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ONTARIO HUMAN RIGHTS COMMISSION

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IN THE MATTER OF the Human Rights
Code S.O. 1981, c. 53, as amended;

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AND IN THE MATTER OF the Complaint
of Chippeng Hom dated December 20,
1989 alleging discrimination on the
right to equal treatment in
accommodation and freedom from
harassment by the landlord on the
basis of ancestry, race, place of
origin, ethnic origin and race
reprisal by Elijah Elieff and
Elieff Investments Ltd.

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B E F O R E :

AJIT JOHN

Chairperson

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HELD AT: Radisson Hotel,
London, Ontario.

DATE: August 30, 1993

VOLUME: 8

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APPEARANCES:

Geri Sanson

Counsel for the Commission

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Robert Metz

appearing as agent for Elijah
Elieff and Elieff Investments Ltd.

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INDEX OF WITNESSES

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NAME

PAGE

GREG VAN MOORSEL, Recalled:

627

Examination-in-chief by Ms. Sanson

627

Cross-examination by Mr. Metz

707

10

ELIJAH ELIEFF, Resumed:

750

Cross-examination by Ms. Sanson

750

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INDEX OF EXHIBITS

<u>NUMBER</u>	<u>DESCRIPTION</u>	<u>PAGE</u>
36	Book one of Mr. Van Moorsel's notes (later marked as Exhibit No. 52).	633
37	Book two of Mr. Van Moorsel's notes (later marked as Exhibit No. 53).	633
52	Book one of Mr. Van Moorsel's notes (Previously entered as Exhibit 36).	634
53	Book two of Mr. Van Moorsel's notes (previously entered as Exhibit 37).	634



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626

--- Upon commencing at 10:20 a.m.

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THE CHAIRPERSON: I think without further ado we had better begin, but let's just see if there are any outstanding matters we need to deal with before, particularly with respect to production of documents.

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MS. SANSON: Mr. Gasparotto is here this morning, and also in attendance is Mr. Greg Van Moorsel and Ms. Mary Nesbitt. Perhaps before we proceed, it's my understanding that none of the parties have had an opportunity to review the notes, perhaps we could call Mr. Van Moorsel to the stand and ask him to produce the notes and then break for a short period to review them.

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THE CHAIRPERSON: Okay. Okay. Could someone just close that door for me, please?

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Okay, Mr. Van Moorsel. I'm glad you're here, thank you for coming. Do you have the notes in your possession?

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MR. VAN MOORSEL: I do.

THE CHAIRPERSON: And is there any objection to the production of those notes?

MR. VAN MOORSEL: No, none that I'm aware of.

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THE CHAIRPERSON: All right. Would you like to take the stand and we'd have you sworn and then



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627

G. VAN MOORSEL, in-ch
(Sanson)

you can identify the notes.

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MR. VAN MOORSEL: Sure. Do you want me to
do that now?

THE CHAIRPERSON: Sure. We'll have you
affirmed.

MR. VAN MOORSEL: Pardon me?

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MS. SANSON: He's already sworn.

THE CHAIRPERSON: That's right.

MS. SANSON: Previously sworn.

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THE CHAIRPERSON: Previously sworn by
telephone.

GREG VAN MOORSEL, Recalled:

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THE WITNESS: Oh that's right, I remember,
yes.

THE CHAIRPERSON: All right.

THE WITNESS: So do I sit here?

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THE CHAIRPERSON: Now, who would like to
ask -- would you like to ask questions about the notes
and identify them, have them identified for the record?

MS. SANSON: Thank you.

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EXAMINATION-IN-CHIEF BY MS. SANSON:

Q. Mr. Van Moorsel, you gave some



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628

G. VAN MOORSEL, in-ch
(Sanson)

evidence at the beginning of the hearing that related to newspaper articles that you had written for the London Free Press.

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A. M'hm.

Q. And I understand that you have brought your notes today that relate to articles publishing in the London Free Press on November 8th and 9th?

10

A. Yes.

Q. And there were a couple of additional articles -- additional days that you took notes for those articles?

15

A. Not for those articles, but for subsequent articles.

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THE CHAIRPERSON: What is the date again?

MS. SANSON: November 8th, 1989 is the first publication, the first article, so the notes would have been taken the 7th of November?

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THE WITNESS: November 8th was the first publication date, yes.

THE CHAIRPERSON: Okay. And what date were the notes made?

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THE WITNESS: For the November 8th story it would have been November the 7th.

THE CHAIRPERSON: November 7th. And you



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629

G. VAN MOORSEL, in-ch
(Sanson)

have those notes with you?

THE WITNESS: I do.

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THE CHAIRPERSON: Okay. Go ahead.

BY MS. SANSON:

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Q. And then notes relating to the
November 9th article, 1989.

THE CHAIRPERSON: And were fresh notes
taken for that November 9th article?

15

THE WITNESS: The November 9th article
would have sprung from notes taken November the 8th.

THE CHAIRPERSON: November the 8th, okay.
And you have those notes with you?

THE WITNESS: M'hm, yes.

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THE CHAIRPERSON: All right.

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MS. SANSON: I also understand that Mr.
Van Moorsel has with him some notes that relate to some
interviews that were conducted with some of the tenants,
and I haven't had the opportunity to review those notes,
but where they might relate to some of the follow up
articles that were filed by Mr. Metz ---

THE CHAIRPERSON: All right.

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MS. SANSON: --- I would ask for those as
well.

THE CHAIRPERSON: Do those notes have a



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630

G. VAN MOORSEL, in-ch
(Sanson)

date?

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THE WITNESS: Yes. Now, those notes are not confined to those two stories, they go on for another story which, as I understand, is not being requested, but they would go on into the November 10th period. I think they went to November 10th. I mean, I spoke to the tenant or tenants on more than one occasion and it was all during the week.

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THE CHAIRPERSON: Okay. During that same week ---

15

THE WITNESS: Yes.

THE CHAIRPERSON: --- around November 7th to ---

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THE WITNESS: The week of November 7th, yes.

THE CHAIRPERSON: The week of November 7th. All right.

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MS. SANSON: I would ask at this time for an opportunity to review those notes so that I may continue with any questions that I have for the witness.

THE CHAIRPERSON: Okay. Just for purposes of identifying the notes ---

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MS. SANSON: Yes.

THE CHAIRPERSON: --- is that right? Okay. Do we have copies of those notes today?



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THE WITNESS: I have one copy with me,
sir, but other than that only the originals are here.

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THE CHAIRPERSON: All right, thank you.
I'm just thinking that in the break so that both you and
Mr. Metz can review the notes we'll have one copy to make
things easier.

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All right. Would you like to -- sorry,
are you waiting for translation? Okay. Would you like
to have Mr. Van Moorsel just identify these notes as his
and then we can break?

15
MS. SANSON: Certainly.

20
BY MS. SANSON:

Q. Would you like to identify your notes
for the board?

25
A. They are my notes and I've identified
them.

Q. And I understand the notes were in
the possession of the London Free Press?

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A. Yes, from November '89 until some one
hour ago, half an hour ago they were out of my
possession.

Q. And who did you receive the notes
from?

A. I received them from our City -- or



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632

G. VAN MOORSEL, in-ch
(Sanson)

then City Editor, Mary Nesbitt.

MS. SANSON: Thank you.

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THE CHAIRPERSON: And all the notes, as I can tell, are contained in two spiral notebooks, is that correct?

THE WITNESS: Yes, that's right.

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THE CHAIRPERSON: Okay. I don't have an exhibit list with me.

MS. SANSON: We're 159. I think we're on to 36, Exhibit 36.

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THE CHAIRPERSON: Yes, you're right, the last exhibit was 35. Okay, we'll mark these.

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MR. GASPAROTTO: The notes are in two books, you might want to mark the two books in as separate exhibits. Book one covers day one and two, and book two covers day three and four.

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THE CHAIRPERSON: Thank you. We'll mark book one 36, and book two 37. And just to assist me, Mr. Van Moorsel ---

THE WITNESS: This would be your 36 then.

THE CHAIRPERSON: Okay.

THE WITNESS: The smaller would be the 37.

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THE CHAIRPERSON: Thank you.



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--- EXHIBIT NO. 36: Book one of Mr. Van Moorsel's notes
(later marked as Exhibit No. 52).

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--- EXHIBIT NO. 37: Book two of Mr. Van Moorsel's notes
(later marked as Exhibit No. 53.).

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THE CHAIRPERSON: Thank you. Are there
any other matters before we adjourn to allow counsel to
look at the notes? Mr. Metz?

MR. METZ: I personally do not really have
an interest in the notes themselves.

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THE CHAIRPERSON: Okay.

MR. METZ: I'm more interested in the
testimony.

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THE CHAIRPERSON: Okay. Well, then let's
break for how long?

MS. SANSON: Half an hour?

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THE CHAIRPERSON: Half an hour. All
right, we'll return at 11 o'clock, thank you.

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--- Upon recessing at 10:28 a.m.



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634

G. VAN MOORSEL, in-ch
(Sansou)

--- Upon resuming at 11:25 a.m.

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THE CHAIRPERSON: At the request of
counsel for the Commission the two exhibits previously
numbered as 36 and 37 will now bear the numbers 52 and
53.

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--- EXHIBIT NO. 52: Book one of Mr. Van Moorsel's notes
(Previously entered as Exhibit 36).

--- EXHIBIT NO. 53: Book two of Mr. Van Moorsel's notes
(Previously entered as Exhibit 37).

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GREG VAN MOORSEL, Resumed:

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MS. SANSON: Just to explain, it might be
easier for everyone to understand if we can read the
notes.

THE WITNESS: Sure, that's fine.

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(DISCUSSION OFF THE RECORD)

CONTINUED EXAMINATION-IN-CHIEF BY MS. SANSON:

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Q. Mr. Van Moorsel, I would like to
begin just by asking you some questions about your note
keeping practice generally and how you keep notes. Could



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you describe for the board your process of record keeping for your articles? Now, you've dealt with some of that when you gave your evidence, I'd like to ask you specifically with respect to your note keeping, how it is that you keep your notes.

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A. Okay. Well, in general I keep notes that are an amalgam of Faulkner shorthand and my own longhand, you know, you find a style that suits you and that's generally what you, you know, what you stick with.

15
Q. Could you explain what Faulkner shorthand is?

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A. Yes, it's a -- there are several types of shorthand, as I'm sure everybody knows, and it's a shorthand that has no vowels, it makes use only of consonants, and the sense of the vowels is almost inevitably obvious just from the contents of the notes. In cases where, you know, one might be confused by the sense there are little marks you can add that bring to life the missing vowel so to speak, but normally it's, you know. I could give you an example if you like.

30
Q. Okay.

A. I don't know if you need that.

Q. Is there something on your first ---

A. Well, you know, the word "slap" and "slip" and "slop" would all appear as the same shorthand



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note, it would be "SLP". You know, if it were a barroom brawl or something it would be apparent from the context that it wasn't somebody being slopped, it was somebody being slapped, you know, just to use a trivial example.

10
Q. Okay. And there were some other symbols that you used as a means of shorthand. You've drawn out some of those symbols for me and I'll just ask you to describe what those symbols are.

15
A. Sure. I mean, these were just ways to help you understand some of the shorthand symbols, I mean there are literally dozens of them. But, you know, words that end in "ing" for example have a looping sort of symbol; "able" has sort of a rounded symbol; "ed" is a line under; "er", "e"; "m" sounds are a straight line. I mean, I can go on and on. "And" is an upside down loop.

20
Q. I'd like to deal specifically with the notes with respect to day one and day two, and that would be Exhibit No. 52, now 52.

25
A. Okay. Oh, do you mean page number 52?

Q. No.

A. Oh, no, no.

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Q. We've identified these ---

A. Oh yes, that's correct.

Q. --- for the purposes of the record as

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637

G. VAN MOORSEL, in-ch
(Sansou)

Exhibit 52, but they would be your notes ---

A. Okay.

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Q. --- titled "Day 1" and "Day 2".

A. "Day 1", "Day 2", okay.

Q. And my first question is how would you know what date these notes relate to?

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A. I know because I can match the publication dates against the stuff, day one, two, three four. I worked on the story for four days, the first two days were contained in the first book, and the second two in the second two, and if I were ever in doubt I'd just go look up the days that they were published and I'd match them. It might be different if it were, you know, a story that, you know, where a long exercise, say a week or so, or two weeks, or three weeks, one might -- something that wasn't readily going to be published. These are next day, these are notes for next day stories. They are what I took the day before, right, so they're not really in doubt in that sense.

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Q. Okay. And for the purposes of record keeping, when you pass your notes over to the editor, or associate editor as the case may be, what is that process? You pass them over and what happens to the notes after that?

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A. Well, I mean, one doesn't routinely



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pass over one's notes, but I had a call that made me think it might be a good idea to pass them over and to get them out of my possession, so I acted on that. I just placed them in a sealed envelope, as I recall, turned them over to Mary Nesbitt, who was the then City Editor, and what happened to them between then and this morning, I assume they just stayed in the sealed envelope.

15
Q. Did you mark anything on the envelope for purposes of identification?

A. I think I might have written "Elieff" or something, you know, a file name for the story. I didn't see the envelope. I mean I haven't seen it since November of 1989.

20
Q. I'd like to call on you for some clarification with respect to the articles which are found in our exhibits as Exhibit No. 2, and I would ask you just to go through the articles and the dates of the articles that relate to days one and day two.

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A. Okay. You mean the sequence basically?

Q. Yes.

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A. Well, did the first article -- let me see how this worked. There was a Monday -- Monday is traditionally city council day in London, in other words,

1. The first part of the document discusses the importance of maintaining accurate records of all transactions.

2. It is essential to ensure that all entries are supported by appropriate documentation and receipts.

3. Regular audits should be conducted to verify the accuracy of the records and identify any discrepancies.

4. The second part of the document outlines the procedures for handling cash and credit transactions.

5. All cash receipts should be recorded immediately and deposited in a secure bank account.

6. Credit sales should be recorded at the time of sale, and the amount should be tracked until payment is received.

7. The third part of the document provides guidelines for managing inventory and stock levels.

8. Inventory should be counted regularly to ensure that the records match the actual physical stock.

9. The fourth part of the document discusses the importance of maintaining accurate financial statements.

10. These statements should be prepared on a regular basis and reviewed by management to assess the company's financial health.

11. The fifth part of the document outlines the procedures for handling payroll and employee benefits.

12. Payroll records should be maintained accurately and securely, and all payments should be made on time.

13. The sixth part of the document discusses the importance of maintaining accurate tax records.

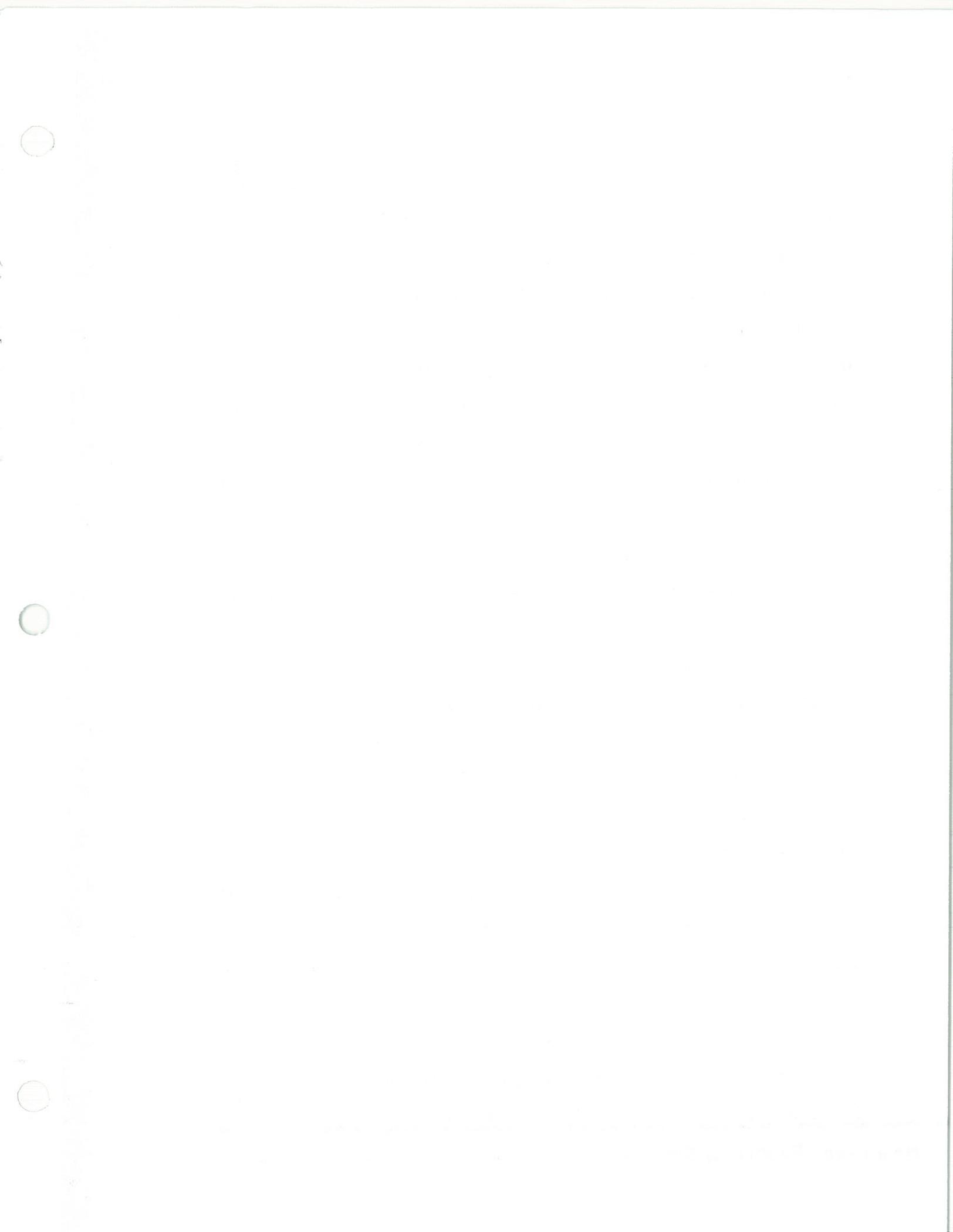
14. All tax-related documents should be organized and retained for the required period of time.

15. The seventh part of the document provides guidelines for handling customer complaints and disputes.

16. All complaints should be addressed promptly and fairly, and the company should strive to maintain high customer satisfaction.

17. The eighth part of the document discusses the importance of maintaining accurate financial records for the company's overall success.

18. Accurate financial records are essential for making informed decisions and ensuring the long-term viability of the business.



I was a city councillor reporter at the time, one of two. We were covering the city council meeting as we usually do on Monday nights, and the issue of whether or not Mr. Elieff would pay his \$6,000.00 fine was in the background of that city council meeting, such that, for example, in these notes, on the portions that relate to the city council meeting, we know I was talking to the city solicitor about what might happen in the event that was not paid.

It was the kind of story, though, where you would need to talk to everybody, and it being the late hour of the day that it was, I mean city council meetings can run until midnight, it lent itself more as a follow story for the next day, and in our business a follow is just -- I guess it's kind of a convenient way of describing something that can't be done at the time so you do it the next day whenever everybody can -- when you can reach everybody.

So the first story is the original follow story off the deadline for the fine for Mr. Elieff not carrying out these city-ordered repairs to his property. It was like a routine follow story, a simple phone call to -- I mean, I already knew the background from having spoken to the city's legal people about the fine and the implication for not paying the fine, et cetera, et

1 cetera.

5 And, you know, on that Monday, Mr. Elieff's company was fined for not complying with these things. So I phoned him and he said he wasn't going to pay it, and that was the basis for the first story.

10 Q. Now, your contact with Mr. Elieff, what date would that have been on?

A. That would have been on the Tuesday.

Q. On the Tuesday.

A. Yes.

15 Q. And what's the date that your notes in your first book begin?

A. They begin on the Monday at the city council meeting.

20 Q. They begin with the city council meeting, and then once you reach a contact with Elieff, which I ---

25 A. It should be on page 5, right. Or you had it as page 5. You see, we did nothing with that story on the Monday night, because it really -- all the elements weren't there. I mean, we knew the fine or that the Justice of the Peace had levied these fines, but I mean, you know, in the interest of fair comment, et cetera, you know, you get -- at the hour of the day that we work, and doing the other assignments that we would

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have done, you know, we couldn't stitch that together
that night. So the notes start on the routine Monday
city council meeting.

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THE CHAIRPERSON: That's the 7th?

THE WITNESS: Yes, it would be Monday,
November the 7th. And the portion that picks up with
Elieff ---

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THE CHAIRPERSON: The 6th.

MS. SANSON: The 6th.

THE WITNESS: I'm sorry, the 6th, yes.
The portion that picks up with the Elieff case, you know,
would begin the next day, the 7th.

15
BY MS. SANSON:

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Q. And the notes that you have recorded
from pages 5, beginning at page 5 ---

A. Yes, hang on. Let me just get with
you here.

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Q. Perhaps you could ---

A. It's your page 5, my page 1, okay,
yes, I've got it. I've got it, yes. That would have
been the Tuesday when I phoned Mr. Elieff.

