

**THE CORNWALL
PUBLIC INQUIRY**



**L'ENQUÊTE PUBLIQUE
SUR CORNWALL**

Public Hearing

Audience publique

Commissioner

The Honourable Justice /
L'honorable juge
G. Normand Glaude

Commissaire

VOLUME 178

Held at :

Hearings Room
709 Cotton Mill Street
Cornwall, Ontario
K6H 7K7

Friday, December 14 2007

Tenue à:

Salle des audiences
709, rue de la Fabrique
Cornwall, Ontario
K6H 7K7

Vendredi, le 14 décembre 2007

Appearances/Comparutions

Mr. Peter Engelmann	Lead Commission Counsel
Ms. Julie Gauthier	Registrar
Ms. Christine Morris	Commission Counsel
Ms. Deirdre Harrington	
Mr. Ian Stauffer	
Mr. John E. Callaghan	Cornwall Police Service Board
Mr. Mark Crane	
Mr. Neil Kozloff	Ontario Provincial Police
Ms. Diane Lahaie	
Mr. Stephen Scharbach	Attorney General for Ontario
Mr. Peter Chisholm	The Children's Aid Society of the United Counties
Mr. Dallas Lee	Victims Group
Mr. Michael Neville	Estate of Ken Seguin and Scott Seguin and Father Charles MacDonald
Me Danielle Robitaille	Mr. Jacques Leduc
Mr. William Carroll	Ontario Provincial Police Association
Mr. Frank T. Horn	Mr. Carson Chisholm
Mr. Ronald G. McClelland	Mr. Sean Adams
Mr. Gordon Cameron	
Mr. Patrick McCann	Mr. Patrick McCann

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1 --- Upon commencing at 9:34 a.m./

2 L'audience débute à 9h34

3 **THE REGISTRAR:** Order; all rise. À l'ordre;
4 veuillez vous lever.

5 This hearing of the Cornwall Public Inquiry
6 is now in session. The Honourable Mr. Justice Normand
7 Glaude, Commissioner, presiding.

8 Please be seated. Veuillez vous asseoir.

9 **THE COMMISSIONER:** Thank you. Good morning,
10 all.

11 Mr. Stauffer, before we begin ---

12 **MR. STAUFFER:** Yes, sir.

13 **THE COMMISSIONER:** --- I want to make sure
14 that we have all of the monikers in line. So I don't know
15 if we can do that a little later on, but I want to make
16 sure, because it's Friday, that we get all that done.

17 **MR. STAUFFER:** Yes.

18 **THE COMMISSIONER:** As well, I understand
19 that there's going to be a snowstorm on Sunday and there's
20 30 or 40 centimeters of snow coming in the snow belt of
21 Cornwall. So you might want to check with the weather and
22 with our webcast or phone in to see how we're all going to
23 get here on Monday morning or Monday afternoon at 2:00.

24 All right? Thank you.

25 So if we can complete Mr. Gendron's

1 examination?

2 **MR. STAUFFER:** Mr. Commissioner, I would
3 call upon my next friend to come forward, whoever is going
4 to cross-examine next.

5 **THE COMMISSIONER:** Thank you.
6 Mr. Gendron, how are you doing today?

7 **MR. GENDRON:** Very well, thank you.

8 **THE COMMISSIONER:** Great. You understand
9 you're still under oath?

10 **MR. GENDRON:** I do.

11 **THE COMMISSIONER:** Or affirmed?

12 **MR. GENDRON:** Yes, I understand that.

13 **THE COMMISSIONER:** Thank you.

14 **RON GENDRON:** Resumed/Sous le même serment:

15 **THE COMMISSIONER:** Mr. Neville.

16 **MR. NEVILLE:** Good morning, Mr.
17 Commissioner.

18 **THE COMMISSIONER:** Good morning.

19 --- CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR MR.
20 NEVILLE:

21 **MR. NEVILLE:** Good morning, Mr. Gendron. My
22 name is Michael Neville and I represent Father Charles
23 MacDonald and also the Estate of Ken Seguin and his
24 brother, Doug. I just have a few minutes of questions for
25 you this morning.

1 One of the things you mentioned yesterday, I
2 believe, in one of your cross-examinations was that you had
3 a visit from Doug Seguin after Ken's death?

4 **MR. GENDRON:** That's correct.

5 **MR. NEVILLE:** And we know that Ken passed on
6 at the end of November, 1993. Approximately how long after
7 his passing did the brother come to see you?

8 **MR. GENDRON:** I believe it would have been
9 approximately one month.

10 **MR. NEVILLE:** A month later?

11 **MR. GENDRON:** I believe so.

12 **MR. NEVILLE:** And that would have been when
13 he said to you that as far as he was concerned, his brother
14 was not gay?

15 **MR. GENDRON:** That's correct.

16 **MR. NEVILLE:** Are you aware, Mr. Gendron,
17 that up to that point, which would put it late in '93,
18 maybe early part of '94 ---

19 **MR. GENDRON:** That's correct.

20 **MR. NEVILLE:** --- that up to that point in
21 time vis-à-vis be it the public, the police or Mr. Seguin's
22 family, the only person making an allegation of sexual
23 impropriety against him was David Silmser?

24 **MR. GENDRON:** That could very well be true,
25 yes.

1 **MR. NEVILLE:** Do you know much about Mr.
2 Silmsers?

3 **MR. GENDRON:** No, I do not.

4 **MR. NEVILLE:** You don't know what his
5 stability is or his emotional stability?

6 **MR. GENDRON:** No, I haven't -- I know none
7 of those things.

8 **MR. NEVILLE:** All right. You're not aware,
9 even from local media coverage, that throughout most of
10 1994, the Ontario Provincial Police extensively
11 investigated Mr. Silmsers's allegations and found them not
12 sufficiently credible to lay any charges?

13 **MR. GENDRON:** I'm not ---

14 **THE COMMISSIONER:** No. Well, just a second
15 now. I don't know -- is that in evidence?

16 **MR. NEVILLE:** There was a press release
17 that's been much talked about, Mr. Commissioner, Christmas
18 of '94 from the OPP indicating no charges.

19 **THE COMMISSIONER:** Well, indicating there's
20 no charges ---

21 **MR. NEVILLE:** To be laid.

22 **THE COMMISSIONER:** --- and saying that it's
23 because he is not credible is two different things.

24 **MR. NEVILLE:** Let me tell -- fair enough,
25 sir. I think you will hear evidence of opinions given to

1 the police by the Regional Senior Crown about whether there
2 was reasonable and probable grounds to lay a charge.

3 **THE COMMISSIONER:** Yes. Yes.

4 **MR. NEVILLE:** I'll put it on that basis.

5 **THE COMMISSIONER:** Well, you know, you're an
6 experienced lawyer, and so let's keep it ---

7 **MR. NEVILLE:** Yes, I'll use the phrase
8 reasonable and probable grounds.

9 **THE COMMISSIONER:** --- on the straight and
10 narrow.

11 **MR. NEVILLE:** Without belabouring the point,
12 sir, you're not aware of the investigations conducted by
13 the OPP and opinions given to them about whether charges
14 could or should be laid?

15 **MR. GENDRON:** I am not aware of that.

16 **MR. NEVILLE:** That's fair enough.

17 Now, am I also correct that during Mr.
18 Seguin's career, many former probationers, people who had
19 completed their term and were off doing their own thing,
20 would come back to visit him ---

21 **MR. GENDRON:** Yes.

22 **MR. NEVILLE:** --- at the office?

23 **MR. GENDRON:** Yes.

24 **MR. NEVILLE:** Drop in and say hello, type of
25 thing?

1 MR. GENDRON: Yes.

2 MR. NEVILLE: All right. And did that
3 include from time-to-time the two brothers whose names have
4 come up, one of whom has a moniker?

5 MR. GENDRON: Yes.

6 MR. NEVILLE: So they would come in for
7 fairly regular visits, having at one time been on
8 probation?

9 MR. GENDRON: Yes.

10 MR. NEVILLE: And one of those persons who
11 isn't monikered is Gerry Renshaw?

12 MR. GENDRON: Yes.

13 MR. NEVILLE: All right. Now, you are
14 aware, I take it, that the fact that Gerry Renshaw lived at
15 Ken Seguin's house went through approval levels at this
16 level, through Mr. Robert, and at Regional?

