, please do.

MR RABINOWITZ: You think the fact that you have some money makes you independent and therefore not someone who, for example, would much prefer Mr Abramovich to succeed in this litigation than Mr Berezovsky?

A. As a matter of preference, you guessed right. As a matter of my independence as to what I'm saying now to the court, I am right.

MRS JUSTICE GLOSTER: Right, shall I take the break? Ten minutes.

MR RABINOWITZ: My Lady, you don't need your headphones.

MRS JUSTICE GLOSTER: No, you're quite right.

(3.19 pm)

(A short break)

(3.36 pm)

MRS JUSTICE GLOSTER: Yes, Mr Rabinowitz.

MR RABINOWITZ: Mr Shvidler, just going back to an answer that you gave shortly before we broke, I think you said you were living, I think in 1998, in a house which was a gift from Mr Abramovich. Is that right?

A. From the end of 98, that's right.

Q. Is it right that you were also given a yacht, Le Grand Bleu, by Mr Abramovich?

A. That's right, much later.

Q. So in effect what was happening was that he was making

very substantial distributions to you either of cash or benefits in kind, gifts, and that was in respect of the work that you were doing for him in these companies?

A. Total mischaracterisation.

Q. How would you characterise it then?

A. Gifts.

Q. Gifts?

A. Okay, if the court is interested we can go in detail.

MRS JUSTICE GLOSTER: Well, I'm not sure I'm interested in whether or not, for the purposes of US Revenue law, the benefits he provided you with should be characterised as gifts or not. I don't really want to go into all that.

MR RABINOWITZ: I'm also not interested in that.

You see, Mr Shvidler, what I suggest to you is that what you and Mr -- the nature of the relationship between you and Mr Abramovich really was a sort of partnership where you in effect ran his businesses, that's right, is it not?

A. If you refer to legal partnership then it's not correct. If he considered me as his business partner, associate, colleague, close one, yes. And vice versa.

MRS JUSTICE GLOSTER: Could I be clear. To start with, was your relationship one of employer on his part and employee on yours?

A. Correct.

MRS JUSTICE GLOSTER: Would you have regarded yourself in a junior position to him, as it were?

A. Correct.

MR RABINOWITZ: And at what point did that change then?

A. Unfortunately it never changed.

Q. But you say, if I refer -- in answer to my question as to whether you were in a sort of partnership with him, you said:

"If you refer to legal partnership then it's not correct. If he considered me as his business partner, associate, colleague, close one, yes."

So as a business partner you would say that you could be referred to as his business partner?

A. That's right. We don't have a partnership agreement and never had anything like that. That's what I mean.

Q. Can I ask you just to look at paragraph 12 of your third witness statement, please. That's at bundle E3, which is in front of you, tab 10 on page 3 E3/10/3. It's paragraph 12 we're looking for.

A. Right.

Q. You were talking about Runicom there and you say this, it's about four lines down:

"Valmet promoted itself as an intermediary with the Swiss banks, saying that the banks will deal only with the Swiss, not the Russians. Valmet charged Runicom SA

very high fees. I was not happy about this so, sometime in 1996, one of Mr Michel's colleagues at Valmet, Mr Felix Poole, helped us incorporate a new company, Runicom Limited, in Gibraltar."

Now, this is not entirely accurate, is it, in terms of what happened between yourselves and Valmet?

A. It's absolutely accurate. It could be elaborated upon.

Q. Can I ask you, please, to go to bundle H(C)2 at page 84 H(C)2/84. Now, at H(C)2, page 84, you should see a letter from Mr Patrick Gnos of Valmet sent in February 1996. Do you see that?

A. I see that.

Q. It includes some provisional accounts for Runicom SA for 1995, although, as the letter notes, a great deal of the necessary accounting information was missing.

Can I just ask you to glance at that letter and remind yourself about it. Obviously you're fairly familiar with it?

A. Mm-hm, yes.

Q. You see it says:

"The P&L accounts ... are not complying with any reality ..."

This is just one letter, is it not, in a long line of correspondence by which Valmet sought accounting information from you at this time?