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Q. And the article ---

A. The corresponding article would have
been the November 8th article. Notes taken on the 7th



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generating a story in the paper on November the 8th, or
the next day.

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Q. I'll just ask you to identify these.
This is our Exhibit 2 that we have, and is that the
November 8th article?

A. Yes.

Q. And is that -- that's actually ---

10
A. No, that's right, that's fine.
That's November the 9th from material gathered November
the 8th. Remember there's a one day lag in the newspaper
business.

15
Q. So there were more notes taken on the
8th and another article on the 9th?

A. The 9th.

Q. And is this part of the ---

20
A. Okay. That's a teaser, a news
digest. That's just a reminder to a reader when they
look at the front of their page that there is a story, a
corresponding story about this somewhere in the inside
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of the newspaper, on page B1 as it happens here, and that
would be -- that would go with this one. Okay?

Q. Okay.

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A. So what you have is you have three
stories -- actually four stories that week, two of which
were packaged together on one publication day but were

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produced on different days. There's on the final -- the final story of the week, the Friday story about angry tenants picketing outside Mr. Elieff's property, his business property, carried with it a companion piece about the tour that he invited us on of his building, but which was actually produced two days earlier, on the Tuesday. No, yes. The Wednesday, I'm sorry.

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It would have been produced at the same time as the second story, but featured on a different day in the newspaper, probably for lack of space the first time around.

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THE CHAIRPERSON: So there are basically three work days, the first day being preparation of your notes ---

THE WITNESS: Yes.

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THE CHAIRPERSON: --- and the second day could be preparation for publication, and the third would be the actual publication?

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THE WITNESS: Well, the three working dates covered by these stories, yes. There's day one, the follow story; there's day two with various community leaders sort of, you know, provoked to say something; there's day three, which is the tenants and their supporters from the community picketing his business properties, that's three stories.



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But on the second day, in addition to producing the story about, you know, people generally being upset about all of this, we accepted an invitation from Mr. Elieff to go on a tour of his building to see what all the fuss was about, and that story was also produced that day, as I recall, but it wasn't published until the third day. And then again, I'm sure it was for something as innocuous as lack of space.

BY MS. SANSON:

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Q. Mr. Van Moorsel, I would like to take you to some specific pages of your notes and have you read out the content of those pages.

A. Sure.

20
Q. The first page I have marked as 15-1, but it may be ---

A. I guess that would be 56 in my notes. Is this it? Oh, no. Okay, I'll just look at it. We're just a little out of sequence here. It's my page 1. No, that's -- oh yes, okay, fine. Yes. Somehow we've got our sequencing out, but I've got the page, yes, it's on page 1.

25
30
Q. Okay. Would you begin by describing

A. Yes, this was ---

Q. --- the circumstances of this event?

A. Sure. I mean, I'm sitting in our news room and, you know, we're anxious to find out what Mr. Elieff is going to do about the fine that's been levied on him, the two fines actually from the previous day. I phoned him up, I have his number right down here. I can't recall whether that's at his restaurant or somewhere else, but anyways. But we only had one question, was he going to pay these fines, and his response was why should he -- "Why should I?" he says.

Well, you know, this is not in my notes, but I mean I probably would have asked -- I probably would have said to him "Well, because you've been ordered to, the court has ordered you to", and he then told me that, well, he wasn't to blame for the condition of his property so he shouldn't have to pay the fine, it was his tenants that were to blame. And that's when he said "They're like little pigs, they think they're still living in the jungle."

And when I asked him who "they" was, which is just second nature for a reporter, if somebody uses a pronoun, he, she, we they, just so there's no doubt in your mind, I mean, you always ask, you know. And he said it was his tenants, his Asian tenants, and he was quite specific about that. And that's what those notes

reflect.

5 But then he went on to start to complain about how much he pays, you know, he pays for this, pays for that and, you know, it's these people living in his buildings that are destroying his property, "wrecking my property" he said.

10 Q. And where is that reflected?

A. Well, he says, it's right there at the bottom, "What I mean is other people are wrecking my property."

15 Q. Perhaps you could read out your notes.

A. From which point?

Q. Beginning from the ---

20 A. Okay. Well, I phoned him, I asked him "Are you going to pay?", he says "Why should I?" You know, we went through this conversation that I just related as I recall, you know, and he amplified why he shouldn't pay, that this is the fault of his tenants that his property was in the condition that it was. And, of course, he made the remark likening them to pigs in the jungle.

30 Then there's a sort of a kind of period of complaining about how much he pays, you know, some of which was germane, but I would say most of which really

wasn't, that wasn't really the issue.

5
People wrecking his property. He made a remark to me about that there are many others who hate these refugees, is the way he put it; that he had people writing on the walls; that he was doing all he could, you know, to take care of his buildings, to patrol his buildings, in his words "The best I can to afford", you know, the most he could afford.

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He kept the rents down, but he was dealing with unpaid rent; that in London people only heard sort of what the tenants had to say, and what the City Hall had to say, but not what he had to say. He describes the tenants digging all over the property, meaning the outside; and again another reference to the jungle appears, "They think they're in the jungle." In fact a further reference right there after, "They're like little pigs, they're ruining the property." And that was the extent of that phone call to him.

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Q. The next set of notes I'd like to refer you to I have marked now as page 87. And I'll just note for the parties and the board that there were no numbers on these notes, I went through and numbered from page 1 of his notes onward, and Mr. Van Moorsel I believe began at ---

30
A. We began at different pages.

1 Q. --- events relating to the actual
article.

5 A. City Hall, yes. So that's your 87,
so I think it should be like my 81 or something like
that. I don't even reach the 80's, let me just see here.
Oh, okay, this was -- hang on. Oh yes, here we are, yes,
my 36.

10 Q. Would you describe the circumstances
under which these notes were taken?

15 A. Yes. Again, I mean, by this time the
first story, the follow story, you know, had appeared.
It had provoked considerable anger, I guess in the
community, and not just in the Vietnamese community,
there were city councilors that were upset, and I
suppose probably people we didn't hear from that were
upset as well. And how did this go now?

20 Mr. Elieff had invited us to come and
tour his property. I had been speaking to him and he
said "Well, why don't you come out and see", you know,
"what it's all about?" And I thought, "Fine", you know.
I asked him if a photographer could come along, and
"Sure, no problem." I thought we could just take a
picture, take pictures of what the place looked like, see
what the place looked like, hear his explanations of why
the place looked the way it looked, and I see here I had

1 a 3:00 p.m. appointment to go see him.

Q. What day would this have been?

5 A. This would have been on the
Wednesday, the result of which would have been produced
on the Wednesday, but would not have been published in
the newspaper until the Friday, with that other story.
10 Again, you know, not for any reason that I would control,
but I'm guessing now and I'm supposing that it was for
lack of space in the Thursday paper.

15 It was a kind of a long sort of piece
insomuch as it's sort of narrative description and the
kind of, you know, not very heavily edited responses by
him, so that kind of thing consumes a bit of space.

Q. And when were these notes made?

A. On the Wednesday.

20 Q. And where were these notes made?

A. In the hallways of his property, on
the grounds of his property, in the driveway of his
property, in selected and quite random apartments that we
25 went into in his properties. I say "properties", there
are actually two of them -- or there were two of them at
the time.

30 We just sort of -- he took us on a guided
tour. The laundry room, you know, the stairwells, the
whole nine yards pretty much.

Q. Could we go through these comments that you have recorded?

5 A. Sure. Well, again now, what you're going to see here is a -- you're basically going to see three things in these notes, I mean there are his remarks about -- well, there are my observations to myself about what I'm seeing; there are his explanations for what's there; and then there are extemporaneous remarks that he's making in the meanwhile.

10 Now, I can recall at the beginning we began and he was breaking up the sidewalk to patch a pothole in his parking lot, and there was garbage strewn about, I mean over the common grounds, right. We started there and we kind of walked into the building, in other words, you know, as I said there was some litter and garbage about. So he says, "Yes", you know, "you tell me who is responsible for all that, with all the garbage on the carpet." You know, "You ask me enough", he says, you know, "I have no choice -- no choice to that". That's sort of gibberish, I don't really know what that means.

15 If you turn the page you'll see, you know, noting that there are these holes in the property; there's unseeded lawn on one side, this is sort of in the area where kids were playing. He says -- so I asked him about that. "Well, you know, Mr. Elieff, there are, you

1 know, children playing in the mud here" sort of thing.
And he says "Again you're asking me to spend money for
5 kids", you know.

And then he seemed concerned by a lot of
stuff on the balconies, people store various things on
the balconies, and in his mind a lot of this was garbage
and he said "Well, you know, do you keep this kind of
10 garbage in your home?", you know, "I think not, so these
are different kind of people than you or I are."

He seemed a little concerned, and my notes
reflect this, that the church that had taken an interest
15 in this case was as actively involved as it was, and in
fact while we were there, but not with us,
representatives of the church were -- a representative of
the church was mingling about. And he says -- he was
20 concerned about the role the church was playing, and so
he says "Well, maybe the church is going to teach them,
they should learn this is not a jungle country anymore,
it's a North American situation now." You know, I wasn't
25 particularly interested in that remark, but he did make
that remark again, another reference to the jungle.

And then he complained about the police
not being around to do anything about what he viewed as
30 vandalism at the property. At this point I guess we were
down in the laundry room. I mean, I recall being down in

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the laundry room and there were some washers or -- you know washers with hoses cut, water hoses cut, and I guess I asked him "Well, you know, how can people do their laundry if the hoses are cut?", and I think his response was that, you know, they had been vandalized.

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I think I peered inside one of their drums and it was full of cobwebs and he had told me that this had just recently broken down and, you know, I suggested "Well, it's full of cobwebs, it must have been sometime longer than that", and he says again, you know, "Where is the money and cash for me?" I note here that two washers broken and his response to this was that it was tenants or guests or someone from the street that was to blame.

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I have some notes in here about the security lights being gone or missing. He pointed at one here and he says "You see that light, it was stolen twice", so, you know, his explanation was that it was stolen. Twice replaced as well he said.

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I've got some notes about plastic panelling used to replace thick storm windows, plate windows, and he said -- yes, he said "I took them" -- yes, that he'd repaired them but that somebody had stolen his things. Yes, he says -- and that he was very concerned about I guess what were mounting bills for these things, so he said "the money for which to cover",

1 he said "They're not coming from the sky, I've always got
to pay for these."

5 He said he makes no money off his
buildings, he had made no money off his buildings for the
last two years. And then he said, "Well, you know, who's
going to take these people, they're refugee people?" He
says "I'm looking -- I'm taking all the risks here and
being attacked and almost killed", he said. Then he went
0 on to describe an incident to me -- let's just see here.
Oh no, no, no.

5 First we were in the basement, or the
lowest level of one of the buildings and I recall there
being a very rank odour, something presumably just from
lack of ventilation, et cetera, but it was sort of like
the smell that heavily worn carpeting gets when it's wet,
that kind of thing. And I asked him about, I was just
kind of curious, because if anybody would have to have
lived in the basement probably would have smelled it
constantly. And his explanation was that it was his
tenants cooking dead fish, and he said "They just grab
any dead fish from the river and cook it."

And then we went on. Let's see. He was
talking about painting, some painting that I guess his
son had helped him do, you know, people marked it up, it
was scratched up and written on, et cetera, et cetera.

he told me that 75 to 85 per cent of his -- 75 to 80 per cent of his tenants were on welfare and that his buildings didn't look originally, or when he started to have Asian tenants like they do now. He said they had all been Canadians before.

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What else? I think he mentioned something about hiring a superintendent or something. Yes, that seems to be there.

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Q. I'm just going to ask you to back up to the last two comments that you referred to with respect to the building. Could you just repeat?

A. Sure. Which, about what, the condition of the building?

Q. Yes.

20
A. About the condition of the building relative to the arrival of Asian tenants?

Q. Yes.

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A. Yes. Well, he had told me that his ownership of the building had pre-dated the arrival of his mainly Asian tenant population and that what we were looking at on the tour is not how things looked before they arrived, that they weren't always like that. He said -- yes, it didn't look like it does now. "Before they were all Canadians" he said. We didn't really pursue that point too far, I didn't really -- you know,

it didn't particularly grab me. Bear in mind, we're walking around here and going up and down stairways and into laundry rooms.

5 Q. If you could just continue ---

A. Did you want me to go on?

Q. --- through that?

0 A. Okay. Then, you know, it sort of leaps to your mind that, well, if the place is as bad as he says why does he hang onto it. And I asked him about that and he said he was trying to sell, but he didn't seem to think that was, you know, a relevant point. He said, in fact, "That's not the point, the point is why they're doing this to my property." And again underneath here I see that I've got some more notes about garbage strewn all over the place.

0 Then he said ---

Q. And who are "they" in this instance?

5 A. Well, yes, I would ask him that and, you know, the tenants.

0 You know, he said he wanted to actually help them, you know, but that the way to help them was not by, you know -- again, I think because of Mr. Elieff's native tongue is different than English some of this comes out sounding a little unusual, but you know, that the way to teach them is not to give the child a bag

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of garbage and throw it around in my house. You know, I didn't use that remark, but from that I took that maybe he was thinking that parental instruction about things like taking the garbage out or something was just not there.

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Then he started to tell me how the place gets a general cleaning twice a week. I was kind of interested to know how often the common areas actually get cleaned and looked after.

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It says here, "And then it gets a mopping once a week." Yes, he said -- yes, he said that -- he was saying that the condition of the buildings, or the disrepair, whatever, it seemed to kind of happen, you know, more recently than not, in the last year or so, so he says "These people are not my friends or your friends", and he said, again, mentioned that he originally had Canadians. Yes, he said he only had four apartments rented to, again what he called Canadians, three in the one building and one in the other, I guess implying that the rest were rented by non-Canadians.

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And, now, at some -- I guess at this point in the tour we were at the point where he physically was assaulted, he said, at some point, in fact two years previous. He says "Right here I was almost killed in my building two years ago." I pursued that. He said he had

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been attacked by a Vietnamese with a heavy chain. He said there had been police charges, that the people were tenants in his building, that he'd had a tooth knocked out, like I say, that he was taken to the hospital, that must be taken to Victoria.

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And then I've made some notes here beneath that about kids playing around the building.

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Now, he mentioned about a building inspector, a Matt Allen who had just been there. Or a Matt Allen, I don't know if he's a building inspector, he may have been a health inspector.

20
So, you know, I said, "Well, you know, again, why don't you do something about this, like pick up the garbage or put a fresh coat of paint on, or replace the lifting tiles", whatever it was, and he said "Well", he said, "I don't have to do that", and his words here are that "Only pigs thrown garbage like that". And he says "No, no, I'm not calling" -- no. "No, no, I'm calling them pigs" just describing -- then he says at the next page -- I think by now he realized that the reference to pigs was causing some concern, but he was being -- you know, my judgment was he was being rhetorical, he says "I'm not saying they're pigs, but they're doing only what pigs would do." So that was an interesting turn of phrase.

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He says "It's not for me to be charged for things I haven't done", and again the reference was to the city order of building repairs and things like that, and his thrust was that it wasn't him that was responsible for these things and, you know, why was this falling on his head.

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I asked him if he could live in his own buildings and he said "I wouldn't mind, I can live anywhere." Then he told me he has a house.

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Then I see here we went to visit somebody in unit 43 in building 95. This was a person who, if I pronounce the name I'm sure it will be a mispronunciation, but an S-E-N-G is the first name, and an S-E-A-N-G is the surname. This was a person who had formerly been an occupant, but was there in the apartment with some other people, presumably visiting. They had moved out a month before and they had lived there -- this person had lived there for two years.

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This person said that he felt bad, that Mr. Elieff's comments was like discriminating against the Cambodian people. I mean, that was part of interest in going into an apartment was in talking to some people about some of the comments Mr. Elieff had made. We also just wanted to see, because we'd heard that, you know, quite contrary to the general condition of the building

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that the people living inside were like a model of
tidiness, and generally that's what we found out.

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I see this person was 39 and had four
children. Of Mr. Elieff he said "He's very cheap and he
doesn't like it" -- he didn't like it that this guy
wasn't working or something, he hate -- he hate -- he
doesn't go to work.

10
Then we talked to another person who lived
in unit 34 for two years, again you know, the name might
be a hatchet job here, this was a Kesey, K-E-S-E-Y,
surname Soth, 34 year old person. I don't have any
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remarks taken down by that person, perhaps because they
couldn't speak English well enough or we couldn't be
understood. We were accompanied at that point by a
representative from that church who was, you know,
20
showing us around.

Then I've got a -- there was a city
councillor who at the time was heavily involved in this,
one of the two Ward Councilors, they called them
25
Alderman, Pat O'Brien, some marks there from him.

And then I talked to, my notes reveal, a
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Joe Gilpin, who is a principal of a neighbourhood public
school there about what the neighborhood felt about the
apartment buildings and the problems the tenants were
going through, you know, and he told me that people were



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quite concerned, et cetera, et cetera. But then, you
know, he said "Well, you know, the tenants were trying to
do something about it", he said, "You know, they've got a
5 game plan in place for action; they have requested to
have a meeting with the owner, and asked him to come." I
didn't really elaborate too much more on that.

10 He concluded by saying -- you know, and
he had mentioned that they were working with the church
to try to get some action on their behalf. And he
concluded of Mr. Elieff, he said "This is an old trick by
15 a slum-type landlord who is either feeling or testing the
water, and it's easy to point at your tenants and make
them the bad guys, bad guy."

20 He described to me that long before the
Cambodian people moved in there were problems with the
buildings. He said city records will show they've had
ongoing problems with these buildings for 10 years, you
know, within the two blocks. And I asked him about Mr.
25 Elieff's comments and he said "He convicts himself out of
his own mouth."

Q. I would ask you to turn to your notes
relating to day three and day four.

A. M'hm.

30 Q. And again I would ask you to describe
the circumstances under which these notes were taken.

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A. Yes. By now the story had sort of progressed to the point where Mr. Elieff seemed intransigent about what he had said. His tenants were outraged; other people in the community were concerned; and of course the fine hadn't been paid and the repair orders were outstanding. So the evolution of the story went into a, well, what happens next mode, you know, on several fronts.

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There appeared to be a sort of a groundswell at that point among some people in the Asian community represented by the people in London area to file some kind of a Human Rights Commission complaint. I don't think they knew quite how to do that at the beginning, and various people were getting involved on their behalf. One of them was an interpreter, a fellow from the Cross-Cultural Learner Centre named Lam Vong.

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We were also pushing buttons elsewhere, City Hall to see what other people had to say. Greta Grant, you know, who -- I'd have to re-read all these stores, but she, I believe, was on the mayor's -- on an anti -- or on a mayor's task force on racism. We also spoke to a Lorna Martin who was, and still is, I think, quite actively involved in anti-racism issues in London.

So these notes begin to reflect what kinds of things these people could do or were prepared to do at

1 that juncture. For example -- I mean, I don't know if
you want me to go through every single page again, I'd be
5 happy to if you'd like that.

10 But I see here I'm starting off speaking
to Greta Grant, she's saying, you know, "We could
actually encourage them". I'm talking about the tenants
and what might come out of their complaints. Now, not
15 just their building complaints, but these, for lack of a
better word call them racism complaints. But she says,
you know, "We haven't had to deal with something like
that before" and that they were powerless unless somebody
filed a complaint, I guess meaning a Human Rights
Commission complaint; that they aren't really free to
20 decide if they have a good case. She says "We're in kind
of a delicate position, we have no power to adjudicate."

25 Let's see. She says, though, you know,
"It appears to me that there should be something done, it
isn't a pleasant thing to do", talking about Mr. Elieff's
comments. And she, you know, concluded by saying in her
estimation "The best I could say is that the case
30 certainly warrants further investigation", you know.

And my notes reveal here I was talking to
a Bob Carson, who at the time was the chief inspector of
the Middlesex-London Health Unit; a Ken Brown, who was a
health inspector there.

1 Q. These are people you contacted?

5 A. Yes. Like, okay now, let me see.
The reason I know this is because I -- all their numbers
are down here, I've just lined up the parade of calls to
make on the subsequent pages. This is what you'll run
into, I mean I put out a volley of calls and they start
coming back piecemeal, right.

10 I also see I've placed a call here to
Rocky Cerminara, the Director of the Building Control
Division for City Hall, and of course these would be the
people that would be in a position to enforce city
15 ordered building repairs.

20 What else? A lot of this is legal kind of
background about, again, you know, what is likely to
happen or what could happen, most of which I should tell
you is probably -- you know, you wouldn't see in a story
necessarily, it's as much to help me understand the
system, you know, so you can explain it to a reader.

25 Q. Did you have the opportunity to
interview any of the other Cheyenne tenants?

30 A. Yes, I think I did, let me just see.
I see I talked to an ESL student who was teaching young
Cambodians. Let's see.

Q. What were the circumstances ---

A. Oh, yes, yes. And there is a -- yes,

1 I'd forgotten about this. On this day, this is as well
when a picket, protest, picket erupted outside Mr.
5 Elieff's downtown business property, he owned a
restaurant there, a fast food place. So some of his
tenants were there protesting, you know, carrying the
sandwich boards and signs and that sort of thing. There
10 were other people from the community that were dropping
by. This is right at the downtown transfer station for
the buses so some people hopping off buses were jumping
in and jumping out of the picket.

