

TRIUNE REPORTING SERVICE LIMITED - LONDON, ONTARIO

COM NO. 20-177S

ONTARIO HUMAN RIGHTS COMMISSION  
BOARD OF INQUIRY

IN THE MATTER OF; THE HUMAN RIGHTS CODE 1981, C.53  
As Amended

BETWEEN:

CHIPPENG HOM

Applicant

-and-

ELIJAH ELIEFF AND ELIEFF INVESTMENTS

Respondent

\*\*\*\*\*

Hearing held at The Sheraton Armouries Hotel, Thames  
Valley Room, 325 Dundas Street, London, Ontario on  
February 2nd, 1993.

\*\*\*\*\*

APPEARANCES:

Ms. G. SANSON

Counsel for the Commission  
and the Applicant

R. METZ, ESQ.

For the Respondent

AJIT JOHN, ESQ.

Chairman

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I N D E X O F E X H I B I T S (ii)

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10	Copies of two summonses with service admitted January 30th, 1993. Copy of a letter to Ms. Sanson from Mr. Metz dated January 29th and letter from Mr. Gasparotto, counsel for the London Free Press dated January 29th, 1993.	40
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---Upon Commencing at 9:00 a.m.

THE CHAIRMAN: This is a continuation of  
the Board of Inquiry hearing of a complaint by  
5 Chippeng Hom against Elijah Elieff and Elieff  
Investments. The complaint number is 20-177S and we  
have today the complainant, Ms. Hom, a translator,  
Ms. Long and counsel for the Commission, Ms. Sanson  
and Mr. Eyolfson, also counsel for the Commission. I  
10 believe he is on a watching brief. Is that right,  
Ms. Sanson?

MS. SANSON: Yes.

THE CHAIRMAN: And I understand Mr. Elieff has  
an agent representing him and we will be dealing with  
15 that right off the bat. Now, there are some  
preliminary matters we need to deal with. I would  
propose that we deal with at least two of them in  
this way, that if there are any objections to Mr.  
Elieff having Mr. Metz, Robert Metz as his adviser or  
20 agent we will deal with that first and secondly we  
have with us Mr. Gasparotto who is counsel who  
represents the London Free Press and he will speak to  
the summons that was issued by Mr. Elieff. Could we  
deal with those two preliminary matters in that  
25 order? Are there any other preliminary matters we

need to deal with?

MS. SANSON: There are a couple of other items that the Commission has by way of preliminary matters.

5 THE CHAIRMAN: Okay. What are they?

MS. SANSON: One is that the Commission is seeking to add reprisal.

THE CHAIRMAN: To add reprisal to the complaint?

10 MS. SANSON: To the complaint.

THE CHAIRMAN: Okay.

MS. SANSON: And the Commission would also like to file a letter that it has sent to the National Bank which I understand to be the mortgagee of the Mr. Elieff's property, specifically 105  
15 Cheyenne.

THE CHAIRMAN: Okay. Anything else?

MS. SANSON: And I also have some recent  
20 Statistics Canada data that I would like to file and we can do that at any point. What I propose to do is just file it and leave any submissions on it to another time. I wanted to be able to file it with the Board and provide it to the parties.

THE CHAIRMAN: Okay. Then can we deal with  
25 the first issue, that is if there are any objections

to having Mr. Metz as agent or adviser to Mr. Elieff.

MS. SANSON: There is just one other item that I would ask whether there are any witnesses in addition to Mr. Elieff who are going to be giving  
5 evidence today.

THE CHAIRMAN: Yes. Thank you.

MS. SANSON: I we could perhaps have them identified and also I'm not sure if it is appropriate they be present for the submissions.

10 THE CHAIRMAN: Okay. Why don't we deal with it in this order. Let's deal with Mr. Metz, then we will deal with witnesses and then we will deal with Mr. Gasparotto. Any objection to that? All right. First about Mr. Metz. Are there any objections to  
15 having Mr. Metz recognized as agent, Ms. Sanson?

MS. SANSON: I am going to begin by filing some correspondence that I sent to Mr. Metz.

THE CHAIRMAN: Okay. Just reading Section 10 of the Statutory Powers Procedure Act, it says:

20 "A party to proceedings may at a hearing be represented...

This is in Section 10:

"10(a) Be represented by counsel or an agent."

25 MS. SANSON: You also have section 23 of the

Statutory Powers Procedure Act:

"A Tribunal may exclude from a hearing anyone other than a barrister and solicitor qualified to practice in Ontario appearing as an agent on behalf of a party or as an advocate to a witness if it finds that such person is not competent properly to represent or to advise a party or witness or does not understand and comply at the hearing with the duties and responsibilities of an adviser."

THE CHAIRMAN: That's Subsection (3) of Section 23. Thank you.

MS. SANSON: It appears that we may require more chairs for the hearing. I'm wondering if we could take a few minutes.

---SHORT RECESS:

---UPON RESUMING:

THE CHAIRMAN: All right. Can we continue please?

MS. SANSON: Thank you, Chairperson John. You will have in front of you three letters. Perhaps we

can just identify them. There is a letter of January  
26th, 1993. There is a letter of January 28th, 1993  
and a letter of January 29th, 1993. Each of these  
letters are addressed to Robert Metz, President of  
5 the Freedom Party.

THE CHAIRMAN: Mr. Metz, could we just clarify  
the spelling of your name?

MR. METZ: It is M-e-t-z.

THE CHAIRMAN: Thank you.

10 MS. SANSON: As the parties to the proceedings  
are aware, Mr. Elieff has been representing himself  
throughout the course of this hearing. During the  
adjournment I contacted Mr. Elieff and he advised me  
that Robert Metz who is President of the Freedom  
15 Party was going to represent him afterwards. I had  
received no notice from either Mr. Elieff or Mr. Metz  
that this was to be the case. I understand in fact  
there was some contact with the Board or the Board of  
Inquiry's office in that regard.

20 I wrote to Mr. Metz on January 26th, 1993  
advising that the Commission would be seeking to add  
reprisal as a further alleged contravention of the  
Code and received no response. I wrote to Mr. Metz  
on January 28th, 1993 in regard to the volume of  
25 documents that the Commission had received asking Mr.

Metz to go through the documents because I had concerns first of all about the volume and secondly about the relevancy of them and thirdly about the organization of the documents in respect to the time that we had for the proceeding and in hopes of expediting matters. Again, heard no response from Mr. Metz in that regard.

On December 28th, 1992 in regard to the issue of witnesses, at page 160 Mr. Elieff expressly stated that he wasn't going to be bringing any more witnesses and that this was the end of his evidence after he had concluded with his evidence. The Commission subsequently learned that in fact subpoenas have gone out for some additional witnesses. When I contacted Mr. Metz it was his position that he had no obligation to provide me such notice as to who else was going to be called if any. Subsequently I understand he again spoke to the Board of Inquiry's office and then following that I received a letter from Mr. Metz outlining the additional witnesses.

THE CHAIRMAN: How many more witnesses?

MS. SANSON: I understand currently to be two.

THE CHAIRMAN: Are these the two from the London Free Press?

MS. SANSON: Two from the London Free Press I understand.

MR. METS: No, there is one witness and one evidence.

5 MS. SANSON: Excuse me.

THE CHAIRMAN: Okay, go ahead. Perhaps Mr. Metz could just clarify for the record if there are two witnesses or if there are any additional witnesses at this point in time. Mr. Metz?

10 MR. METZ: As per my letter to Ms. Sanson, I made it very clear, I have a copy of that here that I'll submit to you, that we have one witness, Mary Mowat. I identified her incorrectly. It is Marie Mowat is the correct name as I have been informed and we were also asking for a piece of evidence was the  
15 second summons. We weren't really concerned with the presence of a witness, we were looking toward finding a concrete piece of evidence which was an audio tape which was claimed to be in existence by Mr. Greg van  
20 more sell whereupon as you know when we summonsed it it appears there is no such audio tape in existence.

THE CHAIRMAN: Okay. I just wanted you to identify that for the moment.

25 MS. SANSON: The essence of the Commission's concern is this. The Commission arrived on day one

to this proceeding with the understanding that we were going to proceed to set dates for the formal hearing. At the Board's request the Board wanted to make use of the day and the Commission and Chippeng  
5 Hom were agreeable to proceeding. The Commission presented and concluded its case on that day and it was our understanding that the Respondents were going to conclude their case on that day. As each new day has been scheduled the Respondents have brought new  
10 witnesses. The Respondents have brought witnesses that the Commission is unaware of. The Commission does not have an outline of the evidence that they are going to be presenting and these are all issues of procedural fairness.

15 The Commission's concern at this point having somebody step in in the middle of a proceeding to represent Mr. Elieff who first of all is not familiar with the Human Rights proceedings, issues of procedural fairness, has taken it upon himself to  
20 contact the Board for his information as opposed to speaking to counsel or going to the sources where they need be. I have concerns that Mr. Metz is not properly advising Mr. Elieff of his obligation for procedural fairness and his responsibilities in this  
25 proceeding and it is the Commission's position that

at this point in the proceeding with two people  
instead of one the Commission's main concern is that  
Mr. Elieff knows and understands his obligations,  
knows and understands what his obligations are with  
5 respect to procedural fairness and I'm not sure that  
having Mr. Metz represent him is going to insure  
that.

THE CHAIRMAN: Please, could we refrain from  
making comments while the hearing is in progress.  
10 Thank you. Let me hear from you, Mr. Metz.

MR. METZ: Well, I don't even know which point  
to begin with. I have got about forty or fifty  
points to respond to. First of all regarding the  
notice, I guess she says I haven't given her notice  
15 and didn't respond to her letters. Well, if we look  
at the letter of January 26th it doesn't require a  
response. It is merely a statement to me saying that  
she will be seeking to add reprisal to the list of  
charges. There is no request asking me to respond.  
20 There is no sentence here that a response is  
required. It merely states something, the basis of  
her belief that she can add reprisal to the issue so  
I just looked at it as a piece of information. It  
didn't ask for a response and I gave none.

25 As to the January 28th letter with respect to

a response, again no response is really indicated here. She hasn't asked me any specific question and it is a statement just telling me that she objects to the filing of most of my evidence.

5 As to the final issue, she has been informed of our summoning both witnesses well in advance. In fact much of the correspondence I received from her January 29th, I received after my last response to her. She suggested that I contacted the Board for  
10 advice. That's not exactly correct. I contacted the Human Rights Commission. The gentleman's name I believe starts with a "P", Daniel Pascoe at the Human Rights Commission.

MS. SANSON: That is the Board of Inquiry.

15 MR. METZ: Well, he is the person that I was instructed to contact by everyone that I spoke to. When I first contacted the Human Rights Commission here in London they were very incompetent. It took me three days to get the forms. I had to speak to  
20 the manager just to pick up the forms. It was a very long and involved process that took me a very long

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MS. SANSON: Generally one would deal with counsel.

25 MR. METZ: Don't interrupt me here. I think

we should begin with some procedural matters so I understand and satisfy Ms. Sanson's concerns about procedure. I think that's where we should start.

5 THE CHAIRMAN: I'm concerned that we don't spend too much time on this issue. I'll give you my own view of this. The Statutory Powers Procedure Act allows in Section 10, allows for parties to be represented by an agent. I think the principle behind that is fairly clear, that agents are not  
10 lawyers. They don't have the benefit of training in law and procedure, nor do they have the benefit of experience. Nevertheless the legislature has made it clear that a party to proceedings as in this case the Board of Inquiry may have as their representatives  
15 agents who are not trained in the law. I think that is pretty clear, and having given that power to parties or the right to parties to be represented by agents, I think the understanding is also that the rules are not to be strictly applied.

20 The section that counsel for the Commission referred to, Section 23(3) is there to prevent abuse of the process and I take counsel's point that the Tribunal may exclude from a hearing anyone other than a barrister and solicitor if it finds that such  
25 person is not competent properly to represent or to

advise the party.

I reserve the right to make that decision as the proceedings unfold. If at some point in the proceedings it becomes apparent that Mr. Metz in my  
5 view is not competent properly to represent or advise Mr. Elieff I will make that decision. I'm not prepared to make that right now and certainly not on the basis of his failure to respond to the letters in January, January 26th, 28th and 29th and certainly  
10 not as a result of his issuance of two summonses.

I am prepared to entertain a motion with respect to Section 23(3) later on in the proceedings but at this time I think it is only fair that we proceed and see how matters unfold.

15 MS. SANSON: That was certainly the intention of the Commission to raise this as a concern at the outset, again not having brought a formal motion. My concern is how is it that Board knows that this objection was going to be raised in the first place  
20 and once again if there is communication by Mr. Metz, the communication with the Commission should be done through counsel for the Commission. Questions with regard to the Board should be made by way of submission to the Board and perhaps Mr. Metz could  
25 have some direction as to how he may conduct himself

in this proceeding if the Board is not going to rule on the issue of whether or not he can properly represent Mr. Elieff.

5 THE CHAIRMAN: I think it is fair for him to have contacted the Board of Inquiry. I don't see what else he could have done. The Registrar of the Board I understand instructed him on how to proceed with the summonses. In terms of procedure at this I hearing I shall take it upon myself to guide Mr. Metz as he proceeds. I think that in fairness to the parties, the Respondent, he is in the middle of giving his evidence in chief. It certainly helps the Board to have someone else lead him in the giving of that evidence. If there is testimony that's  
10 irrelevant we can address that as the proceedings unfold. If there something that is clearly objectionable I can trust counsel and the other parties to make that objection.

15 I feel that we should proceed and make our decisions as we go along and the purpose of the statute is to allow agents to appear and gives the power to the Board to instruct agents as the proceedings unfold and I'm prepared to do that and I'll be prepared to entertain any objections that you  
20 have as we proceed.

25  
*pg 17-18  
revised.*

THE CHAIRMAN: Sure.

MR. METZ: This isn't a matter of procedure, there are just a few things that I want to get clear in my own mind. Number one would be how and when to introduce evidence. Is that done as the arguments are being made or do we look at all the evidence first then discuss the relevancy and introduce is it coincidentally? That's one concern. Maybe I'll just stop there for a moment.

THE CHAIRMAN: First of all, you make your own decisions of what you feel is relevant. Mr. Elieff was in the process of giving his evidence. As you come to each point if there is a document you want to introduce you can introduce that and just proceed step by step. If at some point I as the Chair of this Board or Ms. Sanson or Ms. Hom have any objection the evidence, those objections will be made. If it is repetitious I might interrupt. If it is irrelevant I or someone else might interrupt. Is that helpful.

MR. METZ: Basically yes. Now I would like to know what my right on the other side is to object and to what things and at what point I should object.

THE CHAIRMAN: This is quite late in the proceeding. The Commission has put in its case so

MS. SANSON: Thank you. There is one other question and that is, for the record whether Mr. Elieff understands that now that Mr. Metz is representing him that it is Mr. Metz who will be making the submissions and that it is Mr. Metz who will be asking the questions and that any submissions that Mr. Elieff may have as a party will be made through Mr. Metz.

THE CHAIRMAN: Mr. Elieff, do you understand that you have chosen Mr. Metz to represent you. He will speak for you. Every time a point needs to be made on your behalf Mr. Metz will speak to you. If you have any comments to make you make them through Mr. Metz. Is that understood.

MR. ELIEFF: I got no right to say anything directly to you or to them?

THE CHAIRMAN: No, not unless I specifically ask for it but as a general rule you will now have Mr. Metz speaking for you in these proceedings. Is that clear? If you have anything to say, speak to Mr. Metz and he will address the Board.

MR. ELIEFF: Okay.

THE CHAIRMAN: All right. Well, I think we should proceed.

MR. METZ: May I ask a couple of questions?

you won't have that many chances to object when it comes time for Mr. Elieff's cross-examination. So once you put in all your evidence there will be a time for Mr. Elieff to be cross-examined by Ms. Sanson or by Ms. Hom if she chooses but most likely only Ms. Sanson and I expect that will be a long cross-examination. At any time during that cross-examination if you feel a question is improper you can make your objection.

MR. METZ: This would also apply to the witness being called as well, would it not?

THE CHAIRMAN: The witness?

MR. METZ: Marie Mowat.

THE CHAIRMAN: I'll address that in a minute.

MR. METZ: But the procedure your would be the same?

THE CHAIRMAN: Just getting back to that time of cross-examination, after that's over you will have an opportunity to ask Mr. Elieff questions in reply but they are only related to the matters that were raised had during cross-examination. You cannot raise any new evidentiary matters.

Now, going back to the item number two on my list which is the question of the summonses, Mr. Gasparotto is here to speak to that and at that time

I'll hear representations from both yourself and Ms. Sanson or Ms. Hom. All the parties are entitled to comment on that but because you have issued the summons you have a chance to ask questions and make your submissions. Mr. Gasparotto is here. I would like to hear from him and it is not in the same category as your evidence so shall we proceed? Good morning, Mr. Gasparotto. Could you please spell your name for the Reporter?

MR. GASPAROTTO: G-a-s-p-a-r-o-t-t-o, first initial "R".

THE CHAIRMAN: Thank you. Go ahead.

MR. GASPAROTTO: Well, you have my letter and I was asked to be here. I'm not quite sure what I'm supposed to be speaking to. I presume it is the matter of the tape or its existence or non-existence.

THE CHAIRMAN: All right. Now, I'm not sure, do you have a copy of that letter, Mr. Gasparotto?

MR. GASPAROTTO: I have one copy. I understand from Mr. Pascoe that copies is were made available to Mr. Metz there.

THE CHAIRMAN: Thank you. I have a copy of this letter but not with me here. This is a letter dated January 29th, 1993 to myself as the Board of Inquiry and it is by Mr. Gasparotto. It indicates he

is acting for Mary Nesbitt, Associate Editor of the  
London Free Press. He recites the fact that on  
Wednesday January 27th, 1993 his client received a  
summons to appear at this Board of Inquiry on this  
5 date and to bring a tape recording which was  
allegedly made by a reporter for the London Free  
Press, Greg Van Moorsel. Shall I read your response  
or would you like to speak to it briefly?

MR. GASPAROTTO: I can speak to it sir. I  
10 think there are three points there, the first being  
that there is no tape first of all. Ms. Nesbitt has  
spoken with Mr. Van Moorsel and between the two of  
them they have decided that there is a 99.9 percent  
chance there is no tape. Certainly there is none  
15 available to Ms. Nesbitt. She could find none. She  
has never had one. I spoke directly with Mr. Van  
Moorsel yesterday as a matter of fact to determine  
what he had to say on the point.

THE CHAIRMAN: Can I just interrupt here.

20 ---SHORT RECESS:

---UPON RESUMING:

25 MR. GASPAROTTO: I have spoken with Mr. Van

Moorsel yesterday. He also has, now that he's  
thought about it, no recollection of any tape. I  
understand it was an article in the Free Press when  
Mr. Van Moorsel testified here and I believe he  
5 testified by telephone. He had no notice of the fact  
that he would be called to testify. He was not  
summonsed so when he testified it was early in the  
morning. He had just woken up and he didn't know  
whether he had a tape or not. His practice is to  
10 sometimes tape and sometimes not tape, sometimes take  
notes and sometimes not take notes. It appears that  
he only has notes of this particular interview so  
there is no tape. That's my first point.

The second point it was that Ms. Nesbitt was  
15 scheduled to be at an important conference for her in  
Chicago which is where she is right now. She left  
for Chicago on Friday.

The third point is that it was an invalid  
summons. No attendance fees or witness fees were  
20 served and my interpretation of the Statutory Powers  
Procedure Act, Section 12 would indicate that's an  
unenforceable summons.

THE CHAIRMAN: What is the present level of  
per diem conduct money?

25 MR. GASPAROTTO: Under Supreme Court rules I

believe it is fifty dollars plus three dollars travel allowance inside the city.

THE CHAIRMAN: Okay. Mr. Metz, do you have anything to say?

5 MR. METZ: Well, it is odd that the summons at the bottom does say "You are entitled to be paid the same personal allowance for your attendance at the hearing as a witness summons to attend at the Supreme Court" so it sounds to me like the witness would be  
10 entitled to these things that Mr. Gasparotto is saying that's is not the case.

I should also suggest that I attempted to get this evidence on a voluntary basis and I phoned Mr. Van Moorsel myself, wherein he gave me the same  
15 story, that he testified in the November hearings. He told me about the tape being deposited in an envelope with his notes; that that envelope was then sealed and handed to his city editor, Mary Nesbitt  
20 bit who kept it in safekeeping in a vault because they knew that it was before the Human Rights Commission and they wanted to keep the evidence safe and they said they would not release it unless they got a summons.

I then called Mary Nesbitt to see if I could  
25 get the information voluntarily. She told me quite

explicitly that the tape was the property of the  
London Free Press and if anyone wanted access to it  
it would have to be summonsed and I thanked her very  
kindly then began the procedure for the summons so I  
5 would suggest that three times already even to my  
personal knowlege once you even include the  
testimony, it has been suggested that a tape existed  
with Mr. Elieff saying these comments about his  
tenants at his apartment building and I now read the  
10 stark contrast that's in this letter compared to what  
was testified to and what was said to me personally.

MS. SANSON: I have an objection. Mr. Metz is  
now giving evidence. Is Mr. Metz the representative  
of Mr. Elieff or is Mr. Metz going to be a witness in  
15 this proceeding? There is no evidence before this  
Board of any telephone conversations with either Mr.  
Greg Van Moorsel or the City Editor and he is now  
giving is evidence of what it is that his  
recollection of his discussions of which are not on  
20 the record and are not properly before this Board.

MR. METZ: If I may.

THE CHAIRMAN: Okay. Let me just assist you  
in this. If you can without repeating verbatim the  
conversation, give your impression that you received  
25 in speaking to Ms. Nesbitt and if you are quoting

from any letter that the Board has already, for example Mr. Gasparotto's letter, that's fine.

MR. METZ: Well, I would like to first say that I did not offer my current statements as evidence. I stated them to you as my experience in terms of becoming involved with this Board and you know that's the Board discretion to decide what to do with the evidence, whether to regard it as evidence or whether it is dismissed. I believe that's Mr. John's responsibility.

As to the letter, the quote that I would read which was submitted to the Board and which everyone has a copy of, I quote:

"Please be advised that Ms. Nesbitt does not have, not has she ever had possession or control over any such tape recording, nor is she aware of its existence. She has consulted with Mr. Van Moorsel and he is now virtually I certain that no tape recording of Mr. Elieff's comments was made. In any event none can be located."

So that is all I want to say on that matter. As to the actual summons of Mary Nesbitt, it is not really relevant that she be here because it wasn't really her as a witness that we were summoning it

was evidence but the way the summons form is constructed it makes it necessary to summons an individual to produce the evidence so that's why I would suggest that we were just summoning evidence.

5 THE CHAIRMAN: Okay. Can I just ask for your comments on the relevancy of this particular tape?

MR. METZ: Well, it was commented -- well, we will have to go to the -- I have a transcript of November 16th, 1992.

10 THE CHAIRMAN: I tell you why I'm asking that question, because in order to decide what to do with this particular issue it would be helpful to know how important the information is that you are seeking. If it is not of great importance ---

15 MR. METZ: It is very important. It reflects on the credibility of the witnesses. There are three witnesses in fact that have been called by the Complainant on the Complainant's behalf. They are Susan Eagle, Greg Van Moorsel of the London Free  
20 Press and Chippeng Hom, therefore I would suggest and I understand it is my job her as adviser to Mr. Elieff to question the credibility of the witnesses and the testimony of, you know, anything that's involved with this particular case so comments have  
25 been made, a decision will be rendered based on those

comments that will affect Mr. Elieff. I would suggest that the credibility to have those comments certainly must be questioned and that's what I intend to do throughout the procedure today.

5 THE CHAIRMAN: Ms. Sanson, do you have any comment on that?

MS. SANSON: Yes, I have a number of submissions to make. The first is that we heard the evidence of Mr. Greg Van Moorsel. We heard his viva  
10 voce evidence and Mr. Elieff had the opportunity to cross-examine Greg Van Moorsel in that regard. As far as cross-examining somebody goes and the issue of credibility at this point is over. Mr. Metz can make his submissions in that regard at the end of the day  
15 but the chance for cross-examining has been done and unless Mr. Metz can satisfy you that there is some good reason for re-opening at this point I would say that the issue of cross-examination has been completed. To assist ---

20 MR. ELIEFF: Not true.

THE CHAIRMAN: Mr. Elieff.

MR. ELIEFF: I'm very angry because ---

THE CHAIRMAN: I appreciate that.

MR. ELIEFF: That's why I ask him to see if he  
25 has a tape or not because he does. It is very

important.

THE CHAIRMAN: Mr. Elieff, we are dealing with that very issue.

MR. ELIEFF: Oh, yeah.

5 THE CHAIRMAN: All right

MR. ELIEFF: Bunch of liars.