- A. It's a question?
- Q. Well, what's the answer to the question?
- A. No, no, what's the question? Is it --
- Q. This is just one letter, is it not, in a long line of correspondence by which Valmet sought accounting information from you at this time?
- A. That's correct if you delete the word "accounting". All kinds of information, that's right.
- Q. But it had to do with trying to complete your accounts, didn't it?
- A. With the attempt to do that, yes.
- Q. I'm not going to go through all of that, but can I ask you to go to page 124 in this volume H(C)2/124. It's an internal email from Christian Michel to others within Valmet dated 26 (sic) June 1996. It says:

"Shvidler was in our office this afternoon to discuss the future of our relationship. The essence of a long argument is that he expected Valmet to act as a bookkeeper, putting into Swiss GAAP the accounts prepared by Moscow. We told him this function was of no interest to us. Patrick made the point that even if we wanted to, we could not do what he asks if we cannot check independently the information provided by his people, if we do not receive the statements of accounts from the banks, copies of the contracts, etc. We need

background information to answer questions raised by the auditors. Shvidler said that if the auditors have such questions, he will give them himself the information, we do not need to have it. At that point, I showed Shvidler the door. I told him he will have our resignation and that of the Swiss directors delivered to his hotel by tomorrow morning."

Then he says that you were taken aback.

So the dispute between you and Valmet was that you expected them to act as mere bookkeeper, reformatting accounts prepared by you, while Valmet wanted to independently confirm the data that you were providing, that's right, is it not?

A. No, it's not correct.

Q. So you were being secretive and not wishing to give them all the accounting information?

A. Absolutely not correct, and if the court think it's important, it can be much better assisted by Mr Michel's answers to French prosecutor, or maybe it was Swiss and French prosecution or investigation, where Mr Michel describes the relationship with Runicom, Roman, myself in details, and I would say I would agree with the picture he gives.

In essence of it, he says that he sold us a Swiss company where we didn't need it. I'm not sure how

important that issue is.

- Q. Well, whatever Mr Michel may have said, the correspondence produced at the time shows Valmet chasing you for information, and it also shows that by 30 August 1996 Valmet had plainly had enough, and they wrote to Runicom's auditors explaining that they must be given access to all bank accounts, nor even to your major contracts. We can see that letter if we go to page 136T in this volume.

This was the letter from Valmet to Arthur Andersen explaining that they had had enough. Read this to yourself, if you would. (Pause)

- A. Mm-hm.

- Q. What happens next is that on 30 September 1996, Mr Michel also wrote to Mr Abramovich. You'll find that at H(C)3 page 5 H(C)3/5.

- A. Before we go there, do we need to discuss this letter?

- Q. If you have a comment you want to make on it, do please make a comment on it.

- A. Yes, I'm reading the very first paragraph:

"It has become apparent ...", and so on, that there is a difference of opinion between myself and Mr Michel. I don't see the word they had enough or anything dramatic like that. And the facts, by this time, operations of Runicom SA were moved almost completely to

Runicom Limited in Gibraltar, which was a sister company where the same Mr Michel owned 30 per cent of the shares. So they just moved us to a different jurisdiction as a business.

As for the company called Runicom SA, they helped us to move it to Fribourg so it could be liquidated there later, which is what happened basically. So they didn't want to deal with it themselves.

This is a letter to auditors Arthur Andersen which remained auditors of Runicom SA later in Fribourg and which were also auditors of Runicom Limited.

Q. Why don't we see what Mr Michel then writes to Mr Abramovich. If you can go to the next letter which I asked you to go to. It's at bundle H(C)3 at page 5 H(C)3/5.

Do you recall Mr Abramovich's response to this letter?

A. Not necessarily, no.

Q. It would be fair to say that whatever the response was, it wasn't satisfactory, because on 8 October 1996 Mr Michel resigned as a director. You see that if you go to page 17 of this bundle.

You see, Mr Shvidler, the evidence in your witness statement suggesting that it was just a question of fees which led to moving administrators was somewhat

misleading, was it not?

- A. No, it was not, it was the core of the problem, and if you want to go -- if the court is interested, we can go in detail on this letter.

MRS JUSTICE GLOSTER: Just tell me in headline terms what the real problem was.

- A. Money. They wanted to insert themselves as an intermediary where they were not needed basically. And as Mr Felix Poole explained, who was the original gentleman who introduced us, that they sold us the wrong company. And Michel, he agreed with that, that's why they moved us to --

MRS JUSTICE GLOSTER: What, you didn't need a Swiss-domiciled company?