15 And, well, you know, it was a protest and
I went and covered it and I talked to people there. I
did not talk to Mr. Elieff there, but I did talk to his
son there, who came out of the store, a son named
20 Zeranco, who was pretty indignant about what was going in
front of the place and asked me "What's all this racism
garbage?" People were carrying signs, making references
to racism.

25 I see, my notes show here, in fact written
in her own handwriting, because I couldn't understand her
name spelling, I talked to a -- again I'm guessing, a
Nadeen, my guess, Nadeen Nat, or something like that,
30 N-A-T. But I see I took no notes at all from her, and if
I had singled her out to talk to her it probably would
have been to look for some specific kind of reaction, so

1 I probably couldn't understand the answers she was giving
because of the language barrier.

5 There was a Cambodian translator floating
around, this Mr. Vong who I use now and then, but he, you
know, as you might understand, he wasn't always by my
side.

10 I see, again on the next page, I talked
to somebody else, who I don't think lived in Mr. Elieff's
building, but lived near it. But again, I took no -- I
just sort of took a record of the name, the age, where
they lived, and that would also have doubled for purposes
15 of identifying any picture the photographer might have
taken in the crowd so that I had an identification of
potential people in pictures as well.

20 This Nadeen did say, though, here that --
I see her husband is carrying a sign in Cambodian, which
obviously didn't register on me, and I guess it's
translation was "They curse us like little pigs" or
something like that. But, you know, I didn't pursue
25 that.

30 These are people -- I mean my notes show
these are people that worked at Cuddy Farms, Foods. They
were carrying signs that said things like "New Canadians,
yes, racism, no."

What else? Zeranco came back out of the

1 store again to tell me that he and his father were the
victims, their family were the victims, not the people in
front in the street.

5 And then we talked to a person who lived
in Cheyenne by the name of -- again I apologize if the
name is not right, but it looks like Bunly Sor,
B-U-N-L-Y S-O-R, those are two different, first name and
0 second name. It was a 40 year old person who had lived
in Mr. Elieff's apartment building since 1987, he was
from Cambodia, is married, has three children, he was
renting a two bedroom apartment. He was upset about --
15 he was upset that his concerns about cockroaches in the
apartment weren't being met. He had said that he had had
the problems a long time ago, they continued, and every
time he called the landlord to do something about it he
20 didn't want to. And that's my characterization, not his.

25 Again, more notes about what was written
on the signs. There was a Priest in the crowd, a Father
Michael Ryan from St. Peter's Seminary who came out to
support them, and that's what he told me, you know, just
come out to lend their support. I think he might have
been -- in fact he told me here he was called by Susan
Eagle, who is another cleric.

30 Let's see. I see there is a teacher who
was wearing a sign fashioned out of a box top, cereal

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G. VAN MOORSEL, in-ch
(Sanson)

box top or something, it was kind of weird.

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And, you know, then I sort of made a little note on how many there were, 60 people, included about, you know, 20 people from the apartments by what people told me.

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And then Zeranco came back out again, and I think he was really put off by the references to or the implications that they were racist, and he said "Well, why would we allow these people in", I mean in their buildings, "if we were racist?" It was just a rhetorical question, I don't think he was waiting for an answer.

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What else? I see I have next spoken to the other Ward Alderman at the time, a man named Bernie MacDonald, you know, about what's going on there. I don't think he says anything terribly surprising.

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Then I spoke to Susan Eagle. She's a community -- I think at the time was a community outreach worker for -- I probably have that wrong. I know she was with the Anglican Church I think. Anyway, she's telling me what's happening with respect to the church involvement in the tenant's case, and she was making some remarks about the repairs not being done expeditiously. She's saying, you know, the repairs are being done, they're just not being done efficiently, because again, I mean Mr. Elieff had insisted he was doing repairs.

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Then I made a note here that they sort of all seemed to assemble in front of Richmond Subs, his business property.

I asked a few people coming off buses and things about what they thought about the protest and, I mean, conveniently they were all there, because it was located right at the downtown transfer point. There's a woman here says "I think they have a right to be upset and something should be done to fix up those buildings, I've seen pictures and they look unbearable." This was a Judy Jutzi, J-U-T-Z-I.

Q. I'm going to just ask you to back up a couple of pages. There's a reference at the top, I'm wondering whether -- does it say Bunly? Is this a further reference to ---

A. Oh, hang on. Okay. About how many pages back are you?

Q. I think two.

A. Oh, yes. Oh, yes, yes, yes, it's Bunly, it's just -- yes, it's like a half page? This page here?

Q. Yes.

A. It's just -- I'd just written down what it says on his sign, or on the sign that person was carrying, it said "Do the ordered repairs." And then

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beneath that I say that this group had formed a small
troop in front of the storefront.

5 Q. Okay.

A. You know, it is nothing really, just
to add some colour to the story for readers to know what
was on the signs in case they can't see it in the
picture.

10 Then we have Judy doing her thing, her
remarks.

15 There's another one, a Cheryl McCabe I
talked to. What does she say here? Oh, no, she -- okay,
no. She worked -- yes, I believe she worked at the
school. And I think that's called Chippewa Public
School, the school in -- that neighbourhood school. And
20 I was just kind of curious about, you know, how other
kids get on with them and how they blend and things like
that. And she's talking about, you know, the kids not
really knowing what it's all about. You know, I didn't
really pursue that.

25 I also talked to an ESL teacher I guess, a
Sue McGuire, who I don't think told me anything too
profound, because I don't seem to have taken any notes in
detail from her. She was just talking about not having
30 enough room for a reading room.

Oh yes, I made a note here of somebody was

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carrying a sign with kind of an interesting turn of phrase that said "Turn over a new Elieff".

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And then I've made some notes here about a meeting at the church at 7:30, and I made a call to D'Arcy Dutton, who at the time was the city engineer, probably because I couldn't get a hold of somebody in the building controls department. And I see that I didn't really get an answer back. So that concluded, I believe, that day.

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And I see that the next day, which should have been day four, it goes into a press conference with about 40 people added. It appears to have the ward alderpersons at it, Lam Vong, Susan Eagle, I think basically most community leaders who by that time had staked out an interest in the case in one way or another.

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Again I see here that Sue McGuire's there, the teacher, the ESL teacher; a Jude Hammond, who is the superintendent -- who was the superintendent, we're not sure, in the building next door. I guess a building where many people, new arrivals in the country from Southeast Asia might go if they can't find space in, presumably, Mr. Elieff's building.

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I don't know if that's useful to go through all this, but I mean I'm happy to if you like.

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Q. Perhaps you could just touch on



1 things, who else you spoke with in going through it.

5 A. Okay, let's see. Well, I see Zeranco was at this meeting, let me just see what he has to say. Well, actually, Zeranco was talking about diapers and garbage and all this stuff being thrown around; that the fines are coming down on him and people are -- I have in here, it says "using them as trampolines", using the buildings as trampolines. I'm not even sure what that means, but -- I see here he pointed to one guy in the audience and said that he and his two sons almost killed his father.

15 The Ward Alderman interrupts and sort of restored decorum. And, yes, I asked Zeranco why his father was refusing to pay this, his fine, then he told me he thought his father was going to pay.

20 Then we heard from a Wendy, I forget what her name is, McCutcheon or something like that -- let me just see here, I think she showed up here earlier too -- who had lived in -- who had moved into unit 105 -- or had moved into building 105 in 1983, when a different company owned the place I guess, and that she was looking after the place.

25 Let me just see what she says about it. She had moved out four years previous. She said she had had lots of complaints about the building. She said her

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unit, number 4, had more sewage back into -- raw sewage
back into it three times, "each time your father" -- oh,
I guess she's arguing with Zeranco during this exchange
5 -- "told me I could clean up the mess myself. He called
us a bunch of pigs" then.

THE CHAIRPERSON: Who was that who just
talking?

10 THE WITNESS: This is Wendy, Wendy ---

THE CHAIRPERSON: What is her last name?

THE WITNESS: I think her name was
15 McCutcheon, but let me just see.

THE CHAIRPERSON: Wendy Mc ---

THE WITNESS: No, actually it might --
it's an unusual name. I have it, but I have it in my
notes to check at the end of the meeting, as M-c-A-S-T,
20 it looks like O-K-E-R. It's probably just going by
phonetics and people got up and introduced themselves.

Let's see. And then a Jude Hammond, who
lived in a different building, not one of Mr. Elieff's I
believe because I show her as 85 Cheyenne, but she's in
25 the same neighbourhood.

Oh yes, and here's the correct spelling
for Wendy, it's M-c-A-S-T-O-N-C-H-K-E-R. She moved in in
30 the summer of 1983, she moved out the fall of 1985, a
year after I guess Mr. Elieff took over. She and her

1 son lived there and his name is Terry and he's eight, and
she and he now lived at -- or then lived, at the time of
this meeting, at a housing co-op somewhere else.

5 I talked to a Dolan Langford,
L-A-N-G-F-O-R-D. Now, I think he's from the Ministry --
he's a government person I think here. Let me see. No,
no, actually no, another former tenant. He left when
10 they came in. His was in pretty -- they had left their
building for some complaints, their apartment. Like I
guess they had left some time ago.

15 And then I see at this meeting we're told
that Bob Carson, again the fellow from the health unit,
was going to inspect the premises again that week and
that people would be getting a report the following week,
the people in the meeting, and I assumed by that the
20 tenant's group and probably the church, which was sort of
helping them out.

25 What else? I see I have Pat O'Brien
making some remarks here that he had asked for -- oh, he
had asked for council to consider a special, holding a
special meeting to figure out what to do with this, or a
sub-committee of council to look at this, you know, what
30 this group could do to sort of help themselves.

There was a Felicity Somerset from the
Race Relations Consultant -- I'm sorry, she's a Race

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Relations Consultant with the Race Relations Directorate of the Ministry of Citizenship, and I have her phone number here which implies that I probably phoned her after the meeting was done. Probably by now anticipating that some kind of Human Rights Commission complaint was going to be and probably trying to find out some information about how we could pursue that.

15
I see she tells me, you know, they have to have grounds and they have to be strong. Basically she's going through various things that are needed to support a complaint, a racism complaint under the Human Rights Commission -- to the Human Rights Commission.

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30
What else? Okay. And then I have a call here, the number for which I am now beginning to recognize by heart, but I don't have the name written down, but the call is 438-2232, to Mr. Elieff at 5:50, probably because I wanted to ask him about the next step, or about where things seemed to be going with the human -- like it was a potential Human Rights Commission complaint, and he said "I'm not talking to you any more. I'm not talking to you any more, you're a bunch of idiots" and he hung up the phone.

I have another call here to Felicity.

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G. VAN MOORSEL, in-ch
(Sansón)

BY MS. SANSON:

Q. I'm sorry, who was this?

A. This is a Felicity Somerset.

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Q. The contact was to Felicity?

A. Well, I was talking to her off and on here this day, and I assume -- well, I mean, you don't assume, I mean I know I was trying to find -- to get the kind of information about where these Human Rights Commission complaints go. I'm not even sure that -- I remembered her from a previous case, and that's why I talked to her. I don't think she's employed by, directly by the Human Rights Commission, or wasn't. I think I was looking for names, names and sort of avenues to go to. But anyway, let's see.

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Then I talked to an Eric Whist, W-H-I-S-T, he was like a regional supervisor, 326-9702. Let me just see here. He provides consultation on race relation development policies to school boards, et cetera, et cetera; works with the Government of Ontario and other ministries, agencies, boards and commissions; works with the ministry, works on community equity issues.

25

Q. I'm going to interrupt you and back

30

A. I don't really ---

Q. There's a page headed with 679-0230,



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okay.

A. Oh, that's because ---

Q. That's Felicity?

5
A. No, no, no, that's my -- you get
calls in sometimes, right?

Q. Yes.

10
A. You make calls out and they don't go
anywhere.

Q. And what ---

15
A. That is actually the news room phone
number, so I was probably -- I probably phoned and left a
message. And just doodling sometimes, you know, people
are like "What's that number", you know, "What's your
name" and it's kind of an unexplained thing, but ---

Q. And the page ---

20
A. --- you just sort of write it out in
your notebook while you're telling it to them. So I was
probably just giving somebody that number. That's the
news room general number. I sometimes do that with my
25
name too, because people when I mention it don't seem to
know how to spell it very often, so I spell it out in my
notebook while I'm telling it to them, just so I know
that I'm not going too fast for them.

30
Q. Okay. And the page before that,
whose number is that?

A. The 326-9702?

Q. No, 438-2232, 5:50?

A. Oh, that's Mr. Elieff.

Q. Okay.

5
A. Let's see. Anyway, Felicity tells me
that at this point in what was going on, that the role of
her office, as she said, "I would say our role is to
10 observe what's going on." She says "We could be called
on to mediate." So nobody at that point in the
government, or the extended government, agencies, boards,
commissions, those kinds of things, seemed to be taking a
15 lead role, I think they were waiting for a formal
complaint to be laid by somebody involved.

I see and then I next talk to a Bob
20 Carson. Again I'm talking to him now about inspections.
You know, there were all manner of inspections done on
this property and, you know, and the long previous
background and in the more recent time period. I see
25 he's given me some names about other people that would
know more. Ken Brown for sure; Walter Long -- Lonk? Or
a Don Sullivan.

I think I probably eventually found out
30 the case history of the Cheyenne buildings and the
inspections simply by retrieving them from our files, but
which in those days was a little more cumbersome than it

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is now because it was all on paper. So if you could get somebody to succinctly explain them to you it was probably just as fast as doing it in the library.

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10
And he's explaining to me, you know, what exactly their office does; that the inspection would involve some 40 different areas; and, you know, that they've had complaints, you know. Let's see.

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I was trying to get an impression of how often complaints like the ones made about Mr. Elieff's buildings, I talked about his buildings and the condition of them. Not what the landlord said, but, you know, how rare that was. I mean, were there, you know, tons of buildings like this in London or was this sort of, you know, more unique. And I was told that there were over like two-and-a-half complaints a year come into the city, most of them regarding apartments. He stated to tell me about some problems with some other places, and I have the names here.

25
30
What else? He was telling me about that they, you know, proposed that the CAPS committee get involved. CAPS is the city's -- well, I don't know if still exists, at the time it was a sub-committee of City Council called Community And Protective Services Committee, and that's what CAPS stands for, and that they, you know, they're sort of the political end of all

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that.

5
Let's see. A lot of this is just sort of
useless background, but -- he did tell me, though, that
there were lots of problems up there and that, you know,
"Elieff", as he said, "isn't the only problem", and then
he's talking about the condition of the buildings.

10
What else? Okay. Then I see I next
talked to Lorna Martin, who, if I remember right, was at
the London Urban Alliance, Anti-Racism Alliance or
something. Anyway, she was telling me about an
appointment that Lam Vong had set up. Lam Vong was the
15
Cambodian man who had acted as a translator for these
group of people, and had actually, I think, in the
beginning, if I recall this right, actually steered the
complaint to the Ontario Human Rights Commission.

20
So she's telling me that he's scheduled an
appointment for Monday morning. This would be like some
two or three days away by now, whenever I was talking to
her.

25
Yes, now, Lorna was a little upset about
what appeared to be the silence from the Ontario Human
Rights Commission during all of this, and she makes some
remarks to that effect. She says "The silence from the
30
Ontario Human Rights Commission, not only on this guy",
meaning Mr. Elieff, "but racism I find appalling." She

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was going on to describe I guess a kind of weak-kneed response by the Ontario Human Rights Commission. Again I guess because you have to have a formal complaint laid, right.

Yes, she's going into the sort of legal technicalities of who raised complaints and how all that works. Again it's just all how this stuff works.

Q. Did you ever conduct an interview of Chippeng Hom?

A. Let me just see, it may well be in here. I don't recall the name, but I know the name is the person on the complaint, who put the complaint for -- the complainant I guess is the right.

Again, this is all just background from Lorna about how the system works. I had to find out some stuff about the Ontario Human Rights Code. I guess at this point it looked like, you know, a complaint was going to be made, filed, I guess on that Monday, which by then would have been like a weekend and a day away, something like that. And if I remember this, I mean I thought it was going to be this Lam Vong who would be legging the complaint.

I don't know, do you want me to keep going through this? This is kind of legal tedium, sort of process tedium.

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681

G. VAN MOORSEL, in-ch
(Sanson)

Q. We're just about through them, if you could just touch on the contents.

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A. Okay. Okay. Well, she was pretty upset that nobody seemed to be responding quickly to these people, then she says -- for example she says "I resent the fact that Mr. Vong has to go hat in hand to get somebody to take his complaint." You know, there was some frustration and I don't think -- I think she thought that these people were being badly treated for nobody having stepped in at an early juncture and explained to them "Well, do this, this, this and this and we'll get the ball rolling." Like there were a lot of, you know, people with their hands in this thing and the thing wasn't going forward I guess was what she was trying to drive at.

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Okay, let's see. Now I've got Lam Vong, I had phoned him, I guess at the London Cross-Cultural Learner Centre, I guess to directly ask him whether or not the complaint, formal complaint to the Ontario Human Rights Commission was going to be filed. So I see here that I phoned him at 432-1133, and I guess that's probably the number there, and I asked him that, I said "Are you going to file a complaint?", and he says "Yes." He says "I'm not sure that complaints from the tenants are going to have" -- but he was going to leg the

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complaint.

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And he gave -- I asked him some information about the Cambodian community, the profile of the Cambodian community. By now I was interested in sort of a side story, which doesn't appear in the package that you have but which was produced in that period and it was about the sort of role of a soft-spoken former Cambodian who had just narrowly escaped the Khmer Rouge and was living this kind of new life in London, sort of helping people cast into an underdog role.

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And I'm trying to explain to people, because I can remember vividly not being able to find out much information about the Khmer Rouge in London, what all that was about. So there was a profile of him and what his whole interest in the thing was. Most of these notes in this part now would reflect that.

15

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Again, he's telling me about other apartments in London, giving me quite specific addresses where a lot of Asians live, like people that, you know, for one reason or another would have fled Southeast Asia.

25

And then I see I next talked to a Walter Burns at the Ontario Human Rights Commission, he was the London Regional Officer, 439-3231 I guess is the number. Or I placed a call to him anyway.

30

I was also checking on the status of

these fines, whether they had been paid at a late day unknown to the newspapers, so I placed a call to the Provincial Offences Court Officer at 660-3013 to see if somebody had paid for Mr. Elieff or whether he paid himself, or whether he had paid them himself.

And Mr. Burns phones me back at 4:20 and he tells me some off the record material which I don't really know if I want to read. Then he tells me some on the record material. And again, some of this is about process of what will happen with this complaint. Again he's telling me that, you know, the Commission is still basically looking for more information, "something a little more substantial", as he says, "than newspaper reports."

At this point there was an investigator, I believe, that got involved, because I think that's when I started to get a phone call from -- I got a phone call from the Human Rights Commission. I think the guy's name was Rick, Rick Huntington I think is the name, and I think he went on to become an O.P.P. officer and probably bailed out of the Commission.

I asked him, I said, "Well, I mean, what's wrong with newspaper reports as the basis for a Human Rights Commission complaint?", and he said "Well, it's information, but it's not the best information."

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Then he went through and told me the steps, you know, again. By now I had had so many different explanations on the steps to a successful human rights complaint, or lodging a complaint that I felt, well, I've got somebody right from the Human Rights Commission here, I'll just get it one more time, so it's a sort of a kind of a mind-numbing kind of account of what happens, but it's just again to make sure I know in my mind how this thing works.

Q. Perhaps you could just go through that?

A. You know, I'm just a little antsy about this ---

Q. Okay.

A. --- because some of this is spurting on the record/off the record stuff and, you know, actually it's a surprise to me because I don't really remember that, but I do have it marked in my notes as "OFTR" "OTR" ---

Q. Okay.

A. --- and I don't really know that I want to get into some of that.

Q. Perhaps you could just read the on stuff?

A. M'hm. Well, as an example, he starts

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by telling me the steps. First there is an investigation
by the Commission through one of its officers; once
that's completed information is shared with the
complainant and the respondent; they come together with
the Commission to determine if a settlement can be
accommodated.

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Then he says that if the Commission is
convinced there is a matter to be, you know, looked into
and the respondent is insistent there is not the
Commission can appoint a board of inquiry to look into it
to judge if there has been a contravention of the Ontario
Human Rights Code. A lot of this is sort of
bureaucratese but, you know, again it's just to help me
understand it really. He starts to tell me about what,
you know, what remedies there are if, you know, if the
board finds there has been a contravention.

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What else? He goes off into another off
the record thing here. And that's the extent of his
conversation.

30
Then I have here, I have here some
information about -- oh yes, there are two other people I
talked to here, and I don't -- I can't tell you where I
talked to them, whether I went back out there or whether
I phoned them. I see some phone numbers so they probably
match the people's names who I'd phoned. These were



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686

G. VAN MOORSEL, in-ch
(Sanson)

people who were renting from Mr. Elieff.