17 MR. GENDRON: Yes.

18 MR. NEVILLE: And Mr. Seguin notified his
19 immediate supervisor, who in turn, as you understood it,
20 went to Regional, that this was what was being proposed?

21 MR. GENDRON: Yes.

22 MR. NEVILLE: And do you know or can you
23 recall now how long it had been -- when this incident came
24 up about him living at the Seguin house -- how long it had
25 been since Gerry Renshaw was on probation?

1 **MR. GENDRON:** I don't know that.

2 **MR. NEVILLE:** You indicated to one of the
3 lawyers yesterday that a factor that might be appropriate
4 to consider, should this type of arrangement be permitted,
5 would be the length of time since the person was on
6 probation.

7 **MR. GENDRON:** That's correct.

8 **MR. NEVILLE:** What, from your standpoint, as
9 a benchmark would you say was an appropriate length of
10 time?

11 **MR. GENDRON:** To have a probationer living
12 with a probation officer?

13 **MR. NEVILLE:** Yes, in the situation that
14 happened?

15 **MR. GENDRON:** I don't think there's any
16 length of time.

17 **MR. NEVILLE:** Well, I thought you told Mr.
18 Commissioner yesterday that you thought that might be a
19 factor, the length of time since being on probation. Are
20 you now saying on no terms?

21 **MR. GENDRON:** To have a personal
22 relationship with an ex-offender, certainly the amount of
23 time would be taken into consideration.

24 **MR. NEVILLE:** Fine.

25 **MR. GENDRON:** But living with an offender, I

1 don't believe that would be considered appropriate
2 regardless of the length of time.

3 **MR. NEVILLE:** Well, that's your position,
4 right?

5 **MR. GENDRON:** That is my position.

6 **MR. NEVILLE:** All right. Fair enough.
7 Now, did you understand or know that Mr.
8 Renshaw was paying room and board?

9 **MR. GENDRON:** No.

10 **MR. NEVILLE:** That he wasn't living with him
11 in the sense perhaps you were implying. He was a tenant
12 paying to stay there. You didn't know that?

13 **MR. GENDRON:** I did not know that.

14 **MR. NEVILLE:** Does that affect your analysis
15 at all, that he was a paid -- paying room and board?

16 **MR. GENDRON:** No. My personal opinion? No,
17 it does not.

18 **MR. NEVILLE:** All right. And that at the
19 time, we're advised by statements and witnesses that Gerry
20 Renshaw was going through a bit of a personal problem,
21 needed a place, and was permitted to stay there, having
22 approval having been given up two levels, and paid room and
23 board. You weren't aware that that was the background?

24 **MR. GENDRON:** I'm not aware of that.

25 **MR. NEVILLE:** All right. Can we just talk

1 briefly then about another incident that concerned you, and
2 that's what we're calling the homicide incident?

3 **MR. GENDRON:** Yes.

4 **MR. NEVILLE:** Were you aware of the factual
5 circumstances of how that happened -- not the homicide, how
6 the individuals ended up at Mr. Seguin's house?

7 **MR. GENDRON:** No.

8 **MR. NEVILLE:** So you're not aware, for
9 example, that two of them, brothers and their mother, were
10 neighbours and social friends of Mr. Seguin?

11 **MR. GENDRON:** I don't know that.

12 **MR. NEVILLE:** That they were not
13 probationers?

14 **MR. GENDRON:** I don't know that.

15 **MR. NEVILLE:** That a third person who came
16 with them was not a probationer?

17 **MR. GENDRON:** I don't know that.

18 **MR. NEVILLE:** And it's the fourth person
19 that was in the process of having a report written. So you
20 didn't know that the other three were not in that category?

21 **MR. GENDRON:** I was aware of that. I had
22 heard that in the office.

23 **MR. NEVILLE:** And were you aware that the
24 two brothers had contacted Mr. Seguin on the basis they
25 were just going to drop in for a standard, neighbourly

1 visit and showed up with this other person who was a
2 probationer? Did you know that that's how it unfolded?

3 MR. GENDRON: No.

4 MR. NEVILLE: Did you know that the police,
5 when they looked into it, came to the conclusion that Mr.
6 Seguin had been intimidated?

7 MR. GENDRON: No.

8 MR. NEVILLE: Would you agree that Mr.
9 Seguin was somebody who had difficulty saying no?

10 MR. GENDRON: Yes.

11 MR. NEVILLE: Now, you were asked questions
12 yesterday about persons who made disclosure to you -- and I
13 think we talked about two -- after Mr. Seguin's death?

14 MR. GENDRON: Yes.

15 MR. NEVILLE: And we looked at a couple of
16 documents; right?

17 MR. GENDRON: Yes.

18 MR. NEVILLE: All right. Mr. Commissioner,
19 one of them is Exhibit 1115, Document 104894.

20 THE COMMISSIONER: Madam Clerk, do you have
21 it for the witness?

22 Do you have that, sir?

23 MR. GENDRON: Yes, I do, 1115?

24 THE COMMISSIONER: Yes.

25 MR. NEVILLE: Yes. And there's the

1 companion one, Mr. Commissioner -- 1116 is the exhibit
2 number.

3 **THE COMMISSIONER:** Yes.

4 **MR. NEVILLE:** Document 104895.

5 Now, if we can start just for a moment, Mr.
6 Gendron, with Document -- Exhibit 1116. This is a form,
7 obviously, that you completed?

8 **MR. GENDRON:** Yes.

9 **MR. NEVILLE:** Yes. And if I understand it,
10 when you look at the paragraph under details and
11 circumstances, C-50 which is his moniker, had been on
12 probation for three years ---

13 **MR. GENDRON:** Yes.

14 **MR. NEVILLE:** --- and was about two-and-a -
15 half to three weeks from completion of his probation ---

16 **MR. GENDRON:** Yes.

17 **MR. NEVILLE:** --- and had not been reporting
18 for about three months.

19 **MR. GENDRON:** Right.

20 **MR. NEVILLE:** So I take it he had been more
21 or less reporting for some two-and-a-half years?

22 **MR. GENDRON:** One moment, please.

23 **MR. NEVILLE:** Yes.

24 **MR. GENDRON:** Correct.

25 **MR. NEVILLE:** All right. And he attends to

1 see you, having failed to report. I take it you had sent
2 out some kind of contacts, either by letter or phone
3 advising him to get in?

4 MR. GENDRON: I don't have those notes.

5 MR. NEVILLE: I understand.

6 MR. GENDRON: I may have done that.

7 MR. NEVILLE: That would normally be when
8 you see a lapse in attendance something would be done?

9 MR. GENDRON: There would be some sort of
10 means of communication to try to get the probationer back
11 into the office to report.

12 MR. NEVILLE: Thank you. Fair enough.
13 So he comes in to see you it looks like on
14 the 13th of March, right? If you look on the bottom ---

15 MR. GENDRON: That was the date the report
16 was prepared, the 13th of March, 2001.

17 MR. NEVILLE: And looking at the second
18 line:

19 "This probationer had not reported for
20 three months until today."

21 Which I took to be the 13th, in the bottom ---

22 MR. GENDRON: Right. That's correct, yes.

23 MR. NEVILLE: All right. Now, if we can
24 just take a look as well at Exhibit 1115, which is an email
25 from Mr. Legault to Ms. Potter, CC'd to yourself, and this

1 particular event involving C-50 is discussed. And if we
2 look in the large paragraph starting, "I have reviewed the
3 file". Have you found that?

4 **MR. GENDRON:** Yes.

5 **MR. NEVILLE:** All right. If we look in the
6 third sentence it says:

7 "The only conditions were to report and
8 to comply with a restitution order for
9 \$3,285."

10 **MR. GENDRON:** Yes.

11 **MR. NEVILLE:** "Until recently, reporting
12 had been irregular at times but
13 generally acceptable, but he failed to
14 report since the end of November."

15 And then it goes on to talk about the
16 disclosure. And then about three lines down it says:

17 "Since the probation ends at the end of
18 March and since the client has paid
19 about two thirds of the restitution to
20 date..." --

21 so that would be about \$2,000.