MS. SANSON: Perhaps the Commission will be renewing once again its objections and the objection with respect to having a representative at this time. Instead of now one party we have two parties to this proceeding as a party Respondent individual and if Mr. Elieff is not content to have Mr. Metz properly represent him and speak for him then ---

10

THE CHAIRMAN: Okay, but please go ahead with your comments.

15

MS. SANSON: To assist the Board I would like to refer to page sixty-seven of the transcript of November 16th, 1992 and I'll just read for the Board what it was Mr. Van Moorsel said.

20 THE CHAIRMAN: What page.

MS. SANSON: At the beginning of page sixty-seven.

THE CHAIRMAN: Okay.

MS. SANSON: Mr. Elieff asked him:

25 "Q. Did you record my saying to you about

the tenants being little pigs or whatever?"

"A. Did I report it?"

"CHAIRMAN: No, did you record it?"

"THE WITNESS: Yes, I reported it."

5 "Q. I want to hear if you have it recorded."

"A. I'm sorry, I didn't hear that."

"THE CHAIRMAN: Mr. Elieff did you mean did he  
record it?"

"MR. ELIEFF: On a tape."

10 "THE CHAIRMAN: Record it in notes or on a  
tape?"

"MR. ELIEFF: Q. On a tape, a tape  
recording?"

15 "A. I recorded it in shorthand. I believe it  
was also recorded on tape and all of the the  
material was turned over to our City Editor as  
soon as we realized had that the Ontario Human  
Rights Commission was involved because I was  
phoned and asked for that material.

20 Newspapers don't just as a matter of course  
make their material used to gather news  
available to people unless they are legally  
required to do to so. I know as a fact I  
recorded it in shorthand. I may well have  
25 recorded it on tape. I just don't recall

right now because newspaper reporters often  
sometimes for specific purposes don't relate  
to this story. I do remember turning all the  
material over in a sealed envelope to my  
5 then City Editor. I don't know -- I know for  
sure I recorded it in shorthand. I may have  
well recorded it on a mini cassette as well.  
All our telephones at the Free Press are  
equipped with that material."

10 THE CHAIRMAN: He does say "I do recall  
turning all the material over in a sealed envelope to  
my then City Editor" but that's now being denied.  
There is no ---

MR. GASPAROTTO: There is a sealed envelope  
15 sir. There is no tape in it.

THE CHAIRMAN: There is no tape in it?

MS. SANSON: The request was only for the  
tape.

THE CHAIRMAN: All right.

20 MR. ELIEFF: Which means no proof.

THE CHAIRMAN: Wait a minute, Mr. Elieff. Mr.  
Metz, do you have any comment on that?

MR. METZ: Well, we are dealing now with the  
significance of the tape. The fact is that part of  
25 the Board's case is that a poisoned environment has

been created at Mr. Elieff's apartments as a  
consequence of these statements made.

THE CHAIRMAN: Let me just interrupt and focus  
this a bit. The issue right here is whether the  
5 statements that were reported in the Free Press were  
accurate and what we have discovered now is that ---

MR. METZ: Well, in that case ---

THE CHAIRMAN: Let me finish. There does not  
appear to be a tape recording. There may be notes  
10 and these may be in a sealed envelope which Mr.  
Gasparotto indicates is in the possession of the  
London Free Press. That's where we are at the  
moment.

MR. METZ: Very well. So getting back to your  
15 original concern, what is the specific issue then?

THE CHAIRMAN: The specific issue is the truth  
of the statements recorded by or reported by the  
London Free Press.

MR. METZ: Very well. Then I will cite you to  
20 page fifty-five of the same document wherein the  
witness Mr. Van Moorsel suggested that he quoted Mr.  
Elieff verbatim and you notice that in quotation  
marks. Now this gets a little complicated because  
now I'm getting into evidence that I want to  
25 introduce later to I don't want to sound repetitive

but nevertheless he says in quotations, what is quotation marks is nothing more, nothing less. Then he referred later down:

"As you know newspaper reporters frequently also paraphrase people, the meaning of what was said, not in exact words and in those cases they don't come with quotation marks."

I submit to this Board that not once was any reference to race ever included in quotation marks in any of the the London Free Press reporting and every reference to race was paraphrased and it was explicitly included by the London Free Press writers and staff.

THE CHAIRMAN: Okay. That is, Mr. Metz properly a point you can raise in your argument.

MR. METZ: Did I address the issue that you're concerned with though or have I not addressed that?

THE CHAIRMAN: I don't want to make this ---

MR. METZ: The tape is not a big, big issue in and of itself. It is one piece of evidence that suggests that what we are hearing from the witnesses is not credible and I would like to object to Ms. Sanson's suggestion that we no longer -- that if new evidence is brought forward to discount the previous



evidence, that that's not relevant in some way.

THE CHAIRMAN: Well, it is a procedural  
argument that's proper because the proper time to  
make objections and to cross-examine a witness is  
5 when that witness is on the stand. Now, I am going  
to take certain liberties that are allowed in an  
administrative tribunal in the reception of evidence  
and say that because Mr. Elieff was not represented  
at that time it is proper to look at this question  
10 now but I don't want, as I was saying I don't want to  
make this question an issue that's argued strictly  
on -- how shall I put this? Let me rephrase it. I  
don't want this to become a strictly legal argument  
on the admissibility of this evidence and whether it  
15 should be subpoenaed and so on.

MR. METZ: I'm pleased to hear that.

THE CHAIRMAN: I want to go directly to the  
point and that is it appears that there may be  
shorthand notes.

20 MR. METZ: Yes.

THE CHAIRMAN: And Mr. Gasparotto is here  
representing the London Free Press. I don't know  
whether your client has instructed you on whether to  
make those notes available to the Board voluntarily.

25 MR. GASPAROTTO: I have no instructions on

that sir but I suspect the answer would be no as a matter of policy.

THE CHAIRMAN: Well, there you have your answer Mr. Metz. If you want to see those floats you are going to have to subpoena those notes.

MR. METS: I'm less interested in the notes because the notes are not an objective piece of evidence. The tape recording of Mr. Elieff's voice would have been objective whereas notes could be copied. They could have been written yesterday and Mr. Van Moorsel testified he paraphrases his notes therefore I would suggest that the notes are irrelevant in the bigger picture.

THE CHAIRMAN: Now, the tape recording itself, you have heard the response of Mr. Van Moorsel read in. It is clear that he was not entirely sure whether a tape recording existed.

MR. METZ: In fact I don't know if it is correct to bring it up now but Mr. Van Moorsel was not entirely sure of any of his evidence. He gave that and he repeated that several times.

MS. SANSON: I'm going to object.

THE CHAIRMAN: That is an argument that you can make. When you make your argument you can comment on the weight to be given to certain

evidence. I just want to deal with this issue of whether you want to pursue this summons any further.

MR. METZ: No.

THE CHAIRMAN: In which case, Mr. Gasparotto you have been of assistance and thank you very much for coming.

MR. GASPAROTTO: Thank you sir.

THE CHAIRMAN: All right. Now, we have a camera person from the London Free Press.

MR. McGLADDERY: CFPL Television, no longer affiliated with the London Free Press.

THE CHAIRMAN: Okay. Apologies to Mr. Gasparotto's client. Does any party have objection to any part of this proceeding been recorded?

MS. SANSON: I would like to first just draw to the Board's attention that it is my understanding that there are also as well as a camera here that there may be some tape recordings in addition to the Court Reporter so I think that may be an issue with the Board.

THE CHAIRMAN: Is there anyone with a mechanical recording device? Okay, all right. Let me ask the parties and their representatives whether there are any objections to these proceedings being tape recorded or recorded, a video recording?

MR. METZ: No objection.

MS. SANSON: I would like the opportunity to speak with Chippen Hom. I believe she may have excused herself go to the washroom.

5 THE CHAIRMAN: Let's just wait for a minute.

---SHORT RECESS:

---UPON RESUMING:

10

MS. SANSON: Chippeng Hom is not feeling well and has asked if we could break for perhaps an hour.

MR. METZ: Well, I object to taking any break at all let alone an hour. Ms. Sanson and her client have brought these charges against Mr. Elieff and we would prefer to continue. Ms. Sanson has already expressed her great concern about moving this proceeding along expeditiously so why does she now want to interrupt the hearing for an hour.

20 MS. SANSON: I'm going to object to the tone of those submissions and characterization of counsel and the characterization of the complainant.

THE CHAIRMAN: Mr. Metz, one of the rules of, not tradition, of fair representation is to refrain from comments about representatives for parties

25

opposite.

MR. METZ: Very well. Allow me to rephrase that. Ms. Sanson has constantly reminded us for the need for expediency in these proceedings and given  
5 that consideration as well I mean, it is your judgment. It is up to you. I'm certainly not in a position to say yes or no but those are my objections and my concerns.

THE CHAIRMAN: I think that's a real concern.  
10 One has to balance the concern to proceed expeditiously with the ---

MR. METZ: Oh, I could also suggest that there is something we could do if Ms. Hom needs a break and that is sorting out all the documentation we have  
15 brought.

THE CHAIRMAN: All right. As I was saying, there is a real need to balance the interests of proceeding expeditiously with the real human element in the condition of the Complainant and on balance I  
20 would always accede to the human request. It is only for an hour and on that basis I would be prepared to adjourn for an hour to allow Ms. Hom to take a rest and be absent from the proceedings. Do you want to begin that adjournment now and then discuss anything  
25 else that can be done in the hour? What is your

feeling?

MS. SANSON: By way of clarification, if Chippeng Hom is unable to continue after one hour if she is still not feeling well, the Commission certainly will request an additional adjournment.

THE CHAIRMAN: Let me suggest a way out of this. I do not want to waste the day and there are a number of people here.

MR. ELIEFF: I want to say something.

THE CHAIRMAN: Let me just finish. Would it be possible to have someone appointed as a representative for Ms. Hom to stand in her place for that time? I would like to save this day but I also understand her physical needs.

MS. SANSON: I'm not sure that it is appropriate that the Board ask for a representative when Chippeng Hom has chosen to represent herself in this proceeding.

THE CHAIRMAN: Well, if I remember correctly she had chosen Susan Eagle to represent her and the reason why she could not remain as her agent is she was giving evidence.

MS. SANSON: I'm not sure whether she chose Susan Eagle or whether there was a communication in terms of sending correspondence and receiving

correspondence. There was never to my knowledge any understanding that there would be formal representation.

Now, the correspondence with Susan Eagle was with respect to actual Board appointment and was for reference in terms of sending the correspondence. I don't understand that to be the case. Perhaps you would like to spoke to Ms. Hom in that regard.

THE CHAIRMAN: Ms. Hom, can you remember when this complaint was first made and we were proceeding to a Board of Inquiry whether you had chosen Susan Eagle as your representative for these proceedings?

MS. HOM: No, I represent myself.

THE CHAIRMAN: Okay. Is there someone you would like to choose as your are representative for today if you are not in good enough health to be present?

MS. HOM: No, nobody except myself.

THE CHAIRMAN: Okay. Will a one hour break be enough for you?

MS. HOM: Yes, an hour. I think I'll be feeling much better.

THE CHAIRMAN: Okay. Well, under those circumstances I'm prepared to adjourn for an hour and we will deal with other matters that we can deal with

within the hour break.

MR. ELIEFF: I want to say something.

THE CHAIRMAN: You can only say something to  
Mr. Metz. It is now ten minute past ten. We are  
5 going to adjourn until ten minutes past eleven.

MR. METZ: Mr. Elieff would like to suggest  
that Ms. Hom see a doctor within the hour perhaps to  
get some medication.

THE CHAIRMAN: I think she is able to handle  
10 herself.

MR. METZ: Okay. That's all he had to say.

---HEARING RECESSED:

15 ---UPON RESUMING:

THE CHAIRMAN: Just before we continue I want  
to put in as exhibits copies of the two summonses  
with service admitted January 30th, 1993, copy of a  
20 letter to Ms. Sanson from Mr. Metz dated January 29th  
and a letter from Mr. Gasparotto, counsel for the  
London Free Press dated January 29th, 1993 and those  
documents together will be exhibit number ten.

25 ---EXHIBIT NO. 10: Copies of two summonses with service

admitted January 30th, 1993. Copy of a  
letter to Ms. Sanson from Mr. Metz dated  
January 29th and letter from Mr.  
Gasparotto, counsel for the London Free  
5 Press dated January 29th, 1993.

MS. SANSON: Could I ask that the Board  
receive as Exhibit eleven the letter dated January  
26th, 1993 advising Mr. Metz that the Commission is  
10 seeking to add reprisal.

THE CHAIRMAN: Okay. Any objection to that?

MR. METZ: Yes, I do certainly do.

THE CHAIRMAN: To that going in as an exhibit?

MR. METZ: I don't understand the procedure  
15 there. If it is entered as an exhibit does that make  
the charge relevant?

THE CHAIRMAN: No. You can then argue.

MR. METZ: Well, I have to say I object to it  
as an exhibit.

20 THE CHAIRMAN: On what ground?

MR. METZ: On the ground that I feel that the  
charge is far too late. I mean, if we are going to  
discuss adding another charge ---

25 THE CHAIRMAN: Let me just interrupt. It is  
just as to the admissibility of this as a document.

MR. METZ: What is the significance of that then? What legal significance is there to admitting it as an exhibit?

5 THE CHAIRMAN: None really except that it is part of the record, it becomes part of the record. If it is relevant the rule is general to admit almost anything as an exhibit unless there is serious objection to its nature, then you can make your argument about the weight that should be given to it  
10 at a later time.

MR. METZ: Well, then I'm not quite sure what ground would exist to object to it.

15 THE CHAIRMAN: If this is not the letter that you saw or this was not sent to you. Is this a letter sent to you, Mr. Metz?

MR. METZ: Yes, I do have a copy of that letter.

THE CHAIRMAN: This is dated January 26th.

MR. METZ: It is in this pile somewhere.

20 THE CHAIRMAN: If it was sent to you I suggest that ---

MR. METZ: By fax, yes.

THE CHAIRMAN: It just be admitted as an exhibit, then you can argue about its relevance.

25 MR. METS: Sure.

THE CHAIRMAN: All right. The letter from Ms. Sanson to Mr. Metz dated January 26th, 1993 is Exhibit eleven.

5 ---EXHIBIT NO. 11: Letter dated January 26th, 1993.

THE CHAIRMAN: Okay. Are we ready to proceed? We are going to resume with Mr. Elieff's evidence in chief and Ms. Sanson has consented to delay comment on two motions she wishes to make with respect to documents, earlier documents?

10

MR. METZ: Yes. I was just going to mention we are still in the middle of testimony by Mr. Elieff. Is that correct.

15

THE CHAIRMAN: Yes.

MR. METZ: I would request that perhaps we could pause that and bring this witness forward first as she has other considerations including health that she would like to have her testimony dealt with.

20

THE CHAIRMAN: This is the first I have heard of another witness.

MR. METZ: Well, the one -- that's Marie Mowat, the one that's been summoned.

THE CHAIRMAN: Is she here?

25

MR. METZ: Yes.

MS. SANSON: The Commission is not prepared to proceed with somebody else's evidence before Mr. Elieff is finished with his examination in chief and complete his cross-examination. As the Board is aware, Mr. Elieff is a party to this proceeding and any evidence that may be brought forward at this point I would have concerns about affecting Mr. Elieff's testimony.

MR. METZ: I understand that at the last meeting it was agreed that she could be brought up early when you reserved decision on the letter that was submitted by Ms. Mowat and that if we could produce the witness herself rather than have the letter, she could be brought in early and testify in the morning and I believe that was agreed to by all parties at the last meeting. I wasn't too sure myself until Mr. Elieff reminded me as well.

MS. SANSON: There is nothing on the record and I can't tell you if it wasn't on the record. I'm not sure what my recollection of that was. Is Mr. Elieff prepared to absent himself?

THE CHAIRMAN: I was just thinking of that. Mr. Elieff, there is a concern here that if another witness on your behalf takes the stand in the middle of your evidence you will then tailor your subsequent

evidence to match the evidence of the witness. Now, that's a fair assumption. I would be prepared to let Ms. Mowat give her evidence but you would have to be absent from the room. Is that all right?

5 MR. ELIEFF: No problem.

THE CHAIRMAN: Well, we have consent on that.

MS. SANSON: Chippeng Hom's concern relates more with respect to an objection dealing with the presentation of yet the calling of another witness when Mr. Elieff had indicated that his case was concluded.

10

THE CHAIRMAN: Well, in all fairness this witness was referred to beforehand and at that time Mr. Elieff wanted to submit evidence through a letter of hers if she was unable to be here but the Board was aware that this was a witness they wanted to call at that time and I do recall putting it over for another day to see if she can be here so in actual fact they did refer to her before and she is here now and the request is that she be allowed to give her evidence.

15

20

MS. SANSON: Okay.

THE CHAIRMAN: All right, Mr. Elieff. Mr. Metz, do you want to call your witness?

25

MR. METZ: Yes. I call the witness then Marie

Mowat.

THE CHAIRMAN: Ms. Mowat, would you please  
come right up here.

5 MARIE MOWAT, Sworn

EXAMINATION-IN-CHIEF BY MR. METZ:

Q. Marie, I'll be asking you questions, okay.

10 The first think I want to establish is, Marie you are  
currently a tenant, is that correct at the Cheyenne  
Avenue apartments?

A. Yes.

Q. How long have you been a tenant?

A. I moved in in 1985.

15 Q. So since 1985 five you have resided there.  
You still reside there in the same apartment?

A. Yes.

Q. And what number apartment would that be,  
in what building?

20 A. Apartment 27, 95.

Q. Okay. In general comments how would you  
describe your experience living in the building and  
what have you seen in this building with respect to  
the current debate that's going on about it in terms  
25 of regular maintenance being done and Mr. Elieff's

actions as a landlord? Could you just in general terms describe your whole experience of living in the building as a tenant?

5 MS. SANSON: I'm going to object to that question. It is leading and I'm not sure what it is that my friend is ---

THE CHAIRMAN: Well, he is asking for her general observations, about her relationship with the landlord and her experience as a tenant.

10 MS. SANSON: He made reference to debate. I'm not sure what he is referring to or what he is asking the witness to comment on.

15 THE CHAIRMAN: Mr. Metz, could you try and rephrase the question and ask something that's general?

BY MR. METZ:

20 Q. I thought I was going out of my way to avoid asking a leading question. Can you just generally describe your experiences as a tenant in the Cheyenne Avenue apartments?

A. At this time may I read my letter because it does talk about my experiences?

25 Q. I don't see why not. I don't know if Mr. John would object.

MS. SANSON: I would object. The witness is her to give viva voce evidence. I would like to hear unless the witness has no recollection of what it is she wrote in the letter, I would like to hear from the witness's own mouth what it is her experience has been without referring to her letter.

THE CHAIRMAN: Well, I appreciate the comment but the witness seems to have some difficulty giving her evidence.

MS. SANSON: Why is that?

THE CHAIRMAN: Because she is unfamiliar with these proceedings and is nervous. Can I ask you ---

MS. SANSON: Has that been led on the record?

THE CHAIRMAN: This is my observation.

MS. SANSON: Perhaps we could have that on the record and where that information came from.

THE CHAIRMAN: All right. My impression of the witness for the record is that she is anxious, unfamiliar with these proceedings and may need to rely on her handwritten notes from time to time.

Rather than have you read the letter verbatim, if perhaps you could strike a balance and I would have no objection to your being assisted by your notes but would ask you to try and respond to question of Mr. Metz as much as possible giving the

evidence directly. There is no harm in referring to your notes, all right?

THE WITNESS: All right.

THE CHAIRMAN: Mr. Metz, go ahead.

5 MR. METZ: I'll have to ask more specific questions then?

THE CHAIRMAN: Just assist the witness to give the evidence and in order to make it clear for the Board in various categories it would assist me if the categories had some meaning and it was proceeding to a logical point that you wish to make.

10

BY MR. METZ:

Q. Okay, I see what you're saying. Very well.

15

If you have lived in the apartment since 1985 that would mean that you have lived there before any of the Asian people who live in the apartment today lived there. Is that correct?

20 A. Yes, I lived there before the boat people came and we had no bugs as far as I know. I didn't have any bugs in my apartment either.

Q. So at that time there were no cockroaches or anything of any sort?

A. Not that I know of.

25

Q. Now, did you ever see any cleaning done in

the building, any sort of maintenance being done on a regular basis and if so by whom?

5 A. Yes, the landlady used to come usually every two weeks and I see her scrubbing. I see her scrubbing out the empty apartments. I see her spraying them before anybody moves in and I also see the landlord and his family repairing and painting the apartments.

10 Q. Now, tell me about your first experience in encountering Susan Eagle. Have you met Susan Eagle?

A. Oh yes, I have met Susan Eagle.

Q. Could you tell us a little bit about that experience?

15 A. Well, Susan Eagle came knocking on our doors in the summer telling us to go to the next tenant's association meeting and she will be telling us how we can use our rent money to build a new co-op building I told her I believed what she was doing was wrong. I told her how can the landlord make repairs and pay bills without our rent and I asked her who hired her. She said my church hired me to do this work.

I told her she is doing it all over again.

25 She lost the last court case. The judge ordered six

Mowat

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months back rent to be repaid to the landlord and this has not been done and the tenants had moved out to a brand new co-op that was built behind Arvel Plaza.

5 Q. Which tenants are those?

A. The tenants that were supposed to pay the back rent and they did not pay the landlord.

Q. I see.

10 A. And they said they had paid it to the lawyer and the lawyer in that case said that they did not pay him any money.

15 MS. SANSON: I'm going to object at this point. I would like the Board to hear my objection. It is not clear to me whether this witness was present, whether this witness has any firsthand knowledge of this court case. I have no idea what court case it is she is talking about. I'm not sure whether the witness any supporting documentation to this court case that she is describing, who the  
20 tenants are that she is speaking about and whether she was present in these proceedings and whether she has any firsthand knowledge at all.

THE WITNESS: It was in the newspaper.

25 THE CHAIRMAN: Just to help you in giving your evidence, Ms. Mowat because you are unfamiliar with

5 these proceedings, when you give your evidence try  
and stick to what you have seen, observed and stick  
to that and if you're referring to an event try and  
give a date or some other reference point to assist  
us in understanding at which point in time and which  
event and how it was related to your experience as a  
tenant there, all right. Okay, go ahead.

BY MR. METZ:

10 Q. Tell me how you reacted when Susan Eagle  
approached you with this offer let's say?

A. I asked her to leave the buildings and to  
leave these people alone.

15 THE CHAIRMAN: Approximately what year was  
this?

THE WITNESS: This was at the end of the  
summer.

THE CHAIRMAN: Which summer?

20 THE WITNESS: This summer. Yes, they sent out  
flyers around to our doors demanding we go to this  
association meeting.

MS. SANSON: Do you have a copy of the flyer?

THE WITNESS: I think Bob Metz has a copy of  
all the flyers.

25 MR. METZ: Yes, I do.

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MS. SANSON: Perhaps you can have the witness identify it.

BY MR. METZ:

5 Q. So this is how the evidence gets introduced. Here it is right here. "Dead or Alive: Cockroaches for the landlord and the health department. A contest for all residents of 105 and 95 Cheyenne".

10 A. That's not the one she gave us.

Q. There was another one beside this?

A. Yes.

15 Q. What other one might that be? I don't have that in my possession. What did that particular ---

A. It told us to go to the next tenant's association meeting.

THE CHAIRMAN: All right. I'm prepared to accept that it was a notice to attend a meeting.

20 THE WITNESS: The next association meeting and I told her that if they wanted to build a co-op there that we would all have to move out and she said well, you'll be moving onto a better place and that upset me because I felt that I was supposed to die and go  
25 to heaven and I told her these people all have good

jobs. They want to live peacefully. They want to be  
free. They don't want any trouble and why is she  
coming in here and interfering with their lives. I  
asked her to please leave and I said it over and over  
5 again and she started preaching at me.

THE CHAIRMAN: Can I just interrupt for a  
minute. This was a meeting?

THE WITNESS: She knocked on my door

THE CHAIRMAN: Let me just ask the question.

10 It was to discuss the possibility of turning this  
apartment into a co-op. Is that correct?

THE WITNESS: Yes, these apartments into  
co-ops and it was like using our rent to operate the  
apartment as a co-op.

15 THE CHAIRMAN: All right. I just wanted to  
clarify that. Okay, go ahead Mr. Metz.

BY MR. METZ:

20 Q. Well, go on with the story then. What  
happened at that point?

A. Well, after she started preaching at me I  
just said the same thing over and over again and she  
finally left.

25 Q. When you say she started preaching at you,  
what was she telling you?

A. She was saying God loves you, we love you.

That's what she was saying.