5 I just have surnames. Somebody might have just given me these names, but I was curious to know what people were paying for rent so I'd have kind of an accounting of what a two bedroom went for, what a one bedroom went for, and I have over 95 and over to 105. I have some names to match those.

10 And I see here I have at 6:40 that day I placed a call to Elijah, and let's see here. He says "I told you everything." He says "I invite you over to go see what's happening and" -- "I invite you over" -- again, this was because this is now after we've gone over to inspect his properties. He says "I invite you over to come see what's happening to me and you take it out against me." I guess he wasn't pleased with the press mention. And that is the end of my notebook.

15 MS. SANSON: Thank you.

THE WITNESS: You're welcome.

20 MS. SANSON: Those are the questions that I have for you, Mr. Van Moorsel.

THE WITNESS: Okay.

25 MS. SANSON: I presume Mr. Metz will have some questions for you.

30 MR. METZ: Can we break first?

THE CHAIRPERSON: Yes. Just before the

1 break I wonder if I can ask a question, Mr. Van Moorsel?

THE WITNESS: Sure.

5 THE CHAIRPERSON: If you will recall, you mentioned you were speaking to somebody around the time you spoke to Lam Vong, I don't know if it was Lam Vong or a friend of his, but he was the one who mentioned there were other apartments where Asians lived.

10 THE WITNESS: Yes. This was in the notes I've just gone through, right?

THE CHAIRPERSON: Yes.

THE WITNESS: What about that?

5 THE CHAIRPERSON: Yes. Do you recall whether he commented on the conditions of those apartments?

0 THE WITNESS: I don't think so. I think my interest then was in finding other people who had been former tenants and had moved out and I was probably looking for the most logical places to find them, and I was probably proceeding from the assumption that if they'd lived in extended family groups in one place and had left that they might well be living somewhere else in extended family groups and I was looking for addresses.

5 THE CHAIRPERSON: I see. So that was a conclusion that -- that was something you surmised, that they would live in sort of ethnic groupings?

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THE WITNESS: Well, I mean, to the extent that, you know, there seemed to be identifiable buildings that were, you know, predominantly rented, you know, to new arrivals in Canada from -- or in London from Southeast Asia, yes.

THE CHAIRPERSON: M'hm, thank you.

10
All right, let's take a break. When do you want to return?

MR. METZ: Whenever.

THE CHAIRPERSON: Whenever. Is that fine?

MS. SANSON: Sure.

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THE CHAIRPERSON: We'll return at two o'clock, thank you.

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--- Upon recessing at 1:00 p.m.

1 --- Upon resuming at 2:15 p.m.

5 GREG VAN MOORSEL, Resumed:

THE CHAIRPERSON: Mr. Metz?

10 MS. SANSON: Before we begin, there's a matter that came to my attention over the course of the lunch hour and I would like to deal with it briefly before we proceed. I've just become informed of the information, but I would like this information to be on the record and have the opportunity to make submissions on it ---

5 THE CHAIRPERSON: Sure.

MS. SANSON: --- and, at the very least, raise this concern.

0 At the outset of the proceeding, I can't remember what date it was, when Mr. Metz came on board to represent Mr. Elieff, there were some concerns that were raised as to the representation of Mr. Metz. Part of the assurance that we received from Mr. Metz was that he was not acting in his capacity as the President of the Freedom Party, but indeed was acting as agent for Mr. Elieff on an independent basis.

5 Over the course of the lunch break I received from one of the persons in this room a copy of

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media that's been being sent out by the Freedom Party,
and this is on Freedom Party letterhead and it's an
article or a summary of the proceedings, and it's signed
by Robert Metz, Ontario President, Leader.

And for the record I will read the
content of that letter, it says:

"Dear Members of the Media,

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On the surface, you might never
guess what the strange Ontario Human
Rights' Board of Inquiry case against
London landlord Elijah Elieff is
really all about. Facing a contrived
complaint filed with Ontario's Human
Rights Commission that he unjustly
discriminated against his Cheyenne
Ave apartment tenants because of
their race, the Ontario government
has forced Mr. Elieff to appear
before an official Board Of Inquiry
which, unlike a court of law, is less
interested in determining his guilt
or innocence than it is with 'seeking
a remedy' that will satisfy the
complainant.

It is my intention to demonstrate

1 that Mr. Elieff is not guilty of the
accusations levied against him and
furthermore, to demonstrate that his
innocence exempts him from any
5 'remedies' (i.e., penalties) the
Board may wish to impose upon him.

10 I first met Mr. Elieff on his
third day of hearings before this
board and it did not take me long to
conclude that this man was a victim
of discrimination, not a perpetrator
15 of it. For two days, I sat silently
listening to the testimony of witness
after witness alleging that the whole
complaint against Elieff was drummed
20 up by a local group of 'community
workers' led by United Church
minister Susan Eagle and aided by the
local daily paper, the London Free
25 Press.

30 Some witnesses even expressed
reluctance to appear, for fear that
their testimony would be
misrepresented by the paper. Not one
word of this was being reported to

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the general public, and before I knew what was happening, my own presence at the hearings (as an observer) had become another media event which the paper intended to use to create a connection between 'racism', Elieff, and Freedom Party. It was an unjustified tactic against our party that was not to be left unchallenged.

Not only did I publicly refute the paper's tactics and inaccuracies (see reproduced letter to the editor, on page 5 of attached), but I also agreed to represent Mr. Elieff for the balance of the Board of Inquiry hearings (after four days during which he defended himself) --- at no cost to Mr. Elieff, since the negative publicity surrounding his case had already cost him a loss of income from his affected businesses, and he was no longer in a financial position to even keep his buildings maintained adequately, let alone be able to afford legal counsel.

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Fortunately, one does not have to be
a lawyer to act as counsel before a
Board of Inquiry.

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There are many many more details
to this disturbing case that, due to
space and time limitations, simply
cannot be elaborated on here. I
10 strongly urge you to review our
coverage of pgs 4-7 in the attached
reproduced pages from Freedom Flyer,
and to watch for further indepth
15 coverage in upcoming **Freedom Party**
publications, which I will be happy
to forward to you if you so request.
Some of the facts are admittedly
20 upsetting, but we must not allow
ourselves to turn a blind eye to
blatant injustice simply because we
are uncomfortable at the prospect.

25
Already, several members of
Freedom Party's executive have
literally devoted weeks of their time
and effort to prepare his case before
30 the Board of Inquiry to date. Five
full days have already been spent



1 before the board itself.

5 To make matters worse, the Human Rights Commission (at taxpayer expense!) provides the complainant with free legal counsel, documentation, and support, while the respondent (Mr. Elieff) is forced to fend for himself.

10 Hundreds of dollars have already been spent by Freedom Party on Mr. Elieff's behalf just to cover the cost of photo-copying the Board of Inquiry transcripts (which are provided free to the complainant) which he needs to adequately defend himself. Other expenses include courier fees, long-distance phone calls and faxes, and photo-copying of invoices, contracts, correspondence, etc. in quadruplicate.

20 As of this writing, board hearings are expected to resume --- for at least another five full days --- beginning on August 30.

25 But this is an issue that has

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personal dilemma.

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I would be most happy to discuss
this issue at length with you at your
convenience. I can also provide you
with access to any documentation at
my disposal, including transcripts of
the Board of Inquiry hearings to
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date."

THE CHAIRPERSON: Mr. Metz, can you speak
to this?

MR. METZ: I don't understand what the
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issue is. There's nothing new in there that isn't known
already.

THE CHAIRPERSON: Who is this -- to whom
is this letter sent?

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MR. METZ: It is to people who are here
today. It hasn't been sent to anyone. It's dated today
for any member of the media who wanted my opinions and
background information, which I understand I'm free to
25
discuss with anyone, and I have been so told explicitly
by yourself throughout these hearings, and that I am at
liberty to discuss -- Mr. Elieff is not at liberty, but I
am at liberty to discuss this issue with anyone.

30
Furthermore, previous press releases
issued through Freedom Party, using our resources, these

1 are the only resources at my disposal, have already been
issued, and the attendance of the media in previous
hearings were also the consequence of that same action.

5 And, in addition to that, I would also
have to add that as part of Mr. Elieff's defence there's
more to it than just this human rights hearing, in the
sense that the public is totally unaware of his point of
10 view and his side of the issue, so we are doing
everything in our power to rectify that part of the issue
and try to do some damage control.

15 **THE CHAIRPERSON:** I appreciate that. You
are certainly free to publish information, that's a right
that is protected in the Charter, but there is some
responsibility put on the media to be accurate about what
it reports and I'm concerned with some of the
20 inaccuracies in this letter. It's a good thing it hasn't
received wider distribution.

There are several comments about the
Ontario Human Rights Commission ---

25 **MR. METZ:** Which are my opinion.

THE CHAIRPERSON: --- which are your
opinion, and I'm choosing not to comment on it because I
don't represent the Ontario Human Rights Commission.

30 **MR. METZ:** Correct.

THE CHAIRPERSON: But there are -- there



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are things said in this letter which bring into
disrepute, or I should say do not maintain what I believe
to be adequate respect for these boards of inquiry, which
are to be treated in law as a court.

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MR. METZ: With all due respect, I haven't
made any disrespectful statements about the board of
inquiry, just general comments about the Human Rights
Commission itself, which relates to far more than just
this hearing today. It also relates to my involvement
with the Cornish Commission and many other background
things that were related to the human rights.

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25
THE CHAIRPERSON: Well, I'm glad for that
disclaimer, but I think the effect of something like this
is to cast some doubt on the, either effectiveness of
these inquiries, or usefulness of these inquiries, and I
think that's a disservice to the public.

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35
I am not going to say anything more about
this, because this hasn't been given wide circulation,
but I need to remind you that the board has a discretion
to -- I shouldn't say disqualify, but to not allow a
representative to continue as a representative of a party
if in the board's discretion the representative is not
doing an adequate job.

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MR. METZ: Well, I believe that would
relate to my activities within the confines of this board

1 and within the confines of the hearings of this board.
So anything I say to the media at any time, whether I put
it in writing or said that verbatim to the gentleman that
5 plans to interview me after this hearing, I don't see how
that can possibly be a matter that would be even ---

THE CHAIRPERSON: Well, let me put it this
way ---

10 **MR. METZ:** --- interesting to you.

THE CHAIRPERSON: --- if you were a lawyer
you would be subject to the disciplinary jurisdiction of
the Law Society in a proceeding like this, so that if you
were a lawyer and a complaint was lodged to the Law
15 Society, I think it's safe to say that you might be
running into difficulty.

MR. METZ: I'm not a lawyer.

20 **THE CHAIRPERSON:** But you're not a lawyer

MR. METZ: No.

25 **THE CHAIRPERSON:** --- and the Law Society
doesn't have any jurisdiction, and the only reason the
Law Society has such jurisdiction is to uphold the
respect of a tribunal such as this one.

30 **MR. METZ:** I believe that if you examine
the record and the transcripts and the minutes I think
you'll find that I have exhibited total respect towards



1 both the proceedings, your decision and everything that's
been undertaken by this board, including all your
decisions and judgments along the way. To me it seems
5 that if there's any disrespect being levied with respect
to this board hearings it would be in that context.

My opinions of the Ontario government or
Bob Rae or the Human Rights Commission, or any other
10 government body, are mine, and I believe I have the right
to express them.

THE CHAIRPERSON: Yes, you do have. I'm
not denying that.

15 **MR. METZ:** And it wasn't me that brought
these notes into this hearing to be read into the
minutes, I would suggest it was Ms. Sanson that
instigated that.

20 **THE CHAIRPERSON:** Well, I don't think
there's any ill motive in bringing this to my attention,
I'm glad it was brought to my attention. I'm not going
to say anything more than I have said. I'm glad it's
25 received limited circulation here.

I would encourage you, if you are going
to publish proceedings of this board, that you will
attempt to get some of the facts correct.

30 **MR. METZ:** Which facts are you disagreeing
with?

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THE CHAIRPERSON: The -- if you'll just
give me a minute here. Well, in your opening paragraph

5 MR. METZ: M'hm?

THE CHAIRPERSON:

10 "... the Ontario government has
forced Mr. Elieff to appear before an
official Board Of Inquiry which,
unlike a court of law, is less
interested in determining his guilt
15 or innocence than it is with 'seeking
a remedy' that will satisfy the
complainant."

MR. METZ: M'hm.

20 THE CHAIRPERSON: I don't think that's a
clear statement.

MR. METZ: Well, actually this was told to
me by some people who had worked with some Human Rights
Commission workshops for employer's practices, and that's
25 literally what they were told.

THE CHAIRPERSON: Well, you may have been
told that by anyone, including an employee of the Human
Rights Commission, but it still doesn't make it true.

30 MR. METZ: Well, perhaps not. But then
again, I guess you could say that about every single



1 things that's been uttered in all these pages of this
transcript and what's been printed in the London Free
Press as well. I can certainly prove a lot of the things
5 in the Free Press are not true.

THE CHAIRPERSON: I'm sure you can. Every
paper or publication should be subject to that kind of
scrutiny.

10 I'm just giving you an example of an
inaccuracy in this letter, and I don't wish to add any
more to this discussion, except to say that I would
appreciate it if the statements made about the process of
15 this board, and the purpose of this board, were checked
for its accuracy.

And I would ask you to respect the role
of this board with respect to adjudicating issues such as
20 this which come to it, not on behalf of the Human Rights
Commission, but on behalf of society as a whole.

Does anyone have anything further to add
before we proceed?

25 **MS. SANSON:** Just in follow-up, there are
some points of law that -- some issues in law, two issues
that I see at the moment, and one is the question of
fairness, and if indeed at some point the Commission
30 feels that a fair hearing cannot be held because of
statements that are being made about the evidence when

1 indeed no findings have been made, or opinions if the
opinions are being used to shape the proceeding, then
that may raise fairness issues for the ability to have a
5 fair hearing when these statements are being made by
respondent's representative.

The other concern in terms of proceedings
and the representation of Mr. Elieff at this, that in
10 terms of what's going on with the hearing, the interests
of the Freedom Party may indeed be very different than
the interest of Mr. Elieff in this immediate proceeding,
and the focus of these proceedings are to deal with the
15 complaint of discrimination as against Mr. Elieff, and
not to deal with the broader issues of the Freedom party.

MR. METZ: I agree, and but that's one of
the reasons I wrote this letter. I was getting many
20 questions from the media of why would Freedom Party be
involved at all in this process.

And I should let you know also for the
record that the attached media releases to that letter
25 have been sent out to everyone, Canadian Press, Queen's
Park Reports, all the local media, and I'm sure if you
review those I don't think you'll find any inaccuracies
in them.

MS. SANSON: But I think you have to be
30 clear as to who you're representing. Are you here

1 representing the Freedom Party? That's not my
understanding.

5 **MR. METZ:** I didn't introduce this letter
into these hearings, you introduced it, and therefore I
can't really answer that. It was not my intention to
bring that letter up, and it was not intended for the
consumption of this board. It was intended for the
10 consumption of interested news media people who might
want to have some background information as to my
involvement with this, and to Freedom Party's involvement
with this particular overall issue. This is what I'm
relating to in my letter. This letter is not intended
15 for this board.

And I made it very clear in my first
press release dated February 1st, which is attached,
20 exactly what my arguments will be before this board.

THE CHAIRPERSON: Okay.

MR. METZ: And that was published before.

THE CHAIRPERSON: Let me stop you here, I
25 don't wish to discuss this issue any further. I think
I've made it clear that the board has some jurisdiction
in determining the fitness or appropriateness of counsel
or agents for parties who are -- counsel or agents of
parties on a matter before the board. But I think the
30 fact that you are not a member of the Law Society

1 complicates things considerably, and I don't wish to
elaborate on that any further.

5 **MS. SANSON:** I just would like to raise
for the record that indeed it could raise fairness
concerns for the Commission, and if at the end of the day
the Commission is of the opinion, when a judgment has
10 been rendered and this kind of conduct continues, that it
may give rise to some fairness concerns about the process
itself and whether a fair hearing can be held when a
representative of the respondent is making these kinds of
15 statements to the press of which there may be
inaccuracies, or comments on the evidence when no
findings have been made.

20 **MR. METZ:** Again, I don't understand where
the fairness issue comes in. I don't see how this
affects the hearing and, you know, I can say the same
from the other point of view about the role of the
Commission and the role of the London Free Press and the
25 role of everyone else involved.

30 What I said in this letter I stand by, I
believe it to be true. It's basically, you know, at
least to the part of the letter that pertains to this
case, it's what I'm arguing. If you think that my
arguments are unfair, or that the position we're taking
is unfair, namely that Mr. Elieff is innocent of these

1 charges, I think that lends more weight to my statement
that's being called into question.

5 THE CHAIRPERSON: Okay. I have asked for
some coffee to be brought up, I think we need to take a
five minute break and we'll resume at cross-examination.

10 --- Upon recessing at 2:38 p.m.

1 --- Upon resuming at 2:43 p.m.

5 GREG VAN MOORSEL, Resumed:

THE CHAIRPERSON: All right. Are you ready to cross-examine Mr. Van Moorsel?

10 MR. METZ: Yes. What is the process right at this point in time, I cross-examine and then Ms. Sanson can ---

15 THE CHAIRPERSON: She can ask questions in reply.

MR. METZ: --- reply?

THE CHAIRPERSON: All right?

20 MR. METZ: Okay. If you'll bear with me, I'm just going to have to go slowly through the notes that I was taking ---

THE CHAIRPERSON: Sure. Sure.

MR. METZ: --- as we went along.

25 CROSS-EXAMINATION BY MR. METZ:

Q. Mr. Van Moorsel ---

A. Yes.

30 Q. --- after listening to everything you had to say that was in your notes this morning what I'm more concerned with is what from the notes got into



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708

G. VAN MOORSEL, cr-ex.
(Metz)

published record at the London Free Press, and I refer to your previous testimony before this board, and you were discussing ---

5

A. Perhaps I could get a transcript of previous testimony, that was months and months ago and I don't recall all the ---

Q. I'll read you the quotations I'm regarding, you can either confirm them ---

10

A. Okay, sure.

Q. --- or deny them.

A. Sure.

15

Q. You already discussed your note keeping practice. Now, you had discussed before them some of the policies of the London Free Press, and I guess of general reporters in general, and you said, and this would be on the day you testified November 16, '92, that you quoted Elieff verbatim and that, quote:

20

"Quotations in a newspaper denote a direct quotation, nothing more, nothing less."

25

You also testified that in cases without quotation marks, reporters frequently paraphrase people, rather, quote "the meaning of what was said."

30

Now, I have to admit I've gone through all the newspaper articles written by yourself, and written



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subsequently by London Free Press, and never once -- and I have to stress this point -- never once did I see any reference to any racial group, category or anything in quotation marks. I never saw the word "Asian" or "Cambodian" or "Vietnamese" or anything of this nature in quotation marks. Now, if Mr. Elieff had made a racial remark I'm curious why no such remark or reference to race would have appeared within the quotation marks.

15
A. I don't really follow the question. I mean, you're saying -- what are you saying should have been there? I don't understand.

20
Q. Well, you understand Mr. Elieff is here before this board for uttering racial comments and for discriminating on racial grounds based on comments he made in the newspapers.

A. M'hm.

25
30
Q. And yet the only words that fall under quotation marks are the words "little pigs", "they think they're still living in the jungle", but there's no reference to, unless you have other evidence to anything to do with a racial origin of anyone in quotation marks, and that would include even the November 17, '92 coverage in the London Free Press where you talked about your questioning where you have said who they specifically -- said he specifically asked who they meant, and Elieff



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said it was the Asians. Well, that's not in quotation marks, that again is your paraphrase, by your own words.

5
I'm just curious that if Mr. Elieff did make any reference to any racial group whatsoever it seems to me that should be in a quotation mark somewhere and yet I haven't been able to locate any article with that reference.

10
A. That's a statement. Is that a question?

15
Q. Well, are there any articles to your knowledge that contain any direct quotes with Mr. Elieff making any direct references to anyone's racial origin?

20
A. I don't know. All I can say is what I wrote and what he said to me, and what he said to me was the comment about likening them to little pigs in a jungle, and I said "Who are they?", he said his Asian tenants.

25
Q. Yes, but you didn't put that -- why would you not have put that in quotation marks then, if it was a literal quote?

30
A. Because, well, I mean it's just not the kind of thing you would quote. Why would you -- I mean, I asked him that, it was a point of clarification. I wanted to be sure in my mind that's who he was talking about, that's what he was talking about, and his tenants

1 are Asians. You know, it's implicit.

5 Q. And yet you quoted the term "they are like little pigs", quote, "they think they're still living in the jungle", quote. That appears not only in your November 8th coverage, but also in your November 9th coverage and subsequent coverage. It's constantly referred to and constantly put in quotation marks.

10 A. Sure it is constantly referred to, because that's the basis from which the series of stories sprung. It's a news judgment.

15 Q. Well, again here I refer to your November 9th coverage, "Moral Outrage at Landlord's Remarks". Again you have him in quotes here:

20 "I'm not saying they're pigs, but they're only doing what pigs would do."

And in the paragraph about you make it clear, not in quotes but in your own writing, he said:

25 "Thankless tenants and outsiders have ruined the common areas and undermined any improvements."