- A. For starters we didn't need that. Then we didn't need their services because we just didn't need them. And I think he explains it in his own letter, in his own evidence to the French investigation, that they couldn't run a Russian company out of Geneva, just couldn't. They didn't have personnel, there was no need for that. The whole business took place in Moscow. So originally they just -- what this is, I think, it's first of all about the thing where Mr Michel says "He showed me the door", I'm sure I would have remembered that, if that happened ever. And we had an okay relationship, not in

those terms that he could show me the door out of his office.

This one looks to me, first of all it was done long after the fact. By this time Runicom moved already.

MRS JUSTICE GLOSTER: What, to Gibraltar?

A. To Gibraltar. And operations --

MRS JUSTICE GLOSTER: Which was a tax-efficient place --

A. That's right.

MRS JUSTICE GLOSTER: -- for you, was it?

A. We needed an offshore company for Russian operations.

It had to be based somewhere. And Gibraltar was much better, much more convenient than Switzerland, and it was of course much cheaper, and we never had any problems, even though it was the same organisation, Valmet, just different people.

MRS JUSTICE GLOSTER: Valmet was running it out of Gibraltar?

A. That's right. It was the same group. I would say they were brother/sister companies because the shareholding was the same more or less.

MRS JUSTICE GLOSTER: What, they didn't have to be quite so hands-on in the actual management of the companies, is that the difference?

A. That's right. Even here, again, that's a difference of opinion. My opinion was they didn't need to do

anything, they were two and a half people literally, two employees and one part-time girl, who were doing stuff for us. We didn't need them.

As for auditors, of course we were communicating directly. Those auditors, Arthur Andersen, were the same auditors as Sibneft had and, again, I think he describes it, Mr Michel, very adequately.

MRS JUSTICE GLOSTER: Right, well no doubt someone will give me the reference to that and I'll go away and read it.

MR SUMPTION: Would your Ladyship like that now?

MRS JUSTICE GLOSTER: Yes, please.

MR SUMPTION: It's bundle H(C)7/63T, is the beginning of the document H(C)7/63T. The operative part of it is 65T to 66T.

MRS JUSTICE GLOSTER: Thank you very much.

MR RABINOWITZ: Now, I want to ask you about something else. You and Mr Abramovich have given the occasional press interview over the years relating to Sibneft ownership in particular, and I just want to ask you about some of those. Can we begin by going to H(A) bundle 10, page 29, please H(A)10/29. This is in fact an interview which Mikhail Khodorkovsky gave, and this appeared in Kommersant on 20 January 1998. This is in the context of the first attempted merger of Yukos and Sibneft, I think it was to be known as Yuksi.

You'll see the opening lines of the interview, after the first paragraph he says -- the question is:

"Are you in the process of signing an agreement for YUKOS and Sibneft to merge with the owners of the Sibneft controlling stake?"

He says:

"Yes.

"That is with ... FNK?"

"We are signing the agreement with Sibneft group, we also call ourselves UKOS group, without listing all the owners, we regard ourselves a single team; and they talk about themselves as of Sibneft group, meaning a team of those people and companies, who jointly own the stake.

"But one of these companies owns a 51% interest and as far as I know it is [FNK] which bought this stake in the auction last May."

It then says:

"Frankly speaking I have not studied it in detail. This is simply not my problem. This is for the lawyers to deal with, and the lawyers confirmed that the people we are negotiating [with] now, including the First Vice President for Finances of Sibneft Mr Shvidler, (who together with me will sign the agreement today) are the people who legally represent the Sibneft controlling stake."

Is it right that you were negotiating the Yuksi merger on behalf of Sibneft?

A. That's right.

Q. If I can ask you then to look at the bottom of the page, to the last question and answer on that page, the question is:

"You said that you did not give a thought to the list of shareholders. But have you discussed this merge[r] with Mr Berezovsky?"

Mr Khodorkovsky says:

"Yes. We have discussed this deal. And with Mr Berezovsky also, though he is not a direct Sibneft shareholder. Five and not two companies are involved in this deal. Two main companies and three supporting ones. Mr Berezovsky indeed is not a Sibneft shareholder, but he is part of the group and obviously will be one of the shareholders of the new company."

That suggests, Mr Shvidler, that Mr Khodorkovsky had been told that Mr Berezovsky did have an indirect shareholding in Sibneft. Isn't that right?

A. No, it's not right.

Q. What do you say he was told which made him think that Mr Berezovsky would be a shareholder in the new company?

A. I could just guess, but I think Roman told him the exact arrangement he had with Mr Berezovsky. I wasn't there.

Mr Khodorkovsky knew what the shareholding companies were, FNK and others.