22 **MR. GENDRON:** Yes.

23 **MR. NEVILLE:** "...despite the fact he was on
24 welfare for most of the supervision
25 period, Ron made the decision not to

1 proceed with charges."

2 MR. GENDRON: Yes.

3 MR. NEVILLE: Now, did it occur to you, Mr.
4 Gendron, that maybe this gentleman was taking advantage of
5 you?

6 MR. GENDRON: No.

7 MR. NEVILLE: He isn't breached. The
8 probation runs out; right?

9 MR. GENDRON: Yes.

10 MR. NEVILLE: Within a couple of weeks.
11 There's no more basis on which to force restitution, which
12 is about \$1,000 or more short.

13 And do I understand that because of his
14 disclosure of alleged abuse 25 years before, this was the
15 decision that was taken not to breach him?

16 MR. GENDRON: That would have been one
17 factor.

18 THE COMMISSIONER: Do you know if there was
19 a judgment against him? Other than restitution, had the
20 judge ordered ---

21 MR. GENDRON: There -- yeah, I don't believe
22 that would have happened in that case, particularly in
23 2001.

24 THE COMMISSIONER: Okay.

25 MR. GENDRON: It was rare to have it done

1 that way.

2 **THE COMMISSIONER:** M'hm.

3 **MR. NEVILLE:** Now, I just have a couple more
4 brief questions for you, sir.

5 When you were asked by Commission counsel
6 yesterday at the start of the evidence to describe Mr.
7 Seguin as a probation officer and with his clients, you
8 said a great many positive things about him?

9 **MR. GENDRON:** Yes.

10 **MR. NEVILLE:** And, for example, he went
11 beyond the call of duty; he was admired and respected
12 because he went that extra mile; he helped them with their
13 lives, and you gave examples of driving them to job sites,
14 the anecdote about the work boots. I understand as well
15 he'd do things like help them prepare resumes to get jobs,
16 things like that.

17 **MR. GENDRON:** Many things like that.

18 **MR. NEVILLE:** All right. And he would take
19 people needing drug rehab to St. Raphael's who had no
20 transportation?

21 **MR. GENDRON:** That's correct.

22 **MR. NEVILLE:** Now -- and you described him
23 yesterday in your own words as the best probation officer
24 you had ever met.

25 **MR. GENDRON:** That's correct.

1 **MR. NEVILLE:** You adopted Mr. Lee's
2 suggestion he was known perhaps as "Mr. Probation" here.

3 **MR. GENDRON:** Yes.

4 **MR. NEVILLE:** Now, let me suggest this, that
5 all -- many of these positive things you've said that he
6 would do, that extra mile, aren't those also the social
7 interactions that you felt could backfire?

8 **MR. GENDRON:** They could. It was a double-
9 edged sword.

10 **MR. NEVILLE:** That's right. Exactly.

11 **MR. GENDRON:** Yes.

12 **MR. NEVILLE:** So the social interactions
13 that you felt the need to counsel him about were actually
14 both his strength and, in your view, his weakness?

15 **MR. GENDRON:** Absolutely.

16 **MR. NEVILLE:** Mr. Commissioner. Those are
17 my questions. Thank you.

18 **THE COMMISSIONER:** Thank you, Mr. Neville.
19 Mr. Chisholm.

20 **MR. CHISHOLM:** Good morning, sir.

21 **THE COMMISSIONER:** Good morning.

22 **MR. CHISHOLM:** Mr. Gendron, good morning.

23 **MR. GENDRON:** Good morning.

24 **MR. CHISHOLM:** You know who I am.

25 **MR. GENDRON:** I do.

1 **MR. CHISHOLM:** I don't know if you know who
2 I act for. I act for the CAS.

3 I have no questions for you. Thank you for
4 coming.

5 **MR. GENDRON:** Thank you.

6 **THE COMMISSIONER:** Thank you.

7 Mr. Scharbach.

8 **MR. SCHARBACH:** Good morning, Mr.

9 Commissioner.

10 **THE COMMISSIONER:** Good morning, sir.

11 **MR. SCHARBACH:** Good morning, Mr. Gendron.

12 **MR. GENDRON:** Good morning.

13 **MR. SCHARBACH:** My name is Stephen

14 Scharbach. I am counsel for the Ministry of the Attorney
15 General.

16 I have no questions for you this morning.

17 **MR. GENDRON:** Thank you.

18 **THE COMMISSIONER:** Thank you.

19 Ms. Robitaille.

20 **MS. ROBITAILLE:** No questions. Thank you.

21 **THE COMMISSIONER:** Mr. Callaghan.

22 **MR. CALLAGHAN:** Good morning, Mr.

23 Commissioner.

24 **THE COMMISSIONER:** Good morning, sir.

25 ---CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR MR.

1 **CALLAGHAN:**

2 **MR. CALLAGHAN:** Good morning, sir. My name
3 is John Callaghan. I act for the Cornwall police. I just
4 have a few questions for you.

5 The events that we're talking about happened
6 in, say, 1993, 1994, and this is some 14 years ago, and I
7 take it that after -- particularly after Ken's death, there
8 were all sorts of rumours flying around the community about
9 his lifestyle, about matters relating to probationees,
10 matters relating to others. Is that fair to say?

11 **MR. GENDRON:** Very fair.

12 **MR. CALLAGHAN:** All right. And I take it
13 that -- and I think it's a fair characterization -- you
14 don't see yourself as someone who is a rumour monger,
15 someone who deals in rumour?

16 **MR. GENDRON:** Definitely not.

17 **MR. CALLAGHAN:** Right. And I take it you
18 tried, in the course of hearing this stuff, to decide what
19 is rumour and what is -- got a scintilla of fact that you
20 can address; correct?

21 **MR. GENDRON:** Correct.

22 **MR. CALLAGHAN:** All right. And I take it
23 that during this period of time you weren't making notes of
24 all the rumours you heard?

25 **MR. GENDRON:** No.

1 **MR. CALLAGHAN:** So you were asked later to
2 sort of piece things together, and in fairness, the
3 testimony you're giving is your best ability to piece
4 things together. Is that fair to say?

5 **MR. GENDRON:** Very fair.

6 **MR. CALLAGHAN:** All right.

7 And I think that, you know, for example, we
8 had the discussion about when you might have heard that Ken
9 was blackmailed and your recollection it was years later.
10 That's your best recollection?

11 **MR. GENDRON:** If you're using the term
12 "blackmail", yes.

13 **MR. CALLAGHAN:** All right. And I think that
14 -- I'm just using the word I thought that Mr. Stauffer used
15 and I think that Mr. Stauffer thought that it might have
16 been earlier you learned that, but your best recollection
17 is it's later?

18 **MR. GENDRON:** Yes.

19 **MR. CALLAGHAN:** All right. And that things
20 such as the time when you went and visited -- or visit
21 isn't the right word -- but followed Mr. Seguin to the
22 mall, you're very candid that you're not certain exactly
23 when that took place; it was sometime after the summer?

24 **MR. GENDRON:** Yes.

25 **MR. CALLAGHAN:** All right. And Mr. van

1 Diepen is anticipated to testify and in one of his
2 statements he said that that occurred just prior to Ken's
3 death.

4 MR. GENDRON: Yes.

5 MR. CALLAGHAN: And if he were to testify it
6 was just prior to his death you wouldn't have an issue with
7 that; it would fit within the range?

8 MR. GENDRON: That's right.

9 MR. CALLAGHAN: All right. And you then --
10 you talked about this courthouse, if we call it the
11 "courthouse rumour", and you're very candid that -- I think
12 the way you described it was a very loose rumour?

13 MR. GENDRON: Yes.

14 MR. CALLAGHAN: And it involved a fellow
15 named David Silmser, whose name you had never heard before?

16 MR. GENDRON: No, that's right.

17 MR. CALLAGHAN: So you're now asked years
18 later to piece this together. And I'm just trying to get
19 some clarity. Your best recollection today is that it's
20 prior to Ken's death; correct?

21 MR. GENDRON: Yes.

22 MR. CALLAGHAN: I guess it could have been
23 anywhere in that continuum prior to his death. It could
24 have been, say, in late summer?