And then the quote follows:

30 "I'm not saying they're pigs, but they're only doing what pigs would do."



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Well, wouldn't that mean he's referring to thankless tenants and outsiders? And to your knowledge was there any time he referred to the race of the outsiders or the thankless tenants?

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A. When I asked him directly "Who is they?" and when he told me "they were his Asian tenants". I mean, I'm not out looking for a racial slur, but you draw a nexus, and when the man tells you that most of his tenants are Asians, and when he likens them to pigs if you ask him who are they, and he tells you his Asian tenants, I mean I don't think it's -- you know, you would have to be a moron not to make the connection.

10

Q. Does that mean that you would interpret his statement as a racist comment?

A. No, not necessarily. I interpreted it as him likening his tenants to pigs.

Q. If the majority of his tenants were non-Asian would it have made a difference to the way you might have reported this?

A. No, but I'm not the one that filed the racial complaint.

Q. No, we're not discussing the racial complaint right now, right now we're discussing ---

A. No, you're asking me -- you're asking me about whether race was a factor. I mean, race for me

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1 is not a factor, he could be castigating the whole series
of white only tenants for all I care.

5 Q. And do you know whether he was
referring to white tenants at all at any point in time?

10 A. I asked him. When I asked him
pointblank "Who is they?", they were his Asian tenants,
and then he went on to say that only four of his tenants
were non-Asians.

15 Q. Would it strike you as someone who
rents to, say, 90-95 per cent of his apartments are
rented to Asian people? Would that be the type of
landlord you expect to be -- you know, have racist
attitudes?

20 A. I don't have any expectations about
any landlords. I don't think that's a relevant question.

Q. I'm sorry?

25 A. I said I don't have any expectation
about any landlord, I don't think that's a relevant
question.

30 THE CHAIRPERSON: Mr. Metz, I wonder if
we could move on because I believe the witness has given
you the answer. There does not appear to have been any
reference to race in quotes, which was one of the
questions you asked; and the witness has told you how he
drew that conclusion in his last answer on what he asked



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of Mr. Elieff for an answer on what "they" meant. So I think it's fair to say we've got an answer to that, and if we could move on I'd appreciate it.

MR. METZ: Okay.

MR. ELIEFF: Can I say something?

THE CHAIRPERSON: You can speak to Mr. Metz if you wish.

10
MR. ELIEFF: Can I say something about him to you?

THE CHAIRPERSON: I'd appreciate it if you withheld your comments.

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MR. ELIEFF: It's not a comment. All I want is him to be allowed to ask all the question he might or he wants to ask ---

THE CHAIRPERSON: He will, but ---

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MR. ELIEFF: --- and I see you are stopping him from doing it.

25
30
THE CHAIRPERSON: It's my duty and my job to direct the questions and the examination of a witness where it is appropriate, specifically on cross-examination. Where the board feels that a question has been answered, then it's the role of the member of the tribunal to interrupt and say let's proceed, otherwise we could dwell on an issue overly long. So I don't easily exercise this discretion, but sometimes it's necessary.



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MR. ELIEFF: So the other side can get all the time they need and they can -- they have all the free this and free voice and everything else and they can continue to screw everything around for days and days, and my spokesman got cut off.

10
THE CHAIRPERSON: I'm sure Mr. Metz has a lot of other questions that he wants to ask the witness.

MR. METZ: Yes.

MR. ELIEFF: Thank you.

15
THE CHAIRPERSON: So maybe we should proceed with that.

BY MR. METZ:

20
Q. You stated earlier this morning that you interviewed a number of Mr. Elieff's tenants when the story began developing, and you went from, you know, talking to some of the tenants directly. How many of the Asian tenants told you directly that Mr. Elieff referred to them as pigs or some derivative of that term?

25
A. Well, most of them you might understand were reacting to him calling them pigs.

30
Q. Were they reacting to him calling them pigs or reacting to the media coverage alleging that he called them pigs?

A. Well, you're putting a spin on it

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that I don't feel it's fair to answer. Some ---

5
Q. Well, I think it's very critical. There's a big difference between being called something directly ---

10
A. Some, as I recall, did mention that that term had been used for, and in fact one of the tenants that was at the public mentioned it as well, and I went through, I think, her thing, Wendy McAstonchkeror.

15
Q. Right, Wendy McAstonchkeror. And that does not sound like an Asian name to me, is that -- and that was also a comment directed at her by Zeranco, according to your testimony this morning, not by Mr. Elieff. Was Wendy McAstonchkeror, or however you remember the name was spelled, was she, to your knowledge, an Asian tenant?

20
A. No.

Q. So then you heard firsthand a reference to this comment being directed at someone who was not Asian.

25
A. I didn't ask people whether he called them pigs. He called them pigs to me, I'd already heard it. I was curious to know ---

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Q. No, but you did report this morning that this ---

A. I was curious to know how they felt



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717

G. VAN MOORSEL, cr-ex.
(Metz)

about that.

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Q. So you're saying that you were more interested in how the tenants felt in terms of their reaction to the phrase "pigs" rather than learning whether any of the tenants had actually been told that themselves directly?

10

A. I would say I was more interested in that, sure.

Q. It's interesting that you seem -- you're more interested, then, as a reporter in reaction rather than in the facts that generate the reaction?

15

A. I think we had the facts that generated the reaction.

Q. Well, we had a story that generated the reaction.

20

A. No, we have facts.

THE CHAIRPERSON: Mr. ---

THE WITNESS: We have records of building inspections with, you know, cockroach infestations, a landlord who didn't do anything about sewage backing up into people's houses, you know, calling people names, I mean, I think we had the facts.

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BY MR. METZ:

Q. I guess those are facts. You can say



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718

G. VAN MOORSEL, cr-ex.
(Metz)

that a sewer backed up, but it doesn't state the cause of the fact, does it?

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A. No, but I'd say sewage sludge on the floor is a pretty big fact you can't ignore, right.

Q. Yes, I agree. And did you report that Mr. Elieff caused this?

10

A. No, I didn't say that, did I.

Q. No, you didn't. So from your interviewing the people what would you say would be the cause of things like that, the sewage backing up, the mess in the halls, all of that?

15

MR. GASPAROTTO: I interject, sir. I think I have a right to play a role here ---

THE CHAIRPERSON: Yes.

MR. GASPAROTTO: --- when my client's being berated like this. I mean, he's here to deal specifically with quotes that appeared in two articles, he's testified on that, the cross-examination should be limited to those items, and not the fishing expedition that Mr. Metz is on.

25

MR. ELIEFF: But he's lying all through his teeth.

THE CHAIRPERSON: Mr. Elieff, please. I would ask you if you have any questions to ask your representative, Mr. Metz.

30





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Now, just dealing with Mr. Gasparotto's objection, I was going to say virtually the same thing. I don't think the witness is here on trial, as it were, and if you have any comments about the weight to be given to his evidence you must save them for argument. But if you could try and make that distinction I would appreciate it.

15
MR. METZ: Well, my understanding is that in cross-examination I have more leeway than the person who is leading the evidence, and ---

THE CHAIRPERSON: You have more leeway than in direct examination, or examination-in-chief.

20
MR. METZ: And it's also not my understanding that I'm limited to asking questions about these two articles. There were four articles mentioned, there were several pages of notes mentioned, am I not permitted to ask questions about any of those?

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30
THE CHAIRPERSON: You are, subject to the discretion of the tribunal to guide the proceedings along. But I think the point that's being made is that it's not Mr. Van Moorsel who is being tried or against whom a complaint has been lodged, he's here to give evidence as to what he heard and saw when he was preparing the article, speaking to Mr. Elieff, visiting the premises, et cetera. So if you could ---

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G. VAN MOORSEL, cr-ex.
(Metz)

MR. METZ: Well, these are the questions I'm asking.

5

THE CHAIRPERSON: All right. I've made my point. Just proceed with your questions, and if I feel that you're veering off the course I'll let you know.

MR. METZ: Okay.

MS. SANSON: Can I have one point of clarification, just with respect to the notes, and it was my recollection, and perhaps we can all take a look at the notes to verify it, but it was my recollection that the reference with respect to the pigs comment having been made by the McAllister person was not indeed a reference to Zeranco, was a reference to the landlord. I think it might have been preceded by some comments having been made, or a reference of comments having been made by Zeranco at the meeting.

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THE WITNESS: Yes, that's what I said, by Zeranco.

25

THE CHAIRPERSON: But you're saying it wasn't Zeranco?

MS. SANSON: I don't believe the notes recorded that, and perhaps if we could -- I don't have the notes. If we can just take a look?

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THE CHAIRPERSON: Mr. Van Moorsel, could you just check that for us?



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G. VAN MOORSEL, cr-ex.
(Metz)

THE WITNESS: Yes, sure. It was at the
public meeting, the town hall meeting.

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MS. SANSON: Was that the group day three,
day four?

THE WITNESS: Yes.

10
(SHORT PAUSE)

THE WITNESS:

15
"Each time your father told me I
could clean up the mess myself. He
called us a bunch of pigs."

MS. SANSON: If you could just indicate
for the record?

THE CHAIRPERSON: Yes.

20
THE WITNESS: Yes. Do you want me to read
the passage aloud again?

MS. SANSON: Yes.

25
THE WITNESS: Okay. This is at a town
hall ---

THE CHAIRPERSON: Yes.

THE WITNESS: --- style meeting.

THE CHAIRPERSON: Yes.

30
THE WITNESS: Really it was sort of a
meeting for the interested groups. And Zeranco became,



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you know, involved in the meeting vocally, along with some other people. Zeranco said he thought his father was going to pay the fine. Let's see. I'm just trying to get the background here.

Okay. So he became involved in a discussion with Wendy.

10
BY MR. METZ:

Q. So you overheard a conversation between ---

A. No, it wasn't overheard, it was a public conversation at the public meeting.

Q. Oh, okay.

A. And anyway, Wendy was recounting her experience, having lived in the apartment.

20
"My apartment, number 4 ..."
she said:

25
"... had raw sewage back into it three times. Each time your father told me I could clean up the mess myself. He called us a bunch of pigs then."

Q. Who called?

A. "Your father", Zeranco's father, Mr.

30
Elieff.



1 Q. So it wasn't Zeranco that made the
statement.

5 THE CHAIRPERSON: That's right. I think
that's what Ms. Sanson wanted to clarify, so that's
helpful.

10 BY MR. METZ:

Q. Did you report that? Was this
particular incident reported in the London Free Press?

15 A. We're missing one of the stories
here, it may well be in that one, I don't know.

Q. We're missing one?

A. There's a fourth story, but it's not
in these ones here. I don't know if -- I know it's not
these ones.

20 Q. Well, I have four. I have ---

A. What is the latest date on yours?

Q. Well, mine are all between November
8th and 10th.

25 A. Yes, so you don't have all of them
after all, there's one after. There's obviously another
one after that. There's a weekend paper that fell
between the time of the public meeting and the filing of
30 the Human Rights Commission complaint.

Q. But you don't recall yourself ever



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having reported that incident?

5

A. I may well have. I was there to report the meeting, I probably did write a story. I know I did another story that's not here, I just don't recall it offhand. Remember you're asking me about stories I produced four years ago.

10

I see I took these notes on day four, which meant the last day of the week that I worked on that story, the Friday, which would logically imply that something was written for the Saturday paper. Her remarks may well have been in it, but as you can tell I filled half the notebooks with notes that day, so obviously not everything is in it.

15

Q. Getting back, I guess, to another point that you raised this morning, you discussed early in going through your notes, in the earlier part of it, when you were talking to Mr. Elieff ---

20

A. Do you mean on day one?

25

Q. I believe this is day one. It's early in my notes so I guess it is. You said Mr. Elieff discussed with you his concerns regarding the stuff on the balconies, and his concerns regarding the church's involvement and that a representative of the church mingled there. Do you know who the representative of the church was at the time?

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A. Yes, I believe it was Susan Eagle.

Q. Mr. Elieff also said to you that he
was concerned about the police not doing anything about
5 vandalism.

A. M'hm.

Q. And he asked you who's going to take
these people in, these "refugee people? I'm taking all
10 the risks" he says to you.

A. M'hm.

Q. And then he points out to you,
according to your testimony this morning, that the
15 conditions of the building relative to -- or regarding
condition of the building relative to arrival of the new
tenants that "things were not always like that" ---

A. M'hm.

Q. --- "before when they were all
20 Canadians". You said you didn't pursue this point too
far and that it didn't grab you. May I ask why?

A. Well, I report ---

Q. Why wouldn't this point grab you?

A. Well, I mean it grabbed me to the
extent that he said his property was in good condition
when he bought it, and that's what I reported. You know,
30 getting into arguments about who's Canadian, who's not
Canadian are just not relevant, I don't think.



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Q. Well, I don't think -- no, I don't think that was what he was referring to, I think he was talking more about just the mess not being like that. I think Mr. Elieff made it very clear to you ---

10
A. Yes, and we reported that. If you read the stories it's there. He said the property was in good condition when he bought it ---

15
Q. So when you say "it didn't grab me", you're referring to the racial aspect?

20
A. Well, I mean -- no, no. When I say it didn't grab me, it is not the basis for another story, it was a part -- it is his explanation of the status quo at his property at the time, it was in good condition when I bought it, it's not now, it's the fault of my tenants, and that's exactly as it was portrayed.

25
Q. He told you later on in conversations, according to what you said this morning again ---

A. M'hm.

30
Q. --- that he was using the word "pigs" to "just describe their behaviour."

A. M'hm.

Q. And you said that in your opinion that this was a rhetorical comment. Quote:

"I'm not saying they're pigs, only



what pigs would do."

If the comment is rhetorical then what is your opinion -- if that's in your opinion a rhetorical comment what in your opinion was the fact behind it, or what did you believe to be the truth about the matter?

A. Well, this is how I interpreted it.

The man told me pointblank, comparing his Asian tenants to little pigs from the jungle. He never recanted that.

It only became an issue when we went to visit him, and then it was -- and of course he said it umpteen other times, which I didn't record because -- I mean, I didn't publish them, but it surfaces frequently in the notes.

And then when he said "Well, I'm not saying they're pigs", I took that as a rhetorical thing, they're not literally four-legged pigs, but they're acting like pigs.

Well, I mean, what's the difference, the man is still calling them pigs. And I think when people see it in print they probably leap to the same conclusion.

Q. You've never heard the term "live like pigs" as used as to someone's behaviour or cleanliness or anything like that, that's totally foreign to you?

A. Sure, sure. Parents say it to their kids all the time.

Q. Right. And would that be considered

*Eliot
mostly
vehemently
recanted
that.*

1 a racist or otherwise remark in that context?

A. I don't know. I don't know. I suppose it would depend on the circumstances.

5 Q. The circumstances here being that the majority of tenants of Mr. Elieff's apartment buildings happening to be Asian, so that anything he might say about them would be interpreted as racist.

10 A. You're asking me to say whether this man is making racist remarks or not, but I don't -- you know, that's not my job. My job was a story, I did the story, I didn't file the racism complaint. I mean, that's -- no, I don't have an opinion about ---

15 **THE CHAIRPERSON:** Yes. It seems, Mr. Metz, when you ask for his opinion on a question like that, the witness has rightly said that that is the job of the board. The board has to decide whether it falls into one of the categories listed in the Ontario Human Rights Code for infringement. So that is the job of this tribunal and I will have to determine whether in fact it is grounds to determine that this has been infringement.

20 But what Mr. Van Moorsel thinks of this is really not germane to the process.

25 **MR. METZ:** Well, Mr. Van Moorsel is the author of the articles that essentially brought Mr. Elieff to this hearing, or that precipitated a series of

1 events, as he says in his own words, one story generates
another, and eventually Mr. Elieff finds himself before
5 these hearings.

10 I would refer again to his comments made
approximately 12:15 today that when he was taking some
notes, "not just regarding building complaints", and I
quote him, "but for lack of a better word, racist
15 complaints". Obviously he believes these comments to be
racist and that all the complaints generated about them
are race ---

20 **THE WITNESS:** I object. I object. Not
everything one is told I necessarily believe.

BY MR. METZ:

25 Q. Well, not every point, but their
complaints regarding the building and the condition of
the building.

30 A. Listen, you're asking me to give
judgment about racist intent and that's not my job. And
even if I were in a position to make that judgment my job
prevents me from putting that ---

Q. I reiterate, I'm not asking you that,
I'm saying this is what you already said in testimony
this morning, quote:

"... that for lack of a better word,



racist complaints."

End quote. I wrote that down when you said that this morning.

A. Yes.

Q. Clearly you do view these ---

A. No, no, not clearly. I mean, if people are telling me things that they believe are racist it doesn't necessarily mean I believe them to be racist. All I can say is they believe them to be racist.

Q. Well, if you could find a better word what might it be?

A. Well, again, you're asking me to get into value-laden judgments about the language that your client uses, and that's not my job and I'm not going to answer the question unless I have.

Q. Well, you know, I have to suggest that that's not the case, I think it is your job to a great deal. I mean, you said you spoke to someone named Nadeen Nat, N-A-T. You said you took no notes because you were looking for some specific kind of reaction.

A. That's not what I said. I said I took no notes because the translation was poor.

Q. No, you said you were looking for some specific kind of reaction.

A. Well, that's not how I recall it. I



took no notes because, I said to you, I said -- in fact I vividly recall this, that in my notebook there were no notes underneath her name ---

5 Q. Right.

A. --- there was only her name written in my hand and in her hand, because the pronunciation was difficult, and I said there were no notes because the translation wasn't there, it was just -- it was not -- it wasn't reliable. I didn't use that word in my testimony, but that's what I meant.

10 THE CHAIRPERSON: Yes.

15 BY MR. METZ:

20 Q. Well, you did say you were looking for a specific kind of reaction, and it appears to me that the kind of reaction you were looking for is fairly consistent, you were looking for opinions based upon the belief that Mr. Elieff uttered racist comments, and that's what you were looking to publish.

25 A. No, no.

Q. You were stopping people on the bus. I mean, where are they going to get any ---

A. No, I wasn't.

30 Q. --- firsthand information about Mr. Elieff making any sort of racist comments to anyone?



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A. No, see you're misinterpreting it. I
never said I was looking for a specific kind of reaction.
All I told you was that I ---

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MR. METZ: Can we stop the proceedings and
go back to the minutes?

MR. ELIEFF: Where is the beef? Where is
the tapes?

10
THE WITNESS: All I told you ---

MR. METZ: It's short. It's about 12:20
p.m.

THE WITNESS: All I told you was that I
talked to the woman, I was anxious to know what they felt
about it. And the same with the people coming off the
bus. The people coming off the bus were walking into the
middle of a demonstration at a transfer point right on
one of the city's main streets. I didn't tell you I was
looking for specific reactions from them on anything.

20
THE CHAIRPERSON: Look, Mr. Metz, I think
your question is generally a fair one, you're attacking
the credibility of the witness, and you're allowed to do
that by asking this kind of question. I'm not sure we're
going to gain anything by going back and finding the
exact reference of whether or not something was said or
not. The line of your questioning is pretty clear.

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MR. METZ: Well, to me if we gain the



1 facts of the case ---

THE CHAIRPERSON: Pardon me?

5 MR. METZ: I think it's important that we
gain the facts of the case, and reviewing the
transcripts, this kind of issue has come up before where,
for example, on one issue I was being refuted by Ms.
10 Sanson in my recollection of a previous thing said in the
testimony, and I checked out my recollection, mine was
accurate, hers was inaccurate. I think it's very
important.

15 MS. SANSON: Is that on the transcript,
Mr. Metz?

MR. METZ: It's all on the transcript.

20 MS. SANSON: Okay. I'm going to object to
this characterization of what Commission counsel said or
not said without any specific reference at all, not to
-- I will hold my piece in the ---

25 MR. METZ: Would you like me to make the
specific reference?

THE CHAIRPERSON: Look, can we move on
with questioning the witness, please?

30 BY MR. METZ:

Q. You said there was a Father Michael
Ryan, a priest at the demonstration I believe ---



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A. M'hm.

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Q. --- who was called there by Susan Eagle for support. Do you know anything, did you talk to him specifically about any more details?

A. I thought it was odd that there was a catholic priest there.

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Q. This was a catholic priest?

A. I believe it was. And I just asked him what he was doing there, and I think he told me that he was called to lend support, and I just moved on.

15

Q. You said you also spoke to Susan Eagle, whom you described as a community outreach worker, yet in your article dated November 8th you referred to here as a volunteer worker, though it's my understanding she's paid for her work.

20

A. Yes. Well, you're asking me, like people's specific job titles after four years. And I can tell you although I knew Susan Eagle well when I was at City Hall I used to often have to check what her exact job title was, because the role of her job was -- in religious circles is not one that I was familiar with. I used to check it off, but that's just -- I would say give me a break for age.

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Q. Well, in that reference, you know -- in her affidavit regarding your appearance before this



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board today Mary Nesbitt mentioned that you previously testified before the board under the mistaken belief that you were instructed to do so by the London Free Press. Is that according to your recollection?

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A. It wasn't a mistaken belief, it was a request from an editor.

10
Q. Well, then I would have to refer you to the testimony of November 16th where in cross-examination -- or I guess in leading testimony by Ms. Sanson you testified that it was Susan Eagle who got in touch with you.