- Q. But he -- his understanding is that Mr Berezovsky would be a shareholder in the new company.
- A. The way he says it here is -- honestly doesn't make sense in Russian. It says that he was not an owner but he is an owner, or something like this.
- Q. Well, that may be consistent with him having an indirect ownership interest in Sibneft, may it not?
- A. I cannot think clearly what Mr Khodorkovsky thought when he said this, but if you read it again, it doesn't make much sense, what he says in answer to this question.
- Q. Can I ask you -- you can put that away. Can you go next to bundle H(A)15, page 2, please H(A)15/2. I think this is one of the few recorded interviews that Mr Abramovich has given, and it's published -- it's an interview published in Vedomosti on 1 December 1999 and then I think republished on the Sibneft or Gazprom website.

If you go to page 3 of the bundle, just below halfway down the page, Mr Abramovich is asked:

"Can you say something about your stake in Sibneft?"

He says:

"I can, I control at least half of the company."

Then:

"Do you plan to shift Sibneft assets abroad in the near future?"

"I do not plan to. But this does not depend only on me."

"On who else? Who else beside yourself owns the company?"

"The company management."

Can you say to whom in the company's management Mr Abramovich was referring to here?

A. Honestly I don't see what you're reading from even though I know this interview.

Q. All right. If you go, with the hole-punch, about three or four lines above the hole-punch.

A. Ah yes, got it.

Q. Then the precise quote:

"On who else? Who else beside yourself owns the company?"

"The company management."

Is about six lines from the bottom.

A. Yes, I've got it.

Q. So can you tell us to whom in the company's management you say Mr Abramovich is referring to here?

A. Directly, I think he means me as a controller of the arrangement, of the trust, which ultimately votes the shares.

Q. He described you as an owner of the company then?

A. No. Do I describe myself? No. Roman was always a little confused about the definitions.

As for the arrangement, he knew exactly the -- in the end of the day he is the owner, him and his family, they are the owner.

MRS JUSTICE GLOSTER: But was there actually some sort of management trust as one might have under English law?

A. No.

MRS JUSTICE GLOSTER: I mean, there wasn't a document that set out you holding as a management trustee or anything of that sort?

A. Originally it was a Liechtenstein arrangement where there was a stiftung, then anstalt behind -- I mean below it, and then the actual companies which were shareholdings on the register. I was the protector of this top one.

Did we have an arrangement with Roman where he told me how to vote? No.

MRS JUSTICE GLOSTER: No, and how long did that Liechtenstein structure continue?

A. I would say less than a year. We didn't like the arrangement there so we moved the whole thing to Cyprus and there was a Cypriot trust where, again, I was a protector. I'm not giving any secrets away. And some

others were trustees, and the beneficiaries were Roman and his children.

MRS JUSTICE GLOSTER: Yes, I see.

A. But -- that's it.

MR RABINOWITZ: Do you say, you can answer it separately in relation to the Liechtenstein structure and then in relation to the Cypriot structure if you want, do you say that in accordance with the structure only half of Mr Abramovich's shares were held this way or did it hold all of his shares this way?

A. In the end, all of the shares were beneficially owned by him and his family.

Q. In this structure?

A. I don't understand the...

Q. The Cypriot structure, trust structure that was used, was that the way in which all of his shares were held?

A. Yes.

Q. I'd like to ask you about an interview which you gave. Can you go to H(A)20, page 52, please H(A)20/52. This is an interview which you gave to Vedomosti on 11 July 2000 and this was, again, republished on the Gazprom or Sibneft website. It is an interview largely about the acquisition of aluminium companies and the creation of Russian Aluminium by Sibneft shareholders, but I don't want to ask you about this just yet. What

I would like to do, if I may, is ask you to turn to page 56.

If you are at page 56, you will see that the second question on this page says:

"Boris Berezovsky said recently that he did not have any Sibneft shares any longer. Has he really sold them?"

Your response to that is:

"Or given them away. And long ago. We constantly try to convince everyone of this, but nobody believes us."

Now, would you agree, Mr Shvidler, that your answer makes clear your view that, at the least, Mr Berezovsky once owned shares in Sibneft?