Q. Not specifically relating to the meeting  
itself?

5 A. Well, I just told her it was out of  
context, would she please leave the building, get off  
the property.

Q. Continue.

10 A. Well, you were asking about my contact  
with Sue Eagle and also when they were spraying the  
apartments she was trotting all over the apartments  
knocking at our doors and I had trouble there. The  
pest control gave us papers saying that they were  
going to spray the apartments and they only gave us  
15 one day's notice.

THE CHAIRMAN: When was the spraying done?

THE WITNESS: It was done -- it was just done  
in the of all.

THE CHAIRMAN: Fall of 1992?

20 THE WITNESS: This fall, yeah and I phoned her  
up and I told her that I didn't like the way she was  
treating us like a bunch of cattle; that we are  
people and that's she is just using us for her own  
purposes.

BY MR. METZ:

Q. How do you get that impression? Why would you even suggest such a thing?

A. Because this has all happened before. The same procedure has all happened before. The flooding, calling in the health board, reporting damages, the court case, putting money in the bank or keeping money away from the landlord and then a new co-op is built. This has all happened to us before and I just felt like saying oh, no not all over again.

Q. How did you come into knowledge that this had happened before?

A. Because I was there when it happened. I was there when the flooding was the first time. I was in a babysitting a little boy in the first building and my apartment was only one that was not flooded because I did not flush my toilet.

MS. SANSON: Can I ask the witness just to slow down please, just a little slower. I'm having difficulty getting my notes down.

THE WITNESS: Well, I was there.

THE CHAIRMAN: I'm not denying that and it is difficult to slow down when you're giving evidence.

I will just ask you just to speak a little slower,

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all right. So you were talking about the previous incidents when you were actually in the apartment and you had difficulties erupt. Just continue.

5 THE WITNESS: Yes, that happened before the flooding and it is the same thing that happened all over again. It seems to be doing it again.

10 THE CHAIRMAN: Can I just ask a question? You mentioned, Ms. Mowat that you have been there for a number of years and this wasn't the first time this had happened. You mentioned previous flooding. Can you tell the Board of any other incidents that you wanted to speak about?

15 THE WITNESS: Well, the health board come inspecting our apartments, reporting the damages and then the court case demanding that the landlord do the repairs which he did and then holding back the rents. The landlord was denied the rent for six months.

20 THE CHAIRMAN: All right.

25 THE WITNESS: And the money was ordered to be paid to the landlord and he did not get the money. It was not paid back to him and then a lot of these tenants had moved out and some of them moved to this new co-op that had been built out behind the Arvel Plaza.

THE CHAIRMAN: When was that?

THE WITNESS: How many years ago, I don't remember.

THE CHAIRMAN: Just approximately.

5 THE WITNESS: It was in the newspaper.

THE CHAIRMAN: That's all right. If you don't remember, that's fine.

THE WITNESS: About a few years ago. About three, four years ago.

10 MR. METZ: I believe evidence to verify that date may be entered at a later point.

THE CHAIRMAN: It is really not that important but that's fine. Go ahead.

15 THE WITNESS: I wanted to mention that there is an elderly man that only got one day's notice about the spraying and he came out of his apartment, he was bumping up against the walls and he said he had a dizzy spell and he said he only got one day's notice and he said they will never do it again. He  
20 really felt bad.

THE CHAIRMAN: Can I ask you if this gentleman was a Cambodian or Vietnamese veteran?

25 THE WITNESS: He was a war veteran. He was white. We are only two that have lived there since the people have come and we are still there.

THE CHAIRMAN: All right.

BY MR. METZ:

Q. So tell us a little bit about what you  
5 have seen around the buildings, your observations in  
terms of the general maintenance, the condition of  
the buildings, those general types of observations?

A. Well, actually there was garbage all over  
the place and I mean garbage and the people would put  
10 their garbage back out on the patios. The dogs,  
stray dogs would come along and drag the bags out on  
the lawn and they never bothered to pick it up and  
there was garbage underneath the stairwells and I have  
had trouble with children urinating underneath the  
15 stairwells and I always go and clean it up because I  
just don't like to see something like that.

It was disturbing to see the children would be  
digging holes all over the yard and they used to  
break the sticks off the trees and they had destroyed  
20 the tree in the middle of the yard and the Poplar  
trees over by the driveway at the front yard had to  
be cut down because they had destroyed them.

The children would be hanging from the eaves,  
from the porches at the front and side doors. I  
25 would ask them to please don't do that and they still

persisted in doing that and I would ask the children  
not to play baseball in the yard this summer and one  
day I went out every half hour to ask them please  
don't play baseball and they went over to the  
5 schoolyard beside us and played and some of the  
children did not live there, they were from other  
apartments, came and played baseball too and this  
summer the landlord had to fix a lot of broken  
windows and patio doors and that costs money.

10 Q. Did you ever see him fix any of these  
broken windows and patio doors and some of the damage  
that you have seen around the place?

A. Yes, I have. I actually seen a young boy  
kick a window with a karate kick and break it.

15 Q. You witnessed that yourself?

A. Yes, because I went over and cleaned up the  
glass and he said what apartment he was from and that  
family had moved out.

Q. They moved out before the damage?

20 A. No, they moved out after.

Q. After?

A. Yes. And in the winter time they kept  
breaking the windows. I seen the landlord fix the  
windows at nine o'clock in the morning and by five  
25 o'clock at night that window was broken and we put in

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plastic. They kick the plastic out. We put in cardboard, they kick the cardboard out. The landlord puts in wood, they kick the wood out. We put up signs that say please don't break the windows, they still kick them and I did encounter a young boy at noon hour and I asked him, I saw him kicking the window and I said please don't kick the window.

Q. You said you put up signs. What language were those signs in?

A. They were in English and a child came in at the time and he just stood there and read it right out to me so he understood it.

Q. So you would suggest that many of the tenants in the building can speak English, of the Asian tenants?

A. They can understand English but the people are learning English too. It is very hard for me to understand what they were saying because they speak in words and I have to keep asking them in my own way, keep asking the question until I've got it right and the people would come to me and ask me to phone the landlord to come and do repairs for them and the landlord always came and did it for them.

Q. Okay. In your own apartment do you have any cockroaches in your apartment as far as you know?

A. No, I don't. I have traps out for them.

I have poison out for them.

Q. And how is it that you were able to accomplish this given, according to all the reports that the buildings are so infested with cockroaches? Like, what is your secret? What are you doing right that perhaps some other people may be doing wrong?

A. Well, I don't buy in the stores that these people buy in. They buy in their ethnic stores and they could bring these cockroaches home in their boxes and things like that because I have seen cockroaches on boxes out in the garbage bin. Every morning great big crows would come and eat them but I have actually seen the bugs out there on the boxes.

Q. So you have seen a lot of cockroaches around the building but not necessarily in your apartment?

A. Well, I did have it at one point in time but after they sprayed I never had after that. I always keep my food in the fridge. The A-1 Pest Control sent out papers saying we should keep all our food in the refrigerator and I have been trying to do this all the time but I have put out poison for them, I have sprayed my apartment and I try not to keep any food out of the fridge.

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Q. Now, you said a lot of the Asian people in the building can speak English. Do you have any knowledge of how they acquired their skill of speaking English?

5 A. Well, the men and the people who work at Cuddy's -- Cuddy's had a class where they can learn English.

Q. Cuddy Foods?

10 A. Yes, and they had a picture in their union paper about a bunch of women who learned how to speak English.

15 Q. I would suggest at this point that we introduce this. This was just brought to me so I don't have a photocopy of it yet but this is the newsletter of Cuddy Foods called Check Out and as you'll see there is an article here "Best graduates at Cuddy Foods" and there is a group of Asian tenants that live in the apartment building. You can identify one or two of these people here?

20 A. Yes, I know the lady down the hall. She has twin girls.

Q. They are all very proud in front of this picture with a sign in front of them saying "We speak English".

25 MS. SANSON: Is my friend griving evidence

once again? Can I have that struck from the record please? I would like that struck from the record.

THE CHAIRMAN: We can strike that comment on your impression of their state of mind. We will strike that from the record. What you can do is if you would like to introduce that as an exhibit, make copies, distribute it and just show it to the witness, see if she can identify it and I would be happy to entertain that as an exhibit unless there are other objections.

MS. SANSON: I would like to see the exhibit before I make any objection.

MR. METZ: Can I pass it around?

THE CHAIRMAN: Sure.

MS. SANSON: I would like a copy of this as well before you file it. I would ask that the witness be excluded for a moment to make submissions. There are a couple of questions.

THE CHAIRMAN: All right. Ms. Mowat, can you step outside for just a minute while we have a discussion about this.

THE WITNESS: Okay.

THE CHAIRMAN: Thank you.

MS. SANSON: Mostly a couple of questions. I would like to know how this article came to the

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attention of my friend.

THE CHAIRMAN: What, this document?

MR. METZ: It is a newsletter from Cuddy Foods. It was brought to me this morning by the  
5 witness who obtained a copy of it from one of the other tenants.

THE CHAIRMAN: From one of the other tenants?

MR. METZ: That's my understanding. That was not explicitly told to me but that was my  
10 understanding.

THE CHAIRMAN: All right. And your purpose in introducing that is?

MR. METZ: Simply to illustrate that the amount of English illiteracy that has been claimed to exist amongst the Asian tenants in the building is  
15 not as high as previously presumed.

THE CHAIRMAN: Okay.

MS. SANSON: What is that relevant to?

THE CHAIRMAN: Well, I would say it is relevant because the issue was raised in previous  
20 evidence that the residents, the Vietnamese and Cambodian residents may not be able to understand directions that were written in English or spoken in English. That was an issue that came up before.

MR. METZ: And I might also add that it was an  
25

issue raised by Ms. Samsung(sic).

MS. SANSON: For the record my name is Ms. Sanson not Samsung(sic) and there were questions, my recollection is there were questions asked on cross-examination of some of the witnesses that were led by Mr. Elieff as to what efforts had been made to properly notify the tenants.

The question of the individual tenant's literacy is an issue that's far beyond the scope of this hearing and I'm not sure how relevant the issue of the fact that people participated in a course for English if in fact they were indeed participants is relevant to the issues to be determined by this Board today.

THE CHAIRMAN: Well, I am not going to belabour this point any further. I am going to rule that it is relevant and admissible as an exhibit. The weight that's given to it of course will vary. In my opinion it goes to the issue of the ability of the residents ---

MS. SANSON: It doesn't even make mention that they are residents. There is a picture of Cambodian persons.

MR. METZ: Marie will identify certain people within the picture.

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THE CHAIRMAN: You can comment on that on  
cross-examination and as Mr. Metz has mentioned, if  
the witness can identify some of the residents that  
might be helpful. Would you like to have that  
document identified and ---

MR. METZ: Well, I have to resubmit this then  
later as a document.

THE CHAIRMAN: Well, we can discuss it now and  
make copies of it and I will not number it until  
after the break.

MR. METZ: Okay.

BY MR. METZ:

Q. Where did we leave off? Oh, I guess you  
say you can identify some people in this picture that  
was in this newsletter?

A. Yes, I know ---

THE CHAIRMAN: Let me interrupt. Just for the  
record we need to identify that document so if you  
will bring it to me.

MR. METZ: Okay.

THE CHAIRMAN: This document is a newsletter  
entitled "Check Out", volume Roman Numeral III,  
number 4 winter of 1991 and it is addressed to a Ms.  
or Mr. Soem, number 37, 95 Cheyenne Avenue, London,

Ontario. Go ahead Mr. Metz. Show it to the witness.

BY MR. METZ:

Q. Yes. Is there anyone in this picture that  
5 you can identify?

A. Yes, it is right here. This girl here.

Q. Is that who the newsletter was mailed to  
to your knowledge?

A. No, it was just in the hallway. Here is  
10 the name here it was mailed to. It was just out by  
the mailbox. They just threw all their papers on the  
floor. I usually pick them up because I don't like  
seeing things all the over the floor.

MS. SANSON: Who was that person?

15 THE WITNESS: I call her Lee. She doesn't  
live in our apartment any more. She's moved out.

BY MR. METZ:

Q. Is there anyone else in the picture you  
20 recognize?

A. No.

Q. Okay.

A. She described some of them to me. I think  
they have done wonderful really because they speak  
25 quite good English now.

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THE CHAIRMAN: But in that picture that you just saw there was one resident of 95 Cheyenne whom you recognized as having lived there?

THE WITNESS: Oh, yes. She showed me her picture. That's how I know it is her.

THE CHAIRMAN: Okay. Go ahead Mr. Metz.

BY MR. METZ:

Q. Now, you must of course in your going in and out of the building see a lot of what is going on in the common areas outside your apartment. How would you describe the ongoing maintenance in the hallway and the common area rooms with the washers and dryers and other common areas that you may be familiar with?

A. Well, I have seen the men do the washing because they were the ones that could speak English and I tried to tell them not to put too many clothes in the washing machines. They put in the darks and lights and everything all together and I have soon them pushing it down with a broom handle and the landlord had just put in brand new Maytag washers as repairs from the court case and they were broken in about three months. We couldn't use them any more.

Q. And what other kinds of things might you have seen around the halls?

A. Well, the children kept playing in the  
hallways and they make a lot of noise and I went up  
and asked them please don't play in the hallways and  
the parent would come to the door and say it's all  
5 right and I would say no it isn't. It makes an awful  
lot of noise and it sounds terrible down on the first  
floor and I have gone into apartment 105 on a Sunday  
and there is children playing in the hallway, a baby  
picking up a piece of a crust of bread or something  
10 and putting it in his mouth and I went to take it out  
and the mother went to pick it up and a man in a  
pyjama bottom playing with a soccer ball with some  
other little boys and I asked him please don't play  
in the hallway because other people work different  
15 shifts and they are sleeping right now. They all  
went inside their apartment. They don't do that now.  
This is when they first came.

Q. To your knowledge have you ever had a  
chance to see any vacant apartments while they were  
20 vacant or being worked on by Mr. Elieff or anyone on  
his behalf?

MS. SANSON: I'm going to object to the  
leading question.

THE CHAIRMAN: Okay. Restrict your question  
25 to have you seen any vacant apartments and can you

comment on their condition.

BY MR. METZ:

Q. That is the question?

5 A. Yes I have seen apartments after some  
people have moved out and they are quite messy. Some  
of them you can't even see the floor. I have seen  
the landlord cleaning the apartments and maintaining  
them and the landlord's son would call me from the  
10 store where he works at Richmond Subs and ask me to  
go over to call the landlord to call the store  
because he had a problem and he has done this  
manytimes through the years because they have my  
phone number and I did go over to apartment number  
15 eighteen and the landlord was painting and the  
landlady answered the door and I asked her if she  
would please go and call the store because they had a  
problem and they wanted her to call them and they  
have done this many times and I have seen the  
20 landlady spraying the apartments. I have seen her  
scrubbing the apartments out.

Q. You said you yourself sometimes went out  
into the halls and did some cleaning under the  
stairwells as you just said?

25 A. Yes.

Q. Did you ever do any other work for Mr. Elieff?

5 A. Well, he asked me to try and pick up some papers around because he saw me picking them up on my side of the building. I don't like sitting out on my patio and seeing garbage and I said I would give it a try. There was just so much. I picked up two Glad bags of garbage every day. I even helped children dragging out bags of garbage out to the bin and they can't put it in. They just leave it sitting at the bin and I thought it was sad and I have seen them leaving their garbage bags outside their doors in the hallways and I asked them not to do that and they have been cooperative.

10 There aren't too many people that do that now, and they leave their garbage under the stairwell, outside the front and back doors and it is hard because sometimes I think the children must have brought them down the stairs and they couldn't take them any farther.

15 Q. What is your impression -- why would the children --- what is your opinion of why the children would be doing this rather than the adults.

MS. SANSON: I have an objection.

20 THE WITNESS: I think it is trying to be

helpful.

THE CHAIRMAN: Try and rephrase the question.

BY MR. METZ:

5 Q. I'm trying to. Who in your opinion would  
be the more appropriate party to take the garbage out  
and take care of those kinds of things.

MS. SANSON: I'm not sure the witness is  
qualified to give an opinion.

10 MR. METZ: An opinion is just an opinion.  
Everyone has one.

THE WITNESS: The children go out through the  
parking lot to go to school because the school is  
right next door and that's probably why.

15 THE CHAIRMAN: Perhaps the question should be  
what upsets you about -- what is it that upsets you  
about seeing the condition which the garbage is  
handled?

20 THE WITNESS: Well, sometimes the bags break  
and it is just left behind and that attract bugs.

Any garbage in the hallway, you can -- I can pick up  
a banana peel and four cockroaches will run out of it  
and that scares the wits out of me and the children  
used to eat on the stairwell. They would sit in a  
big round circle on the stairwell, like the stair

25

landing and left all their garbage behind and I went  
up and asked help them please go to your apartments  
or go outside, you can't eat here and going upstairs  
I even had a whole handful of orange peels thrown at  
5 me. They listened. They went outside or went to  
their apartments but I had to do it a few times to  
tell them not to do that.

THE CHAIRMAN: I would like to ask a question  
if you don't mind, Mr. Metz. When you talk to the  
10 other residents there about these matters, do they  
appear to you to understand what you're saying in  
English?

THE WITNESS: Sometimes they do and I think  
that they did understand the gist of what I was  
15 saying and I'm sorry if I upset them but I was upset  
too because I just didn't want all these bugs all  
over and we had to do something to prevent them and I  
think that they understood me and they were very  
polite and they did try.

THE CHAIRMAN: And you also indicated in your  
20 earlier evidence that some of these problems  
decreased with time?

THE WITNESS: Yes.

THE CHAIRMAN: Okay, thank you. Go ahead, Mr.  
25 Metz.



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BY MR. METZ:

Q. In your own personal experience did you ever see any of the city or department of health inspectors going through the building and conducting whatever their business is?

5

A. Yes, I have. I saw the fire department come through and I told them that the landlord is making repairs. He had to do some repairs ordered by the court and they said that they were satisfied that he has been following their order and they can see what he was doing and they said that he was cooperating with them.

10

THE CHAIRMAN: If I must just interrupt again.

THE WITNESS: It was an inspector from the fire department who talked to me.

15

THE CHAIRMAN: You cannot in your evidence say what he said, just what you observed.

-but  
EAGLE  
did  
re: tenants

THE WITNESS: He told me that. Yes, thank you.

20

MR. METZ: I'm not sure I understood that point.

THE CHAIRMAN: A witness cannot testify to what someone else has said. In other words, she was repeating what the fireman or the people from the fire department had said. That's hearsay.

25



MR. METZ: Oh, I see what you're referring to.

THE CHAIRMAN: But she can comment on what she saw the firemen do and her general impression.

5 BY MR. METZ:

Q. How would you describe your experience as a tenant in the Cheyenne Avenue apartments with Mr. Elieff as a landlord? How would you describe your relationship in general terms?

10 A. Well, I find Elijah like really extends himself to understand these people. When they first talk to us it is like words and we have to put it into a sentence and I have a hard time trying to understand what they are saying and we seem to get  
15 along but when they talk on the telephone I think that Elijah has a hard time understanding what they are saying because of their accents and you have to realize Elijah has an accent too and it must be the other way around. They must have a hard time to  
20 understand what he is is saying.

Q. So have you ever called Mr. Elieff for repairs to your apartment?

A. Yes, I have. He has come right away. Just before Christmas I had trouble with the sink  
25 backing up and flooding my apartment and I had a hard

time. I went up to the top floor, there is nobody above me and asked him please don't put any more water down the sink. The daughter had to explain it to the mother. She couldn't speak English.

5 Q. You're on the bottom floor?

A. I'm on the fourth floor.

Q. And what your saying is nobody lives on the floor between you and the top floor?

10 A. Nobody lives above me and Elijah came and fixed the sink and it flooded again and I got a whole bunch of garbage in my sink. I had onions, greens and noodles and rice and I went up and asked again and I asked the man down the hall to come and explain it in his own language that she is not supposed to  
15 put garbage down the sink, to put the strainer in and wash the dishes with soap and water. She said okay, we will do it that way.

20 Well, a week later it happened again. I got all this garbage in my sink and I was really upset and I went upstairs and I got another man to come and translate and her husband was there and the landlord come and fixed the sink again and this time everything seems to be okay and I went up and told them that my sink is okay and I gave them some, they  
25 had cockroaches so I gave them some traps to catch

the cockroaches and the mother spoke to me and I was really pleased. It was just words that she is learning to speak in English and I said I'm really proud of you and I was really pleased with her and  
5 and I can go up and talk to them. They are not mad at me and I'm not mad at them.

Q. I'm just curious, given the condition of the building in general as you describe it and the things that are happening outside, you live in the  
10 building now. Are you planning to stay there for a while or are you thinking about, you know, do you intend to stay in the Cheyenne apartment buildings for any extended period of time?

A. I will stay until I can find another  
15 place. It is hard for me to find a place because I'm a single person and it is not easy. I have to find a place without stairs and within my income.

Q. So you're saying that -- you're implying then that you're looking for a place now?

A. I would like to move out, yes.

Q. What is the reason that you would move given that your apartment is clean itself?

A. Yes, but I don't want any more contact  
25 with Sue Eagle. I think the world is big enough for the two of us. I'm not mad at her. I have no

revenge for her I just did don't want to be in  
contact with people like her.

Q. I'm not sure I understand the nature of  
that comment. You're saying explicitly that Sue  
5 Eagle is the reason you're moving from the building?

MS. SANSON: I'm going to object and I also  
ask for that evidence to be struck.

THE CHAIRMAN: I'm not going to strike that  
evidence but the question can be rephrased.

10

BY MR. METZ:

Q. Are there any other reasons beside THE one  
you just gave or is THAT the only reason?

A. I'm afraid of bugs. I'm terrified of the  
15 bugs and I tried to keep everything I own in plastic  
just so that they don't get into it and I think I  
need a bigger place myself. I have inherited a lot  
from my parents and I would like to move into a  
bigger place.

20

MR. METZ: Those are all the questions I  
have at this point.

THE CHAIRMAN: Okay, thank you. Ms. Sanson  
will have some questions for you but just before she  
begins I wonder if I could ask a few. You said that  
25 you once saw a child kick out a window?

THE WITNESS: Yes, there were other people around us.

THE CHAIRMAN: All right. Can you tell me if this child was an ethnic Vietnamese or Cambodian child or white Canadian child?

THE WITNESS: He was a Cambodian. He wasn't very tall. He was only as tall as the window and it surprised me too and he was imitating the Ninja Turles. They see them doing it on television and I think he surprised himself too.

THE CHAIRMAN: You also indicated that you wrote out signs in English?

THE WITNESS: Yes.

THE CHAIRMAN: And that your impression was that the children could read them.

THE WITNESS: Well, a child came in and he read it right there while I was there.

THE CHAIRMAN: Out loud to you?

THE WITNESS: Yeah, he read it out loud and he understood it.

THE CHAIRMAN: Thank you. Those are all my questions right now. Ms. Sanson or Ms. Hom. Does Ms. Hom have any questions for the witness?

MS. HOM: No questions.

THE CHAIRMAN: Then Ms. Sanson when you're

ready. Oh, just before Ms. Sanson begins, just returning to that incident about kicking out the window, can you tell me approximately how long ago this was? Was it last year or ---

5 THE WITNESS: Oh, no this when they first moved in. A lot of windows were broken at that time

THE CHAIRMAN: The approximate year?

THE WITNESS: I couldn't tell you.

THE CHAIRMAN: Okay.

10

CROSS-EXAMINATION BY MS. SANSON:

Q. Mrs. Mowat, are you a superintendant at either of the buildings?

A. No, I'm not.

15 Q. Do you receive any money from Mr. Elieff to do any of the work around the buildings?

A. No.

Q. Do you receive a rebate in rent to do any work around the building?

20 A. No. Sometimes if I go to the store he will give me a free sub or free drink or something like that.

Q. Okay. And you live in apartment 95?

A. In the building, yes.

25 Q. In 95?

A. Yes.

Q. And so your personal observations would be related to apartment 95. Is that correct?

A. Yes, but if I am standing across the street at the bus stop I can see what is happening in the other apartment too. I usually go to the other apartment to pick up the papers in front of the mail boxes because it really gets bad.

Q. When have you done this?

A. Usually on the weekends because that's when they bring the Pennysavers, whenever they bring newspapers. Actually I think there is a Tuesday paper and they just put the whole pile in the hallway.

Q. Who are they, if I can just interrupt you?

A. The delivery boy and they just put the whole pile in the hallways and the kids would come out and just kick them around just play with them.

Q. Any particular kids that you can identify for me?

A. No, no. There are even children that don't even live there, they just come in and just play.

Q. How do you know which children live there and which don't?

Mon AT

A. Well, I ask them to please -- like, they all run off when I go in. Some of them get on their bicycles and go off down the road. You can see them going into the other apartment, their own apartment.