25 MR. GENDRON: Yes.

1 **MR. CALLAGHAN:** All right. So it could have
2 been end of September, early October, that sort of Indian
3 summer period?

4 **MR. GENDRON:** Yes.

5 **MR. CALLAGHAN:** And I take it you have done
6 your best in trying to express what you recall of that
7 conversation?

8 **MR. GENDRON:** Definitely.

9 **MR. CALLAGHAN:** Or that rumour I take it?

10 **MR. GENDRON:** Right.

11 **MR. CALLAGHAN:** And aside from Mr. van
12 Diepen, you didn't spread that rumour any further?

13 **MR. GENDRON:** No.

14 **MR. CALLAGHAN:** All right, thank you.
15 Those are my questions.

16 **THE COMMISSIONER:** Thank you.
17 Mr. Kozloff.

18 **MR. KOZLOFF:** No questions.

19 **THE COMMISSIONER:** Thank you.
20 Mr. Carroll.

21 **MR. CARROLL:** Nothing.

22 **THE COMMISSIONER:** Thank you.
23 No one else?

24 And who's here from the Ministry; is there
25 anyone?

1 **MR. GENDRON:** They are not here.

2 **THE COMMISSIONER:** Okay.

3 **MR. STAUFFER:** Unfortunately, there are no
4 representatives from the Ministry this morning, Mr.
5 Commissioner, but as I understand it, there were no further
6 questions from them, so I have no further questions on
7 behalf of the Inquiry.

8 Thank you, Mr. Gendron.

9 **THE COMMISSIONER:** Mr. Gendron, thank you
10 very much for taking the time and giving us your testimony
11 in ---

12 **MR. GENDRON:** Thank you. I hope I've been
13 beneficial in helping you.

14 **THE COMMISSIONER:** Yes, you have. Thank you
15 very much, sir.

16 **MR. GENDRON:** Thank you.

17 **MR. STAUFFER:** Mr. Commissioner, that
18 concludes my personal involvement.

19 Now, it's a question of the next matter.

20 **THE COMMISSIONER:** Right.

21 **MR. STAUFFER:** And I'm going to leave that
22 in Mr. Engelmann's hands and take a brief ---

23 **THE COMMISSIONER:** Let's take a short break.

24 **MR. STAUFFER:** Right. Thank you.

25 **THE REGISTRAR:** Order; all rise. À l'ordre;

1 veuillez vous lever.

2 This hearing will resume at ten-after-ten.

3 --- Upon recessing at 9:55 a.m./

4 L'audience est suspendue à 9h55

5 --- Upon resuming at 10:10 a.m./

6 L'audience est reprise à 10h10

7 **THE REGISTRAR:** Order; all rise. À l'ordre;
8 veuillez vous lever.

9 This hearing is now resumed.

10 Please be seated. Veuillez vous asseoir.

11 **THE COMMISSIONER:** Thank you.

12 Mr. Engelmann, good morning.

13 Mr. Engelmann, I see we have new faces.

14 **MR. ENGELMANN:** Well, we have Mr. Cameron,
15 who is -- where is he now -- right here.

16 **THE COMMISSIONER:** Yes.

17 **MR. ENGELMANN:** He is together with Mr.
18 McClelland, whom you've met before.

19 **THE COMMISSIONER:** Yes.

20 **MR. ENGELMANN:** They're both lawyers for Mr.
21 Adams.

22 **THE COMMISSIONER:** Okay.

23 **MR. ENGELMANN:** And Mr. Cameron, as I
24 understand it, will be speaking.

25 **THE COMMISSIONER:** Right.

1 **MR. ENGELMANN:** So there's not going to be
2 two lawyers ---

3 **THE COMMISSIONER:** No.

4 **MR. ENGELMANN:** --- cross-examining or
5 making motions or submissions; just one.

6 **THE COMMISSIONER:** No. Okay.

7 And who's this gentleman?

8 **MR. ENGELMANN:** Oh, I am very sorry, this is
9 Mr. McCann.

10 **THE COMMISSIONER:** McCann.

11 **MR. ENGELMANN:** I'm just trying to keep
12 track of names. Patrick McCann.

13 **THE COMMISSIONER:** Yes.

14 **MR. ENGELMANN:** And he is counsel for the
15 next witness.

16 **THE COMMISSIONER:** Oh, I see. All right.

17 **MR. ENGELMANN:** So just by way of
18 preliminary matters, yesterday the Commission was served
19 with a motion by counsel for Jacques Leduc and it's a
20 motion to exclude the evidence of this witness.

21 **THE COMMISSIONER:** Yes.

22 **MR. ENGELMANN:** And Ms. Robitaille will
23 speak to her motion.

24 **THE COMMISSIONER:** M'hm.

25 **MR. ENGELMANN:** I was advised this morning

1 by Mr. Cameron that he also has a motion.

2 **THE COMMISSIONER:** Mr. Cameron ---

3 **MR. ENGELMANN:** Mr. Cameron being one of Mr.
4 Adams' lawyers, that he doesn't want to speak to today. He
5 just wants to mention to you that he has a motion.

6 I think what -- I'll let him speak in a
7 moment, but the motion should be filed in the normal
8 course.

9 I have provided to his colleague or his
10 co-counsel, Mr. McClelland, sort of our practice guidelines
11 on the filing of motions and how that's to be done with
12 proper service, so ---

13 **THE COMMISSIONER:** M'hm.

14 **MR. ENGELMANN:** --- it's my view that he can
15 tell us that he's going to file a motion and that's fine,
16 but when he does actually file it he should file it in the
17 normal course.

18 **THE COMMISSIONER:** Absolutely.

19 **MR. ENGELMANN:** But I will let him speak to
20 that in a moment.

21 So we have the motion and if the motion is
22 unsuccessful, obviously I have this witness ready and her
23 counsel is here.

24 **THE COMMISSIONER:** Okay.

25 **MR. ENGELMANN:** And I don't anticipate, at

1 least the Commission's questioning of the witness, to be
2 long at all.

3 **THE COMMISSIONER:** Thank you.

4 **MR. ENGELMANN:** So I'll first let Mr.
5 Cameron speak to his proposed motion.

6 **---REMARKS BY/REMARQUES PAR MR. GORDON CAMERON:**

7 **MR. CAMERON:** Good morning, Mr.
8 Commissioner.

9 I had proposed to file this motion now ---

10 **THE COMMISSIONER:** M'hm.

11 **MR. CAMERON:** --- in the normal course, as
12 my friend would say, with the requisite number of copies
13 and whatnot, but it says on it's face it's to be heard on a
14 date to be set by you at a time to be set by you.

15 **THE COMMISSIONER:** M'hm.

16 **MR. CAMERON:** If the turn of events makes it
17 appropriate to speak to it at some time today, I'm ready to
18 speak to it today. If it's going to require response and
19 further development, you might well decide that it needs to
20 be heard at some date in the future and, as I say, I'll
21 leave that to you.

22 **THE COMMISSIONER:** Well, is there any need
23 to address it now in the sense that why don't you file it
24 and in the next week or two or whatever. Is it urgent?

25 **MR. CAMERON:** It's urgent in this sense,

1 sir, the relief sought has to do with the examination of
2 Mr. Adams that took place on November 15th before you, the
3 examination by Commission counsel.

4 **THE COMMISSIONER:** Yes.

5 **MR. CAMERON:** And you might recollect that
6 in the course of that examination there were, at the end of
7 it when a new line of examination opened up, a series of
8 objections by Mr. Adams' counsel, Mr. McClelland and by
9 various other counsel in the room, to the effect that the
10 examination by Commission counsel amounted to an ambush.

11 And it is ---

12 **THE COMMISSIONER:** Which I -- did I rule on
13 that?

14 I obviously did, because we let the
15 cross-examination to continue.

16 **MR. CAMERON:** And, indeed, Mr. Commissioner,
17 it is Mr. Adams' position not only that the line of
18 questioning should not have been pursued at all, but that
19 having been pursued, it should have been terminated by you
20 as soon as its substance became evident.

21 **THE COMMISSIONER:** Whoa, whoa.