A. No. Can I elaborate on this?

Q. Please do.

A. Without trying to be smart, again, I didn't take this "bon sang" course at the time so I didn't know that -- sarcasm doesn't look good in print. If you look at the Russian version, you will see what I was trying to say. I was trying to make sort of a sarcastic joke. So the response was exactly to the question. Recently; I said a long time ago. Sold; and I said gifted. That's what I was trying to say here. If you can now read it differently, I'm sorry.

Q. No, do finish your answer. I didn't mean to interrupt, I thought you were finished.

A. Okay.

Q. Is there anything else you want to say about this?

A. It's ...

Q. You see, I have to suggest to you that that really doesn't explain the fact that what you are saying here appears to suggest that, at the very least, Mr Berezovsky once owned shares in Sibneft. Whether he gave them away recently or long ago, the whole premise of what you are saying is that he did own shares in Sibneft?

A. No, it's my interview and I remember giving this interview and it's not what I'm saying. If I wanted to say it, it was no problem to say it.

In a way it's a little bit of frustration because the journalist came to ask about something else and it was aluminium deal which we were discussing.

Q. But you could have just said, "Mr Berezovsky has never had shares in Sibneft" if that was the true position?

A. I regret I didn't do it much clearer.

Q. Well, I'm sure now that we have this open you do regret not saying that, but what you have said here is consistent only with Mr Berezovsky once having shares, and that is impossible to reconcile with your evidence

in this case.

A. Not correct at all.

Q. Very well. Can I ask you to go to bundle H(A)23 at page 67, please H(A)23/67.

This is another interview of yours republished on the Sibneft website, this one given to the Petroleum Intelligence Weekly and originally published on 13 November 2000. If I can ask you to turn to page 69, at the bottom of the page, we see a question which begins on the last line:

"Unclear shareholding structures remain a worrying aspect of many Russian oil companies. Can you reveal who the principal shareholders are in Sibneft?"

I'm going to ask you, if I may, Mr Shvidler, to keep open page 70 and also put a finger at page 70.001R because -- just keep that open, but you need to see the Russian as well because, as I understand, there's a mistranslation of this passage. We can just look at what your answer is. You say:

"First, I would like to say that Sibneft is a separate oil company not mixed up with the aluminium interests of our shareholders. As for the list of shareholders, [I think what this should say is] Roman Abramovich [owns] about a 40% stake, a similar amount is controlled by the company's top management

[and] the rest is in free float. I would also like to underline that the Chorny brothers ... have never been and are not represented in Sibneft."

Am I right about what this should say, having a look at the Russian version?

- A. I'm trying to recall the original language of the interview. I think it was done in English, I think.
- Q. Well, if you look at page 70.001R, so you're suggesting that the translation goes from the English to the Russian, are you?
- A. They are two different words, you're right, one is "control" one is "own". I'm trying to remember which one was the original.
- Q. All right. But can you just confirm this for me, that in the Russian version it reads:
- "As for the list of shareholders, Roman Abramovich owns about a 40% stake, a similar amount is controlled by the company's top management..."
- A. That's right.
- Q. How do you explain this statement to the press, Mr Shvidler? Is it not your evidence that in fact Mr Abramovich owns more than 80 per cent of the company?
- A. It is my evidence. I think Roman was trying to explain that we have an official position on this. The major concern of his was security, he didn't want to be

singled out as an owner of such a big company, and that was the fact since, I don't know, 86 I would say.

MRS JUSTICE GLOSTER: By this time, 2005, was the structure the Cypriot structure?

A. 2005, yes.

MRS JUSTICE GLOSTER: And --

MR SUMPTION: This is 2000, my Lady. It was republished in 2005. The original interview was 2000.

MRS JUSTICE GLOSTER: Right. I'm sorry, I'm looking at the date at the bottom of the page.

A. Nevertheless --

MRS JUSTICE GLOSTER: 2000, sorry.

A. Still it was a Cypriot structure in 2000.

MRS JUSTICE GLOSTER: It had become a Cypriot structure from the Liechtenstein structure?

A. Yes.

MR RABINOWITZ: By 1999 I think the evidence is.

A. Mm-hm.

MRS JUSTICE GLOSTER: The structure in Cyprus was that the shares in the top companies were owned by trustees, or by Mr Abramovich personally, or what?

A. By the trust itself as an entity, and then Roman and his children, they were beneficiaries of the trust.

MRS JUSTICE GLOSTER: Yes, and were you a protector of that?