5 Q. Do you know any of the tenants in 105 by name?

A. No, I don't.

Q. You wouldn't happen to have a copy of the sign that you put up?

10 A. No, I haven't. I just asked that please don't kick the windows because it is winter time and we would like to keep the building warm.

Q. And do you know when what year that was when you said that?

15 A. I think it was just last winter.

Q. Last winter?

A. Yes.

Q. Did you go and speak to Mr. Elieff about what you had seen?

20 A. Oh, yes. I would tell him when he would come in.

Q. Where would you see him?

A. Well, he is always at the buildings working and he was always there doing repairs and he does repairs now. He is trying to get some repairs

25

done now.

Q. Always, what do you mean by always? Can you give me ---

A. He is usually there every day usually after three o'clock. I think he works at the store until three o'clock. Then after three o'clock he would come in and if somebody called him for an emergency or something he would try and get there and if not he would say he would come the next day.

Q. And this is since 1985 he has been there every day?

A. I couldn't say since then. He has been there now trying to get the repairs done.

Q. So is he only there when repairs have to be done?

A. Oh, no he's there quite often and the landlady is there and her family because they are cleaning out the empty apartments. Whenever somebody moves out they would come and clean them up.

Q. Can you repeat for me what it is that you personally observed the landlady I do by way of cleaning?

A. Cleaning out the apartments?

Q. Yes. What did you see her do? Are we talking about Mrs. Elieff?

A. Yes, Sultana. She was vacuuming in the hallway and sweeping and scrubbing in the hallway by the mailboxes.

Q. Is this in 95?

5 A. Both apartments because some times I had to go over and get her to come and talk on the phone to go and call the store.

Q. Okay. Let's just deal with 95 first. Can you tell me what you have seen her do in 95?

10 A. Well, clean the apartments, sweeping and scrubbing. I have seen her spraying the empty apartments.

Q. Spraying what? Do you know?

15 A. She Raids them. She puts spray around the empty apartments, all around the borders in the room and that keeps the bugs away.

Q. You have seen her do this?

A. Yes, I have. I was at the door because I was talking to her.

20 Q. Was this in 1985?

A. Oh, yes all along because I know her.

Q. 1985?

A. Yes,

Q. 1986?

25 A. Yeah, all these years.

Q. 1987?

5 A. I could see the mound of garage that she has outside on some of them, some of the apartments and she would tell me about the damage. I have seen some of the damage in some of the apartments and the landlord has taken some pictures.

Q. Can you tell me what these apartments, what the numbers are of the apartment that you saw?

A. The damage you mean?

10 Q. Yes.

A. Well, 44 was quite bad.

Q. When was that?

A. It was at New Years.

Q. This year?

15 A. Yes. And the people would come and ask me to call the police and the police wouldn't come and actually the superintendant ---

Q. Okay. Just let me back you up for a second. Hang on a second. 44 this year?

20 A. New Years, no not this year. It would be last New Years.

Q. Last New Years you saw?

A. 44.

25 Q. Okay. Now, I was asking you about the cleaning up and such a mess, Sultana cleaning up the

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apartments. You saw her cleaning up apartment 44?

A. No, I saw her cleaning up -- what do you mean? You want to know what apartments I saw her cleaning.

5 Q. Yes?

A. Oh, lots of them. There is number 6.

Q. Is this in 95?

A. No, in 105.

10 Q. You saw her in number 6 in 105 and when was that?

A. And the one down the hall from me.

Q. Hang on a second?

A. It was in the summer time.

Q. Of this year?

15 A. No, it was last summer I believe.

Q. Okay. Last summer?

A. I have seen her so many times that I can't remember all the times.

20 Q. Okay. I'm just asking you for your recollection of what you saw?

A. Yeah, and down the hall from me that would be number 30, number 29 or 30.

Q. And this in 95?

25 A. Yeah, it was just before they sprayed she was scrubbing the floors again because she said that

she had rented it out.

Q. Okay. And what did you see?

A. She was scrubbing the floor.

Q. She was scrubbing the floor?

5 A. Yeah.

Q. Did you see her do anything else?

A. Well, I was talking to her while she was  
doing it.

Q. So you saw her scrubbing the floor?

10 A. Yeah, and I saw her over when I had to go  
over to number 18 I saw the landlord painting and the  
landlady answered the door.

Q. Number 18, where is that?

A. It was over in 105.

15 Q. When was that?

A. I can't remember exactly.

Q. A year?

20 A. Because I had gone over to number 12 and  
they were cleaning there and he had gone over to 6  
and then across hall from 6.

THE CHAIRMAN: In the past two years or in the  
past year, just so we have some idea?

THE WITNESS: In past two or three years.

THE CHAIRMAN: In the past two or three years?

25 THE WITNESS: Yes because he ---

BY MS. SANSON:

Q. Can you just tell me -- okay, so apartment number 6 in 105 you saw Mrs. Elieff cleaning last summer?

5 A. Yes.

Q. Do you know who had just moved out of there?

A. No, I don't. I don't know all the people that live in the apartment.

10 Q. Okay. And what about apartment number 29. Do you know who lived in apartment number 29?

A. You mean before that?

Q. Before you saw ---

15 A. God, there were four Vietnamese boys I think, school boys.

Q. Lived in apartment number 29?

A. Yes.

Q. And what about apartment 18?

A. I don't know who lived in there.

20 Q. Okay. And you still don't know what year that was?

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

Q. It was a long time ago?

25 A. Oh, no, no. It was within the last few year.

Q. And this is in 105?

A. That was in 105, yes.

Q. Okay. So would it have been before 1989  
or after 1989?

5                   A. I couldn't tell you the exact date. There  
is so much that's happened there it isn't funny.  
There are so many people living in the apartments the  
it confuses me. We had trouble, the landlord had  
trouble because -- I can't talk about that because I  
10 never saw it so I won't be talking about it.

Q. Do you know Chippeng Hom?

A. No, I don't.

Q. Have you ever met Chippeng Hom?

15                   A. I may have maybe in passing but I don't  
know these people by name. I find them very peaceful  
people.

Q. Who are you referring to as them?

A. The Cambodian people.

20                   Q. And that's who you have been referring to  
throughout when you said the boat people?

A. Yes, the Cambodian people, yes.

Q. Why do you call them the boat people?

25                   A. Because that's what they called themselves  
when they came over. That's what the newspaper  
called them, the boat people.

Q. Do you know if Chippeng Hom is a boat person?

A. No, I don't.

Q. Do I know if she would like to be called a boat person?

A. I don't know. I think that's her opinion.

Q. Is it true that you refused to allow A-1 Pest Control to come in to spray your apartment?

A. I think I did at one time because I didn't have any bugs. I can't remember rightly. I had refused the health board from coming in because I was working and actually I had to quit my job and I haven't worked since. I have had problems because they came in and sprayed and then three weeks can later they came in and sprayed again and I had just put everything back and I'm the only one living there and I was working and I was trying to, you know, I was trying to hold down a job and I was just played right out I was just tired right out.

Then they came and wanted to spray again and I had to get everything out again and I had packed everything ready to move, then the health board wanted to come around again after they sprayed the second time and I wouldn't let them in so they sent the fire department. It is just constantly people

knocking on my door and I'm trying to work and I cannot get everything done in the time that they allotted me. It has just made me a nervous wreck and I haven't tried to get a job since.

5 Q. And so you were at home when they came around to spray and you didn't let them in?

A. No, I don't think I was home that one time.

10 Q. Now, you told the Board that you really don't like roaches?

A. No, I can't stand them. They frighten me, yeah.

15 Q. Are you aware and I will tell you that the health inspector's evidence was that in order to have an effective elimination of the roaches from the entire building that all of the apartments need to be sprayed. Were you aware of that?

A. The health department did come and they explained it to me.

20 Q. And did you still refuse?

A. Oh, no they sprayed my apartment.

Q. You finally let them in?

25 A. Yeah, they sprayed it twice like I told you but they this last time they just laid down a paste and we didn't have to take everything out of

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5 the cupboards or anything and they never told us that we didn't even have to leave the apartment. We could go back and live just as normal as anything and we went through all that work and we didn't know. We were weren't told.

Q. Are you aware that it is Mr. Elieff's responsible to insure that the buildings are sprayed?

A. That he was supposed to order it?

10 Q. That it is his responsible to look after the buildings. Are you aware of that?

A. I don't understand what you're telling me because it is an opinion.

Q. Okay. Who is it your landlord?

A. Elijah Elieff is my landlord.

15 Q. Okay. I can tell you that under the law there are certain laws for landlords and landlords have a responsibility to keep the premises in repair and to keep the apartments free from roaches and I can tell you that as a landlord he has that  
20 responsibility to do that. Now, your evidence has been that you were very concerned because Susan Eagle only give you one day's notice?

A. I phoned the A-1 Pest Control. They said Susan Eagle was the one that was supposed to tell us.  
25 I phoned them and they told me so I phoned Sue Eagle

and she said why didn't you tell.

Q. Why wouldn't you speak to Mr. Elieff about that?

A. The landlord didn't even know they were spraying the buildings. I phoned him the day they sprayed them. The landlord did not have the knowledge the day they sprayed the buildings.

Q. Mr. Elieff received an order from them and I'll show that to you if you want to see that order. So how is it that you know that he didn't know?

A. Did they order what day they were going to spray the building?

Q. Yes.

A. That's something that I have no knowledge of.

THE CHAIRMAN: I think we should move on because you may be referring to different orders

THE WITNESS: Well, I'm supposed to give another opinion and I don't know that opinion.

THE CHAIRMAN: That's all right. We can move on.

BY MS. SANSON:

Q. Did you yell at Susan Eagle and tell her that she was the devil?

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A. No, I never called her the devil.

Q. Never, ever?

A. No. I don't do that. I just told her that what she was doing was wicked and evil and that's my opinion and I don't think you want my opinion here.

5

Q. You told her that what she was doing was wicked and evil?

A. Yes. That was my opinion. That's what I thought and that's what I told her.

10

Q. What was she doing that you were saying was wicked and evil?

A. She is trying to make those buildings into a co-op and her methods weren't right and I didn't think that was fair. It wasn't fair that she was using these people in order to get ---

15

Q. Who are these people?

A. The Cambodian people, all of us living in those apartments, she was using us.

20

Q. What is your evidence that she was using you. She gave you a notice that there was a tenant's meeting going on. Is that what your evidence was?

A. We were supposed to go to a tenant's association meeting. I had never gone to those meetings. Susan Eagle set up this association for

25

all the -- like, she set up this association herself.

Q. How do you know that if you never attended a meeting?

A. Because we got the papers coming to our doors saying there is a tenant's association meeting at Bethsemeny Church and we were all invited to go. I have never gone to these meetings.

Q. So you received a notice that there was a tenant's association meeting going on?

A. Yes. We would get papers under our doors.

Q. Okay. So you received notice that these meetings were going on. Is there anything else you know about that first hand?

A. I have never gone to these meetings so I don't know.

Q. And when Susan Eagle came to your door was it to give you a notice of these meetings?

A. No, she didn't. These were sent around, the flyers were sent around. She asked us to personally come to these meetings and I said I had no intention of doing that.

Q. Okay. So that was the extent of the conversation?

A. I asked her to leave the property. She had no business being on the property and doing that.

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Q. did you report that to the landlord?

A. Yes, I did phone the landlord and tell him  
but the landlord doesn't know his rights. He didn't  
know he could phone the police and have her ordered  
5 off the property. He didn't know that he could do  
that.

Q. How do you know what he knows or doesn't  
know?

A. He told me.

10 Q. Okay. And you're you never called Susan  
Eagle, never said to her you're the devil?

A. No, I don't talk like that.

Q. You're absolutely sure?

A. I'm sorry, I'm not that religious that I'm  
15 going to call people angels or devils. I'm not like  
that.

Q. You have never may the comment to her that  
she is the devil.

MR. METZ: I object. The question is being  
20 repeated. It is irrelevant.

THE CHAIRMAN: Ms. Sanson she has answered the  
question.

BY MR. SANSON:

25 Q. I'm just clarifying. I understand that it

is Susan Eagle's evidence and I'll bring Susan back to have her give that evidence so I want it to be clear to you that you have never at any time called Susan Eagle or yelled at her you're the devil?

5 A. No, I don't yell at her. I happen to have a big voice and if I yell you can hear me a block away.

Q. Okay.

10 A. There are a lot of children in my family. We had to make our voices heard.

Q. So you would say then that Susan Eagle is lying if she says you said that. Is that true?

15 A. That's an opinion and I don't think I should answer that question. I have nothing against Susan Eagle.

THE CHAIRMAN: Let me interrupt here. The question that's being asked is whether you actually used these words to Susan Eagle that she was the devil.

20 THE WITNESS: I never said that.

THE CHAIRMAN: All right. That's all we need to know.

THE WITNESS: I'm not that kind of person. I just don't do those things.

25 THE CHAIRMAN: That's fine. Ms. Sanson will

be calling Ms. Eagle to give evidence on this point alone and what she is saying is that Ms. Eagle is likely to contradict that. We don't know exactly what Ms. Eagle will say but that's why she is asking the question and wants to be sure of your answer so you have given your answer at least three times and you are sticking by it.

5 THE WITNESS: Well, I can tell you one thing, when she came around to our doors that they were spraying, she knocked on my door. I saw it was Sue Eagle. I told her to go to the devil. That does not mean I'm calling her the devil. I told her to go to the devil and I slammed the door. She knocked on the door again and it was the health guy and he explained to me that they were laying down the paste and Gerry next door, the old man next door said what did she tell you and she said she told me to go somewhere so I was not calling her the devil. I told her to go to the devil and it is an expression. I didn't mean it religiously because I'm not a religious person.

10 THE CHAIRMAN: Okay. Thank you for that clarification.

15 THE WITNESS: Okay. That is the only time I could see the referral.

20 THE CHAIRMAN: I think Ms. Sanson has further

questions.

BY MS. SANSON:

Q. Yes, I do. Thank you. You made reference  
5 to a court case that Mr. Elieff was involved in. Did  
you attend court with Mr. Elieff?

A. No, but I followed it in the newspaper.

Q. I see. So your information is from the  
newspaper?

10 A. Mostly from the newspaper and people that  
have been there.

Q. And in your letter you said the landlord  
made repairs maybe not quite within the time limit.  
Is that true?

15 A. Yes, because they were going to fine him  
if it wasn't done by a certain date and I did see the  
damage in that apartment. I saw the hole in the  
doorway going from the bedroom going right into the  
bathroom and I saw the doors punched in and it was  
20 terrible.

Q. What apartment was that?

A. It was apartment 1.

THE CHAIRMAN: Which building.

THE WITNESS: 105, and he had to repair that  
25 one first.

THE CHAIRMAN: What year was this?

THE WITNESS: That was during the court case.  
It went on for about six months. Does that establish  
the time for you?

5 THE CHAIRMAN: I'll have to check it.

BY MS. SANSON:

10 Q. There have been a number of court cases so  
I'm not sure. You have said that your information  
has been through the newspaper?

A. Yes.

Q. Before you came to the hearing today did  
you talk to Mr. Elieff about the evidence that had  
gone on at the hearing?

15 A. No, I'm not aware of it except -- well,  
they did tell me that you asked the same question a  
lot of times.

Q. Okay. What else did he tell you?

A. I didn't ask him too much, not really.

20 Q. Did you discuss your evidence with him?

A. Well, I read over the letter. We had to  
cross out all my opinions and it wasn't, like it is  
not really evidence if it is my opinion and he told  
me that and so I went over it with Mr. Metz, Bob Metz  
25 and we crossed it all out.

Q. Okay. Did he assist you in preparing your evidence?

A. Who, Bob?

Q. No, Mr. Elieff?

5 A. No. Bob was just correcting some of my statements.

Q. Okay. Did he explain to you any of the evidence that was heard at the hearing from the other witnesses?

10 A. No, he didn't. I haven't been here.

Q. No, I know you haven't been here. What I'm asking you is did Mr. Elieff talk to you about the evidence of the other witnesses, who said what?

A. No, I'm not aware of the issues.

15 Q. He didn't discuss any evidence?

A. No, he didn't because I haven't seen him that often.

Q. You haven't seen him that often?

20 A. No, because he is working in the store he didn't come out to the buildings.

Q. I thought you saw him every day?

A. I said he is there every day.

Q. But you don't see him every day?

25 A. I don't see him every day but I do see him quite a lot.

Q. How do you know he is there every day then?

A. I couldn't tell you that.

THE CHAIRMAN: Ms. Sanson, can we move on?

5

BY MS. SANSON:

Q. How many washers and dryers are in apartment 95?

A. Is that for my information to give?

10

THE CHAIRMAN: This is in 95.

MS. SANSON: In apartment 95.

THE CHAIRMAN: Just a comment on what you have seen in the building. Nothing is going to rise and fall on it.

15

THE WITNESS: There are two of each in each building.

BY MS. SANSON:

Q. And where are they located?

20

A. In the laundry room.

Q. Where is that?

A. The laundry room? It is on the first floor in the center.

Q. Of both buildings?

25

A. Yes.

Q. Have you been in the laundry rooms of 105 or just 95?

A. Oh, yes sometimes they would put their kitchen garbage in the garbage in there.

5 Q. Who are they?

A. The tenants.

Q. Which tenants?

A. I don't know, they are just there. I never seen anybody do it so I couldn't tell you about it.

10

Q. Okay. That's what I wanted to know.

A. Anything that attract bugs I was trying to get out of there.

15 Q. Other than Mr. Elieff and Mrs. Elieff, was there any anyone else in apartment 95 to do cleaning?

A. Oh, yes her son. Her son does most of the scrubbing now. I see him doing it.

Q. Okay. Since 1985?

A. Oh, yeah all along.

20

Q. He has done it all along?

A. Well, they share it with each other. They both do it sometimes. Sometimes one just comes and does it. Her son does it all himself.

Q. Okay. Anyone else that you have seen?

25

A. No.

Q. You described a person who was putting some clothes in the laundry. Was that in 105?

A. No, it was in my building because I was real upset because they were brand new washers and we were so proud of them.

5

Q. Do you recall your the date of that?

A. It was the first year they came.

Q. Who came, sorry?

A. It was the first year that the immigrants moved in.

10

Q. Who are the immigrants? Who are you referring to?

A. The Cambodian people.

Q. Okay. So this was 1985 you're talking about?

15

A. No, it wasn't in 1985, it was after the court case.

Q. Which court case?

A. The one where the landlord won the case and he lost out on the money.

20

Q. So it was after that court case?

A. He was making repairs and he put in brand new ones.

Q. He put in brand new ---

A. Maytag washers and dryers.

25

Q. Maytag washers and dryers?

A. Yes.

Q. He put in two washes and two dryers. And that was in 95. Is that right?

5 A. I can't remember the date.

THE CHAIRMAN: No, the apartment building.

THE WITNESS: The apartment, 95. Well, he did in the other apartments too and 105.

10 BY MS. SANSON:

Q. Did you see that?

A. Yes, I saw the new washers. I went over and looked at them because we were proud of them. We were pleased to get them. They weren't installed yet but we went over to see them because we saw the men  
15 bringing them in.

Q. Where did you see them?

A. In the laundry room. The delivery men were bringing them in.

20 Q. The laundry room at 105?

A. At my apartment but then I went over to see the others too to see if they got some too.

Q. Okay. And can you identify the person that you saw in the laundry room?

25 A. The men?

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Q. Do you know who that was?

A. I don't know their names but I know that they were native people. They were immigrants, the Cambodian people. They had their skirts on all the time. They wear their native have dress.

THE CHAIRMAN: Let me just, I need some clarification. Are you talking about the people who allegedly overloaded the laundry or are you talking about the people who delivered the machines?

BY MS. SANSON:

Q. I'm asking who was loading laundry but I would like to ---

A. They had their native dress on. They wear these pretty skirts. Even the men wear them and they have all these oriental designs on them an they were quite serious in what they were doing and I don't know if they understood me or not but the men would come down and they did. This is when they first moved in.

Q. Okay.

A. Most of them, like they were washing their own, washing their jeans and their shorts and men's clothing.

Q. You detailed a specific incident that you

saw though?

A. Yes, I did. I saw it. This is when they first moved in but the women did the washing late on when they understood what they were supposed to do, the procedures.

Q. Okay. Are there any facilities for the children to play on the property?

A. What do you mean, a play yard?

Q. Yes.

A. There was grass in between the two buildings.

Q. Is that the only place for them to play?

A. Well, behind there is like a church and they set up a volleyball net over there and a lot of people went over there to play, a lot of the children and they used to go over to the playground because the school is right beside us. The playground is right beside the church in the back and they would go back there and play.

Q. Was there a sandbox or anything on the property?

A. Nothing, no.

Q. Just the yard. How many children do you think live in 95 roughly?

A. In 95, I don't know now.

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Q. No?

A. No, but when they first came at Halloween they all went out in the yard with all their costumes on and I would say between the two buildings there were about sixty kids out there and there may be a few from the other apartments but I noticed there were a lot of Ninja Turtle costumes.

Q. Did you report the Ninja Turtle, the person who kicked the window, did you report that to the landlord?

A. I told the landlord and the child told me what apartment he lived in and the landlord ---

Q. What apartment was that?

A. It was the one right beside -- I don't know the number. It was right beside the doorway, middle apartment on the first floor and the landlord carried on from there.

Q. And is that in apartment building 95?

A. No, it was 105 because I was standing at 95 when I saw that.

Q. Now, where was the window? Was it in the front, front window of 105 that you saw this?

A. No, I said it was at the side door.

Q. At the side door, okay. And it was part of the door?

A. No, there is windows on each side of the door.

Q. Okay. And it was one of those?

A. Yes.

5 Q. And you may have said this before but I want to clarify with you. Do you recall when that was, what year?

A. No, I don't.

10 Q. No year at all? Was it a long time ago or recent?

A. Yes, it was. It was quite a while ago. It was almost around the time when they first came. It's funny, you tell me I'm not supposed to read my letter yet you're using my letter to ask questions.

15 Q. But you relied on it.

A. But you won't let me read it.

Q. Yes, because you're here?

A. But you would not let me read it. That doesn't sound fair.

20 THE CHAIRMAN: That's all right. I think you have handled yourself quite well.

THE WITNESS: Well, I'm trying to tell you everything that I see and I'm trying to tell you just the way it was.

25 THE CHAIRMAN: And that has been of

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assistance.

THE WITNESS: I never tried to call anybody a devil.

THE CHAIRMAN: I'm not commenting on anything you might have said but I'm saying you did all right without having to read the letter so the process we have used has been fine. It's worked well.

THE WITNESS: Thank you.

10 BY MS. SANSON:

Q. I just wanted to ask you about how what you did when you communicated with people who don't speak English. How would you do that?

A. These people, they learn pretty fast.

15 They say words and I kind of understood what they were saying because they used their hands and they would describe something. They would say the colour and that I would understand then.

Q. How did you communicate?

20 A. I would say it in a sentence and I would point to something and they did their very best to understand me but there was a lot of laughter too because they learned English from me too and maybe they learned a little bit of slang language, I don't know but I had trouble with the children because they

25

wouldn't listen and they said that they wouldn't --  
you know they are just children. They just won't  
listen and I can understand that.

5 Q. Did you have the chance to speak to any of  
their parents?

A. Any of the what?

Q. Of their parents?

A. The children's parents? Oh, yes sometimes  
the parents are right there and they would tell me  
10 the food they eat because I asked. I found these  
palm leaves on the stair steps and they would explain  
to me how they rolled it with rice and nice tidbits  
inside and then they steam it. They frie most of  
their food so the hallway smelled mostly like fried  
15 food, especially when they cooked fresh fish. It was  
just delicious. Some of their dishes were really  
nice. They had very nice customs and they would tell  
me their customs.

20 Q. Well, it sounds like you made a  
significant effort to communicate with the tenants?

A. Well, some of the tenants that moved out.  
I even gave them some of my stuff because they had  
nothing these people when they came and I gave them  
things that I didn't want either. I usually gave  
25 them to the lady down the hall and she gave them to

other people that moved in and had nothing and I would get all my extra dishes and silverware and made sure they had something.

Q. Okay. Do you know Irena Zucker?

5 A. Yes, I do.

Q. Is she related to Mr. Elieff?

A. No.

Q. That's not his sister?

10 A. I don't think that's my opinion to talk about. Not that I know of.

THE CHAIRMAN: If you don't know just say.

THE WITNESS: I just know she is Yugoslavian the same as they are.

MS. SANSON: If I might just have a moment.

15 THE CHAIRMAN: Sure.

BY MS. SANSON:

Q. I wonder if you can take a look at this and make sure it's yours?

20 A. I wrote it. I know I wrote it because she was demanding the rent and it should have been voluntary.

Q. Okay.

25 THE CHAIRMAN: Can you just assist me in identifying that?

BY MS. SANSON:

Q. Yes. Perhaps before we properly enter it, why don't you read the contents of the note to the Board. Is that the same on both sides?