22 **MR. CAMERON:** And so, sir, the purpose of
23 this motion will be to, in the -- to follow the lexicon of
24 your rules and the procedure in this circumstance, would be
25 to require the Commission counsel to recall Mr. Adams ---

1 **THE COMMISSIONER:** M'hm.

2 **MR. CAMERON:** --- so that having had proper
3 notice, such as it will be at least by the time he gets
4 back on the stand if he is recalled, he may speak to that
5 evidence.

6 Frankly, Mr. Commissioner, as you'll see in
7 the motion record, it is Mr. Adams' position that
8 considerable harm has already been done and that recalling
9 him is the best we will be able to do in this proceeding to
10 minimize that harm.

11 So what I would propose to do is give the
12 copies of this motion record to the Commission now by way
13 of filing it.

14 As I say, it speaks on its face to the fact
15 that it is to be heard on a date to be set by you when
16 you've perhaps seen how things develop today and what would
17 be the most convenient time for it.

18 So that said, I will give this to the
19 Commission for filing and leave matters now to Ms.
20 Robitaille and her motion.

21 **THE COMMISSIONER:** So how do we file things,
22 Mr. Engelmann? They go to the counter? What's the
23 practice?

24 No, no, no, no.

25 **MR. ENGELMANN:** We have practice guidelines.

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I'm concerned, and certainly Mr. Cameron hasn't been here before, but we're getting motions filed on the day of or the day before, and it's not fair to anybody.

We've heard the "ambush" talk; we had a lot of that last week when Mr. McClelland brought his motion. He's been advised that -- obviously he's reserved the right to convince -- they reserved the right to ask further questions of Mr. Adams if you thought it was appropriate that his evidence be allowed to continue.

THE COMMISSIONER: Yes.

MR. ENGELMANN: I'm not sure ---

THE COMMISSIONER: If we decided to recall him ---

MR. ENGELMANN: Yes.

THE COMMISSIONER: --- on that specific issue.

MR. ENGELMANN: Yeah, right.

And I'm not sure why we need a motion for that, but I'm sure I'll become aware of that after I have an opportunity to read it or maybe I won't.

But, in any event, the normal course is that matters are sent in by email ---

THE COMMISSIONER: M'hm.

MR. ENGELMANN: --- to

1 submissions@cornwallinquiry.ca; that notice is given
2 because we have many parties here.

3 **THE COMMISSIONER:** M'hm.

4 **MR. ENGELMANN:** And, typically, we've asked
5 people to file about a week before so that people can then
6 respond and, at the very least, two clear days, and it's
7 been an informal rule that people have respected -- at
8 least initially respected -- haven't respected perhaps
9 lately -- and that's a concern because, of course,
10 everybody knows that this Inquiry's intent on proceeding
11 efficiently and effectively. We have an awful lot of
12 lawyers here and I've been asking my colleagues to give
13 some notice when they bring motions and if not, at least to
14 speak to why they're being abridged.

15 I'm not sure of the necessity of filing this
16 motion now, but the normal course would be to file it by
17 email and then to leave hard copies at the counter in
18 sufficient numbers, and that's set out in the Practice
19 Directive, which is on the website.

20 Having said that, Mr. Cameron would not have
21 been aware of that, perhaps, so I just -- that would be the
22 normal way to do that.

23 We don't normally file documents unless
24 we're going to be speaking to them immediately.

25 And I don't know if there's a need to speak

1 to this document immediately because I haven't seen it.

2 **THE COMMISSIONER:** Right.

3 **MR. CAMERON:** Thank you, Mr. Engelmann.

4 Mr. Commissioner, I am not bringing a motion
5 on short notice.

6 **THE COMMISSIONER:** M'hm.

7 **MR. CAMERON:** I am bringing a motion that is
8 to be heard on a date you decide is appropriate given
9 appropriate notice.

10 **THE COMMISSIONER:** That's fair. So follow
11 the rules.

12 **MR. CAMERON:** I am following the rules.
13 Thank you, sir.

14 **THE COMMISSIONER:** No you're not. File it
15 the way -- electronically and do it that way and then we'll
16 assign a date when the time comes.

17 **MR. CAMERON:** Thank you, sir.

18 The reason it is being brought to your
19 attention now is because it pertains to the same witness --
20 -

21 **THE COMMISSIONER:** M'hm.

22 **MR. CAMERON:** --- that the motion is next
23 following you and I thought that, if appropriate, it would
24 at least be brought to your attention.

25 **THE COMMISSIONER:** Thank you.

1 You might -- you might give a copy to Mr.
2 Engelmann. He doesn't know what you're talking about and
3 then we'll talk about it.

4 **MR. CAMERON:** That, sir, is exactly why I
5 was bringing it to your attention at this time.

6 **THE COMMISSIONER:** Well then we'd have to
7 talk about why you're bringing it now as opposed to a week
8 ago or anything like that. I just don't know.

9 **MR. CAMERON:** Do you want an explanation for
10 that, sir?

11 **THE COMMISSIONER:** No. No.
12 Thank you.

13 **MR. CAMERON:** Thank you.

14 **THE COMMISSIONER:** Thank you.

15 Who's speaking? Ms. Robitaille.

16 **MR. ENGELMANN:** Sir, just before Ms.
17 Robitaille speaks to her motion, I just want to give it a
18 document number. The motion is motion 11A1. There's a
19 motion record of Jacques Leduc for the exclusion of
20 evidence of Karen Derochie. I'll -- I'll have some brief
21 comments to make about filing a notice ---

22 **THE COMMISSIONER:** Oh, I think Mrs. -- I'm
23 sorry now ---

24 **MR. ENGELMANN:** Robitaille.

25 **THE COMMISSIONER:** --- Robitaille will --

1 that's your first question?

2 **MR. ENGELMANN:** Yes.

3 Thank you.

4 **THE COMMISSIONER:** Ms. Robitaille?

5 Good morning.

6 ---MOTION #11 BY/REQUÊTE #11 PAR M^e DANIELLE ROBITAILLE:

7 **MS. ROBITAILLE:** Good morning, Mr.

8 Commissioner.

9 I can advise that Mr. Engelmann and I have
10 had a short discussion this morning about some of the
11 procedural defects in my motion. I do understand it was
12 short notice. I understand how important it is to give as
13 much notice as possible especially at this time during the
14 Inquiry. I do apologize for the short notice.

15 **THE COMMISSIONER:** So why should I hear it?

16 **MS. ROBITAILLE:** Well, Mr. Commissioner, I
17 can tell you that I spent most of the week, as did some of
18 my colleagues, attempting to persuade Mr. Engelmann to
19 exercise his discretion not to call this next witness.

20 **THE COMMISSIONER:** M'hm.

21 **MS. ROBITAILLE:** My view was that I should
22 wait to see what Mr. Engelmann would decide after he'd
23 spoken to the four witnesses proposed by Mr. McClelland on
24 December 5th; wait until he had those discussions with those
25 witnesses, and weigh his options, and then come to a

1 determination.

2 **THE COMMISSIONER:** M'hm.

3 **MS. ROBITAILLE:** The website had displayed
4 on it all week that today was to be announced. I
5 erroneously took that to mean that there was some
6 consideration being given to whether it should be called or
7 not. I'm not sure that that's a satisfactory explanation.

8 But here I am. I have my materials; I've
9 served the parties; I'm prepared to argue it, with your
10 permission.

11 **THE COMMISSIONER:** M'hm. Well it's not a
12 sufficient argument. You are a lawyer. Everybody here is
13 a lawyer and we know what the rules are.

14 So if Mr. Engelmann didn't get back to you
15 or whatever, prepare the motion, and get it ready, and go.

16 And I intend to do that because what -- what
17 happens is that there's an order to things and what you're
18 doing is you're disrupting the order unnecessarily. I
19 mean, if we would have notice -- I mean the 13th to the 14th
20 -- if I would have had notice a couple of days ago, right,
21 we could have argued it then. We've got the witness here
22 who I'm sure is very nervous about being here ---

23 **MS. ROBITAILLE:** M'hm.

24 **THE COMMISSIONER:** --- and so what you're --
25 what we're showing to her is a total lack of respect, like

1 we did for the victims on some occasions, to their feelings
2 and so some people might say, "Oh, well, to heck with
3 people's feelings."