15
A. No, there were two other -- there were more than one. There was more than one person who I was in contact with that day.

20
Q. Regarding your appearance before the board?

25
A. Yes, all which was a complete mystery to me. I gather -- I have since gathered that I was somehow served, but not properly served or something. I don't live in London, I live in another city.

Q. Right.

30
A. I had a phone call from an editor, this is not a senior editor as I recall.

Q. Do you remember who that editor was?

A. Yes, somebody named Chris Nixon.



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Somebody who said I was supposed to be at a hearing,
where are you?

5 Q. I didn't catch the name, I'm sorry.

A. Chris Nixon.

Q. Chris Nixon?

10 A. Yes. That I was supposed to be at a
hearing in London and -- but, you know, originally it
seemed like I was supposed to be at a hearing covering it
or something. This is not the kind of thing you would
normally be called -- somebody would call you about.

15 Q. Why would Susan Eagle call you in
this regard, even if she wasn't the only person who
called you?

20 A. Well, it's just logistics. I mean, I
got the impression from this editor that -- eventually,
that I was supposed to testify at this thing and because
of some snafu nobody had told me about it. I didn't have
any document. And then I think it was just a matter of
25 logistics, Susan Eagle was helping to set up the
conference call, as I understand it.

30 MS. SANSON: Perhaps I could shed some
light on this. I asked Susan, being the counsel by
myself, the board requested, and Mr. Metz was not in
attendance, that we proceed. The day that we attended
was for the purpose of setting dates, at least as



Commission counsel understood it. Mr. Elieff asked that the hearing go ahead, and I asked Susan Eagle if she could attempt to contact by telephone Mr. Van Moorsel for the purpose of giving evidence. I asked Susan Eagle to do that.

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THE CHAIRPERSON: Thank you.

MS. SANSON: There had been no previous contact with Mr. Van Moorsel.

THE CHAIRPERSON: That's helpful.

15
BY MR. METZ:

Q. When did you first hear of the complainant in this case today, Chippeng Hom?

A. I think the precise name I first heard of whenever I saw the notice I was served to appear in June or something.

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25
30
Q. And yet when you were covering the story at the time in 1989 you were speaking to several people from Race Relations Directorate to people like Pat O'Brien, Felicity Somerset, and you were getting all kinds of information from them in terms of a possible complaint being launched before the Human Rights Commission. At any time during that procedure at that period of time was Chippeng Hom's name ever mentioned to you, or was anyone's name mentioned to you?

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738

G. VAN MOORSEL, cr-ex.
(Metz)

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A. Yes, yes. It may well have been mentioned, but I don't recall it? Mind you, I don't have the last story I wrote that week, which was a story that dealt with the representative of the Cambodian community having resolved to go and file the complaint on the Monday.

10

Q. And that was?

A. Lam Vong.

Q. Did he ever file a complaint? Is there another complaint ---

15

A. As I understand it ---

Q. --- going on?

A. As I understand it, the complaint, and again you're really taxing my memory here now, but the complaint -- there was great discussion, I think, about who would -- who exactly would file the complaint, insomuch as they needed a name on the complaint. We're talking about people who either were not conversant with the system or couldn't speak English or whatever.

20

25

This man was prepared at an early juncture to take on the task on behalf of those people, as I understand it, but perhaps legally, because he's not the one that personally felt slighted maybe, or whatever, I don't know, somebody else's name is on the complaint. I mean, it's a mystery to me how that works, I mean, you

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G. VAN MOORSEL, cr-ex.
(Metz)

know -- all I know is that a complaint was filed, I followed it that week. The last story I wrote that week was about this Cambodian man, Lam Vong, who, because he had a job as a translator, or because he had often worked as a translator through the Cross-Cultural Learner Centre was conversant and completely fluent in English and his native language, and he was the one who was going to take the complaint in. Whether that meant his name would be on it or somebody else's is, you know, who knows. I mean, I can't remember that far.

15 Q. Do you recall how many people you might have spoken to regarding, let us say the search for looking for someone to file a complaint?

A. A search for what?

20 Q. To find someone to file a complaint.

A. I didn't search for anyone to file a complaint.

25 Q. No, no, I mean regarding the people who said they were involved in seeing what could be done to file a complaint?

30 A. Well, I mean, I talked to people who were interested in filing a complaint; I talked to people who would be in a position, being employed by direct government employers, or extended government employers to comment on the filing of a complaint and the likelihood

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of it succeeding, and the mechanics of it succeeding, or
of it taking place, I didn't go out and talk to people
about who will file the complaint.

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I mean, I guess it seemed to me to be, I
guess, a kind of like a class action sort of suit,
although I know that's not the right way to describe it
because it legally doesn't mean the same thing. But I
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mean the community was upset, somebody in the community
was going to have to swear out something and take it to a
formal organization. I mean, you know, the person who
would do it, you know, at that point, wasn't terribly
important I don't think. In fact, at that point I don't
think it had been decided.

Q. I'm just looking for one article
here. You once interviewed Pat O'Brien in this regard.

20
A. I often interviewed Pat O'Brien, he
was the ward alderman.

Q. Yes. And he was also, I believe, a
member of the city's Race Relations Committee, is that
25
correct?

A. I don't know if he is now, he may
well have been then.

Q. Well, at the time.

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A. At the time. He may well have even
been at the time, but at the time my interest was that he

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was the most outspoken ward aldermen, and of the two ward
alderman he was the one that, well, he was more
thoughtful, I guess I would say, than the other, a sort
of independent thinker.

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Q. Did he give you any further
information in terms of what his efforts were in order to
locate someone who could file a complaint against Mr.
Elieff, because there was a quote in one of the Free
Press articles attributed to Mr. Pat O'Brien to that
effect.

15
A. In one of my articles?

20
Q. In a Free Press article, whether it
was published by -- or written by you or not, I'm not
too sure. But you did speak to him, so in regards to
your conversations with him ---

25
A. I don't think he gave me that kind of
information but, you know, reporters at the Free Press
often speak to city aldermen so, you know, on any number
of things. So, I mean, unless it was something in my
story I don't know.

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Q. You referred to as well in your
discussion this morning, I believe in speaking to Bob
Carson?

A. Bob Carson.

Q. Bob Carson, is that right? You asked



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G. VAN MOORSEL, cr-ex.
(Metz)

him, I believe, how often complaints regarding building conditions come in, he said over 2,500 a year ---

A. M'hm.

Q. --- come into the city?

A. M'hm.

Q. Did he give you any indication of how many of them had anything to do with racial issues, or was there any indication of racial issues surrounding any of those complaints ---

A. I didn't ask him that.

Q. --- or discrimination?

A. I wanted to know how many complaints come in a year, and that's all I asked, and I got the number and that's all I was looking for.

Q. Now, you also had a conversation with, let's see the name here, Rick Harrington, you said he was now an O.P.P. officer.

A. Harrington, yes, that's it. I believe he's now an O.P.P. officer. The last time I spoke to him he was looking for my notes.

Q. And apparently he was discussing with you the process of what happened and you said there were many off the record notes.

A. No, that wasn't with him. You weren't following.

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Q. That wasn't with him? That might be
my mistake here.

A. No, it was with Walter.

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Q. Who was that with?

A. With Walter, what's his name, Burns.

Q. Burns?

A. Yes.

10
Q. Oh okay, right. Sorry, you're right.

A. I didn't say there were many, I said
the conversation went back and forth between on the
record and off the record.

15
Q. If all you were discussing was
process what would have to be off the record about
process? Wouldn't it be public knowledge?

20
A. I don't want to tell you anything
about what was off the record.

25
THE CHAIRPERSON: I'm just going to
interrupt here. If you are going to press that point any
further I want to consider whether that is possible
without anyone else in the room, just counsel.

30
MR. METZ: No, I was just asking whether
those comments dealt with process or something else. I
don't want to pursue them beyond that.

THE WITNESS: I can't tell you. They were
off the record, I can't tell you a thing about them.



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BY MR. METZ:

Q. Because this morning you did say that it was regarding process.

A. Well, it involved some process, but I didn't talk a thing about what was off the record, and, you know, I invite you to try and read them if you want, but I'm not going to tell you about them unless I absolutely have to.

Q. Mr. Van Moorsel, in your testimony before the board again on September -- or rather, sorry, November 16th, in speaking of the materials relating to the case you once referred to a tape as well that you said might exist, or the probability of a tape.

A. I think I said it may well have existed.

Q. Right. But this followed your testimony as well saying that you'd received a phone call and that you were requested for this material and that you recall putting it in an envelope. It seems to me, does it not, a little strange that you wouldn't recall whether there was a tape in it or not?

A. No, it doesn't, because in the job that we do I've turned over materials to my city editor more than once. Sometimes, evidently here, I was wrong, it didn't have a tape, other times they have, it depends



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on what you're doing and the circumstances under which it was done.

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Q. How many human rights hearings or court cases are you involved with right now where the material would have to be kept for that purpose? I mean, you did say the material was being kept aside specifically for these hearings.

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A. No, I didn't say it was being kept aside specifically for these hearings, I said I got a call from somebody who wanted my notes, but I didn't think it was something that we should share and I did what all reporters do, and that is what's not in your possession you're not obliged to share, so I turned it over to somebody else. We couldn't have known about these hearings then because nothing had happened.

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Q. You did refer to knowing about the involvement of the Human Rights Commission.

25

A. Well, the Human Rights Commission was phoning me looking for it. I mean, it was a Human Rights Commission investigator.

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Q. Right. So that's what I'm referring to as the Human Rights Commission ---

A. That's their involvement.

Q. --- being involved. Why did you mention the existence of any tapes or records in the



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first place?

A. I believe I was asked.

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THE CHAIRPERSON: Mr. Metz, if I can help here, I just happen to have the section of the transcript of the first day's hearing and Mr. Van Moorsel's testimony by telephone, and I'm reading at page 68:

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"I know for sure I recorded it in shorthand, I may well have recorded it on mini-cassette as well."

THE WITNESS: Right.

THE CHAIRPERSON: That's what he said.

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MR. METZ: Right. And that's also the other reference I was looking for where he says that he turned it over to the city editor as soon as he realized that the Ontario Human Rights Commission was involved, because he was phoned and asked for that material. Now, it strikes me as odd that he cannot remember whether there was a tape in it at the time.

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THE WITNESS: Listen, I use -- I go through umpteen tapes a week.

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BY MR. METZ:

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Q. I can understand that ---

A. --- this is four years ---

Q. --- but if you go through umpteen ---

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A. Just let me finish, please. I go through umpteen tapes a week, tons of notebooks, I've turned over material before to superiors and, you know, remember, I'm sitting in my house in my housecoat, this call comes and I'm supposed to testify and suddenly recall in vivid detail things from four years earlier. I mean, give me a break.

15
Q. Well, we're not referring to the events of four years earlier, we're referring to your telephone call ---

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A. No. Sure you are. Sure you are. You're asking how could I ---

Q. --- about material which didn't happen four years earlier.

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A. --- how could I -- how could I not recall that there was a tape. Well, you know.

MR. ELIEFF: Tape is not a needle, it's a big thing.

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THE WITNESS: I'm sorry, I mean I just couldn't recall. I mean, there may well have been.

MR. GASPAROTTO: Mr. Chairman ---

THE WITNESS: I'm sorry, I mean I just couldn't recall. I mean there may well have been, there may well not have been.

MR. ELIEFF: A tape is not a needle, it's



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a big thing.

THE CHAIRPERSON: Mr. Elieff.

MR. ELIEFF: Big liar.

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MS. SANSON: Do you have that on the record?

THE COURT REPORTER: Yes.

MR. METZ: Which comment is that?

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MS. SANSON: Mr. Elieff's comment calling the witness a big liar.

MR. METZ: I'm sure there are a lot of references to that nature.

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Okay, that's all the questions I have for Mr. Van Moorsel.

THE CHAIRPERSON: Thank you.

Ms. Sanson, any ---

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MS. SANSON: I have no questions in reply.

THE CHAIRPERSON: And I have no further questions, you can step down.

THE WITNESS: Do you want me to leave these?

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THE CHAIRPERSON: I'm prepared to keep a photocopy.

THE WITNESS: Okay. So we can produce a photocopy for you, okay.

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THE CHAIRPERSON: Thank you.



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749

G. VAN MOORSEL

MS. SANSON: I will undertake to copy these and send them out to the parties.

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THE CHAIRPERSON: Let's take a 10-minute break.

Thank you, Mr. Van Moorsel, for coming.

THE WITNESS: You're welcome.

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--- Upon recessing at 3:32 p.m.

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E. ELIEFF, cr-ex.
(Sansons)

--- Upon resuming at 3:50 p.m.

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THE CHAIRPERSON: Whenever you're ready, Ms. Sanson, just let me know.

MS. SANSON: Fine. We would like to proceed with Mr. Elieff's cross-examination.

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THE CHAIRPERSON: Mr. Elieff, if you'd like to take the stand. You've already been sworn. Ms. Sanson has a few questions for you.

MR. ELIEFF: Okay.

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ELIJAH ELIEFF, Resumed:

CROSS-EXAMINATION BY MS. SANSON:

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Q. Mr. Elieff, do you recall an investigating officer named Lori Rainone investigating your human rights complaint? Do you recall the name?

THE CHAIRPERSON: How do you spell that?

25

MS. SANSON: R-A-I-N-O-N-E.

THE CHAIRPERSON: R-A-I ---

MS. SANSON: N-O-N-E.

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THE WITNESS: I don't know the name. I don't recall any of the name, unless you're talking about one gentleman and a lady that came trying to break a deal with me, if it's them that you're talking about, I don't



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751

E. ELIEFF, cr-ex.
(Sanson)

know.

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BY MS. SANSON:

Q. From the Human Rights Commission.

A. There were a young lady, young black lady, white -- I'm sorry, a black man and a white lady, younger person -- people.

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Q. Yes. Yes.

A. If that's what you're talking about. They're trying to break a deal with me and I keep telling them "Go back to Susan Eagle and Free Press because they are the source of the trouble, not me."

15

Q. And did they come and attend your apartment building? Did you show them around?

20

A. Those two guys, no, not show them nothing, only we sat down, they asked me to break a deal, saying to me "Give a few hundred dollars or" ---

THE CHAIRPERSON: Let me interrupt you here.

25

MS. SANSON: Yes.

THE CHAIRPERSON: Mr. Elieff, one of the things that I can't hear ---

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THE WITNESS: Well, I have to say what they said to me.

THE CHAIRPERSON: I'm going to make this



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E. ELIEFF, cr-ex.
(Sanson)

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very clear. Because the board and the Human Rights Commission want to encourage people who are involved in these kinds of disputes to come to agreements, because the policy is to try and have people agree on something, the rule is that anything that is said in order to attempt an agreement or to reach an agreement cannot be discussed in a public formal forum like this.

10

So anything that was said to you with a view to coming to an agreement or reaching a compromise, et cetera, I don't want to hear about it, okay, and I can't hear about it.

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THE WITNESS: But that was the purpose why they came.

20

THE CHAIRPERSON: Yes, I can understand that, but I don't want to hear about any of the discussions like how much they offered or ---

THE WITNESS: No, no, I won't say. I only want to say they were trying to break with me ---

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MR. METZ: If I may interject.

THE CHAIRPERSON: Yes.

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MR. METZ: Perhaps that should be addressed at Ms. Sanson, since she's leading the question in this direction. I remember you saying this to me too ---

THE CHAIRPERSON: Yes.



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753

E. ELIEFF, cr-ex.
(Sanson)

MR. METZ: --- when I came to this point
in my questioning.

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THE CHAIRPERSON: Yes. I'm sure Ms.
Sanson ---

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MS. SANSON: Yes. And it was as a -- the
reason that I've asked this question, I think Mr. Elieff
has satisfied it, not only because the board raised
questions as to the principles of equity, indeed that the
Commission satisfied its obligation to endeavour to
resolve it, not to ask you about the details, but that
indeed the Commission met with you with a view to satisfy
its obligation.

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And there is also, with respect to the
transcript at page 486 of the February 5, '93, Mr. Metz
had dealt with some of the comments as conveyed in the
press by an earlier officer, and I had raised a concern
that Mr. Metz was relying on the truth of those
statements, and the board had indicated that it was a
point well taken and you were going to reserve your
comment over the lunch. And I've gone through that
transcript and there was no ruling. The purpose of ---

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THE CHAIRPERSON: What page is that?

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MS. SANSON: That's at page 486.

THE CHAIRPERSON: Thank you. Let me just
take a minute to find it. All right.



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E. ELIEFF, cr-ex.
(Sanson)

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MS. SANSON: Okay. Back up, that's page 485. And I'm not sure how much further you would want to review, but indeed Mr. Metz was referring to one of the quotes, or with a quote made by Mr. Harrington, the emphasis, again it was a quote made in a newspaper to the public:

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"... which equally does not understand the process involved, but it does create an impression of what may be going on at the Cheyenne Apartments when something like that was presented. I guess the only question I would have in that regard to Mr. Elieff on the comment that the views were polarized, I was wondering if Mr. Elieff might comment on what those polarized views might be."

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And then I raised a concern that it -- the concern relating directly to:

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"A board ought not to accept newspaper articles unless you have the person called to at least hear their own evidence and have the right to comment. And the way that we're proceeding now, what we have just

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E. ELIEFF, cr-ex.
(Sanson)

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heard from Mr. Metz is that in fact the investigating officer made those comments, that they were said, and that as a result of that Mr. Metz has given that a certain characterization, so he is relying on the truth of those statements and so we are into a whole different area as to whether or not even the statements were recorded as have been said. He has now relied on the truth of the statements of Rick Harrington."

20

And then your ruling was that you would consider it over the lunch. And then I reviewed the remainder of the transcript and I don't think we had a ruling.

25

But there was another reference that -- I can't remember whether it was sooner or later, where you had asked the parties to, in final argument, make submissions as to the principles of equity not having been violated. And it was my understanding that that related to the process of whether or not the Commission had attempted to perform its conciliation function.

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THE CHAIRPERSON: My recollection of the second point is foggy, but I don't have a recollection of that second point. But if you can direct me to those



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756

E. ELIEFF, cr-ex.
(Sanson)

pages between today and tomorrow I can look up the transcript and see if I need to comment further on it.

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But returning to the first question, which was to what extent can the board receive a newspaper article, I think there's a fair amount of discretion in the board to accept any published material, accept them as exhibits. The weight, of course, that is to be given to these varies.

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The question on whether any reliance is given to the truth of statements referred to is again a question of weight. Unless the person who is reported to have made those statements is here as a witness I don't think I would give it any more weight than I would to any statement referred to in an article. I don't know if that clears the air in any way.

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What I'm saying is, I wouldn't give a lot of weight to a quote in an article that is filed as an exhibit unless the person giving that -- making that statement is available for cross-examination here.

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MS. SANSON: Thank you. I thought I had that other page, I apologize.

THE WITNESS: Can I get the names?

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BY MS. SANSON:

Q. Pardon me?



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757

E. ELIEFF, cr-ex.
(Sanson)

A. Can I get the names of those two people, I never took them down?

5

Q. It was Lori Rainone ---

MR. METZ: Lori, L ---

THE WITNESS: You take it down.

MS. SANSON: L-O-R-I, Rainone,
R-A-I-N-O-N-E.

10

MR. METZ: Yes.

MS. SANSON: And Errol Meffiah.

MR. METZ: Can you spell that, please?

15

THE CHAIRPERSON: E-R-R-O-L ---

MS. SANSON: Yes, M-E-F-F-I-A-H.

BY MS. SANSON:

20

Q. Now, we've just heard Mr. Van Moorsel's evidence, and we also heard evidence that he had done a follow-up article with you, and that was after an interview with you at your home. Do you agree with me that he gave you the opportunity to clarify your earlier comments and indeed you took that opportunity to do that?

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A. I don't recall any telephone talk to this man, but I can recall that it was him that I showed him the wreckage, wrecked place and all the area without telling any names or calling any names. And he's lying



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through his teeth, because he was supposed to put down why I called him in. I called him in to let the people of London how I've been vandalized and how the tenants behave in the area, throwing garbage, balcony full of garbage and all the rest of the stuff in that way, and instead he put in the paper "Poor tenants got nowhere to wash their clothes because bad landlord won't fix up the machines." That's what I got from this idiot. And which caused me lots of damage and ruined up everything to me, and to my tenants of course. So me and my tenants are victims of this kind of people.

20
Q. Okay. I'm going to ask you the question again. Do you ---

THE CHAIRPERSON: Before you ask the question.

Mr. Elieff, I would like to ask you ---

25
THE WITNESS: No, he did not give me any opportunity, because I never talked to him. I only wanted to show him my way and he didn't do even that.

THE CHAIRPERSON: I understand ---

THE WITNESS: What kind of opportunity he gave me?

THE CHAIRPERSON: I understand your point.

THE WITNESS: None.

30
THE CHAIRPERSON: My comment is a more



1
general one.

THE WITNESS: Yes, sir.

5
THE CHAIRPERSON: When you refer to any person who is a witness here, you can have your opinion about the value of the evidence, but I would ask you not to make comments of persons that are insulting or degrading.