5 A. It is the same on both sides, yes. She put this flyer in our door saying that we are supposed to pay our rent to her.

THE CHAIRMAN: When was this?

10 THE WITNESS: Just during this hearing, just lately.

THE CHAIRMAN: Okay.

15 THE DEPONENT: Before Christmas you could say and she was coming right the next day and it was something like a week before the first of the month and I wrote out -- I phoned the landlord and I told him I was going to write these notes and he said do what I think I should do. I told him I can't knock on everybody's door, it's too late so I wrote out this note: "Do not pay your rent to Sue Eagle. She  
20 does not have a court order to do this. It is against the law. Pay your rent to the landlord." That's all I wrote down and I put it under their doors.

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BY MS. SANSON:

Q. Did you receive a notice from the PUC company that they were going to shut off the hydro?

A. They sent us a letter, yes.

5 Q. If the bill wasn't paid?

A. Yes, they sent us a letter.

Q. Do you recall what that letter said?

A. Just what you said.

Q. When were they going to cut it off?

10 A. I don't remember. They didn't give a date.

Q. Okay. Were you afraid of losing your hydro?

A. I don't think I was afraid.

15 Q. Okay. Do you know why Susan Eagle came around to collect rent or asked people for rent?

A. She sent the flyer around ahead of time.

Q. Okay. And what did that flyer say?

A. We are repeating this all over again.

20 Q. I don't think we heard about this and I think ---

A. I'm sorry, I don't understand this any more.

25 THE CHAIRMAN: Let me just ask you. This is a flyer related to the PUC and it was sent by Susan

Eagle?

THE WITNESS: That's right.

THE CHAIRMAN: Do you remember what it said?

Just whatever you remember of what it said. It  
5 doesn't have to be verbatim because you don't have it  
with you but do you remember the gist of it?

THE WITNESS: The general gist was to pay our  
rent to Sue Eagle who was going to put it in a bank  
account and it was supposed to pay for the hydro  
10 bill.

THE CHAIRMAN: Okay.

THE WITNESS: She collected one month's rent  
and no money was paid on the hydro bill yet so far.

THE CHAIRMAN: Okay. That's of assistance.

15 Thank you.

BY MS. SANSON:

Q. Is this the notice that you received? Do  
you want to take a minute to look at that?

20 A. I don't think the first one said that we  
are going to get a receipt. I think this was sent  
afterwards. I think the first one said we weren't  
going to get a receipt.

Q. So there were two notices then that you  
25 received?

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A. Another one was sent later.

Q. Okay.

A. It was part of the protest.

Q. Okay. So ---

5 THE CHAIRMAN: I'm content with the evidence she has given.

MS. SANSON: I would like to read the notice into the record and if the witness can properly identify having received this notice then I think it appropriate to read the notice into the record and then also the contents of the note as well.

10

THE CHAIRMAN: But what she said is she doesn't believe that preceded the notice.

15

THE WITNESS: It wasn't the first notice. There was a notice saying we would not get a receipt, then they said it in the newspaper after that that we were supposed to get a receipt.

THE CHAIRMAN: I think that is a crucial issue if you want to introduce it in sequence.

20

THE WITNESS: We did get a letter that said to Mr. Elieff.

THE CHAIRMAN: Mrs. Sanson, the witness is saying she recalls receiving a letter that was addressed to Mr. Elieff.

25

THE WITNESS: Yes, we did get a letter that

said Mr. Elieff. I can't remember what was on it.

THE CHAIRMAN: THAT may be the one that preceded the notice, if that's of assistance to you.

MS. SANSON: Yes. I just want to check to  
5 make sure.

BY MS. SANSON: Would it be all right if I ask you a question?

Q. Is that the first one that you got?

A. No. There was one saying that they were  
10 taking Mr. Elieff to court and about the Cheyenne buildings and I got the impression they were trying to take the buildings away from him.

THE CHAIRMAN: Is that helpful?

15 BY MS. SANSON: Would it be all right if I ask you another question?

Q. I thought we were dealing specifically with ---

A. I'll have to search and see if I can find it.

20 Q. Okay. This one is not familiar at all?

A. No.

Q. Okay. Now, this one you did in fact receive?

A. But we got one before this because it said  
25 it had -- it said nothing about getting a receipt an

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and then another one was sent around.

Q. And this was in December of this year?

A. It was before Christmas. I can't tell you exactly.

5 Q. I would like to be able to put in both of these documents ---

A. I would like to just ---

THE CHAIRMAN: Do you want to introduce these as exhibits?

10

BY MS. SANSON:

Q. Is This the one?

A. I can't remember. I'll have to search. I might still have it. I can give it to Bob Metz if I  
15 find it and he can show it to you or give you a copy.

Q. Okay.

A. But that one is familiar but it was given to us after another one.

Q. Okay.

20

Q. Now, just to go through the sequence of events. So there was one notice first, then there was a subsequent notice and you have identified that it was a subsequent notice?

A. Yeah, that we get a receipt.

25

Q. Okay. And then this ---

A. This was the first notice. That's why I said that.

Q. Okay. And did you put this on the doors of the tenants in your building?

5 A. Yes, or under their doors or whatever. You polite find some in empty apartments.

THE CHAIRMAN: For the record, when the witness said that she put this under the doors, she is referring to the handwritten note.

10 MS. SANSON: Okay. At this point I would like to identify the first document that the witness has identified as a notice entitled "Cheyenne Community Tenant's Board". It is to the tenants of 105 and 95 Cheyenne Avenue and it is dated December 28th, 1992:

15 "As many of you know the landlord Elija Elieff has not paid the PUC bill since last June.

The PUC has agreed not to cut off the electricity and water if the tenants can use the rent money to pay the PUC bill. For this

20 reason it is very important that you pay your January rent money to the tenant's trust fund.

The PUC bill is now over fourteen thousand dollars so it will take many tenant's rent to catch it up. The tenant's board has set up a trust fund and asked Susan Eagle to collect

25

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and deposit rent money. You will be issued  
with a formal receipt and Mr. Elieff will be  
advised that your rent money has been paid  
toward the PUC bill. This is the only way we  
5 can keep the electricity and water running.  
Susan Eagle will be collecting the rent  
Wednesday December 30th, 1992 from 3:00 p.m.  
to 5:00 p.m."

And the note in handwriting that's been identified  
10 by the witness states:

"Important, do not pay your rent to Sue Eagle.  
She does not have a court order to do this.  
It is against the law. Pay rent to the  
landlord."

15 And it is repeated on the reverse side.

THE CHAIRMAN: And just for the record, the  
witness has stated that the handwritten note  
preceeded the flyer or the notice that was sent out.

THE WITNESS: The second flyer, yes.

20 THE CHAIRMAN: The second flyer. That's her  
evidence.

BY MS. SANSON:

Q. And you're certain that this was the  
25 second flyer?

A. Yes, because it said that we would get a receipt on this one.

Q. And you're certain the first one didn't say anything about the receipt?

5 A. I'm not sure. It just said that she was going to come around to collect our rent. It surprised us she came way before the first of the month because in one of the court orders she criticized the landlord for doing this, for coming  
10 ahead of time to collect the rent. It upset me.

Q. And it was your evidence that you received a notice from the PUC company that they were going to cut off the hydro?

A. They sent us a letter in the mail.

15 Q. So you were aware that it was a possibility?

A. They sent everybody a letter.

Q. Okay. And the reason ---

A. It said over fourteen thousand. That  
20 sounds really exaggerated.

Q. How would you know?

A. It said in the newspaper eight thousand.

Q. So you got your information from the newspaper?

25 A. Well, this sounds like an exaggeration. I

think if you ask the landlord he would tell you exactly how much the bill was.

Q. Do you know how much the bill was?

A. It is not for me to say.

5 Q. So you don't know then. Is that what you're saying?

THE CHAIRMAN: The witness said it is not for her to say.

10 BY MS. SANSON:

Q. Okay. And the reason that you wrote this note was because of your concern about not getting a receipt. Is that why you wrote it.

15 A. This has all happened before of her collecting money and the landlord did not get it back.

Q. Who?

20 A. Sue Eagle telling people to hold back the rent in order that the landlord does not get it and this has all happened before and this seems like the same thing again and there still hasn't been any money paid on that bill and that's odd.

Q. Did you tell me when there was a notice from Sue Eagle to collect rent before?

25 A. No. These people didn't have a notice,

they just did it voluntarily.

Q. Are you sure it was Susan Eagle who was around collecting rent in 1985?

A. No, I said she didn't collect them, I just  
5 said they didn't pay their rent.

Q. Was Susan Eagle involved in that?

A. She was involved in that case, yes.

Q. How do you know that?

A. It was in the newspaper and also the other  
10 tenants were telling me.

Q. Okay. You didn't see Susan Eagle coming around or you didn't see Susan Eagle talking to you about withholding rent at any other time. Is that correct. Yes or no?

A. I didn't talk to Sue Eagle.  
15

Q. You didn't see Susan Eagle at that time?

A. No. I try not to see her if I can. I don't want to antagonize anybody. I just don't want to be involved with her, that's all.

MR. METZ: Excuse me.  
20

THE CHAIRMAN: Yes, Mr. Metz?

MR. METZ: May I clarify the date on the notice? I haven't seen the notice. What was the date on that notice?

THE WITNESS: The second notice is December  
25

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28th, 1992.

MR. METZ: The second notice is December 28th, 1992?

5 THE WITNESS: Yes, and I'm quite sure she sent a first one.

10 THE CHAIRMAN: Ms. Sanson, again you have to assist me about the importance of this particular line of questioning. I guess what I'm saying is that if it isn't of crucial importance can we move on to other questions.

BY MS. SANSON:

15 Q. I think the issue may relate to credibility. If there is another notice then perhaps over the lunch break the representative for the Respondent could provide that. It is my information that other than the letters that have been shown to you that there wasn't any other information about that so I just wanted you to have the opportunity to clarify whether you sent that note after you got that notice or if you're absolutely sure that it went out before then?

20 A. I really couldn't tell you. I have read it in the newspaper, saw her picture in the newspaper  
25 holding up this bank book and to me it's everything

happening all over again. It's like a nightmare repeating itself and why these people who want to live in peace, just want to bring up their families in freedom.

5 THE CHAIRMAN: Can I suggest that during the break if you have a chance to check that you do so and if it produces something you can mention that to the Board you can mention to the Board. Otherwise, Ms. Sanson you can have Ms. Eagle give that evidence.

10 MS. SANSON: Thank you. I have no further questions for the witness.

THE CHAIRMAN: Mr. Metz?

15 MR. METZ: I could clarify for the Board the amount that's in question based on the PUC bill for 95 Cheyenne dated January 16th, 1993 the specific amount is \$5,982.26.

MS. SANSON: The witness has already given evidence that she does not know what the amount is.

20 MR. METZ: I thought you wanted to know what the amount was.

THE CHAIRMAN: If there is going to be any evidence given it has to come out of the witness.

MS. SANSON: I also think that is the Union Gas bill, not the hydro.

25 MR. METZ: It says Public Utility Commission.

THE CHAIRMAN: Maybe you can sort that out.

MR. METZ: Nevertheless that's a later issue.

RE-EXAMINATION BY MR. METZ:

5 Q. Marie, to whom do you pay your rent now since  
you received the notice to redirect your rent?

A. I pay my rent to the landlord.

Q. And by the landlord you're referring to  
Mr. Elieff and not to Susan Eagle?

10 A. Yes.

Q. To your knowledge have you spoken to any  
of the other tenants with regard to that? Are a lot  
of people following the order or is that not the  
case.

15 A. I haven't spoken to too many people but I  
have spoken to another person whose also paying his  
rent to the landlord.

Q. You said when you received one notice, in  
cross-examination you said that you got the  
20 impression that they were trying to take Mr. Elieff's  
buildings away from him. What was it about the  
notice that give gave you that impression?

A. It really wasn't the notice, it was just  
like a nightmare happening all over again. It was  
25 the same thing happening again and it upset me.

Q. So you're referring to a broader feeling about all the events that have been occurring in the building then?

A. Yes.

5 MS. SANSON: Mr. Metz is giving evidence for the witness again and I would also object at this evidence. He had the opportunity to deal with this evidence in chief. Reply is for issues not already dealt with.

10 THE CHAIRMAN: Mr. Metz, try and phrase the question as a question rather than making a comment.

MR. METZ: Well, it is not a very relevant point and I would suggest at this point that I'm finished as far as questioning goes.

15 THE CHAIRMAN: Thank you.

THE WITNESS: Will I be needed for questioning again?

20 THE CHAIRMAN: Not unless you discover something back in your apartment that would be a document that is relevant, otherwise you have completed your evidence and I thank you for coming.

THE WITNESS: As I said, I'm not positive but I did read in the newspaper and it didn't say in the newspaper either that we would get a receipt.

25 THE CHAIRMAN: All right. You are free to

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step down. It is now ten minutes past one.

MS. SANSON: We haven't dealt with the issue of the recordings and I have some serious concerns about that issue not having been dealt with.

5 THE CHAIRMAN: I'm sorry, I did let that slip by before we started. Maybe we can deal with that now. Can you tell the Board your concerns about the recordings, the audio recordings.

10 MS. SANSON: First of all, I would like to have identified for the record each of the individuals who are here making recordings and what is the purpose of the recordings.

THE CHAIRMAN: We had the people identify themselves who actually had recordings.

15 MS. SANSON: There may be more people in here and I would also for the record like identification on the record as to who these people are and what is the reason, I think it is relevant to the issue of your decision, what is the purpose of the recording at this point in time.

20 THE CHAIRMAN: All right. Can the people who have been recording this morning's proceedings please indicate who they are? Can we deal with you one at a time. The gentleman in the front here. Could you  
25 identify yourself again.

MR. MONTEITH: Ray Monteith.

MS. SANSON: Who are you with, Mr. Monteith?

MR. MONTEITH: Who do you mean, who am I with?

THE CHAIRMAN: Who do you represent?

5 MR. MONTEITH: I'm a member of the Freedom Party.

THE CHAIRMAN: What is the purpose of your recording?

10 MR. MONTEITH: I think I should know what is going on. I would like to know what is going on here, that's all it. Is just for our own personal use.

THE CHAIRMAN: For personal use?

15 MR. MONTEITH: It is not going out to the public or anything that I know of.

THE CHAIRMAN: Yes, sir?

MR. DANISLIEWSKY: Mike Danisliewsky from the London Free Press. As I stated earlier it is just to supplement the making of my notes.

20 THE CHAIRMAN: Anyone else?

MS. SANSON: Okay. I will make my submissions with respect to a member of the Freedom Party recording evidence. First of all, there is a Court Reporter to make a complete record of this proceeding. I have a concern about recordings being

25

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made and not knowing what the purpose of this recording is and how it is going to be used. I have even other concerns about how this evidence is going to be used during the course of the proceedings.

5 We have asked for the witness to be excluded. I have been advised that somebody has been leaving the room periodically and speaking to Mr. Elieff. I would ask for that person to identify themselves if there are in this room but I also have concerns about  
10 where that tape is going during the breaks and that material be kept in your care if you are going to allow this to continue.

I think it is completely unnecessary given the court reporting and if you are going to allow the  
15 recording to be done and there is case law on this issue and if you are going to allow it I would like the opportunity to make and present formal submissions on this issue because I think it is an important one.

20 THE CHAIRMAN: Well, leaving the issue of making the recordings aside, let me ask a question about the information in this morning's proceedings being conveyed to Mr. Elieff in absence, Has someone who has been here in these proceedings spoken to Mr.  
25 Elieff this morning after he left the room? Could

you identify yourself please?

MR. PLANT: Jack Plant. I'm with the Freedom Party.

THE CHAIRMAN: I see. And you have spoken to Mr. Elieff.

MR. PLANT: Yes.

THE CHAIRMAN: What did you say to him?

MR. PLANT: I just talked about how cold it was. I just tried to keep him company. He talked to a reporter about his ancestry in Macedonia. I just went out to have a cigarette and said hello. That's all.

THE CHAIRMAN: Was anyone else with you?

MR. PLANT: Well, at the time there was a reporter from CFPL and the reporters were there talking.

THE CHAIRMAN: WHILE you were talking to Mr. Elieff?

MR. PLANT: Yes, Mr. Elieff was talking about his ancestry in Macedonia.

THE CHAIRMAN: AND you can assure me that you discussed nothing further?

MR. PLANT: YES, sir.

MS. SANSON: Could we have that on the record under oath please?

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THE CHAIRMAN: All right. Can you please come forward and take the stand.

JACK PLANT, Sworn

5

THE CHAIRMAN: Mr. Plant, I would like you to repeat your answer to my question for the record. This is your sworn evidence.

THE WITNESS: Could you repeat the question?

10

THE CHAIRMAN: The question is at any time during this morning's proceedings after Mr. Elieff had been asked to leave the room did you speak to him and if you did speak to him what did you speak to him about.

15

THE WITNESS: I spoke to him. I just made casual conversation in passing. I understand the relevance and just talked about how cold it was in the hallways, talked about his ancestry in Macedonia, about the Turkish invasion of Macedonia and he talked to some reporters and went on quite at length.

20

THE CHAIRMAN: Did you at any time tell him about what had gone on in this hearing?

THE WITNESS: No.

THE CHAIRMAN: All right.

25

MS. SANSON: Did you discuss any of the

evidence of this proceeding with Mr. Elieff?

THE WITNESS: No.

MS. SANSON: That's gone on this morning?

THE WITNESS: No.

5 THE CHAIRMAN: Mr. Metz, do you have a question?

MR. METZ: If I may suggest, if Mr. Plant wasn't in the room during the proceedings there was no way for him to convey such evidence since he wasn't here. I notice he was missing from the room for quite a while.

10

MS. SANSON: Are you giving evidence?

THE CHAIRMAN: Ask Mr. Plant if he was here.

MR. METZ: Were you here for the duration of the testimony by Marie?

15

THE WITNESS: No.

THE CHAIRMAN: Were you here during any of the proceedings this morning?

THE WITNESS: Yes. I had no clandestine motivation. I went out in the hallway to have a cigarette and Mr. Elieff is out there all alone. I thought I would keep him company.

20

MS. SANSON: Do you understand that you could be in contempt of a Board order if you communicate to Mr. Elieff about the evidence during the proceedings?

25

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THE WITNESS: Yes.

THE CHAIRMAN: Thank you. You may step down.

MS. SANSON: There are a couple of people in  
the room that I would ask the Board to call to  
5 provide you with what it is that they heard in the  
hallway.

THE CHAIRMAN: All right.

MS. SANSON: Jacqueline Thompson.

10 THE CHAIRMAN: Please come forward and take  
the stand.

JACQUELINE THOMPSON, Sworn

EXAMINATION-IN-CHIEF BY MS. SANSON:

15 Q. Perhaps you can identify yourself. I know  
you have given your name. Would you identify your  
interest in this proceeding?

A. I worked with low income families. I'm  
provide social support and family services. Many of  
20 our clients in the Cheyenne buildings are in need of  
help and that's what we do.

Q. And what is your occupation?

A. Occupation? I have a couple. I'm a  
research assistant at the University of Western  
25 Ontario and I'm a director of Life Spin which stands

for Low Income Family Empowerment Support Network.

Q. Do you have any information to provide the Board about what you have heard in the hallway this morning specifically with respect to the witness who has just given evidence?

A. Yes. We noticed after Mr. Elieff was asked to leave the room that several members of the Freedom Party had been leaving periodically.

Q. You had noticed that?

A. Yes, and went out to see if there was information being relayed on purpose and ---

Q. Did you go out in the hall?

A. Yes, and we sat down as they were discussing in whispered tones but we heard bugs and in the stairwell talking about stuff that had just happened that the last witness gave.

Q. And?

A. And the reporters came and they stopped talking and they talked for a couple of minutes so the reporters were just there at the very end of it.

Q. Can you identify who said the word bugs?

A. The gentleman with the ---

MR. METZ: The word what?

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BY MS. SANSON:

Q. Bugs?

A. I don't know what name. It's the last witness who was on the stand.

5 THE CHAIRMAN: Do you mean Mr. Plant?

THE WITNESS: Yes.

BY MS. SANSON:

Q. And what else did you hear?

10 A. On the stairwell or stairs, garbage under the stairwell.

Q. Who said that?

A. Mr. Plant.

MS. SANSON: Those are my questions.

15

CROSS-EXAMINATION BY MR. METZ:

Q. You said you saw several members of the Freedom Party go out in the hall. Could you identify some of the others please?

20 A. Actually I goes she isn't a member of the Freedom Party, she is Mr. Elieff's wife. I don't know the woman.

Q. Just point at her.

A. The woman with the black coat.

25 Q. Mr. Elieff's wife. That is Mrs. Elieff,

yeah. And what did you hear her say to Mr. Elieff?

A. I didn't. Somebody else did though.

Q. What was it specifically you heard somebody say to Mr. Elieff?

5 A. There was whispered tones, bugs, stairwell, garbage, garbage in the stairwell.

Q. Whispered tone, bugs stairwell and garbage?

10 A. Yes. They were talking very quietly. Those were the only words that I made out.

Q. And what is the significance of that to you?

15 MS. SANSON: We are not asking the witness to comment on the significance of what she heard, only to identify what it was that she heard.

BY MR. METZ:

Q. You were hiding under the stairwell or standing under the stairwell?

20 A. No, I was in the hallway.

Q. You were in the -- they were in the hallway but you were in the stairwell?

25 THE CHAIRMAN: No. Let me ask the question for you. Where were you when you heard these comments about bugs and the stairwell?

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THE WITNESS: There are two chairs and a  
coffee table sitting in hall. I was sitting in one  
and another woman that I work with was standing there  
with me and they were standing against the wall in  
5 the corner and when the reporters walked down they  
separated in the hall and chatted to the reporters  
answering their questions, talking about how long it  
was going on for.

THE CHAIRMAN: Approximately how far away from  
10 you were they when these comments were made?

THE WITNESS: About from here to the table  
there.

THE CHAIRMAN: That would be six feet?

THE WITNESS: Yes.

15 THE CHAIRMAN: Okay. Thank you. Any other  
questions.

BY MR. METZ:

20 Q. At what point did you leave the room? Do  
you recall what the last testimony was of the witness  
before you left the room?

A. The witness with the green ---.

Q. Yes, Marie?

25 A. She was talking about -- let me think for  
a second. No, I don't remember.

Q. Do you recall what time Mr. Plant left the room, what was said immediately before the time he left the room?

A. He left a couple of times.

5 Q. He left a couple of times?

A. Yes.

Q. And you followed him out which time, the first time or the second time?

A. The first time.

10 Q. The first time? You didn't follow him the second time?

A. No.

15 Q. And at what point was it that you followed him? Immediately out of the room as soon as you saw him leave?

A. No, I talked to the two people that were sitting on either side of him and thought that it was strange that Mr. Elieff was sent to the hall and the other witness was sent into the hall with him and we heard something else and was called back.

20 Q. What other witness was sent in the hall?

A. I don't know her name. The woman who witnessed.

25 THE CHAIRMAN: Yes, that was Marie when we asked her to leave the room briefly while we had a

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discussion.

BY MR. METZ:

5 Q. And what happened at that point when Marie  
left the room? You're saying Mr. Plant followed her  
out too?

10 A. No, we just commented that it was strange  
that they had sent her out after asking Mr. Elieff to  
leave the room so he wouldn't hear her testimony and  
then she was asked to step into the hall and was free  
to converse with him.

THE CHAIRMAN: Did she converse with him?

THE WITNESS: I don't know. I wasn't there.

15 BY MR. METZ:

Q. Can you repeat the words that you heard  
him say again?

A. Bugs, garbage and under the stairwell.

20 Q. Those are throw nouns. Did you hear any  
verbs?

A. No.

THE CHAIRMAN: Any other questions?

BY MR. METZ:

25 Q. Yes, Im asking if she heard any more words

with besides those three words, other than that?

A. I said no.

Q. I'm sorry, I didn't catch that answer.

Can we recall the previous witness? Can someone  
5 recall Mr. Plant?

THE CHAIRMAN: Do you have any objection to  
Mr. Plant being recalled?

MS. SANSON: We have heard Mr. Plant's  
evidence on this point.

10 THE CHAIRMAN: I think that's fair. Can you  
tell me why -- actually let's deal with this witness.  
Any more questions?

MR. METZ: Well, I would suggest that Mr.  
Plant testified in very general terms of what he and  
15 Mr. Elieff discussed. He hasn't had the opportunity  
nor was he asked to say specifically what he  
discussed and since these three words, bugs, garbage  
and stairwell has been brought up I think he should  
have the right to respond to them since he just said  
20 under oath he didn't discuss such a thing.