4 The other thing you do is you migrate your
5 problem to me and so now I have to make a tough decision as
6 to whether or not I'm going to hear your motion or not.
7 And so that's not fair; that's just not fair.

8 I thought that, as lawyers, we would have a
9 responsibility. There is always room for emergencies and
10 that's clear. This does not look like the type of thing
11 that had to wait until the last moment. So I've said that.
12 Of course, I'm going to hear your motion.

13 **MS. ROBITAILLE:** Thank you, Mr.
14 Commissioner.

15 **THE COMMISSIONER:** Yes, but fair warning,
16 because there comes a time when we have to balance
17 fairness. And hearing this case is a fairness to hear
18 motion; to outright disregard per the Inquiry, per
19 witnesses and at some point, I may well decide that this
20 part outweighs the other, and that would be disappointing
21 to me, when it's a lack of foresight.

22 Okay, that's done.

23 Let's hear the motion.

24 **MS. ROBITAILLE:** I take your point, Mr.
25 Commissioner.

1 **THE COMMISSIONER:** Thank you.

2 **MS. ROBITAILLE:** And I can advise that I
3 will not bring a motion on such short notice ever again.

4 **THE COMMISSIONER:** No, no, no, you might.
5 You might have to. It might be an emergency. You might
6 have to do that, but make sure it's an emergency and my
7 comments, as you're standing here, applies to all of your
8 brothers and sisters in this room.

9 All right?

10 **MS. ROBITAILLE:** Thank you, Mr.
11 Commissioner.

12 **THE COMMISSIONER:** Your -- right.
13 Thank you.

14 Okay, so here we go. You want to exclude?

15 **MS. ROBITAILLE:** The evidence of Ms. Karen
16 Derochie.

17 **THE COMMISSIONER:** All right.

18 **MS. ROBITAILLE:** This motion is brought on
19 behalf of my client, Jacques Leduc, but I can advise that I
20 received correspondence from Mr. David Sherriff-Scott last
21 evening ---

22 **THE COMMISSIONER:** M'hm.

23 **MS. ROBITAILLE:** --- indicating that his
24 client, the Diocese, supports my motion this morning.

25 **THE COMMISSIONER:** M'hm.

1 **MS. ROBITAILLE:** I will be brief. The
2 motion is very straightforward.

3 **THE COMMISSIONER:** M'hm.

4 **MS. ROBITAILLE:** And you should have my
5 motion record in front of you.

6 **THE COMMISSIONER:** I do.

7 **MS. ROBITAILLE:** At Tab 1, you'll find my
8 notice of motion.

9 **THE COMMISSIONER:** Yes.

10 **MS. ROBITAILLE:** And at Tab 2, you will find
11 the Affidavit of Christine Hennings setting out, basically,
12 the correspondence between Mr. Engelmann and I over the
13 last few weeks.

14 **THE COMMISSIONER:** Okay. Just a second for
15 a second now.

16 All right.

17 Now, the witness -- now I'm looking at
18 confidentiality; I don't know if the -- is the witness
19 claiming any confidentiality at this point?

20 **MR. ENGELMANN:** The witness was concerned
21 about the disclosure of her name.

22 **THE COMMISSIONER:** M'hm.

23 **MR. ENGELMANN:** I had undertaken to counsel
24 to find out no later than this Wednesday what was
25 happening. The witness retained counsel at that time and I

1 spoke to Mr. McCann about that. I indicated to him that
2 the Commission would not be seeking confidentiality. I
3 explained to him the Dagenais/Mentuck test that had been
4 applied. I explained to him that I thought it was doubtful
5 that he would succeed given the reasons and they were
6 speculative concerns about risk to her employment.

7 **THE COMMISSIONER:** Yes.

8 **MR. ENGELMANN:** Maybe well-founded fears,
9 but I -- I didn't think it would meet the Dagenais/Mentuck
10 test. I'd indicated to her that we could do what we've
11 done for some witnesses and not have the camera on her face
12 ---

13 **THE COMMISSIONER:** M'hm.

14 **MR. ENGELMANN:** --- but otherwise things
15 would be on the record.

16 I asked Mr. McCann to confirm whether or not
17 he would be seeking confidentiality measures and when I
18 last spoke to him, he thought not, but still hadn't
19 confirmed and he's here so maybe I'll just ask him now.

20 **MR. McCANN:** Yes, Mr. Commissioner. I've
21 discussed that with Ms. Derochie and I think that she
22 understands that it's unlikely that the -- that you would
23 order a ban ---

24 **THE COMMISSIONER:** M'hm.

25 **MR. McCANN:** --- on publication of her

1 identity. She understands that and is prepared to
2 continue, in any event.

3 **THE COMMISSIONER:** Thank you.

4 **MR. McCANN:** The -- she has, however,
5 requested that the -- she not be on the camera ---

6 **THE COMMISSIONER:** fine.

7 **MR. McCANN:** --- if that can be done?

8 **THE COMMISSIONER:** Fine.

9 We'll deal with that -- we'll deal with that
10 when we get to it and now we can come back -- and I'm
11 sorry, it's just because we had a temporary moniker for the
12 witness and so that will be put aside and we can use her
13 name whenever you want.

14 **MS. ROBITAILLE:** Thank you.

15 **MR. McCANN:** Thank you.

16 **MS. ROBITAILLE:** Mr. Commissioner, if you
17 turn to Tab F of my motion record ---

18 **THE COMMISSIONER:** Yes.

19 **MS. ROBITAILLE:** --- you will find the
20 document entitled "Anticipated Evidence for Karen
21 Derochie."

22 **THE COMMISSIONER:** Right.

23 **MS. ROBITAILLE:** This document was disclosed
24 to the parties on December 12, 2007.

25 **THE COMMISSIONER:** M'hm.

1 **MS. ROBITAILLE:** There was a predecessor
2 document that also indicated that there might be some form
3 of confidentiality.

4 **THE COMMISSIONER:** M'hm.

5 **MS. ROBITAILLE:** This second draft includes
6 a few additional paragraphs, nothing of great substance.

7 The basis of my argument is grounded in this
8 document. It seems that the evidence thought to be adduced
9 from this witness does not in any way relate to
10 institutional response. This evidence doesn't include any
11 evidence of institutional response to historical allegation
12 of sexual abuse.

13 The actors in the story, if you allow me to
14 call it that, are: Duncan McDonald who is not an
15 institutional actor; Sean Adams, also not an institutional
16 actor; Malcolm MacDonald, not an institutional actor.

17 The only remotely institutional actor
18 alleged to be at these two attendances at Duncan
19 McDonald's, is my client, and to that end, the witness does
20 not allege any sort of statement or sign that would
21 indicate that Mr. Leduc's attendance at the office was on
22 any Diocese business and it cannot be that anywhere that
23 Mr. Leduc was in 1993 he was assumed to have been acting on
24 diocese business.

25 There's no victim is Ms. Derochie's story.

1 There is a casually dressed man in her evidence but no
2 indication of who he is, how old he is, what purpose --
3 what the purpose is of his attendance at Duncan McDonald's,
4 and certainly no indication that he's a victim of any kind.
5 And there's absolutely no allegation of historical sexual
6 abuse in her evidence.

7 Ms. Derochie never brought her allegation to
8 either the diocese, the Cornwall police or the OPP.

9 What relevance then can Ms. Derochie's
10 evidence have to your mandate?

11 And this is a question I posed to your
12 counsel on December 11th in a letter, which can be found at
13 Tab E, and I have yet to hear a response.

14 I can speculate as to what the purpose of
15 leading Ms. Derochie's evidence might be. Mr. Engelmann
16 may wish to tender this evidence to somehow relate it to
17 the Silmsler settlement and the release and undertaking that
18 was signed in the first days of September, 1993.

19 This, despite the fact that Mr. Silmsler
20 himself, who was vigorously examined as to his contacts
21 with Sean Adams and others in the months prior to signing
22 this release, never mentioned a meeting at Duncan
23 McDonald's. Commission counsel wishes to lead this
24 evidence even though Mr. Adams denies this meeting ever
25 having taken place. I can advise that Mr. Leduc, if he is

1 called, will deny such a meeting also. And the two other
2 parties involved are deceased.