A. Yes.

MRS JUSTICE GLOSTER: I see.

MR RABINOWITZ: Can you just explain this about

Mr Abramovich's story in relation to why this was done. Sibneft was a very substantial company, that's right, isn't it?

A. Correct.

Q. Owning a 40 per cent or 44 per cent stake would, in any event, have marked Mr Abramovich out as a very wealthy man, wouldn't it?

A. Wealthy, yes. Security-wise a completely different level, completely. And to understand that, you really have to be in that ambience, and I understand I cannot bring it here adequately.

Q. You see, being a 40 per cent owner of a very substantial company would mark him out as someone who would need security anyway?

A. Again, we're talking about different kinds of security. I'm not talking about security from the thugs on the street. It's not that.

Q. Well, what are you talking about, Mr Shvidler?

A. I'm trying to find an adequate English word for this.

Bad competitors of the same level of magnitude, okay?

Q. Bad competitors of the same level of magnitude.

A. Okay, one of the peer groups if that's -- I understand

I'm not conveying the idea.

MRS JUSTICE GLOSTER: No, I just need to understand precisely what you're saying. Are you making the point that there is a difference between Mr Abramovich being known to be a 40 per cent owner of a particular stake and a 100 per cent owner of a particular stake?

A. Mm-hm. If he's a single owner then there's a single person and a single problem. So in other words -- again I'm trying not to sound dramatic. If somebody wants the asset, he is the only problem.

MRS JUSTICE GLOSTER: Yes, I see.

A. If it's spread, then it's like small fish trying to...

MRS JUSTICE GLOSTER: Are you talking threats of physical violence?

A. Part of it, yes.

MR RABINOWITZ: So you are talking about thugs then?

A. Different kind of thugs, not the street ones.

Q. But a concentration of 40 per cent in the hands of one person would, in any event, mark him out as someone to be targeted?

A. That's correct.

Q. So how then does it make such a difference whether he's shown as the holder or owner of 40 per cent or 80 per cent?

A. If you are known to be a wealthy person or if you drive

a nice car, then the criminal audience which is interested in you, it's one group of people, one --

MRS JUSTICE GLOSTER: What, there's a risk of kidnapping and ransom?

A. Something like that.

MRS JUSTICE GLOSTER: Demands for ransom?

A. If you are known to be an owner of -- single owner of a huge asset, it's a completely different level of security you're looking for.

And -- you want me to elaborate or it's clear?

MRS JUSTICE GLOSTER: Well, are you saying that competitors might find it more difficult to dispose of three or four owners of a particular asset than they would -- or they might think it was in relation to just disposing of one owner, is that --

A. Exactly what I'm trying to say.

MR RABINOWITZ: All right. Can I just perhaps look at one more interview. Can you go, please, to bundle G(C)7/3.09 at page 167 G(C)7/3.09/167.

So you have in front of you, Mr Shvidler, a Sibneft press release of 20 May 2002.

A. Mm-hm.

Q. It reports you announcing that:

"... Sibneft's core shareholders intend to place ... 1 per cent of the company's shares ..."

And it gives a market value of around \$100 million for this 1 per cent. Do you see that?

A. Mm-hm.

Q. Just pausing there, you would accept mathematically that if 1 per cent of a company is worth \$100 million, then the whole company would be worth at least 100 times that or at least \$10 billion?

A. Mathematically, yes. I'm not sure we're able to achieve the price, but maybe yes.

Q. Okay. And in the third paragraph --

A. That's right, intend to place. We were looking for 100.

Q. Absolutely right. In the third paragraph, you are quoted as saying:

"The core shareholders' decision to reduce their stake has been guided by strong investor demand for more liquidity in the company's stock and more influence for minority shareholders over the management of the company..."

Now, your use of the phrase "core shareholders" suggests that there was more than one main shareholder. Can you explain how you say this is consistent with the evidence you are giving to the court about who owned these shares?

A. I keep repeating the same thing and it's consistent with what I'm trying to say. We are always saying "we",

"us", shareholders, beneficiaries. We never said anything else.

Q. All right. Can I take you to one more interview before I think we may stop for the day and your answer to this one may be the same.

You can put away bundle G(C)7. Can you go to bundle H(A)60 at page 221, please H(A)60/221. This is another interview of yours on Sibneft's website, originally published by Vedomosti on 30 June 2003. You are here in the main discussing another attempted merger with Yukos. If you go to the second page of this interview, page 222, in the middle of the page -- it's not really in the middle, it's about a third of the way down. Question:

"Is it true that Roman Abramovich owns over half of the Sibneft shares and the company managers own the rest?"