THE CHAIRMAN: Are there any more questions  
for the current witness Ms. Thompson.

MR. METZ: No.

25 THE CHAIRMAN: All right. Ms. Thompson you  
can step down.

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THE WITNESS: Thank you.

MS. SANSON: I believe there might be one other person. That person's name is Faith Coates.

THE CHAIRMAN: All right. Mr. Metz, I'll have you restate your objection.

FAITH COATES, Sworn

EXAMINATION-IN-CHIEF BY MS. SANSON:

THE CHAIRMAN: Ms. Sanson, I'm going to ask you to ask questions first and then Mr. Metz.

MS. SANSON: I'm happy to proceed in that way under the proviso this is information that's been brought forward from persons that the Commission is not representing and in the interests of justice in terms of process. I am hearing this for the first time.

THE CHAIRMAN: That's fine. These are not questions being asked on behalf of the Commission but just as an interested party who has received evidence from someone else. Go ahead.

BY MS. SANSON:

Q. Perhaps you can just provide us with a bit of background as to why you're here and what your

interest is in the proceeding?

A. I work for Life Spin, Low Income Family Empowerment and I'm a university student in anthropology and we have been following a lot of what has been going on with human rights commissions and that kind of thing.

Q. Okay. I'll ask you specifically to relate to the Board and to the parties only what it is that you have done and what it is that you have heard. I think you are familiar with what the issue is and just please explain to us what information you have?

A. Okay. We have been sitting here watching and we noticed that Mrs. Elieff left the room and then shortly afterward Mr. Plant left the room. Now, it was a period of time afterward actually. Jackie and Harmony went out and Jackie had nudged me and said he's left the room, Elieff's in the hallway. So they left room. I went out after them a few minutes after, walked down the hallway. Mr. Plant at that time was standing by the elevator smoking a cigarette as he said he was.

We stood there and I smoked a cigarette. We saw Mr. Elieff coming down the hallway. Jackie said they are going to talk so she went and sat down on the chair. I was standing in front of her. They

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were leaning up against the corner of the door here and the chair is just over there.

Mr. Plant -- Mr. Elieff said something, I'm not really sure what it was. I don't want to say. I heard Mr. Plant say she's talking about bugs and then he mentioned something about garbage under the stairwell, then the reporters started coming down the hall.

We both stood up. The reporter then said to Mr. Elieff and Mr. Plant, how long is this going to go on for do you think? Mr. Elieff then responded forthwith, I don't know, this has been going on for years. Then he started going on into an explanation with the camera man and one of the reporters. I'm not sure which one it was, what was happening. We then proceeded to walk past. Harmony came in. She had gone up the stairwell to the public washrooms. She then came back and we came into the room together.

I then noticed after probably about half an hour later Mr. Plant left the room again. Mr. Plant then returned to the room. Mr. Monteith then left the room with his tape recorder in his hand and then he came back in about ten minutes later so our assumption was they were providing Mr. Elieff with

information. That's my personal opinion.

THE CHAIRMAN: In the time that you were out there and you observed Mr. Plant and Mr. Elieff talking how long, approximately how long were they actually talking about what you say you heard them talking about, that is, about bugs and garbage in the stairwell?

THE WITNESS: It was fairly brief. It was literally the time it takes to smoke a cigarette. About three or four minutes.

THE CHAIRMAN: Before the reporters came along?

THE WITNESS: Yes.

THE CHAIRMAN: Okay. Thank you. Mr. Metz?

CROSS-EXAMINATION BY MR. METZ:

Q. You said you were standing or you saw Mr. Plant standing by an elevator smoking a cigarette when you first went out, yes?

A. Yes.

Q. You also had a cigarette?

A. Yes.

Q. You saw Mr. Elieff approaching the two of you.

A. I finished my cigarette. Jackie was still

smoking hers. I started to walk down the hall.  
Jackie was behind me. We noticed Mr. Elieff. Jackie  
then sat down on the chair. I stood beside her. Mr.  
Plant came out. Him and Mr. Elieff conferred at the  
5 corner here for about three or four minutes, then the  
reporter came out.

Q. You originally said you saw Mr. Elieff  
coming down the hall?

A. Yes.

10 Q. From where?

A. I put my cigarette out. I walked out from  
the elevators which are just over here and turned  
left to come back down here.

15 Q. So in other words Mr. Elieff approached  
Mr. Plant, not vice versa?

A. Oh, yes.

Q. Clearly Mr. Plant did not leave the room  
to approach Mr. Elieff?

20 MS. SANSON: I would like that evidence which  
is his evidence struck from the record please.

THE CHAIRMAN: Yes, I think that's fair. Go  
ahead.

BY MR. METZ:

25 Q. I reiterate that it was your assumption

that this is what they were discussing?

A. No, I heard what I heard.

Q. No, but it was your assumption. You did claim that you made an assumption of some sort?

5 A. Yeah.

Q. With I assume Ms. Thompson?

A. No. When the reporters were talking to Mr. Elieff and Mr. Plant I assumed he was explaining some of the background of the case and why it was taking so long. At that point we had walked past them and were coming back into the room.

10 Q. Fair enough.

THE CHAIRMAN: Okay. Any other questions?

MS. SANSON: I have no further questions.

15 THE CHAIRMAN: Ms. Coates you may step down.

Mr. Montheith, I am going to ask you to take the stand if you don't mind.

RAYMOND MONTEITH, Sworn

20 THE CHAIRMAN: Now, Mr. Monteith you were present when the previous witness stated that at some point in the proceedings you left the room with your tape recorder in hand and you can respond to that question. Can you also tell me whether you spoke to

25

MONTEITH

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Mr. Elieff outside?

THE WITNESS: I don't think I even seen him. This is the first I ever seen him in my life is when I seen him here. I went out there because I was upset with the tape, whether I had taped it on one side and I wrote on there first tape and I was wondering am I copying over it again and I just might be because it squealed out a minute ago. That's why I went out there just to check the tape recorder and the tape in it and I'm still not sure that I have the tape in right.

THE CHAIRMAN: But you did not speak to Mr. Elieff. Is that your evidence?

THE WITNESS: I didn't speak to anyone. The only person I spoke to was a guy who was bringing out some dishes. That was the only person out there.

THE CHAIRMAN: All right. Ms. Sanson do you have any questions for Mr. Monteith?

MS. SANSON: I have no questions.

THE CHAIRMAN: Mr. Metz?

MR. METZ: No.

THE CHAIRMAN: All right Thank you, Mr. Monteith. All right I would like some time to consider the issues that have arisen from the witnesses who have just testified including Mr.

Plant. I think it would be appropriate ---

MR. METZ: Can Mr. Plant re-testify with respect to the specific words that were brought up.

MS. SANSON: Mr. Plant made it clear that he knew what was in issue. Mr. Plant also made it clear that he knew what his responsibilities were and also made it clear to the Board that he knew about what the consequences are of having discussed the evidence.

THE CHAIRMAN: Yes. On the other hand let me just say something here. I think Mr. Plant has the right to comment on what is clearly contradictory evidence that's been brought up and that would tend to put him in a poor light and I think he should be given the opportunity to give an explanation so I am going to allow him back into the stand to respond to what he has heard.

MS. SANSON: There is one other issue that I would, just before we adjourn, I would ask that until the Board has made its ruling on the issue of the taped evidence which this is a member of a party who is representing Mr. Elieff and I would say at the very least that we are entitled to everything that it says on that tape and ---

MR. METZ: Excuse me.

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THE CHAIRMAN: Let her finish.

MS. SANSON: That this tape be produced to the Board and that the Board keeps that tape until the Board has in fact ruled that it is ---

5 THE CHAIRMAN: Fine or not fine. I agree with that suggestion. In fact I was going to suggest that during the break that you deliver to me the tape and once I have made my ruling we can decide what to do with it. Mr. Plant, would you please take the stand again.

10 MR. METZ: I would like to make a clarification of a statement made. The party is not representing Mr. Elieff, I am representing Mr. Elieff as an individual.

15 THE CHAIRMAN: Okay. Thank you for that clarification. Mr. Plant I am not going to re-swear you. You have heard the evidence that and I'll just summarize it; that you spoke to Mr. Elieff in the hall during these proceedings when Mr. Elieff was asked to leave for about three minutes and part of the discussion related to bugs and the condition of the stairwells in one of the apartment buildings.

20 You gave evidence beforehand that in fact you did not discuss anything related to the evidence being given by Marie at that time to Mr. Elieff. Can  
25

you explain this to the Board?

THE WITNESS: I have absolutely no  
recollection and I deny talking about bugs and  
garbage but the stairwell reference I think was when  
5 Sultana wanted to go to the washroom and she was  
going to go up to the main lobby and I talked about  
the stairwell here, going up the stairwell to the  
washrooms here and how cold it was in the hallways.

THE CHAIRMAN: Okay. Now, you have heard two  
10 witnesses say they heard you discussing bugs.

MR. METZ: No, just one one. The second did  
not say she heard the word bugs.

THE CHAIRMAN: All right, one witness.

MS. SANSON: Perhaps we could have the record  
15 on that. There were two.

THE CHAIRMAN: I thought there was two but  
subject to what the record shows I'll rephrase the  
question. At least one or both of the witnesses  
specifically heard or report report that they  
20 specifically heard you speak about bugs. Do you have  
any comment about that?

THE WITNESS: I didn't speak about bugs at  
all.

THE CHAIRMAN: All right. Mrs. Sanson, do you  
25 have any questions?

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MS. SANSON: Our notes reflect that both witnesses said bugs. I would ask the Board to review the transcript to assure yourself that that was in fact the case. That's my understanding of the evidence.

THE CHAIRMAN: All right. Mr. Metz, any questions for Mr. Plant?

MR. METZ: No. I guess that's all there has to be said.

THE CHAIRMAN: All right. Thank you. You may step down. All right. I would like to adjourn for lunch. It is now 1:40. When would you like to reconvene?

MS. SANSON: How much time do you need? Are you planning to consider the matter and eat lunch at the same time?

THE CHAIRMAN: I can chew gum and walk at the same time. It has been known to happen. I should not need more than an hour. I could even do it in forty-five minutes if people wanted to make the most of the day. I'm open to that. What are your feelings, Mr. Metz? How much time would you like to take.

MR. METZ: I could continue so it doesn't make it any difference to me, although Mr. Elieff is here

and I don't believe we have any other witnesses.

THE CHAIRMAN: Okay. So you would be proceeding to continue with Mr. Elieff's evidence in chief?

5 MR. METZ: I assume that's where we would be picking up when we came back.

THE CHAIRMAN: Ms. Hom, would you prefer a break of an hour or less than an hour?

MS. HOM: One hour.

10 THE CHAIRMAN: All right, one hour. We will break for lunch and reconvene at 2:45.

---LUNCHEON RECESS:

15 ---UPON RESUMING:

MS. SANSON: Before we begin there is a person in the room. Her name is Navy Chan and she has asked me to introduce her. She would like to make some submissions to the Board and I'm not sure when and how you would like to deal with that.

20 THE CHAIRMAN: What would these submissions relate to?

MS. SANSON: I think it may involve her participation in this hearing but I think other than

25

introducing her I would ask that I merely raise this  
now as a matter of process. She is here now.

Perhaps you may wish to hear what her submission  
involves and then determine whether or not you will  
5 hear something more from her and at what point.

THE CHAIRMAN: Mr. Metz, do you have any  
objection?

MR. METZ: Yes, I do. This seems to be  
completely irrelevant to the situation we have  
10 reached so far. There has been four days of hearing  
a lot of evidence read in. We have already agreed to  
the number of witnesses that would be generally  
agreed to and to introduce this now is just  
completely out of context.

THE CHAIRMAN: Okay. Well, the Board has the  
15 power to control its own proceedings and be as  
flexible as possible with procedure. We don't know  
what the evidence is she wants to give or the  
submission she wants to make.

MR. METZ: It is my understanding that  
20 surprises in cases of evidence are not permitted to  
be entered without due notice.

THE CHAIRMAN: Well, that's true. That's a  
basic principle but until I know what the submission  
25 is, I mean it could relate to anything. I can't

really comment on that.

MS. SANSON: Perhaps to assist my friend, the Commission is not calling Navy Chan as a witness.

Ms. Chan has indicated she would like to come forward and make some submissions to the Board.

5

THE CHAIRMAN: Okay. In that case the Board has the power to hear submissions from anyone at any point.

MR. METZ: What do you regard as a submission if I may ask?

10

THE CHAIRMAN: A submission is just a statement made to the Board. It is not in the same category as evidence. I would not use it to make a ruling of fact and determine whether a prima facie case has been made by the Commission or the Complainant. I don't know what the nature of this comment will be but it is not evidence which would carry the -- it would not carry the same weight as evidence which would be given under oath by one of the witnesses called by one of the parties, just someone who comes -- I don't intend to swear this person until I find out what it is she is saying so it won't be evidence under oath. Let's proceed.

15

20

What is the the name of the person.

25

MS. SANSON: Navy Chan.

(CHAN)

THE CHAIRMAN: Okay. Ms. Chan please come forward and can you just tell me what it is you wanted to say to the Board. Not exactly what you're saying but what kind of thing is it that you wanted to address?

5

MS. CHAN: I think it concerns the whole Cambodian community so I have been working with them for a long time so today I think that I would like to have the opportunity to express their concern because they have never been, like they have never been in the process before so I they would like me to speak on behalf of them.

10

THE CHAIRMAN: Would it be possible for you to come another day and make that submission on behalf of the Cambodian community?

15

MS. CHAN: I'm working full time at the Cultural Centre and I'm making my effort to come today for the whole day and the community has made their best effort to come today too and they also would like to have the opportunity. The thing is they have a language barrier. That's why they need me to help with this matter.

20

THE CHAIRMAN: How long do you think this submission will take.

25

MS. CHAN: Oh, it is not really long, it is

just I have to respond to what people have said to our people.

THE CHAIRMAN: Oh, I see. Will these submissions relate to evidence or things said by people here in this hearing?

MS. CHAN: Yes.

THE CHAIRMAN: I have some difficulty with that. Mr. Metz do you have any comment.

MR. METZ: Yes, I have great difficulty with that considering what is at question here to begin with, whether Mr. Elieff ever made the comments in the first place to which this whole hearing is existing for and in the second place I regard the kind of submission being made here of the type that one gives to a general government commission such as the one that I addressed last year, the Cornish Commission.

THE CHAIRMAN: That was a task force?

MR. METZ: It sounds like she is trying to give a general opinion that has nothing to do with the specific incident that we are dealing with here.

THE CHAIRMAN: I thik she just said that it would relate specifically to the events about which this particular inquiry ---

MR. METZ: Well, she also said she wants to

(CHAN)

respond to what people are saying about other things  
and I would call that hearsay but in any event  
throughout this hearing hearsay has been dismissed  
and has not been allowed as evidence and all the  
5 witnesses have been corrected during testimony that  
whenever they deal with hearsay that it is not  
relevant to this Board.

Now, it seems to me that this approach is pure  
hearsay unless the witness can actually be a witness  
10 and she is not even a witness which is another thing  
that I could object on. I would say this would be an  
abuse of the process of the Board.

THE CHAIRMAN: All right. Just give me a  
minute here. Ms. Sanson do you have any comments to  
15 make?

MS. SANSON: Perhaps it would assist the Board  
if we could hear from Navy Chan what her background  
is and what her involvement is with the community and  
whether there has been any individual, if she has any  
20 individual knowledge to bring to bear and in terms of  
background in her profession. I think the Board has  
the power to determine who will be participants in a  
proceeding. The Board has the power to determine  
whether it will grant somebody intervenor status and  
25 there is case law to the effect of whether or not

5 such participation would assist the Board in bringing  
to bear on evidence related to the complaint that may  
be helpful that it has not already heard. I think  
that is in a nutshell what that test is. I think it  
may be of some assistance to hear perhaps from Navy  
Chan as to what her ---

THE CHAIRMAN: Her status is?

MS. SANSON: Yes, thank you.

MR. METZ: If I may object to that argument.

10 I would suggest that her relationship to the  
community is irrelevant to this Board as is everyone  
in this room's relation to the community. We are all  
members of our families. We are members of our own  
local communities or our own cliques, family,  
15 friends. I just can't see any relevance to this.  
There has been no specific evidence. There is no  
connection between this person and Mr. Elieff that I  
have even heard suggested. I really don't understand  
what right she would have to appear before this  
20 Board.

THE CHAIRMAN: Okay. Let me ask you Ms. Chan  
can you tell me, can you describe to me your status  
connected to the community or the reasons that you  
would give for wanting to come.

25 MS. CHAN: Okay. I work like I say at the

(CHAN)

Cross Cultural Learning Centre.

THE CHAIRMAN: Cross Cultural ---

MS. CHAN: Learning Centre as an assessment  
 worker and as an assessment worker I have to work  
 5 with the communities to help them to settle in  
 Canadian society and so any activities especially  
 with the tenants, Cheyenne tenant's board and also I  
 always work with them closely every time like every  
 meeting and so on because they need my help doing  
 10 translation so I guess every process that they make,  
 every step, every activity that happens in the  
 community I don't know who else will be so close and  
 follow very closely with this process, I mean in  
 Cambodian community so and also I heard from the  
 15 whole community and the concerns from them and what  
 it affects them and also affects their children. It  
 is very serious.

THE CHAIRMAN: When you say you have heard  
 from them, do you mean people who have lived in these  
 20 buildings?

MS. CHAN: Yes, lived in these buildings and  
 worked with us like in the tenant's board.

THE CHAIRMAN: Okay. Well, I would have  
 concerns about that because would be hearsay. I am  
 25 not going to take too long with this decision partly

because I want things to proceed ahead.

MR. METZ: As do I.

THE CHAIRMAN: But I will say this, we began these proceedings on the first day without real notice to the parties that we were going to begin and particularly without notice to the Complainant and the Commission that we wanted them to put their case in right away and I want to bear that in mind because they weren't ready. They might have called some of the people who have obviously spoken to Ms. Chan so on the one hand I have that to consider.

MR. METZ: May I respond to that?

THE CHAIRMAN: Let me just finish. On the other side I think it is important for this Board to hear evidence on the affect on the community, the ethnic community too which the Complainant belongs and it is up to the Board to give that the appropriate weight for the particular facts in the case in the complaint.

Having said that my inclination is to allow someone like Ms. Chan to make a submission related to the impact on that particular ethnic community without making specific reference to anything a resident or former resident of these buildings actually said. So that is the way I am leaning right

(CHAN)

now and I'll hear submissions.

MR. METZ: Well, I have a comment and a question. In the first place no one on this side is arguing the affect on the Asian community. In fact I insist the affect on the Asian community has been dramatic. The issue at cause here today and the case I'm here to present is who is responsible for this affect? We are not here to argue whether there is an affect. If that were not the case this Board would not be here in existence.

What we are here to argue is whether Mr. Elieff's actions are responsible for this affect or whether someone else's actions are responsible for this effect and I feel that I have the evidence to prove overwhelmingly that the people that are responsible for tihs very affect that this witness is here to speak to are in this room and I think that's what we should be concentrating on.

I could also ask the question in addition to that, if this affect was so important it should have been introduced at the beginning. To bring it in now I can only feel it has something to do with my presence here today given both the attention and the way that the Board has already been proceeding so far so therefore once again although I acknowledge that

the decision is yours I register my objection on these grounds.

THE CHAIRMAN: I hear your objection. I would just reiterate the reason why I would be inclined to allow this person to make a submission and that is that the Commission was asked to put in its case very quickly and in the interests of time we asked for the case to proceed on the first day.

MR. METZ: May I ask why the Commission was asked to proceed with its case very quickly? That's suspicious I find.

THE CHAIRMAN: Because I as a Board made that decision on my own. We came to the -- I was under the misapprehension when I came on the first day and I checked with the Registrar of the Board and in fact the Commission was correct, they had been led to believe that they were only going to be dealing with procedural matters on that first day. I came wanting the case to proceed right away and the Commission indulged me at some cost to themselves and their own case they proceeded right away. Now, I must in all fairness take that into account. I'm not saying ---

MR. METZ: I was only interested in finding out if there was some other reason. I think you have satisfied my curiosity in that regard.

THE CHAIRMAN: What I am suggesting is we hear the submission that Ms. Chan has to make without any reference to any actual comments by residents in these two buildings.

5 MR. METZ: Or without any reference to Mr. Elieff I would assume.

THE CHAIRMAN: Or without any reference to what Mr. Elieff might ---

10 MR. METZ: In the interests of justice I would recommend that all parties be treated equally in terms of reference.

THE CHAIRMAN: I take your point. Let me just consider that for a minute. All right, go ahead Ms. Sanson.

15 MS. SANSON: There are a couple of comments that I wanted to deal with. The first is with respect to where the Board was going on the issue of the scope of the evidence and hearsay and I think it is one thing to say so and so said this. I think it may be appropriate evidence that this person, that 20 people came to her and raised concerns with her, the fact that those statements were said and I'm not sure whether Navy Chan understands that distinction and the parties understand that distinction.

25 The other thing that I want to raise is that

it may well be most appropriate for the Commission to call Navy Chan as a witness in reply and I would like to leave that open to the Board in that regard.

THE CHAIRMAN: That's a useful suggestion. I think I'm inclined to take Ms. Sanson's suggestion seriously.

MR. METZ: Could you explain that suggestion to me?

THE CHAIRMAN: Yes. What the Board can do is ask for a witness to appear. The Board calls this person as a witness as I did Mr. Partellis and the Board has the power to do that at any time in the proceedings.

MR. METZ: I noticed that when you called Mr. Partellis the next decision that had to take place was you had to determine who's witness the witness would be, whether it would be Mr. Elieff's witness.

THE CHAIRMAN: I made that as an offer. That wasn't a requirement.

MR. METZ: That won't be the case here?

THE CHAIRMAN: That won't be the case. It will be the Board's witness and in actual fact that's what happened with Mr. Partellis. Nobody really called him as their witness so it was the Board's witness and I led his evidence and so that's the

option here that in reply, that is, after you have  
put in your case, after Mr. Elieff's case has been  
put in and there has been cross-examination, et  
cetera, after that is over I would then call Ms. Chan  
5 as a witness in reply. That would safeguard against  
the issue of hearsay.

Those objections could be made to anything  
that Ms. Chan said on the stand if it was hearsay and  
secondly it would I think balance the concern raised  
10 earlier about asking the Commission to start its case  
before it was completely ready. Does anybody else  
have a comment?

MR. METZ: Yes. I noticed that when we began  
this she was not going to be called as a witness and  
15 at that time you said that what she had to say was  
not the same an evidence. I'm concerned that now she  
will be regarded as a witness and that what she has  
to say will be regarded as evidence and I haven't had  
notice of evidence.

20 THE CHAIRMAN: Well, in these proceedings  
there isn't what we usually have as Discovery. So in  
a sense it is very difficult for you to be prepared  
for what transpires without the benefit of Discovery.  
In most civil cases you have Discovery. In fact even  
25 in criminal cases you have a lot of disclosure from

the Crown but in these proceedings there isn't anything like that. The only thing we have to go by is the original complaint and any other documentation that's admitted as exhibits.

5 MR. METZ: In that case might I also ask if this witness will be permitted to take the stand and Mr. Elieff call additional witnesses? We have purposely limited our witnesses to help Ms. Sanson achieve her goal of expediency. In fact even the  
10 amount of evidence I am bringing with me today has been purposely kept to a minimum to do that.

Now I feel that I'm placed in an awkward position by your own admission having to deal with a witness that I feel number one is irrelevant to this  
15 case and that, number two I'm not prepared to hear testimony from and number three, I still have to believe that this is not normal process.

MS. SANSON: I am going to make an objection to the comment that my friend has made yet again on  
20 the record. Mr. Metz was not present through the proceedings and Mr. Metz was not aware of a lot that went on. The Commission put in its entire case in less than one day. It was the Board's intention to start and finish the entire case and it was Mr.  
25 Elieff's intention to finish their entire case in one

day as well.

We came back for an additional day at Mr. Elieff's request. If the Board has offered anyone indulgence in this situation it has been the Respondent who day after day after day after day has brought yet again each day new witnesses, not providing the Commission with any notice of who those witnesses are or what evidence was to be led and with respect to the expediency question, we have gone to great lengths to deal with the cross-examination of these witnesses which appear for the first time on that day and have dealt with questions of evidence.

When I asked my friend for notice of who these witnesses might be it wasn't until he had a direction from the Board of Inquiry offices that he provided me with any notice at all so with respect to due process I think we have already heard from Navy Chan as to the outline of the evidence she would be giving. If there is something more and once I have heard from Navy Chan the areas of evidence I would be happy to provide the outline to my friend.