3 If the basis for calling this witness is for
4 the Cornwall Public Inquiry to conduct its own
5 investigation into a conspiracy to obstruct justice between
6 my client, the diocese, Sean Adams and Malcolm MacDonald,
7 then I respectfully submit that is *ultra vires* the
8 legitimate provincial purpose.

9 And, Mr. Commissioner, I'm guided by your
10 own ruling on May 1st, 2006. If we can go there, it's
11 Volume 24.

12 (SHORT PAUSE/COURTE PAUSE)

13 **MS. ROBITAILLE:** May 1st, 2006, and it's page
14 4, Madam Clerk. No, that's not -- sorry, it's a ruling. I
15 could just read it if it ---

16 **THE COMMISSIONER:** Okay. Go ahead.

17 **MS. ROBITAILLE:** You said:

18 "Commission counsel and I have clearly
19 and repeatedly said that it was not the
20 intention of the Commission to try or
21 retry the criminal or civil matters
22 arising out of the facts that are part
23 of my mandate."

24 We know that the conspiracy to obstruct
25 justice was fully investigated and, indeed, a charge was

1 laid and there was a guilty plea tendered. That person was
2 neither Mr. Leduc or Mr. Sean Adams.

3 And I would submit that by calling this
4 witness, Commission counsel's attempting to retry the
5 matter of obstruction of justice regarding the Silmsen
6 settlement.

7 Further, Commission counsel would be asking
8 you to take Ms. Derochie's evidence and make an
9 impermissible inference that her evidence somehow proves
10 that these men were involved in a criminal conspiracy to
11 obstruct justice.

12 Again, from your May 1st, 2006 ruling, you
13 said:

14 "The core of the Commission's mandate
15 is firmly anchored in the provincial
16 heads of power and is directed at
17 institutional response of public
18 institutions."

19 And I continue:

20 "The Commission will review criminal
21 allegations, investigations and
22 criminal proceedings. However, this
23 will be done for the sole purpose of
24 fulfilling the provincial purposes of
25 the Inquiry. As pointed out by Mr.

1 Justice Lamer of the Commission, the
2 Lamer Inquiry in Newfoundland, in a
3 ruling on the Terms of Reference, and I
4 quote, 'A Commission may review the
5 same subject matter of a criminal
6 investigation and trial but it must do
7 so for a different and legitimate
8 provincial purpose'."

9 You go on to say:

10 "The Commission will look at criminal
11 allegations, investigations and
12 proceedings. It is not allowed and
13 does not intend to try or re-try cases
14 and make findings expressing an opinion
15 as to the criminal or civil
16 responsibility in law."

17 I respectfully submit that in order to hear
18 this witness you must be satisfied that it is for the
19 advancement of a legitimate provincial purpose.

20 The only investigation this Commission is
21 empowered to undertake is investigating institutional
22 response to historical allegations of abuse. This witness
23 does not advance that purpose and may, in fact, lead you to
24 make dangerous inferences that are *ultra vires* your
25 legitimate provincial purpose.

1 I respectfully submit that you cannot be
2 satisfied, and for those reasons her evidence should be
3 excluded.

4 Subject to any questions, those are my
5 submissions.

6 **THE COMMISSIONER:** Thank you.

7 Those endorsing that position, could you --
8 okay, you said that Mr. -- is somebody from the diocese
9 here?

10 **MS. ROBITAILLE:** He's not in attendance
11 today. He asked that I communicate his ---

12 **THE COMMISSIONER:** His support?

13 **MS. ROBITAILLE:** Yes.

14 **THE COMMISSIONER:** All right.

15 So who else is in -- anyone else supporting
16 this motion?

17 Mr. Neville.

18 --- SUBMISSIONS BY/REPRÉSENTATIONS PAR MR. NEVILLE:

19 **MR. NEVILLE:** Good morning, sir.

20 I am supporting my friend's position and
21 would offer to you, by way of further concern, this
22 submission.

23 This area of testimony and the chronology
24 that Commission counsel is, I gather, attempting to put
25 forward, could bring back into play, potentially, the need

1 for further testimony from none other than David Silmser.
2 And Your Honour knows the difficulty -- you, Mr.
3 Commissioner, I should say, know the difficulties inherent
4 there because of, I gather, health or mental health issues.

5 **THE COMMISSIONER:** I have ruled that he's
6 not going to testify here again ---

7 **MR. NEVILLE:** I know.

8 **THE COMMISSIONER:** --- unless ---

9 **MR. NEVILLE:** Right.

10 **THE COMMISSIONER:** --- I'm satisfied that
11 he's able to.

12 **MR. NEVILLE:** I understand, sir.

13 **THE COMMISSIONER:** M'hm.

14 **MR. NEVILLE:** And what I'm saying to you is,
15 of course, that with the chronology of events throughout
16 the latter half, let's say, of 1993 in which he was clearly
17 a direct participate, depending how this evidence unfolds,
18 could necessitate his contribution, failing which, the
19 unfairness would be magnified and increased.

20 So there are other consequences to what's
21 being proposed here than just whether or not this
22 particular witness testifies.

23 It's also perhaps of some assistance to you,
24 although you may not have the time today, to have a quick
25 perusal through the actual notice of motion and written

1 submissions previously mentioned to you, because it does
2 address the same topic.

3 **THE COMMISSIONER:** Which Notice of Motion?

4 **MR. NEVILLE:** From Mr. Cameron.

5 It is the same topic, sir, and the same
6 problem, and highlights some of the difficulties
7 procedurally. I leave it with you to consider.

8 But my main concern directly on Ms.
9 Robitaille's motion is the consequences of other evidence.

10 **THE COMMISSIONER:** Thank you.

11 **MR. NEVILLE:** Thank you.

12 **THE COMMISSIONER:** All right.

13 The CCR is not here -- sorry, Mr. Cameron?

14 ---REMARKS BY/REMARQUES PAR MR. GORDON CAMERON:

15 **MR. CAMERON:** Mr. Commissioner, I don't rise
16 as a party supporting the motion. Mr. Adams takes no
17 position on the motion.

18 I echo my friend's earlier comments that Mr.
19 Adams does share the view that the evidence of this witness
20 doesn't appear to be relevant to the mandate. That, as Mr.
21 Neville said, is set out in our motion and my point is
22 simply to say that we share that view but take no position
23 on the motion.

24 **THE COMMISSIONER:** Sir, you have no standing
25 here. I don't know what you're doing rising to argue or to

1 bring up your position.

2 MR. CAMERON: Sir, the difficulty we have is
3 we're -- Mr. Adams was granted standing by you last week --
4 -

5 THE COMMISSIONER: M'hm.

6 MR. CAMERON: --- but the parameters of that
7 standing, which we'd understood would be forthcoming from
8 you, haven't yet been received.

9 THE COMMISSIONER: Yes, you're right.

10 MR. CAMERON: So we're simply making this
11 observation ---

12 THE COMMISSIONER: Okay.

13 MR. CAMERON: --- pending ---

14 THE COMMISSIONER: Fair enough.

15 MR. CAMERON: --- the formalization of that.

16 THE COMMISSIONER: Thank you.

17 MR. CAMERON: Thank you.

18 THE COMMISSIONER: Now, can we go in order?

19 ---SUBMISSIONS BY/REPRÉSENTATIONS PAR MR. PETER ENGELMANN:

20 MR. ENGELMANN: Sir, if I could just speak
21 for the CCR for a minute.

22 THE COMMISSIONER: Yes.

23 MR. ENGELMANN: We did get an email from Mr.
24 Manson yesterday. He was unable to be here this morning.
25 He said, with respect to the Leduc motion, re: Karen

1 Derochie:

2 "The issue is one of admissibility. The evidence, as set
3 out in the AE, is clearly relevant to the Inquiry's
4 mandate. Depending on what inferences are drawn it may
5 bear on, one, the \$32,000 settlement in September of 1993,
6 which is a seminal event in the factual unfolding of this
7 Inquiry and, two, the institutional response of the
8 diocese, given that Mr. Leduc was representing the diocese
9 and Malcolm MacDonald was acting for an employee of the
10 diocese."