10
THE WITNESS: I was hurt terribly, everything's been killed for me, and those kind of people are killers to me. They killed everything for me, so I got no other way to say about them. They're murderers and they want to get away with it. People like him and Eagle and all the rest of the garbage.

15
THE CHAIRPERSON: Mr. Metz, I'm appealing to you, I'm looking to you to speak with your client.

20
MR. METZ: Mr. Elieff, I would suggest that you just answer Ms. Sanson's questions and don't refer to other people in the room.

THE CHAIRPERSON: Okay.

25
THE WITNESS: No, he didn't. Because he says in his talk here that he saw me not very good in English, so why would he put garbage in there if he didn't not really understand what I meant if I have said something. Why would he do that? Why not provide a fair translator and everything else.

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760

E. ELIEFF, cr-ex.
(Sanson)

BY MS. SANSON:

Q. Okay. I'm going to ask you the question again.

5

A. He didn't give me opportunity for nothing. He just put in the paper whatever he wanted to put so the paper can sell and make money.

10

Q. I'm not asking you about what he put in the paper, I'm asking you ---

A. He did not give me opportunity.

Q. He didn't ask you the question about why you called or you made the comparison of your tenants as being pigs in the jungle?

A. None of that.

Q. He didn't ask you for that?

20

A. None of that. Never asked me anything and I never recall talking to this idiot on the phone, never.

Q. And you never said ---

A. Never said anything.

25

Q. --- "they're not pigs"? "I'm not saying they're pigs, they're only doing what pigs would do", is that your evidence?

A. I said what I said when ---

Q. Did you say that to him?

30

A. No.



1 Q. You never said that to him?

A. No, no.

5 Q. You never made that comment about
your tenants?

A. I never said anything about pigs.

Q. You never ---

A. Never ---

10 Q. --- referred to your tenants ---

A. --- never ---

Q. --- as being ---

A. --- ever.

15 Q. --- pigs?

A. Yes.

20 Q. And you never said "I'm not saying
that they're pigs, they're only doing what pigs would
do?"

A. Never. That's what maybe he's been
saying ---

25 Q. He's been saying it ---

A. --- to himself or to me ---

Q. --- but you never said that?

A. --- but not me.

30 Q. You've never said it to him?

A. Never said that.

Q. You've never said it to the media?



1
A. Never said it. His notes are
bullshit.

5
Q. What would you say, Mr. Elieff, if I
said to you that I have a video recording of you having
made some of the comments which you have denied?

A. I don't know nothing about that.

10
Q. Is he lying?

A. He's ---

Q. Is Mr. Van Moorsel lying?

A. He, you, Eagle, everybody, you're
just a bowl of shit, bunch of bullshit to me, because you
don't want to see the real cause of the problem, who
you're trying to fight. What have I done?

MR. METZ: I'd like to interrupt here.

THE CHAIRPERSON: Yes.

20
MR. METZ: Has this video been entered as
evidence yet?

THE CHAIRPERSON: No, it hasn't, but Ms.
Sanson is raising this as a possibility I'm sure.

25
THE WITNESS: You want to drag this for a
whole year for no reason, just to make sure you win, eh.

THE CHAIRPERSON: Mr. Elieff, just ---

30
THE WITNESS: That's what you're after.
We waste all the time in the world ---

MR. METZ: Mr. Elieff ---



1 THE WITNESS: --- and count the days.

MR. METZ: --- let us continue with the
actual evidence at hand here.

5 THE WITNESS: Show me the video tape.
Where is his tape?

10 THE CHAIRPERSON: Let me ask you, Mr.
Elieff, this -- cross-examination is not easy for anyone

THE WITNESS: Yes, but she's saying tape,
well, I want to see it. Where is it?

15 THE CHAIRPERSON: --- and it's not a nice
thing to get into the stand there and be cross-examined
by someone. I'm asking you to exercise some restraint
and just answer the questions that are put to you without
commenting in general about ---

20 THE WITNESS: But they destroyed
everything already for me, so I don't know. Keep asking
questions, I'll try to answer.

25 THE CHAIRPERSON: Just answer the question

THE WITNESS: Okay.

30 THE CHAIRPERSON: --- question as best you
can. Direct it to the question that's being asked of
you. Okay.



BY MS. SANSON:

Q. Isn't it true, Mr. Elieff ---

A. What you look at me. What do you want to say with this look? Look at that one. Don't look at me like that.

THE CHAIRPERSON: I'm going to ask for ---

THE WITNESS: Do you understand?

THE CHAIRPERSON: --- a five minute break, please.

THE WITNESS: Of course. She's looking like a witch lady here.

THE CHAIRPERSON: Mr. -- let's get off the record, please.

(DISCUSSION OFF THE RECORD)

--- Upon recessing at 4:05 p.m.

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765

E. ELIEFF, cr-ex.
(Sanson)

--- Upon resuming at 4:10 p.m.

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THE CHAIRPERSON: Okay, let's proceed.

ELIJAH ELIEFF, Resumed:

10

CONTINUED CROSS-EXAMINATION BY MS. SANSON:

Q. Mr. Elieff, would you agree with me that you spoke freely to the media about your views and you indeed continued to do that?

A. What's that?

15

Q. Do you agree with me that it was you who spoke to the media in the first place?

A. No.

20

Q. You never said anything to the media?

A. Not me speaking to them, they were after me. asking questions.

Q. And you talked to them?

25

A. At the buildings when I -- when I told him -- when I agreed to meet with him there.

Q. And you spoke to them before that?

30

A. Just one call. I don't know who called, he said -- and to that call I said "Let's go there and let me show you", and if it was him or someone else, I don't know.



1
5
Q. Okay. But before Mr. Van Moorsel came to your apartment buildings there was that article in the Free Press. Now, if you were so upset about that article why did you agree to speak with him again?

10
A. I don't know, everything's on the paper what they've been saying, and whatever they been saying or what I been saying. The point is, what make everybody upset, me calling them names, which is not true, that's all.

Q. Okay. I'm going to ask you again. You agree with me that you continued to speak with the press even after the first ---

A. No, I don't agree with you.

Q. --- article was published?

A. I don't agree with you.

20
Q. So you didn't speak with the press after the first article was published?

A. That's my answer, I don't agree with you.

25
Q. Isn't it true that you spoke with them after the first article was published?

A. I don't remember to whom spoke, when and how, but I don't know that I never said such a stuff like they've been accusing me.

30
Q. Okay. That's not the question I'm



1 asking you. The question I'm asking you is, you spoke to
the press, there was an article published.

5 A. Which one?

Q. The first Greg Van Moorsel article.

A. Which one article? Let me see it.

10 **MR. METZ:** I believe that's the "Won't
Pay \$6,000.00 Fine" one, is that correct?

15 **MS. SANSON:** That's right. He wants to
see it.

BY MS. SANSON:

20 Q. Okay, that's the first article by Mr.
Van Moorsel. And then after that he went and visited the
building and there was another article. Do you agree
with me?

25 A. I don't -- I don't recall any of
this. I only know here when I sat down and he asked me a
few questions and ---

Q. And that was after you ---

30 A. --- before that ---

Q. --- had already talked ---

A. --- before that I showed him the
area.

35 Q. --- to the press though?

A. Before that I showed him the area ---

1
Q. Right.

5
A. --- and the next day he won't put anything what I asked him to do, and from then on I shut him up, I told him to go to hell, not to give him any more comments.

10
MR. METZ: If I may interject here? Both of the articles, according to Mr. Van Moorsel's testimony this morning, were taken from the same day's notes.

THE CHAIRPERSON: And nobody is disputing that.

5
I think -- Ms. Sanson, what was the question you just asked?

BY MS. SANSON:

20
Q. The question is, Mr. Elieff, do you not agree that you continued to speak to the media about your views, even after the first article was published?

A. I don't remember or recall anything of this, what this reporter has said.

25
Q. You don't recall anything, but you still deny the comments?

A. Comments. I never made these comments.

30
Q. You never.

A. That's the man right.

1
A. You're sure you never made those
comments?

5
A. That's the man right here making
these comments

Q. You never made the comments "They're
like little pigs" ---

A. Someone else.

10
Q. --- "they think they're living in the
jungle"?

THE CHAIRPERSON: Ms. Sanson, I think ---

THE WITNESS: No, never made it.

15
THE CHAIRPERSON: --- we've had ---

THE WITNESS: Never made those comments.

MR. METZ: If I may make a point?

THE WITNESS: Certainly.

20
MR. METZ: Mr. Elieff has denied making
these statements since day one ---

THE WITNESS: Sure, never made them.

25
MR. METZ: --- and we're now in day eight
and he's still being asked the same questions.

THE WITNESS: Yes. Stupid.

BY MS. SANSON:

30
Q. I just want to be sure, because ---

A. Be sure.

1
Q. --- I'm putting it to you now, Mr.
Elieff ---

A. Be sure.

5
Q. --- because I will call that evidence
in reply ---

A. Be sure.

10
Q. --- that we have a video tape of some
of the comments that you made.

A. You have whatever you want to say,
but it's all ---

Q. And you continue to deny those
comments.

A. --- so wrong. It's all wrong. It's
all wrong.

20
Q. Okay.

A. It's all a lot of ---

Q. So the video is wrong as well, is
that right?

25
MR. METZ: Excuse me ---

THE WITNESS: I don't know. I told you on
the stairs over there, they asked me did I call them
pigs. They asked the question, and what they asked they
are maybe putting in there.

30
THE CHAIRPERSON: I think it's clear ---

THE WITNESS: Which question I answered



1 them, I never called anybody pigs, which is true.

THE CHAIRPERSON: It is clear that Mr.
Elieff has ---

5 THE WITNESS: So, you know ---

THE CHAIRPERSON: --- denied this
repeatedly. I think, Mr. Elieff, what Ms. Sanson is
saying, that she wants you to know that she will
10 challenge that statement by calling ---

THE WITNESS: Of course she will challenge
that.

15 THE CHAIRPERSON: --- a tape at a later
time.

THE WITNESS: Sure. But I don't want to
get entrapped because of my language, I don't understand
all the precise questions. So, but as much as I'm able
20 to pinpoint, and I told this clearly from day one, it's
them at fault, it is not me.

THE CHAIRPERSON: I think the question,
the question that's been put to you is just simply did
25 you make those comments, and you have denied them. And
do you wish to change or ---

THE WITNESS: No. No.

30 THE CHAIRPERSON: --- adjust your
comments?

THE WITNESS: Never made those comments.



1
THE CHAIRPERSON: Okay.

MS. SANSON: Okay?

THE CHAIRPERSON: Let's proceed.

5
BY MS. SANSON:

10 Q. You agree with me that your representative, Mr. Metz, continues to make statements to the media about your case during this hearing?

A. You're asking whether I got -- neither way to say about it. I don't know.

MR. METZ: Mr. Elieff ---

THE WITNESS: I'm only grateful and appreciable.

MR. METZ: --- if I can answer that question.

20 THE WITNESS: I'm very grateful for him that he understood this helping me, because it's easy to be on that side sitting for free everything, right?

25 BY MS. SANSON:

Q. I'm going to ask you, Mr. Metz is your representative ---

A. M'hm.

30 Q. --- and throughout the course of your evidence your defence has been that it's the London Free



1944

Dear Sir,
I have the pleasure to inform you that your application for a grant has been received and is being considered.

The grant is for the purpose of supporting your research into the effects of the new drug on the human body.

The amount of the grant is £1,000 per annum for a period of three years.

The grant will be paid in three equal instalments of £333 6s 6d each.

The first instalment will be paid to you on the 1st day of January 1945.

Yours faithfully,
The Director

Director, Medical Research Council, 5, Avenue Road, London, N.W. 8

Enclosed for you are the conditions of the grant and the application form.

Very truly yours,
The Director

1

Press who has promulgated these views unjustly about ---

A. And Susan Eagle. And City Hall.

5

Q. --- and it's the press who has
initiated ---

A. And Eagle, and Susan and City Hall.

Q. But nonetheless you continued to talk
to the press, or did continue to talk to the press ---

10

A. Gang of four I call them.

Q. You spoke to the press after the
first ---

15

A. I don't recall what ---

Q. You don't recall that?

A. No, I don't recall.

20

Q. And your agent, Mr. Metz, continues
to speak to the press throughout the course of the
hearing, you agree?

A. It's Mr. Metz, my spokesman, and he
speaks for me since he started to speak for me. And all
I ---

25

Q. And that's okay for him to speak to
the media, even though you think that your views are
being unjustly characterized?

MR. METZ: I object.

30

THE WITNESS: What do you think I'm going
to lose from tomorrow on?



1
MR. METZ: I don't think Mr. Elieff ---

5
THE WITNESS: --- after my swearing this
out. I'm going to raise the hell out of this woman and
you and everybody else. What do you think? To me you're
not a lawyer still ---

MR. METZ: Mr. Elieff ---

10
THE WITNESS: --- defending this side when
it's completely wrong. You know it. You know they're
wrong and you're still trying to fight for them.

THE CHAIRPERSON: Mr. Metz, did you want
to say something?

MR. METZ: I don't think Mr. Elieff is in
a position to make a -- give opinions or evidence
according to my actions. I can tell you for sure ---

20
MS. SANSON: Your actions are his actions
for the purpose of this case, Mr. Metz.

25
MR. METZ: Well, his awareness of my
actions. If you recall, when we left the last
proceedings we were not supposed to discuss evidence with
each other since the last hearing, we haven't seen each
other basically since the last hearing ---

THE WITNESS: No.

30
MR. METZ: --- and the press releases that
have gone out since were done on my initiation and he has
found out about them today himself.

1
THE CHAIRPERSON: Well ---

5
THE WITNESS: Ask your questions and
you'll get your answers.

THE CHAIRPERSON: Then, Mr. Elieff ---

THE WITNESS: Simple as that.

10
THE CHAIRPERSON: --- let's make two
things clear. First, that you will not make any personal
comments about anyone in this room, and particularly
counsel or representatives of parties to this hearing.

15
The second thing is that you will
endeavour to answer the question that is put to you
directly ---

THE WITNESS: To the best of my ability.

20
THE CHAIRPERSON: To the best of your
ability, without making comments in general about how you
feel about the case or how you feel about other people
not involved in the question that's being put to you.

25
THE WITNESS: But if she gives me a
question that leads to that kind of answer what can I do,
you know?

THE CHAIRPERSON: Well, let's try and
focus on the questions.

30
THE WITNESS: Okay. Let's see what the
questions are.

1

BY MS. SANSON:

Q. I'm going to ask you the question again, and hopefully this time ---

5

A. Keep asking questions.

Q. --- you will answer ---

A. Yes.

Q. --- the question that I'm asking.

10

And that question is, were you not present at last day's proceedings when the TV media interviewed Mr. Metz?

A. I don't know whether it was last or second before last, I don't know which one you're talking about.

15

Q. You agree with me, then, indeed that you were present when Mr. Metz expressed views to the media about your case?

A. At one time I remember that he did on the table and I was next to him, I was asked too. But I don't know when that was and I don't remember what was ---

20

Q. And that's okay by you?

A. I don't know how to answer this question. Here is the chairman, he can ---

25

Q. Is that okay by you? You were comfortable in having him speak to the press on your behalf?

30



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778

E. ELIEFF, cr-ex.
(Sanson)

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A. To me, I am comfortable, because I see this gentleman, who is nothing to me, trying to fight for a -- to defend a -- help me defend myself, so of course it is.

THE CHAIRPERSON: Let's move on, Ms. Sanson.

10

MS. SANSON: Okay.

BY MS. SANSON:

15

Q. Is Irina Sucur your sister?

A. No, she's not.

Q. Is she related to you in any fashion?

A. No, she's not.

Q. She's not your sister-in-law?

20

A. Uh-uh.

Q. Who is your sister, Mr. Elieff?

A. M'hm?

25

Q. Who is your sister? You have a sister residing in London?

A. I got -- I got three sisters back in Makedonija. One is in Skopje the other one is in Koleshono (phonetic), my town of birth, and the third one is in Strumica, City of Strumica.

30

Q. And who is the sister, then, that would have signed an invoice for you or had something



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779

E. ELIEFF, cr-ex.
(Sanson)

delivered to your sister?

A. I don't know, I don't know.

5

Q. Someone who goes by the name of your
sister?

A. I don't got sister, I got wife,
that's all.

10

Q. Do you refer to Irina Sucur as your
sister?

A. No.

15

Q. Okay. We've got one of the invoices
that you filed, it's dated October 18th, 1985, and it's
the description:

20

"Talked with two fellows from health
department, advised them that even a
good drain doesn't take these
objects. However, there may be a bad
join at 30 feet to repair. Will have
to dig where C/O is at front and
scope to bad spot then break up
inside and dig down and find out what
the problem is to go with tenant to
get copies made of this work order
for owner's sister."

25

30

A. That's what the plumber is talking of

me.



1 Q. But you're the owner, right, of the property?

5 A. I'm not -- that's not what I'm talking there. Who is writing this? Who is writing it? Who has written it?

10 Q. Well, the person who requested -- who is filling out the order, but he makes reference to the owner's sister.

15 A. He is mistaken I think. He is mistaken. She was my superintendent, yes, but not sister.

Q. Who?

A. Irina.

Q. Irina Sucur was your superintendent?

20 A. She was my superintendent, not my sister. Maybe he meant to write superintendent and made a mistake by sister.

Q. And she's not your sister?

A. No.

25 Q. Now, you said in your evidence that you've been unable to rent out apartments and you've been blaming much of the not being able to rent out apartments on Susan Eagle. Wouldn't you agree with me that there was a work order made back in November, was it, of 1992 from the Health Department condemning units 1, 2, 3, 4,

30



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781

E. ELIEFF, cr-ex.
(Sanson)

5, 6 and 7 because of the sewage back up?

5

A. That's after the charges, and if something happened today, yesterday, it doesn't bear anything about this ---

Q. Isn't it true ---

A. --- shit here.

10

Q. Would you please answer the question? Isn't it true that, those apartments you can't rent out, because they've been condemned by the Health Department?

15

A. We were not supposed to talk anything after we started the proceedings, right?

THE CHAIRPERSON: Just answer this question, it is a fair one, Mr. Elieff.

THE WITNESS: Yes.

20

THE CHAIRPERSON: Just answer yes or no.

25

THE WITNESS: Well, I just let her answer it for me, because this is something that's happened after these charges, and I'm not going to go on this wasting years and after years for new charges. Let's stay at the original charges here that you want to accuse me, never mind this what happened now a few months ago.

30

THE CHAIRPERSON: I'm afraid you're going to have to proceed to the next question.

MS. SANSON: I'm going to be calling upon you to make an order with respect to your abuse of



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782

E. ELIEFF, cr-ex.
(Sanson)

process powers. If I'm unable to properly cross-examine the witness then I would ask that his evidence in-chief be struck.

5

THE WITNESS: But we have been told by the chairman a long time ago what we are after, because I can recall, you know. We don't want to add new stuff and new stuff, let's start the original charges. Let's bear these things out.

10

THE CHAIRPERSON: Mr. Elieff, if I can help you ---

THE WITNESS: Yes.

15

THE CHAIRPERSON: --- in answering this question. You may be concerned that because of any ---

THE WITNESS: I would ---

THE CHAIRPERSON: Let me finish.

20

THE WITNESS: Okay.

THE CHAIRPERSON: You may be concerned that any answer you give in this hearing ---

THE WITNESS: Will go ---

25

THE CHAIRPERSON: --- will go beyond this room and result in further charges.

THE WITNESS: And I'm not prepared for it.

30

THE CHAIRPERSON: I can assure you that they won't. But for the purposes of this hearing it is important that you answer questions that are put to you,



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783

E. ELIEFF, cr-ex.
(Sanson)

especially on cross-examination where they can ask you questions that are wider in scope. So the question that's now being put to you is a fairly simple one.

5

THE WITNESS: Yes, this question can lead to other questions, stuff that is new, and I don't want to answer this. I want her to ask a question and give the answer and I won't oppose anything.

10

THE CHAIRPERSON: Mr. Elieff, you must trust me to determine whether they are appropriate questions.

15

THE WITNESS: Well, I want to say what you said in the beginning, sir, you said we're not going to dig new stuff, so that's where I'm staying.

THE CHAIRPERSON: Well, let me ---

20

THE WITNESS: Because there are ---

THE CHAIRPERSON: Let me and try and ---

THE WITNESS: --- out of proportion.

THE CHAIRPERSON: --- simplify this.

25

MR. METZ: If I may?

THE CHAIRPERSON: Yes.

MR. METZ: What are these documents? What year? I'm sorry, I didn't catch the date on these documents.

30

THE CHAIRPERSON: What was the date on these documents?



1

MS. SANSON: Nineteen ninety-two (1992).

Mr. Elieff gave evidence in-chief ---

5

MR. METZ: Oh, '92.

THE WITNESS: Ninety-two ('92).

10

MS. SANSON: --- and extensive evidence in-chief about how he has been driven into financial ruin because of these proceedings, and how no one has rented his apartments. I would like to hear from Mr. Elieff on cross-examination whether or not it's true that at least seven of those apartments can't be rented out because they've been condemned by the Health Department.