MR. METZ: Can I point out that I first of all like Ms. Sanson, I also object to the tone. As to the issue of whether I did notify her in time, that is not true. I notified ---

MS. SANSON: I am not objecting to whether or not it wasn't in, it was that you had to provide notice at all.

THE CHAIRMAN: Let me interrut, Mr. Metz.

5 Again, I don't want to spend a whole lot of time on this. Certainly Ms. Sanson has made a good point that their entire case was put in in one day and I think again in fairness if we were doing anything in hearing this witness in reply -- let me rephrase  
10 that. I do not see that there would be harm in hearing this witness in reply. It would help to redress the balance of forcing the Commission to put in its case in one day and Ms. Sanson has made the offer to provide you with an outline of the areas  
15 that Ms. Chan would be covering in her evidence. It will be the Board's witness and I will lead that evidence. I'll lead the questioning of that evidence and both you and Ms. Sanson will have a chance to cross-examine and I don't want to waste a lot more  
20 time.

MR. METZ: On that basis will Mr. Elieff be able to call additional witnesses because he has many?

THE CHAIRMAN: No. Mr. Metz, this is not a  
25 witness that Ms. Sanson is calling, the Board is

calling this witness.

MR. METZ: Okay. I would just like to clarify then in response to Ms. Sanson's comment that I'm unaware of what has been going on, I should just inform her that I have read the minutes of the proceedings since the beginning of this hearing and in fact I have them with me.

THE CHAIRMAN: All right. Thank you.

MS. SANSON: Just one clarification with respect to the process which may assist Mr. Metz and Mr. Elieff is that the Commission as a party to this proceeding has a right in terms of the Rules of Evidence to call evidence in reply and there are certain situations where in fact the Commission can call evidence in reply and that does not mean that Mr. Elieff can call additional witnesses. That is a process question and that's a right that belongs specifically to the parties and that's a question for the Board to determine.

THE CHAIRMAN: Okay.

MR. METZ: Mr. Elieff is suggesting quite accurately that if indeed this is considered evidence in reply, therefore he should be allowed to call witnesses on evidence in reply also.

MR. ELIEFF: Equal.

THE CHAIRMAN: No. When I use the word reply  
it is just to describe at which point in the  
proceedings the Board is going to call this  
particular witness. My only reason for saying in  
5 reply is I mean to call this witness after your case  
has been put in, that's all. So to summarize, it is  
my intention to call Ms. Chan as a witness after your  
case has been put in.

MR. METZ: Does that mean after the  
10 evidentiary statements or after the final arguments  
have been made.

THE CHAIRMAN: After the evidentiary stage and  
you will be able to make your argument after that and  
you can refer to comments that she has made in your  
15 argument. Now, does everyone understand where we are  
at? We are at the stage where we will be shortly  
completing Mr. Elieff's evidence in chief. There  
will be a chance to cross-examine Mr. Elieff, then a  
chance for questions in reply. Then after Mr. Elieff  
20 steps down we would hear from Ms. Chan.

MR. METZ: The evidence will not have been  
completely presented by then. We still have to deal  
with the matter of invoices and press clippings. We  
have submitted multiple copies.

THE CHAIRMAN: That will have to be introduced

as you continue with Mr. Elieff in chief.

MR. METZ: Oh, I see.

THE CHAIRMAN: So that after we hear from Ms. Chan then we will hear argument from both sides. Ms. Chan, I realize the time constraints you are under but it is my feeling that we would like to hear from you at a later point in these proceedings. I don't anticipate that that will happen until tomorrow afternoon and to save the Board the trouble of issuing a summons can you tell me whether you would have any objection to being here tomorrow in the afternoon.

MS. CHAN: I'm prepared to go back to my organization and ask them whether I can return. I think it is very important that I'll do my best.

THE CHAIRMAN: All right. Well, the Board would be most appreciative if you could come tomorrow afternoon and in the interim if you could contact Ms. Sanson and describe to her the kinds of areas you want to discuss in your evidence, Mr. Sanson will then communicate that to Mr. Metz. Is everyone clear on that?

MS. SANSON: I propose to do that by way of telephone.

THE CHAIRMAN: That's fine. There won't be

any documentary exchange but Ms. Sanson will  
telephone you.

MR. METZ: Okay. She will have to have my  
home number which I'll relate to her later.

5 THE CHAIRMAN: That's fine. Thank you Ms.  
Chan.

MS. SANSON: Would it be possible, I'm  
thinking we will be most of one day with the  
cross-examination. It might be necessary if we could  
10 arrange to have ---

THE CHAIRMAN: Another day?

MS. SANSON: Yes. Well, I think at this point  
we will need another day but just in terms of  
advising Navy about a particular time or if we can  
15 make arrangements to call her maybe in between a  
break so that she could come down to give her  
evidence.

THE CHAIRMAN: All right. We are almost ready  
to begin except with respect to the issue of tape  
20 recordings. Ms. Sanson you said there is case law  
with respect to tape recording.

MS. SANSON: My submission is I was aware  
there was a body of case law with respect to tape  
recording and if the Board wants formal submissions  
25 on it I would need to ask for an adjournment. I

don't have law here with me. I'm not sure whether  
there is something ---

THE CHAIRMAN: I did check with counsel for  
the Board on the break and was advised that well,  
5 counsel said she was not aware of any cases on this  
and she was looking for help from others in trying to  
locate these cases. The general principle is that if  
one of the parties, this affects you Mr. Monteith, if  
one of the parties objects to the audio taping or  
10 videotaping of a part of a proceeding then that's not  
allowed until there is some overriding public  
interest.

What I am prepared to do is let you record the  
proceedings but at the end of each session to deliver  
15 it to me until we have completed this entire hearing  
and I'll have a chance to ask counsel to do some  
digging on the case law.

MR. METZ: I'm just wondering what possible  
concern there could be. What could possibly be on  
20 these tapes that's not being written by people and is  
not being recorded in the transcript here? I don't  
understand what the tape could possibly be used for  
other than to validate the evidence that's common  
knowledge to everyone in the room.

MS. SANSON: We have a Court Reporter to do

that.

MR. METZ: Well, I should let you know that the reason that this tape is hear is that I asked Mr. Monteith on my request to bring a tape recording because we felt we would not have prepared minutes in time by Friday. This is not going to be transcribed and handed back to us so these tapes are for my case and now am I to be told that these will be withheld from me or I cannot listen to them and go over the testimony that's being held today.

THE CHAIRMAN: The Board has not made a ruling on it. Ms. Sanson, are you content that this is really a back up to the transcript? What happened was Mr. Metz was not able to get copies of the previous day's transcripts so he had to rely on his notes for the last two days and if it is merely to supplement his own notes I see no harm in it but if you have other concerns you are entitled to make them known.

MS. SANSON: You have heard my concerns and I willnot reiterate my concerns.

MR. METZ: It is a moot point in any event since Mr. Monteith has already taken his tape machine back.

THE CHAIRMAN: Okay. Well, then let's proceed

MR. METZ: Here are the photocopies that you requested earlier on.

THE CHAIRMAN: Thank you.

MS. SANSON: Do we have the cover?

5 MR. METZ: I don't believe that was done yet.

THE CHAIRMAN: He did identify it for the record and I'll identify it again and mark it as an exhibit. The name of the magazine is "Check Out. That's not on the copy itself. Yes, I did put this on the record. I have have lost my list of exhibits. Ms. Sanson or Mr. Metz, can you tell me what -- oh, here it is. This will be Exhibit number twelve. For the record Exhibit number twelve is -- can I have the original please? Thank you. It is page eleven of a publication entitled "Check Out", Volume III, number four, winter of 1991.

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15

---EXHIBIT NO. 12: Page eleven of publication entitled "Check Out", Volume III, number four, winter of 1991.

20

THE CHAIRMAN: Now, are we ready to proceed with Mr. Elieff's ---

MR. METZ: I'm not even quite sure. I remember when things closed off on the last day we

25

were somewhat in a state of confusion as to how  
evidence was going to be presented at that time. Mr.  
Elieff was sorting through various invoices and  
documentation so I'm wondering what would be the best  
5 way to approach it. This is the information that's  
been already sent to you and there is just a  
smattering more to add to it but how would I proceed  
with this generally.

THE CHAIRMAN: Well, what is usually done is  
10 while Mr. Elieff is on the stand you can introduce a  
document you wish him to identify and to comment on  
and introduce it at that time and ask him any  
questions about that. I urge you to introduce those  
documents that are relevant.

15 MR. METZ: Most certainly. I'm still on a  
few questions of procedure just to clarify. As I  
introduce the documents am I only permitted to ask  
questions of Mr. Elieff or am I also allowed to  
present the relevance of it myself or he is the only  
20 one who makes the relevance?

THE CHAIRMAN: He can answer questions. If  
you have any conclusions to make about that evidence  
you leave that for your argument. If you have  
conclusions about what has been said by Mr. Elieff  
25 and its merits to your your case you save that for

your argument afterward.

MR. ELIEFF: He is supposed to speak on my behalf everything.

5 THE CHAIRMAN: He will be speaking on your behalf when he makes argument but when he is giving his evidence he is there principally to make statements about what he knows and what he has seen which is considered evidence. The effect of that evidence or the interpretation of that evidence, the colouring of that evidence must be left to the arguments afterwards.

MR. METZ: I see.

THE CHAIRMAN: Some of that of course will come out.

15 MR. ELIEFF: I was in the middle of presenting my evidence so I want to continue.

THE CHAIRMAN: Don't worry, Mr. Elieff you will have a chance to present your evidence.

MR. ELIEFF: And I want him to do it for me.

20 THE CHAIRMAN: That's exactly what is going to happen.

MS. SANSON: My friend said there are more documents that he want to plans to enter as exhibits.

25 Perhaps the Complainant and the Commission can have those documents.

MR. METZ: They are all here.

MS. SANSON: Can I ask my friend why they weren't provided before?

MR. METZ: Because we are investigating a situation that all through the testimony has been claimed to be an ongoing situation and is ongoing until today. Some of these documents were not available until today because they include articles that were in the Free Press that were in today.

THE CHAIRMAN: Today?

MR. METZ: Yes, today. There are three articles in the London Free Press that are very relevant.

THE CHAIRMAN: Okay. Whatever copies you have could you please distribute now and if you could save those questions.

MR. METZ: Yes. Of course the other piece was the one you just got number, eleven or twelve. That was the other one but I didn't get that until this morning from the witness and these why are just additional news clippings. It may not be self-evident as to what they are but I'll be using a lot of this material in my closing argument.

THE CHAIRMAN: Okay. If there are newspaper clippings ---

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MS. SANSON: We haven't heard the Board's direction on what was heard before the lunch break.

THE CHAIRMAN: I intend to raise that with Mr. Elieff. You mean the question of Mr. Plant. I intend to raise that as soon as he takes the stand. Mr. Metz, if you are ready to begin.

MR. METZ: Yes, just recall Mr. Elieff to the stand.

THE CHAIRMAN: Yes. I am going to re-swear Mr. Elieff and I have a couple of questions for Mr. Elieff.

ELIJAH ELIEFF, Sworn

EXAMINATION-IN-CHIEF BY MR. METZ:

THE CHAIRMAN: Mr. Elieff, before Mr. Metz continues with your evidence in chief, a matter of some concern was raised before me prior to the lunch break. While you were outside of the room and while Marie was giving her evidence a member -- well, someone in the hearing at that time, a Mr. Plant was seen leaving this room and engaged in a conversation with you in the hall. I wonder if you could tell the Board the nature of that conversation.

THE WITNESS: Nothing. He was just smoking

talking about which way to go to the washroom, use the stairs. I asked him, that's all.

THE CHAIRMAN: We had other evidence led that indicated that Mr. Plant was heard discussing with you things like bugs and stairwell which was part of Marie's evidence.

THE WITNESS: No, nothing like that.

THE CHAIRMAN: All right. Ms. Sanson, do you have any questions?

BY MS. SANSON:

Q. Did you speak to Marie Mowat when she was out in the hall?

A. No.

Q. You didn't say one single word to her?

A. No.

Q. Did you speak to her after her evidence was in?

A. No.

Q. You didn't speak to her after her evidence was in?

A. No.

Q. You didn't talk to her at all. Is that true?

A. She was outside, I was outside but I

Q. I didn't talk to her. Actually I said stay there, I'm here not supposed to talk to you. That's what I said.

Q. That's the extent of your conversation?

5 A. That's exactly what I said. I said I'm not supposed to talk to you. She was here, I was there.

Q. That was it?

A. Yeah.

10 THE CHAIRMAN: Mr. Metz you, wanted to say something?

MR. METZ: Well, I'm in an awkward position in that I can testify where Mr. Elieff was because he was giving me a ride back to my office. The minute we adjourned from here we went straight to my office. 15 That is where I had my lunch and he dropped me off. He didn't go to the office. I don't know where he went after that.

20 THE CHAIRMAN: Ms. Sanson, let me see if I understand the question. You're asking Mr. Elieff if he spoke to Marie after she completed her evidence here. Would this have been at 1:45 or between 1:45 and 2:45?

25 MS. SANSON: Or at that point during her evidence when she was out in the hallway.

THE CHAIRMAN: All right. Do you understand the question?

THE WITNESS: Yes, I do. I stood away from her. She was here and I was there and I really told  
5 her she was -- she was ready to start talking to me. I said no talk. I'm not supposed to talk to you and I stood there.

THE CHAIRMAN: So on those two occasions while she left the room briefly and during the lunch break  
10 you did not speak with her?

THE WITNESS: No.

BY MS. SANSON:

Q. And where was it you told her you couldn't  
15 talk to her witness?

A. It could be anywhere. I was sent outside. There is no big -- I was here, I was there walking up and down but I didn't talk to nobody.

THE CHAIRMAN: Mr. Elieff, it is important  
20 that you answer the question directly because the Board needs to hear.

THE WITNESS: I was all over the place. She asked me where I was.

THE CHAIRMAN: It didn't happen five years  
25 ago, it happened just before the lunch break. Tell

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the Board where you were at the time you indicated to Marie that you weren't going to talk to her.

THE WITNESS: I was coming from that end of the hall walking this way and she was outside already. I don't know which door she was come but she was here and I went right there just because of this. I know I'm not supposed to talk to nobody.

THE CHAIRMAN: Ms. Sanson?

10 BY MS. SANSON:

Q. I may have to call Brian Eyolfson from our office that Mr. Elieff was in fact speaking to Marie Mowat in this room here. Now do you recall that?

A. Where?

15 Q. In this room after she gave her evidence?

A. When? Maybe in here.

Q. Yes.

A. At the lunch break?

Q. Yes.

20 A. Here we were all group of people here.

There was talk all over the place but never had anything to do with Marie or anything or ask her questions. Nothing like that.

THE CHAIRMAN: Mr. Elieff ---

25 MR. METZ: I was part of that group as well

and that's true.

MS. SANSON: Are you going to get on the stand and give some evidence, Mr. Metz.

MR. METZ: If necessary.

5 MS. SANSON: Then you can't act as Mr. Elieff's representative.

MR. METZ: If you want to ask other members of the group and call them to the stand they are sitting here too.

10 THE CHAIRMAN: Before this gets out of hand I'm anxious that we proceed with this but Ms. Sanson has raised an important point and that is your conversation with Marie or with someone else who was listening to Marie's evidence during the time you  
15 were asked to leave the room.

Now, I have heard evidence for and against this. I would draw my own conclusions about it and what I want to say is that I will weigh Mr. Elieff's evidence accordingly. Any evidence that he gives  
20 that touches matters that Marie discussed here and evidence that she gave in the morning here I'll weigh accordingly and with that in mind I am quite prepared to proceed.

25 MR. METZ: I don't believe I intend to lead the evidence in that direction in any case.

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THE CHAIRMAN: All right. Ms. Sanson, do you have any comments to make?

THE WITNESS: I have no control over what is going on here. I was asked to go outside and never told do this or don't do that. What the hell is the matter?

MR. METZ: I think perhaps that's something to consider in the future when witnesses are excluded, to perhaps have someone go out with them.

THE CHAIRMAN: All right. I didn't completely instruct Mr. Elieff but I am prepared to leave that issue having made the comment about how I will weigh the evidence. Is there anything more you wish to say?

MS. SANSON: My ongoing concern again with the issue of misrepresentation. Now, Mr. Elieff has obligations as a party to this proceeding and if my friend Mr. Metz is going to take on his case then Mr. Metz has an obligation to insure sure there are no communications or improper communications and that Mr. Elieff and Mrs. Elieff properly understand what those concerns are with respect to the Board's order and exclusion of witnesses and tailoring of evidence.

THE CHAIRMAN: I think he understands that now and the point is well taken.

MR. METZ: I don't understand exactly how I would exercise that responsibility given that while the witnesses were out in the hallway I was here.

THE CHAIRMAN: Mr. Metz, I would not pursue this any further. Are there any other preliminary matters before we proceed? Okay, Mr. Metz your witness.

MR. METZ: I am not entirely clear on exactly where Mr. Elieff left off as I don't have minutes at the time of closing and I assume that none of the document that were sent to you by me by courier have been explicitly dealt with yet. Am I correct in that understanding?

THE CHAIRMAN: You mean the transcripts?

MR. METZ: No, not the transcripts, the documents that we sent you. The invoices, the copies of the London Free Press. I know that a few pieces have already been entered as evidence in previous testimony once I went back and read it and I don't know whether you would assign an exhibit number differently to the same piece of evidence.

THE CHAIRMAN: We have numbered a group of documents in my exhibit folder here.

MS. SANSON: I believe the only document that was filed was the pest control agreement from last

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day.

MR. METZ: Oh, yes you're correct. Exhibit nine.

5 MS. SANSON: You have a copy of that in your report book.

MR. METZ: This has been dealt with then. Am I correct in that assumption?

10 THE CHAIRMAN: Well, Mr. Partellas made some comments on it. You are free to ask Mr. Elieff for his comments on that but it does not need to be introduced as an exhibit, it is already an Exhibit. I am grateful for your comments, Ms. Sanson because I haven't gone through the documents that were sent to the Board, not just because there was no time to do it but because I prefer that you introduce these 15 documents and get evidence from the witness.

20 MR. METZ: I apologize that when I mailed them out we did try to semi group the documents as much as we could but we were getting them to you in as quick a period of time as we could get them to you so we may have to do a little bit of sorting amongst the documents in terms of determining the relevance and how they are to be put together. For example I took all the PUC bills and put them together rather than 25 dividing them out by year. I think that is how you

received them.

MS. SANSON: Just by way of suggestion, sorry  
I don't mean to interrupt, my first concern and  
biggest concern is whether these documents are in the  
5 same order for everyone so we can at least go through  
and number the pages.

MR. METZ: If you haven't moved them they are  
in the exact same order as Mr. John has and you have.  
Now, mine be have been changed because I put them in  
10 the order that I want to present them because they  
are pretty much stapled. You will see all the PUC  
bills are all stapled together.

MS. SANSON: Either way it is going to be the  
same problem because Mr. Metz no longer has his  
15 documents in the original order. We have them in an  
original order so we will have to go through and find  
them and assign a number as he deals with the  
documents.

THE CHAIRMAN: As you deal with the documents,  
20 for example, all the PUC billings we will group  
together as one exhibit and we will deal with them  
that way.

MR. METZ: Believe it or not we did attempt to  
keep the number of documents down. I would present  
25 as the first exhibit here, these are Union Gas bills.

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If you put together all the Union Gas bills you will find that you have Union Gas bills dated from 1986 to 1990, then there is a break, then there is a December, 1992 invoice in there. In fact if you wish you could even introduce the PUC bills as the same exhibit since the relevance is the same.

MS. SANSON: I don't think it would be useful and my suggestion in that regard is each individual document has something different on it and in attempting to do a cross-examination they will all be called the same thing and no one will know what the document is. We need some clarification of the identity of the individual documents.

THE CHAIRMAN: Well, what I propose is in each group we will check the documents in each group, give it an exhibit number and each individual document within that group will be given a document number so you will have Exhibit thirteen, document one, two three, four five and we will identify each one. I believe we did that with Mr. Partellas.

MS. SANSON: We did and that has turned out to be somewhat of a problem.

MR. METZ: It is difficult to deal with it when you have that many.

THE CHAIRMAN: I agree. I can't think of a

better way of doing it. It makes sense to group these according to the exhibit and each document in the exhibit.

MR. METZ: Because a lot of them on an individual basis are not relevant by themselves.

MS. SANSON: I'm going to have to pull my books apart.

THE CHAIRMAN: Would you like mine?

MS. SANSON: How are you going to organize yours?

---SHORT RECESS:

---UPON RESUMING:

THE CHAIRMAN: Please proceed, Mr. Metz.

BY MR. METZ:

Q. Mr. Elieff, if you could explain to the Board what is in your hands there and perhaps make some comment on it?

A. They are the Union Gas bills concerning my company's two apartment buildings, 95 and 105 Cheyenne.

THE CHAIRMAN: Starting at what date? My copy

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says November 1st, 1985.

THE WITNESS: Yes, November 1st, November 2nd to December 2nd. One for each building 105, 95.

5 THE CHAIRMAN: Mr. Metz you gave him a pile that goes right through 1992?

MR. METZ: They run from 1986 to 1990 and then just a recent one in 1992.

10 THE WITNESS: And I do recognize them all as being sent to my company's office and that they have been paid in full and on time.

THE CHAIRMAN: Okay. Ms. Sanson, do you have you that set?

15 MR. METZ: The basic thing to note is just that the sequence of the invoices that are grouped together that you will notice by the ongoing balances not getting too large but maintaining a relatively stable balance meaning that the previous month's bills were paid. The payments were made on a regular basis with respect ---

20 THE CHAIRMAN: Okay, that's evidence you're giving and I can see that you are trying to explain the relevance. Perhaps you could put a question to Mr. Elieff, can you tell me if these were paid and how quickly were they paid and what does the date stamp say they were paid? Was there an outstanding

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balance? They are not stamped but the balances give the answer. So if you just take him through a couple of those and when you think the difficulty starts you can pull one from that and have him speak to that.

5 First I will label this or number this is Exhibit number thirteen.

---EXHIBIT NO. 13: Union Gas invoices.

10 BY MR. METZ:

Q. Mr. Elieff, as you know these are invoices from Union Gas that you have identified as being invoices is to your company. We note that the invoices -- you have paid the invoices that are dated 15 with the exception of the recent one on a timely basis. Is that correct?

A. Correct.

Q. Now, we note that the current balance on the latest invoice dated, or latest one submitted 20 here dated December 2nd, 1992 reads \$17,061.70. Has this amount been paid yet? Has that particular invoice been paid?

A. All of the bills that I have given in have been paid in full and on time.

25 Q. Are you including the latest one in 1992?

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This is current. This is just last month. There is a jump between the last one before it there. You see you have got the November and the December, 1992 invoices which we will segregate for a moment because that ends at 1989.

5

A. The latest I think they are not paid yet.

Q. Okay. Now, could you explain to me perhaps why it is that during the years in question where it is obvious that those invoices were paid, why suddenly in 1992 at the end of the year your invoice for Union Gas is outstanding?

10

A. The reason for them not being paid is because we don't have enough money to pay and we got not enough money to pay because we got so many vacant apartments and we have so many vacant apartments because of what Susan Eagle and the London Free Press have been doing to portray our company's buildings as a bad spot in London and I have been running in London Free Press for a couple of months now trying to rent those vacant apartments but all of those who call, after they hear from me which buildings we are talking about they just hang down the telephone.

15

20

They don't want to hear about. That's the difficulty that we are in and most of it is because what London Free Press and Susan Eagle have been doing and

25

continues to do.

THE CHAIRMAN: Apart from the fact that you have been getting the blame in a particular place ---

THE WITNESS: Because of bad publicity.

5 THE CHAIRMAN: Is it your evidence then that these bills for November and December of 1992 have not been paid because you are running into financial difficulty?

THE WITNESS: True, yes.

10 MS. SANSON: I have notified my friend by way of letter and we have heard it on the record before that if Mr. Elieff was going to put his financial situation into issue and also to allege and place blame where he has been doing, that we want all of his financial records produced and I hope that he has  
15 brought them today so that I can examine them.

THE WITNESS: I'm saying that's the reason why they are not paid.

20 MS. SANSON: Did you bring the financial records?

MR. METZ: No, the financial records basically irrelevant to the case we are trying to make. The issue is that the invoice is outstanding. The previous invoices were not outstanding and that's  
25 basically the case as it is. That's all that's

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trying to be established.

THE CHAIRMAN: Well, in all fairness ---

MR. METZ: Well, I can still ask some questions in that regard perhaps to satisfy Ms. Sanson's concerns.

5

MS. SANSON: My concerns will not be satisfied until I have seen the records. We have heard submission after submission. The Board has given some direction that he didn't think that this area of the evidence is useful. We have heard continual blame on Susan Eagle. We have heard continual blame on the London Free Press and if Mr. Elieff is going to lead the evidence that he is in a vicarious financial position then we are entitled to examine all of his financial records and you have been put on notice of this before. You have been put on notice of it by way of the record and I would ask the Board to make a ruling in that regard.