Your answer here is:

"On the whole this is true."

So this is no longer saying he owns half, the other half are controlled. Here you say he owns half and the company managers own the rest.

Do you say that this is just another attempt on your part to mislead people as to what the true position was?

A. We never misled anybody, especially intentionally. I'm

trying to see what I said in Russian but I don't think it will make a difference in my answer.

Q. Well, you say you've never misled anybody intentionally. Presumably your objective was to mislead people intentionally because of what you say were your concerns about security?

A. I wouldn't call it misleading though.

Q. If the true position, as you say it, is that Mr Abramovich owned over 80 per cent of the shares, and you were telling everybody that he only owned half of those shares, that was an attempt to, if you are right, mislead people as to how many of the shares he owned?

A. Mislead, it's too strong a word for me. Every one of these interviews was given for a specific purpose. Like the one before that was giving as an answer to the question: are Chorny brothers shareholders of Sibneft now because of the aluminium deal, for example? The whole interview was the answer to that.

This one, the reason for this interview is the super-deal with Yukos, the second merger. It was about everything else. So this was one of the questions, and I repeated the standard line. You cannot call it misleading.

Q. You didn't repeat the standard line because elsewhere we've seen you say Abramovich owns half and the other

half are controlled by management. Somewhere else we've seen you say that Mr Berezovsky used to own shares and has given them away. Here you're saying Abramovich owns half and the company managers own the rest.

A. For an English lawyer all of this looks different. For the purposes of those interviews, it's all the same. That's my statement. I stand behind it.

MRS JUSTICE GLOSTER: Can I ask you this: the trusts that ultimately held the shares in the Cyprus companies, were they discretionary trusts or were there interests in possession, as we call it, that had been appointed to particular beneficiaries? Or don't you know?

A. I don't know this interest in possession. What is it? It was one trust first of all, not many trusts.

MRS JUSTICE GLOSTER: There's one trust with a number of beneficiaries. Did the trustees, with perhaps the assistance of the protector or with the consent of the protector, have power to appoint specific shares to any one of the class of beneficiaries?

A. No, there was not even different -- there were no different classes of beneficiary. There was one beneficiary, Roman, and his children.

MRS JUSTICE GLOSTER: So they were held on trust for -- it's difficult to explain.

A. No, try, and I'll try.

MRS JUSTICE GLOSTER: Did the trustees have a discretion as to whether, for example, they said the income from these particular shares are going to be held on trust for a particular child or for Mr Abramovich?

A. No. As I remember, he had a list of wishes like in case. Something goes for -- a certain amount goes for their education, then when they are a certain age something can be spent differently. That was it. It's for the trustees to make a discretionary ...

So that they could take the dividends, for example, from Sibneft and distribute those to different people?

No, they could not.

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

A. Ah, that's what is discretionary trust? No, it was not.

MRS JUSTICE GLOSTER: Right.

Is that a convenient moment, Mr Rabinowitz?

MR RABINOWITZ: That is a convenient moment.

MRS JUSTICE GLOSTER: Mr Shvidler, you know, because you've been sitting here, that you're not to talk about your evidence or the case to anybody, okay?

A. That's right.

MRS JUSTICE GLOSTER: Right, 10.15 tomorrow or 10.30?

MR SUMPTION: Would your Ladyship be assisted by knowing who the next few witnesses were?

MRS JUSTICE GLOSTER: Yes, I would actually. Just a second.

MR SUMPTION: They are thought to be likely to be short.

After Mr Shvidler we will be hearing from Mr Sponring,
Ms Panchenko, Ms Popenkova, Ms Goncharova and Ms Khudyk.
I understand there's a question mark about Ms Popenkova
which we're in the process of resolving, a question mark
about whether she'll be required.

MRS JUSTICE GLOSTER: I thought Mr Sponring wasn't coming
but he is now?

MR SUMPTION: He is coming.

MRS JUSTICE GLOSTER: Oh, it's Mamut who isn't coming.

MR SUMPTION: Mamut we have dropped.

MRS JUSTICE GLOSTER: Very well. 10.15 tomorrow.

(4.25 pm)

(The hearing adjourned until
Tuesday, 15 November 2011 at 10.15 am)

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