15

THE WITNESS: Maybe by tomorrow all buildings will be condemned. I'm not going to talk about that.

20

MR. METZ: If I may interject?

THE CHAIRPERSON: Yes.

25

MR. METZ: Mr. Elieff is no longer in possession of his buildings, buildings have been taken over by the National Bank of Canada, and he's -- whatever happened in 1992, which is very recent, I don't think it relates to these charges.

30

THE WITNESS: No.

MS. SANSON: They're not charges, and I've asked Mr. Metz not to refer to them as charges ---

MR. METZ: Well, because of the



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785

E. ELIEFF, cr-ex.
(Sanson)

proceedings ---

MS. SANSON: --- and yet again we see that.

5

MR. METZ: --- and Mr. Elieff has not said that his woes are caused because of proceedings but because of actions taken by Susan Eagle, the community groups and by what appeared in the Free Press. You keep referring to these proceedings being the cause of his problems, they are not. He hasn't said that, I don't think.

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15

THE CHAIRPERSON: The question, if I understand, Mr. Metz, is fairly simple, it arises from a comment or an impression that has been left with the board that Mr. Elieff has suffered in his ability to rent apartments in the building because of these proceedings and because of publicity over the comments he allegedly made, and all Ms. Sanson is trying to discover is whether there are other factors involved in his inability to rent the apartments. That is why she has asked the question about whether Mr. Elieff knows that at least seven of those apartments were condemned, and that perhaps that was a reason why he couldn't rent them.

20

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30

So the question is a fair one just in terms of clarifying a point he had raised earlier, an impression he has left with the board earlier. So in my



1 opinion it's a fair question.

Now, Mr. Elieff, did you understand what I
just said?

5 THE WITNESS: I do understand everything
you say, sir, and I am not prepared to start anything
about ---

0 MR. METZ: Mr. Elieff. Mr. Elieff, the
answer to the question is yes or no, and I would suggest
that you answer it to the best of your ability. I mean
there's only two options. I can carry on the questioning
from there when I cross-examine again in reply.

.5 THE CHAIRPERSON: Agreed?

THE WITNESS: I don't agree. I know
exactly how we understand each other in the beginning
and that's where I stand. I'm sure you know what I mean,
20 that's where I stand. She can talk anything she want to
talk, ask any question you want to ask, and I'm not co-
operating with anything later stuff. Later stuff will be
in the court of law next time.

25 THE CHAIRPERSON: But, you see ---

THE WITNESS: That's what we've got to
know.

30 THE CHAIRPERSON: --- Mr. Elieff, let me
try and ---

THE WITNESS: There's got to be some

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787

E. ELIEFF, cr-ex.
(Sanson)

stopping point. That's all. We got a deal with these damn thing.

5

THE CHAIRPERSON: We're close to ---

THE WITNESS: And let's all ---

THE CHAIRPERSON: We're close to coming to a stopping point.

10

THE WITNESS: And I'm not -- I told you, she can add anything she wants to add about it and I'm not interested to even talk about it.

THE CHAIRPERSON: Let me try and explain it this way.

15

THE WITNESS: Forget it, it makes me sick, I cannot talk any more.

20

THE CHAIRPERSON: Mr. Elieff, let me explain this for you, this as simply as possible. You've come here, you've been asked to come here as a witness to give your side of the story.

25

THE WITNESS: Witness about this accusation stuff.

THE CHAIRPERSON: And you've had ---

THE WITNESS: No more new added stuff, sir. She can add a new complaint if she wants to.

30

THE CHAIRPERSON: Mr. Elieff, you must hear me out on this. You've had your time with Mr. Metz asking you questions to put in your evidence and to make



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E. ELIEFF, cr-ex.
(Sanson)

your comments.

THE WITNESS: Yes.

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THE CHAIRPERSON: Those comments will not
carry much weight with me ---

THE WITNESS: They were related about
those times ---

10

THE CHAIRPERSON: Let me finish.

THE WITNESS: --- not about tomorrow.

THE CHAIRPERSON: All your comments, which
is called evidence in-chief, will not carry a lot of
weight with me unless it is tested by cross-examination.

15

THE WITNESS: Well ---

20

THE CHAIRPERSON: Let me finish. This is
true of any witness that comes here. If I was to allow
any witness to get up here and just say anything and then
walk out of the room it's going to be virtually useless.
If you want your evidence to count and to carry weight it
must be tested, as every other witness's evidence is
tested, by cross-examination. Is that clear?

25

THE WITNESS: It is clear, but I -- it's
very clear to me how we understand from the beginning,
when we started this stuff, and that's where I'm centred
here. And why she added two extra charges, and why is
she calling extra this and that?

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THE CHAIRPERSON: Mr. Elieff ---



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789

E. ELIEFF, cr-ex.
(Sanson)

THE WITNESS: There has to be some point to that's enough of it. Let's deal and finish with it here.

5

MR. METZ: Mr. Elieff, if I could, as your counsel, advise you to please answer the question, because this will give me an opportunity to re-test the question in the same way as Mr. John has just explained.

10

THE CHAIRPERSON: And, Mr. Elieff, you must trust me and trust Mr. Metz to speak for you to determine which questions are appropriate or not. If they're inappropriate you must trust us to object to the questions, but unless we object I'm asking you to answer the question as simply as you can, a yes or no is fine.

15

THE WITNESS: Okay.

THE CHAIRPERSON: Okay?

20

Ms. Sanson.

THE WITNESS: The question is yes. The answer is yes.

THE CHAIRPERSON: Okay.

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BY MS. SANSON:

Q. Forty-three (43) is one of the apartments that you've also listed as now being vacant. Isn't that the apartment that John Pipe just moved out of? Wasn't he one of your witnesses?

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790

E. ELIEFF, cr-ex.
(Sanson)

A. What did you say? What you said?

Q. Apartment 43, isn't that the
apartment John Pipe lived in?

5

A. Yes.

Q. And he's moved now? That's one of
the ones you listed as vacant?

A. He moved a long time ago.

10

Q. Wouldn't you agree that the empty
apartments have more to do with your treatment of the
tenants and lack of repairs?

A. What?

15

Q. Wouldn't you agree that the reason
you have empty units has more to do with your lack of --
with your treatment of the tenants and your lack of
repairs

20

A. No, I don't agree.

Q. Well, you've just told me that ---

A. It doesn't matter what I told first.

25

Q. --- six of the apartments were
condemned ---

A. Yes.

Q. --- and whose -- is that your
responsibility to clean them up?

30

A. No, no, you asked me another question
or two to which I say no. Keep asking me more questions



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791

E. ELIEFF, cr-ex.
(Sanson)

and we say simply yes or no.

Q. And I've just asked you another question.

5

A. And I said no to that.

Q. But you just said yes to that.

A. So?

10

Q. Is it your responsibility to clean up condemned ---

A. Is there two questions?

THE CHAIRPERSON: Mr. Elieff ---

15

THE WITNESS: Two questions, you got two answers.

THE CHAIRPERSON: Mr. Elieff, just listen to the question.

20

Go ahead, Ms. Sanson.

THE WITNESS: You want a third -- another question, keep going.

25

THE CHAIRPERSON: She has another question. Just if you'd be patient and listen to the question, then you'd be free to answer. Okay.

THE WITNESS: Go ahead.

THE CHAIRPERSON: What's the question?

30

THE WITNESS: How many questions she asked me? Two, right?

THE CHAIRPERSON: She can ask you ---



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E. ELIEFF, cr-ex.
(Sanson)

THE WITNESS: No, how many questions she asked me, two?

5

THE CHAIRPERSON: Mr. Elieff ---

THE WITNESS: One is whether it was condemned, right?

10

THE CHAIRPERSON: --- if you wouldn't interrupt Ms. Sanson when she's asking the question, and let her complete the question.

15

THE WITNESS: And I did, and she interrupted me. I answered her. The first question was, was there a condemnation? Yes.

Second question she asked me, I said no. Go next question.

20

THE CHAIRPERSON: All right, Ms. Sanson, what's the next question?

THE WITNESS: What the hell is ---

25

BY MS. SANSON:

Q. The next question was, whose responsibility is it to clean up the condemned apartments? Is it your responsibility?

A. It depends.

30

Q. So that's ---

A. It could be mine, it could not be mine, I don't know.



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793

E. ELIEFF, cr-ex.
(Sanson)

Q. You don't know?

A. I don't know for sure.

5

Q. But you haven't rented those apartments out, six of those apartments at least, because they're condemned?

A. I don't know for sure. I don't know for sure.

10

Q. Because those apartments haven't been repaired?

A. They were all nicely repaired and cleaned up and everything else, and I showed it to them, but they asked me to go and apply in a written way that it's all done so they can come and I said -- I refused to do that, and they continued to say I was condemned. But they were all clean and fixed up. They saw it. They ran a check through the order. You can check with them, check with Partalas, who saw them all being fixed up. And then he said they're all fixed up, that I should apply to get this taken off, and I didn't.

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20

25

Q. Well, Mr. Elieff, we had Mr. Partalas here and you could have asked him that question.

A. M'hm. So they were repaired. You said they were not, but they were. They all were repaired and cleaned. But for whom? I get a tenant who broke all the windows, broke everything there.

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E. ELIEFF, cr-ex.
(Sansón)

Q. We're talking about the condemned
apartments.

A. Yes.

5

Q. Do you not see it as your
responsibility to fix those apartments up satisfactory?
Is that ---

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MR. METZ: I'd object. Mr. Elieff has
testified he has ---

THE WITNESS: Whether it is my ---

15

MS. SANSON: Excuse me, Mr. Metz, I would
like to finish my question, if you have an objection
after the question is made then make it at that time, but
do not interrupt me.

THE WITNESS: I fixed them up.

20

THE CHAIRPERSON: Mr. Metz, let the
question be put, please.

THE WITNESS: Yes.

25

MS. SANSON: I'm going to ask for a break,
because between Mr. Metz and Mr. Elieff, I don't even
know what my questions are any more.

THE WITNESS: Yes, you do.

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MS. SANSON: And I am not going to
continue with this cross-examination ---

THE WITNESS: I'm sorry. I'm sorry. I'm
sorry, I ---



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E. ELIEFF, cr-ex.
(Sanson)

MS. SANSON: --- if I cannot ask my questions and get my answers.

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THE WITNESS: Listen.

THE CHAIRPERSON: Mr. Elieff ---

THE WITNESS: Listen about.

THE CHAIRPERSON: Mr. Elieff ---

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THE WITNESS: I tell you ---

THE CHAIRPERSON: Mr. Elieff ---

15

THE WITNESS: --- I don't know whether it's my responsibility or not, but I did fix them up, that's what I'm telling you, you know. What more do you want to know?

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THE CHAIRPERSON: I'm going to ask for everyone to leave the room, except Mr. Metz and Ms. Sanson.

(WITNESS WITHDRAWS)

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MR. METZ: Are we still on the record?

THE CHAIRPERSON: Yes. Ms. Chippeng can stay and Chanthy, because you're a party to this. You don't have your counsel here.

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MR. METZ: And Mr. Elieff?

THE CHAIRPERSON: This is basically the parties or their representatives, and Ms. Sanson is



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representing the Commission.

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We're running into some difficulty here, and I've tried to make it clear to Mr. Elieff that he has to be prepared to answer questions on cross-examination reasonably. It is clear in the short time that we have been engaged in attempted cross-examination that this is going to be virtually impossible, and that's my reason for taking this time to discuss this, because it's going to present a problem.

10

15

So, Ms. Sanson, let me hear from you and then, I don't know if Chippeng has anything to add, but then I'll hear from Mr. Metz.

20

MS. SANSON: The Commission's submission is simply that if the Commission is not entitled to conduct a full and fair cross-examination of a key witness, and also the individual and corporate respondent for the human rights complaint, then in essence it has been denied the opportunity to test the defence.

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The questions that are being asked all arise out of evidence given in-chief, and a great deal of latitude, despite objections from Commission with respect of areas of evidence and, nonetheless, the respondents insisted on going ahead with this evidence and I'm entitled to test that.

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I also have responsibility and carriage of the complaint before the board, to properly test that for the interest of the complaint going ahead and the interest of the complainant, and if we're denied an effective cross-examination, which I submit is what's happening now, the board has within its powers to make whatever order as is necessary under section 23 of the Statutory Powers Procedure Act to prevent an abuse of process.

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20
I am aware of one other instance only where a respondent, an individual -- actually it was a complainant, despite a number of cautions by the board as to the evidence and how the evidence was to be presented, that person nonetheless continued on. An effective examination of that person could not be conducted and, as a result, that evidence was not relied on. And that, I believe the case was Johnston.

25
THE CHAIRPERSON: Yes. I think that would be -- just before I hear from you, Mr. Metz.

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I think that would be consistent with the principles behind receiving evidence and having it tested. Whether it's officially, whether the evidence is officially struck from the record or not, I think any court or tribunal would not be able to give that evidence much weight, which is virtually the same thing.



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So I think -- my point is, Mr. Metz, that Mr. Elieff is just making things that much more difficult for himself.

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MR. METZ: Oh, I understand that, and I tend to agree with what has been said here so far.

10

I think in looking at Mr. Elieff's current frame of mind, I think it should be understood that he's not in a good frame of mind, he's been severely depressed recently and he blames all the problems on the circumstances surrounding this, and he no longer has his buildings, he has no income, so I guess you have to understand his emotional state right now.

15

THE CHAIRPERSON: Yes.

20

MR. METZ: And perhaps I -- the only thing I can ask is perhaps a little extra consideration in terms of his emotional state in answering the questions. I think he will answer your questions. I know it's already getting quite late in the day and he's just getting up now, but ---

25

THE CHAIRPERSON: Do you see any -- I have another question, but do you see any way we could proceed, I mean, Mr. Sanson, I'm asking if you select the questions you wish to ask without feeling that you're overly hindered in this? Given the state, the emotional and mental state that Mr. Elieff is in currently, is

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there a way that you can select the questions to ask Mr.
Elieff bearing that in mind, and thus proceed in a
slightly different way than you normally would with the
5 freedom you'd have to cross-examine a witness?

My second point is that I am not aware of
what you've just mentioned of Mr. Elieff's current status
with those apartments, and I don't know how the board
10 should best receive that information. I think it's
important information. I'd like to know if in fact those
things have transpired, and I would like to have some
evidence put in that effect.

15 **MS. SANSON:** This is going to lead to
another full area of objection. I mean, on the one hand,
the very questions as they relate to, you know, you've
heard all this evidence about he's going into ruin. Now,
20 you know, we're hearing through Mr. Metz's mouth that
there's, you know -- he's going into further financial
ruin and that's the cause of his -- well, we could open
-- we could extend that.

25 I'm not even getting answers to basic
questions about evidence already introduced, and if Mr.
Metz wants to talk about where that money has gone for
the incomes he's been earning from the rents of these
30 buildings and get into that, once again we're entitled to
test that. And the question of what has happened to



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those buildings, if we're going to deal with that, again,
and ---

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THE CHAIRPERSON: No. I think that -- I'm
not disagreeing that the questions are valid when they
relate to how the money has been applied during the term
that he was in control of those buildings. What I
understand now is that he is not in control of those
10 buildings and of the income from them. That would have a
direct bearing on the nature of the remedy that can be
reasonably applied.

10

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MS. SANSON: And that would certainly have
to be addressed ---

THE CHAIRPERSON: That's right.

MS. SANSON: --- by way of argument.

THE CHAIRPERSON: That's right.

20

MS. SANSON: But it's not a question of
the buildings have not been sold, and so any absence of
control has been through Mr. Elieff's absenting himself
from having anything to do with the buildings at all.
25 And so, I mean, if we're going to get into that whole
line of questioning, you know, I would raise the further
-- if I'm not even entitled to ask the most basic
questions about his rental incomes and why he hasn't
received rents for certain apartments because they're in
30 fact condemned and because he's done nothing to do about

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801

those apartments for months, well, it has nothing to do with ---

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THE CHAIRPERSON: His present circumstances. No, I agree. I agree. I'm not suggesting that you shouldn't ask those questions, what I'm looking for is a way to proceed as fairly as possible, giving the Commission and the complainant what is fairly their right in cross-examination, but bearing in mind Mr. Elieff's present state of mind.

10

So what I'm saying is, is there a way to proceed with the cross-examination without having to suspend the cross-examination, virtually eliminating any weight that is to be given to his direct evidence. Because I think that's the -- we might have to resort to that if ---

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MR. METZ: Could you repeat that? Is there a way to proceed without ---

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THE CHAIRPERSON: Is there a way to proceed with this cross-examination at this point in time, because if there isn't then there really is not much alternative. The weight to be given to any evidence that Mr. Elieff has given would be virtually nil, because it hasn't been tested.

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MR. METZ: Well, again, the whole thing depends on his co-operation in terms of answering the



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questions. Perhaps if I try to impress upon him the importance of his co-operation once again, not only from his own point of view but from my point of view. I think Mr. Elieff doesn't quite understand that I'm counting on this information as well.

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THE CHAIRPERSON: Okay. If you could take a few minutes before he comes back in to speak to him again, I'd appreciate that, and explain to him the seriousness of this, and he may have a near suicidal approach to this in terms of his case.

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MR. METZ: Mr. Elieff is in a state of mind where he feels that, in his own words, you know how he's always said "They've already killed me, what more can they do to me", this is how he looks at it. So he feels like he's at the bottom of the barrel and there's nothing that this board or any court of law could do to him that would put him in a worse position than he's in now, and that's essentially his state of ---

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THE CHAIRPERSON: Well, we may have to take him the way he is, and that may in fact be the result at the end of this day, that he will bring this upon himself, but I'm not going to -- I'm not prepared to accept that right now.

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MR. METZ: No, myself either. I'm just explaining ---



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THE CHAIRPERSON: I'd like to give him a chance.

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MR. METZ: --- for your own insight, so you understand where he's coming from.

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I notice it's already like, it's five o'clock basically, how long would we be going with cross-examination still, or how much longer do you anticipate, Ms. Sanson?

MS. SANSON: Well, I've only asked about four questions, so ---

MR. METZ: Right.

15

MS. SANSON: --- we're going to be at least half of ---

MR. METZ: We got started rather, late.

MS. SANSON: --- half of tomorrow.

20

MR. METZ: Would it be perhaps better to continue the cross-examination in the morning, and by then he might have had a good nights sleep?

25

THE CHAIRPERSON: And I think even though this is in the midst of cross-examination I would like to ask you to speak to him about this, not about any of the evidence ---

MR. METZ: No, no.

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THE CHAIRPERSON: --- but about the process ---



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MR. METZ: About the importance of
testifying ---

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THE CHAIRPERSON: And I trust you will
exercise that caution. And it may be good to use the
evening as a cooling off period for him.

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But tomorrow, if he has the same attitude,
it won't be long before we'll have to move on to other
things and then his case will basically be -- it will
have to rest on those witnesses other than his evidence.

MR. METZ: What time are we scheduled to
begin in the morning?

15

THE CHAIRPERSON: The usual start time is
10, but I'm happy to start early if ---

MS. SANSON: I would prefer to proceed at
10.

20

THE CHAIRPERSON: Ten (10).

MR. METZ: Okay, that's fine.

THE CHAIRPERSON: All right? Ms. Sanson,
are you agreeable to start tomorrow at 10 ---

25

MS. SANSON: Certainly.

THE CHAIRPERSON: --- in cross-
examination?

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MR. METZ: May I ask where these came
from? Are these from you?

MS. SANSON: Yes, those are mine and I'll



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E. ELIEFF

refer to them as I go through Mr. Elieff's evidence.

MR. METZ: Oh, okay. I hadn't seen them before. But those are my copies?

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MS. SANSON: Yes.

THE CHAIRPERSON: I can't stress more strongly that this is the only way that we know in this country to hear the evidence and have it tested fairly

10

MR. METZ: I agree.

THE CHAIRPERSON: --- and no matter how bad his personal circumstances are the truth of what he has said still needs to be tested.

15

Okay. Does Ms. Hom understand what we've just been discussing? Is she agreeable to start tomorrow? Okay.

20

Well, let's have everyone else back in and we'll just confirm that.

MR. METZ: Okay. Should I just call them in?

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(SHORT PAUSE)

ELIJAH ELIEFF, Resumed:

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THE CHAIRPERSON: Sit down, Mr. Elieff.



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806

E. ELIEFF

We've decided to adjourn until tomorrow morning, seeing as it's nearly five o'clock, and I have spoken to Mr. Metz and we've agreed that he may speak to you about the procedure for tomorrow, and that only, and not about the substance of your evidence. So with that in mind I will adjourn until 10 o'clock tomorrow morning.

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MR. METZ: Same room?

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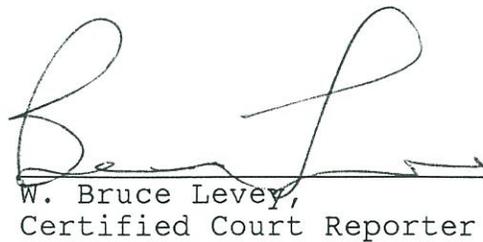
THE CHAIRPERSON: Same room.

--- Upon adjourning at 4:55 p.m.

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CERTIFIED CORRECT

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W. Bruce Levey,
Certified Court Reporter

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