10

15

THE CHAIRMAN: Well, if I recall what happened the last day we were here I believe some bank statements were being tendered.

20

MR. METZ: Yes, and they were withdrawn.

THE CHAIRMAN: They were withdrawn but the argument surrounding that was if the issue, if what was being put into issue was Mr. Elieff's financial

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stability then all the records that relate to financial stability must fairly be introduced and so all the books and records of Elieff Investments would have to be produced.

5 THE WITNESS: But I'm merely answering the question. I have no money to pay. That's why I don't pay.

BY MR. METZ:

10 Q. Well, I understand what you're saying Mr. Elieff but I think then the question should be -- perhaps we should ask first, are you still receiving rent from your existing tenants?

15 A. I'm receiving out of some. A lot of them are vacant.

Q. And where is the money going from those tenant that are not paying rent to you?

20 A. From the rent that I am getting I want to make sure I pay my mortgage and the rest what Susan Eagle is collecting I don't know what she is doing. I checked with the London Hydro. They say she has not paid anything.

25 THE CHAIRMAN: Maybe that's a line of questioning we can follow. If you could ask the witness how many apartments are rented, how many are



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vacant currently and how many are sending their rent to him and how many are being collected by some other person, that might assist the Board.

5 BY MR. METZ:

Q. Very well. Then Mr. Elieff could you explain to us how many tenants are in the buildings now, how many of your apartment are vacant?

A. Well, I have to count those vacant ones.

10

THE CHAIRMAN: Sorry, I didn't hear that.

THE WITNESS: I have to go through the vacant apartments just to mention.

THE CHAIRMAN: Sure.

15

THE WITNESS: Number one, two, three, four six seven, fourteen, fifteen.

BY MR. METZ:

Q. Is this in one building?

20

A. Those are in 105. And twenty-two just come vacant.

Q. Okay. So how many was that?

A. In 95 vacant, twenty-six, twenty-eight, thirty-three, thirty-five, thirty-nine, forty-three and forty-four. Those are vacant as of now in 95 and the number you can figure out.

25

Q. Approximately what percentage of your total units would that be?

A. Out of forty?

Q. Out of forty.

A. Yes.

Q. And you listed how many was that?

THE CHAIRMAN: Fifteen.

10 BY MR. METZ:

Q. Fifteen? That's a considerable percentage. How many of your units were rented or occupied during the period of those invoices that were paid on time?

15 A. All of those years that I have the buildings I never recalled to have more than five vacant apartments.

THE CHAIRMAN: In total?

20 THE WITNESS: In total in both buildings and if that happened for a month or two at the most and then I get it all filled up again but the bad publicity just can't get tenants.

MS. SANSON: May I at this time make a request for all of the rental records?

25 MR. METZ: I don't believe we are going to

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make a case of Mr. Elieff's financial situation.  
What we will relate these document to is to his  
vacancy rate and basically check how the payment of  
the invoices corresponds with the occupancy of the  
buildings and the non payment of invoices corresponds  
with the vacancies in the buildings.

5

MS. SANSON: We have just heard from Mr.  
Elieff that ---

MR. METZ: The financial records are not  
necessary.

10

MS. SANSON: I'm now asking for the rental  
records and a record of the vacancies from 1985  
through today. Mr. Elieff's evidence is that there  
is a high vacancy rate and I'm entitled to the  
documentation which support it.

15

THE CHAIRMAN: Mr. Elieff, do you keep a  
record of your vacancies?

THE WITNESS: We are talking about this ---

MR. METZ: There actually is a document here.

20

THE WITNESS: The last year at this time right  
now?

MR. METZ: December, 1992 another exhibit that  
was forwarded here.

MS. SANSON: Do you have the rest of the  
years?

25

MR. METZ: This is as of 1992.

MS. SANSON: How can we compare if we don't have the other years?

MR. METZ: We will probably have to provide you with documentation if that's possible.

THE CHAIRMAN: Could you undertake to produce that tomorrow?

BY MR METZ:

Q. We will see what we can do. Would that be possible for you to produce a record of who was in the apartment buildings during those periods??

A. I feel I don't have to tell you what happened the last seven years. I was surviving. I was keeping my company in good shape. Now I'm in bad shape and I'm telling you that's why I couldn't pay.

THE CHAIRMAN: Mr. Elieff, if you expect us to believe what you say about the vacancy rate that existed prior to this year then you have to be able to support it or else it won't carry very much weight. You have said for example that in previous years you have never had more than five apartments vacant at any time.

THE WITNESS: Whether you believe it or not that's what I'm saying.

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BY MR. METZ:

Q. What we are asking is do you have any documentation or do you have any records that you can see who was in the buildings say in December of say the end of each of those years or which units were occupied rather?

A. Yes, I have this big pile of who was there and who wasn't. If I have to bring it, I'll bring it tomorrow.

THE CHAIRMAN: Well, if you have those record can I suggest that between today and the end of today's hearing and tomorrow you compile at least a summary of vacancy rates per year?

THE WITNESS: No, I have them each year. I can bring them in and you can see them all.

THE CHAIRMAN: All right. It would assist us if there was some summary.

MR. METZ: Like the summary that was just handed ---

THE WITNESS: I got them all since the first month I bought the buildings I bring them all.

BY MR. METZ:

Q. Mr. Elieff, do you recognize these documents?

A. They are all addressed to my company.  
They are hydro bills starting with the ---

Q. On the top again is organized the same way  
as the Union Gas bills.

5 A. That says October 6th to December 4th of  
1992 and going backward I guess.

Q. The others are from 1986 to 1989 and again  
we only introduce this exhibit to re-emphasize the  
same pattern of payment and invoices as with the  
10 Union Gas bills, same arguments.

THE CHAIRMAN: All right.

MR. METZ: Do we assign this another Exhibit  
number or include it as the same?

15 THE CHAIRMAN: Yes, we will file that as  
Exhibit number fourteen.

---EXHIBIT NO. 14: PUC invoices.

20 THE WITNESS: We also have a letter from the  
PUC telling Elijah how come you have been paying your  
bills on time every time? What happened now? We  
have that letter from the PUC to show this Commission  
if that's important.

THE CHAIRMAN: You can bring that tomorrow.

25 THE WITNESS: Oh, yeah we got that letter.

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MS. SANSON: Maybe in the documents that he has he can identify it now if you like.

THE WITNESS: could be if you like.

MS. SANSON: I recall seeing it. I think it is on a statement.

MR. METZ: On a PUC statement?

THE CHAIRMAN: If you can find it we will refer to it right now.

MR. METZ: "Our records indicate that you have a good payment history", October 26th, 1992. It is a reminder notice and it is near the top and I would point out as well this notice is dated 1992 indicating that the good payment record was up until that date.

THE CHAIRMAN: All right.

MR. METZ: And that's Exhibit fourteen I take it?

THE CHAIRMAN: Yes.

MS. SANSON: That's October 26th, 1992?

MR. METZ: Yes, the reminder notice.

MS. SANSON: Did you want to have this marked as an exhibit right now?

MR. METZ: I believe we should. What number exhibit shall we assign that?

THE CHAIRMAN: That would be fifteen.

MS. SANSON: Does the Board know which document? There are two headed Elieff Investments Limited. There is 95 Cheyenne and 95 Cheyenne December 1st, 1992.

5 THE CHAIRMAN: I haven't found my copies.

THE WITNESS: Maybe some of the numbers I gave you vacancy, maybe they are not over there, maybe over there. Show some there that are not there now. You know what I mean.

10 MS. SANSON: But this is for December, right?

THE WITNESS: Is that what it says for December, then it is for December December 1st, right but then we have January and February now so I guess I got some vacancies now that I didn't show them like twenty-two, you know, at this time is vacant. I give you the numbers. Maybe you want to ---

MS. SANSON: That's why we need to get the records.

20 THE WITNESS: So that's that month. Each month it is worse.

THE CHAIRMAN: So it will help to have those tomorrow.

THE WITNESS: Yes, I get them all.

MR. METZ: Is that okay for the PUC then?

25 THE CHAIRMAN: Yes.

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BY MR. METZ:

Q. Next Mr. Elieff, do you recognize these documents?

A. Though are Salmon Plumbing bills and I said to them paid myself always put in this most of them and the date that I have paid it in full and the job they have been doing for all those years.

Q. Now, a few things that are particularly significant if we go through some of these invoices is that we will see ---

MS. SANSON: Could would he start by -- is this Exhibit sixteen.

MR. METZ: I assume it will be.

THE CHAIRMAN: I haven't numbered exhibit fifteen yet.

MS. SANSON: Okay. Are you still looking for those two pages?

THE CHAIRMAN: I have those two pages but I wasn't sure if Mr. Metz wanted to introduce them right now or save them until the vacancy records are brought in tomorrow.

MS. SANSON: Well, we could add the others to Exhibit fifteen.

THE CHAIRMAN: All right. Would you like this as ---

MR. METZ: It is all part of the same argument  
so I would suggest that would be okay.

THE CHAIRMAN: Okay, that's fine. This will  
be sixteen then.

5

---EXHIBIT NO. 15: Two pages re: vacancies.

---EXHIBIT NO. 16: Plumbing invoices.

10

MR. METZ: And these are invoices, most of  
which are Salmon Plumbing and there is the odd other  
one in there that relates to plumbing as well  
including you should have some Skinner invoices and  
one other odd one there, just B & L General

15

Maintenance but its got a lot of plumbing invoices on  
it. Now, if you take a perusal through most of these  
invoices you will constantly see the word blockage,  
push blockage to city sewer; to render emergency to  
blockages in drains.

20

MS. SANSON: Perhaps the witness can identify  
the document that Mr. Metz is referring to. We need  
to know the specific document.

MR. METZ: There is a Salmon Plumbing and  
Heating July 24th, 1986.

25

THE CHAIRMAN: Could you have him read the

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date on that and any comments you wish to have for the record?

BY MR. METZ:

5 Q. Just point out where it is highlighted there?

THE CHAIRMAN: Mr. Elieff, what is the date of that invoice?

THE WITNESS: Dated July 24th, 1986.

10 MS. SANSON: I would like to find that first.

THE WITNESS: July 24th, 1986.

THE CHAIRMAN: And when Ms. Sanson has found it could you please read the part that relates to blockage?

15 THE WITNESS: The mechanic says what he has been doing, pushing ---

THE CHAIRMAN: Just a minute please.

MS. SANSON: Okay.

20 THE WITNESS: The highlight of this is the mechanics are trying to pushing the blockage, whatever has been blocking it.

THE CHAIRMAN: All right. Can you read for us the job description? Has that been outlined there?

25 MR. METZ: Would it expedite matters if I read it?

THE CHAIRMAN: It has to be out of the mouth  
of the witness.

MR. METZ: It is just that I thought it is  
evidence that is fairly concrete.

5 THE WITNESS: I only want to point out what I  
think is disturbing and we all have the paper, it can  
be read later on but this bill is saying that the  
mechanics had to push whatever it was blocking in the  
pipe. That's what the highlight I want to say and  
10 that's all.

MR. METZ: Again, if we view another Salmon  
Plumbing invoice dated February 2nd, 1989 ---

THE CHAIRMAN: Just a minute, let me find it.  
Is it a Skinner Plumbing ---

15 MR. METZ: No, no. It is Salmon Plumbing.

THE WITNESS: February 16th, 1989.

MS. SANSON: February 22nd, 1989.

MR. METZ: The other date of the invoice is  
February 22nd. It is \$589.61 and you'll notice ---

20 THE CHAIRMAN: All right. Go head, I'll find  
it.

BY MR. METZ:

25 Q. Mr. Elieff, if you could read again the  
highlighted portion of that?

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A. The highlights?

THE CHAIRMAN: What does the work relate to, Mr. Elieff.

5 THE WITNESS: Same kind of job, to push the blockage out February 22nd, 1989.

THE CHAIRMAN: Why don't you just proceed and I'll find it.

THE WITNESS: That is the same thing, they been pushing the blockage.

10

BY MR. METZ:

Q. Okay. Here is another one dated -- the date on this particular one, we are just sampling from various years.

15

MS. SANSON: Tell me what document it is.

MR. METZ: I'm sorry.

THE WITNESS: That one is April 29th, 1988.

MR. METZ: I believe I selected different years each time.

20

THE CHAIRMAN: Yes, I've found it. April 29th, 1988.

MS. SANSON: I'm still looking here. April 29th, 1988. Okay, got it.

25

THE WITNESS: Also the first page says "Re: blockage in building drain service and the third page

down says that he had installed two Mueller service  
kits complete with new seat washers and drains.

THE CHAIRMAN: What is the total amount there?

THE WITNESS: On the last page of this four  
5 pages, on the last page also says to clear blockages.

THE CHAIRMAN: What document is that?

THE WITNESS: That's January 30th, 1988. They  
have been continuing pushing blockages.

MR. METZ: Here are some more.

10 MS. SANSON: January 30th, 1988?

THE CHAIRMAN: It is the previous page.

MS. SANSON: Okay. Thank you.

THE CHAIRMAN: Go, ahead Mr. Metz.

15 THE WITNESS: We're talking about hundreds of  
dollars being spent for stuff like that.

BY MR. METZ:

Q. I now produce again three from 1987. May  
4th, 26th and July 30th.

20 MS. SANSON: Can you tell me those dates  
again.

MR. METZ: May 4th, May 26th and July 30th.  
They are all 1987.

MS. SANSON: May 4th, May 26th and what else?

25 MR. METZ: July 30th.

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THE CHAIRMAN: They should be all together.

THE WITNESS: They are all of them 1987.

BY MR. METZ:

5 Q. Mr. Elieff, if you could bring to our  
attention the highlighted comment comment on that  
invoice?

10 A. Let's see. May 26th , 1987 it says "Re"  
blockage in kitchen sink. Waste in drain. To clean  
tree stock and remove blockage of grease at base of  
15 stock and branch intervals." We are talking about  
lots of grease. To remove trap on base of sink and  
clean trap and waste fittings. This bill tells us  
lots of grease has been detected or found. Now the  
20 date May 4th, you got May 4th or August 20th. Which  
one would you ---

THE CHAIRMAN: Mr. Metz, perhaps you could  
25 guide the witness to the bill that you would like him  
to describe.

20

BY MR. METZ:

25 Q. There was just the three that had that  
significant point on them about blockages. There are  
others. As to the value of the other invoices, they  
are just further evidence of ongoing ---

5 A. Can you find May 4th, 1987? It also says  
blockage in the beginning. Push blockage. those are  
some of the -- telling that blockage and blockage and  
then if you can find July 30th, 1987 which also says  
in the beginning blockage in main building drain  
sewer and the main thing for us to keep in mind on  
this bunch of invoices is that grease was the  
problem.

MS. SANSON: Which invoice is that?

10 THE WITNESS: That's the 30th.

MS. SANSON: That's the only one that says the  
blockage is grease.

THE WITNESS: Yeah, that's what Salmon has  
found.

15 BY MR. METZ:

Q. Okay. Now, Mr. Elieff if you would  
describe particularly the highlighted ones. These  
are all from 1985 now and they are all Salmon  
20 Plumbing and Heating and they include not only an  
invoice in particular relating to 1985 but the work  
order that's stapled to it.

MS. SANSON: What is this?

25 MR. METZ: These are all 1985 Salmon invoices.  
There are quite a few.

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THE CHAIRMAN: I have January and February, 1985. There are seven 1985 invoices plus a work order.

MS. SANSON: So you've got February 13th, 1985, February 25th, 1985, May 21st, 1985?

5

MR. METZ: That's correct.

MS. SANSON: October 4th, 1985?

MR. METZ: That's correct.

MS. SANSON: October 18th, 1985 and then there is a handwritten October 18th and 19th, 1985, October 24th, 1985?

10

MR. METZ: That October 24th is part of the handwritten one that you have there. That's the work order, the one that was handwritten. It goes with the October 24th invoice. If you notice the words on it, it was performed October 18th and 19th.

15

THE CHAIRMAN: Okay. And finally there is November 26th.

20

BY MR. METZ:

Q. Mr. Elieff if you could make some comment that you might care to make on any of these invoices but with particular attention to the highlighted portions?

25

A. If you can find October 24th, 1985.

MS. SANSON: With respect to the issue of highlighting, unless all of the documents are highlighted in the same place.

5 MR. METZ: It is just for his own ---

THE WITNESS: I read from anywhere you want me to read. Have you got October 24th, 1985?

MS. SANSON: Sorry, okay.

10 THE WITNESS: Just in the first row it says blockage. That's what I'm trying to point out here. There has been blockage and then if you can get ---

BY MR. METZ:

15 Q. Could read for us the comments that the plumber made on the attached ---

A. On the attached next after that?

Q. The written one?

20 A. In writing? I don't think she's got that. Okay, in here says he talked with two fellows from health department advising them that even a good drain does not take these objects. That is highlighted.

MS. SANSON: Where is this? Could you show me please?

25 MR. METZ: It is right it beginning, the

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opening comments under the order right at the start

THE CHAIRMAN: on the left-hand side.

BY MR. METZ:

5 Q. I will repeat it: "Talked with two  
fellows from the health department. Advised them  
that even a good drain doesn't take these objects"  
and if you look to the right-hand side of the invoice  
for an identification of what kind of object we are  
10 talking about, I'm speaking about under the  
mechanic's description of work, if you would Mr.  
Elieff read what objects they are talking about?

A. Again here the mechanic from Salmon  
Plumbing is saying not even a good system would hold  
15 what we been finding here and what they have been  
finding is on the right side. It says drain clean  
and plunged back a rubber glove.

THE CHAIRMAN: Pulling back rubber glove.

20 THE WITNESS: What they been pulling back was  
a rubber glove, plastic wrap, grease chunks, stones  
and sanitary napkins. That's the highlight of this.

BY MR. METZ:

Q. Okay, continue.

25 MS. SANSON: This is from your sewer?

THE WITNESS: Yes.

MS. SANSON: Flood sewer.

THE WITNESS: Those have been pulled out by saying of the mechanic October 4th, 1985, fourth row down. Fourth row mentioning push blockage. That's highlighted. Just talking about blockages. Then May 21st if you can find May 21st, 1985 at the very start it says blockage in sewer and fourth row: "To reroute and remove move blockage, sanitary napkins." Again saying here beer cans and so on with this and so on. I mean, God knows what they been putting. That's it for that invoice.

15 BY MR. METZ:

Q. Would you say Mr. Elieff that these types of objects are the normal types of objects that should be put into a sewer system of any sort?

20 A. I don't throw them in my apartment or house and sometimes my kids probably have been doing but whoever has been throwing them there, I cannot understand why. I believe some at that time has been done purposely by bad tenants who I been kicking out and I believe those bad tenant were mostly white  
25 Canadians not the Cambodians and Vietnamese.

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THE CHAIRMAN: You gave some of that evidence  
on the earlier day.

THE WITNESS: I want to assure you that I'm  
confident that most of the damage, vandalism has not  
5 been done by them.

THE CHAIRMAN: Can I just ask a question here  
about these sewers. Are they connected to the  
kitchen sinks and toilets of the building?

THE WITNESS: I don't know. I think they are  
10 different lines. One line goes from the top down all  
the kitchens together, another all the washroom sinks  
and the toilets. They are all different lines, that  
I know for sure but under the ground how are they  
connected, I don't know.

15 THE CHAIRMAN: Okay.

THE WITNESS: February 25th, 1985 again  
blockage and on the fourth row, remove blockage  
again. I highlight this blockage.

MS. SANSON: The crossing out in the note  
20 written here, was this something that you added on  
there Mr. Elieff?

THE WITNESS: No.

BY MR. METZ:

25 Q. She is referring to these.

A. What do these mean?

MS. SANSON: Is that something you added in February 25th, 1985.

5 THE WITNESS: I believe he have done this because let's say this invoice, I did not ask him to do that. Let's say here prepare floor plan, that was not why I call at this time plumber but since he went there and someone else told him it needs to be done this without my knowing, that's why I was arguing  
10 with the bill, you know. Sometimes I would argue with the bill, say too much money. I didn't call for all of these jobs to be done. Some of these I could have done myself while I'm trying to survive.

15 THE CHAIRMAN: Just for record Mr. Elieff is referring to items in the February 25th, 1985 invoice which have been crossed out in pencil and with the lettering beside each line the word "No" and Mr. Elieff was just giving his reasons why that appears on the invoice.

20 MR. METZ: Okay.

THE WITNESS: Let's say here on the 25th of November, if you can find November 25th.

THE CHAIRMAN: Of what year?

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BY MR. METZ:

Q. November 26th?

A. November 26th of 1985. See, here I have also done some marking here and as I say here he broke it something here. They told me they did, they say these things broke, we have to replace it and my argument is I say why you broke it. Probably I was arguing he didn't handle it properly or something but that's what it is about. Anyway I had to pay them in full every time so because especially this one is \$544.00, big bill.

THE CHAIRMAN: Let me just ask another question in clarification. Are you saying that despite your comments on here about who you think broke the item, despite that the plumber fixed that or did not fix that?

THE WITNESS: No, the plumber is charging me for something he has broke through the job that he's been doing.

MR. METZ: Oh, the plumber broke it?

THE WITNESS: So I argue with his boss. I say I don't feel like I have to pay for something he broke when it was in okay shape.

THE CHAIRMAN: Thank you.

BY MR. METZ:

Q. Okay. The next is just a grouping of Household Plumbing invoices which you will find basically two on a page and they generally date 1988 and the odd one is in 1989. What comments might you have about these, Mr. Elieff?

MS. SANSON: What are we looking at now?

BY MR. METZ:

Q. Household Plumbing. There are only a handful?

A. This is a store where I buy parts, you know, from here I buy parts doing myself like top rubbers, top seats whatever it is. You know.

Q. That's what I was going to ask you.

A. So I just want to show some of the bills that I have been buying stuff even trying myself to keep repairing. What I'm trying to say here I been spending money buying parts, material in an effort to keep place in good shape as I can.

Q. Do you say these invoices relate to work you have done yourself therefore there is no labour charge, it is simply parts?

MS. SANSON: These have 6 Elaine Crescent on them.

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THE WITNESS: That's involves Elieff Investments. That's my office.

MS. SANSON: So is this work done on 105 and 95 or 6 Elaine Crescent?

5 THE WITNESS: For both. Let's say here I would go pay cash, then you say to petty cash this much and I get all the receipts and make a cheque to myself which money I have to authorize.

10 THE CHAIRMAN: I think what Mr. Sanson is asking is whether the parts were used for your residence as well as the two buildings.

15 THE WITNESS: Never. I never do that from there to there, especially those plumbing parts are older kind, twenty-five year's old. They take Mueller seats and most of them are Mueller products and my house is newer and different plumbing is there.

BY MR. METZ:

20 Q. Mueller is a brand name of plumbing?

A. Yes. They are all materials. We have continuously been trying to do it myself try to survive.

Q. And then we have -- do you have all those?

25 MS. SANSON: I don't know. How many are we

supposed to have?

MR. METZ: There are just five sheets and two on each sheet. They are all Household Plumbing.

MS. SANSON: September 12th, 1988, September 5 20th, 1988, March 20th,, 1989.

MR. METZ: No, that will be coming up next. .

THE CHAIRMAN: Can you, Mr. Metz just have Mr. Elieff make a general comment about these documents and we will return to it tomorrow morning?

10 MR. METZ: Sure. It is just the closing comment basically, same thing. You also have there one invoice by B & L General Maintenance and one, two, three, four by Skinner.

15 THE CHAIRMAN: All right. Can I just stop you there. It is now 5:30. What you can do is you can pick that up tomorrow and refer to these documents you have in your hand at the moment.

MR. METZ: Are we done with the Household Plumbing ones then?

20 THE CHAIRMAN: As long as Ms. Sanson has found them we are done with them. So we will deal with the Household Plumbing ones and a few other ones tomorrow.

25 THE WITNESS: We are only done with the bills and the Salmon, the Union Gas, hydro and PUC and

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Salmon?

THE CHAIRMAN: Yes. And do would he have an understanding that we will return at nine tomorrow?

MR. METZ: Same room?

5 THE CHAIRMAN: I believe that's correct.

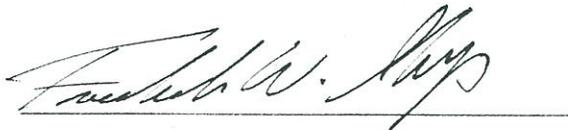
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THIS IS TO CERTIFY that the foregoing is a true and accurate computer-aided transcript of my shorthand notes to the best of my skill and ability.

20



FREDRICK W. SHARP, C.S.R.,

Reporter

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