11 It was an email that was sent to me
12 yesterday afternoon by Allan Manson.

13 That is the position of the CCR.

14 **THE COMMISSIONER:** Thank you.

15 Mr. Horn.

16 ---SUBMISSIONS BY/REPRÉSENTATIONS PAR MR. FRANK HORN:

17 **MR. HORN:** We're in agreement with the
18 position of CCR.

19 **THE COMMISSIONER:** Thank you.

20 Mr. Lee, do you wish to comment?

21 --- SUBMISSIONS BY/REPRÉSENTATIONS PAR MR. LEE:

22 **MR. LEE:** Just very briefly, sir.

23 We oppose the motion; we are in agreement
24 with position advanced by the CCR.

25 Mr. Manson is right that we're dealing with

1 admissibility here. And he is exactly right when he says
2 that this evidence might well bear on the DS settlement; it
3 may well bear on the institutional response of the diocese
4 in a number of ways; and I would submit to you that this
5 isn't, in our view, a close call.

6 This evidence is clearly relevant and it's
7 clearly admissible. And I have some concern that you're
8 being asked to worry about what inferences might be drawn
9 as a result of the testimony down the road. That's not
10 what we are here to discuss today. We are discussing
11 whether or not this evidence goes in, not what you might do
12 with it after the fact.

13 Thank you, sir.

14 **THE COMMISSIONER:** Mr. Manson is not here.

15 Mr. Chisholm?

16 **MR. CHISHOLM:** No submissions, sir. Thank
17 you.

18 **THE COMMISSIONER:** Probation, Corrections,
19 they're not here.

20 Mr. Scharbach.

21 **MR. SCHARBACH:** No submissions, Mr.
22 Commissioner.

23 **THE COMMISSIONER:** No submissions.

24 **MR. SCHARBACH:** That's right. We're taking
25 no position on this motion.

1 Thank you.

2 **THE COMMISSIONER:** Thank you.

3 Mr. Callaghan?

4 Mr. Crane?

5 **MR. CRANE:** Good morning, Mr. Commissioner.

6 We are not taking a position with respect to the motion.

7 **THE COMMISSIONER:** Thank you.

8 Mr. Kozloff?

9 **MR. KOZLOFF:** No submissions, sir.

10 **THE COMMISSIONER:** Mr. Carroll?

11 **MR. CARROLL:** No submissions, sir.

12 Mr. Engelmann?

13 **--- SUBMISSIONS BY/REPRÉSENTATIONS PAR MR. ENGELMANN:**

14 **MR. ENGELMANN:** Sir, I echo Mr. Manson's
15 comment that this is a question of admissibility.

16 I don't have either of the rulings that my
17 friend Ms. Robitaille referenced, but in any event, I think
18 it's clearly relevant at this point.

19 In any event, we've heard from both Mr.
20 Guzzo and Mr. Adams about the relationship or possible
21 relationship of Duncan McDonald to the Silmsler settlement.
22 You've heard about the seminal importance of the
23 settlement. It clearly deals with or potentially deals
24 with the diocese institutional response.

25 It's interesting, the parties that are

1 bringing the motion or wish this evidence not to be heard
2 are those very parties to that settlement -- the diocese,
3 Mr. Leduc as counsel for the diocese; Mr. McDonald who was
4 counsel for Malcolm MacDonald who's counsel for Father
5 Charlie MacDonald.

6 Sir, not to hear this evidence would, quite
7 frankly, be avoiding our purpose here and that is to look
8 at important facts that had to bear on the Silmser
9 settlement, the Project Truth investigation and the
10 institutional response of the parties that arose therefrom.

11 So I think the evidence is clearly relevant
12 and you will decide what to do with it later or whatever
13 evidence you may have to hear, but because of the possible
14 tie into this settlement, I can't think of evidence that
15 would be more relevant.

16 **THE COMMISSIONER:** Thank you.

17 Ms. Robitaille, last reply.

18 --- **REPLY/SUBMISSIONS BY/REPRÉSENTATIONS PAR MS.**

19 **ROBITAILLE:**

20 **MS. ROBITAILLE:** Just a quick reply,
21 Mr. Commissioner.

22 Mr. Engelmann speaks of important facts and
23 I can tell you that this witness has nothing of the kind to
24 offer. Her evidence is totally vague as to timing, she
25 cannot give us a day of the week, she cannot give us a

1 month. She gives us a season and somehow is able to
2 pinpoint a calendar year. She is not able to identify
3 everyone in her story. She's not present at the alleged
4 meeting so she has no idea what was said. She has no
5 evidence to give us to what the purpose of the attendances
6 were. And she does offer a piece of hearsay that is
7 totally unverifiable since the declarant(sic) is deceased.
8 That is what she has to offer.

9 They aren't important facts. They are vague
10 and they ask the public and yourself to speculate and draw
11 inferences that are improper.

12 Those are my last submissions.

13 **THE COMMISSIONER:** Thank you.

14 Take a short break. We'll reconvene in 20
15 minutes.

16 **THE REGISTRAR:** Order; all rise. A l'ordre;
17 veuillez vous lever.

18 This hearing will resume at 11:05.

19 --- Upon recessing at 10:43 a.m./

20 L'audience est suspendue à 10h43

21 --- Upon resuming at 11:07 a.m./

22 L'audience est reprise à 11h07

23 **THE REGISTRAR:** Order; all rise. A l'ordre;
24 veuillez vous lever.

25 This hearing is now resumed, please be

1 seated. Veuillez vous asseoir.

2 **THE COMMISSIONER:** Thank you.

3 **--- RULING BY/DÉCISION PAR JUSTICE NORMAND GLAUDE:**

4 First of all I'd like to deal with Mr.
5 Adams' application for standing to which I had given him a
6 limited standing and I had indicated that I had wanted to
7 word the limited standing, and it will be as follows.

8 He will be permitted to cross-examine any
9 witness or witnesses on any testimony arising from the
10 alleged meetings to have occurred at Mr. Duncan McDonald's
11 office and by alleged attempts by Mr. Adams to contact
12 Duncan McDonald by phone.

13 He is to receive notification information
14 and documentation relating to witnesses and testimony that
15 impacts or affects the applicant as described in part one
16 of my ruling.

17 So that takes care of that part of it.

18 With respect to the motion -- Madam Clerk,
19 is that a copy of the motion? Thank you.

20 This is an application brought by Mary
21 Heinen -- I'm sorry, Danielle Robitaille, lawyer for
22 Jacques Leduc, for the exclusion of evidence of Karen
23 Desrochie.

24 That motion was brought and endorsed by Mr.
25 Sherriff-Scott for the diocese and Mr. Neville for Father

1 MacDonal I take it, on this occasion. And the basis being
2 that it is *ultra vires* my jurisdiction, in that it attempts
3 to delve into matters that are not the proper -- within the
4 mandate or the advancement of a legitimate provincial
5 purpose.

6 The matter is opposed by the CCR, the
7 Victims Group, Coalition for Action, and I've received
8 advice from Commission Counsel in their submissions that
9 they too feel that the motion should be dismissed.

10 I'm happy to say that I do agree with the
11 principles of law that I had enunciated and that Ms.
12 Robitaille had provided me, however, with respect to this
13 motion I find that the issue is not one of jurisdiction,
14 but clearly is one of admissibility, and in dealing with
15 the test for admissibility we're dealing really with the
16 question of relevance.

17 In my view, there is some relevance or
18 possibility of relevance, as this evidence may well focus
19 on or attach to the diocese's institutional response. And
20 I find that while I have considered, while it wasn't really
21 argued before me that the probative value versus the
22 prejudicial effect, I find that there is sufficient
23 protection now that Mr. Adams has counsel and will be able
24 to participate on this narrow issue, that the probative
25 value will outweigh any prejudicial effect.

1 And in the end, when looking at all of this,
2 the real issue is whether -- what weight to give to this
3 and in submissions in reply, Ms. Robitaille made several
4 comments which I think really attach to weight. I am --
5 will be instructed -- instructing myself and I'm certain
6 that the parties will, in their final submissions, provide
7 me their thoughts as to what inferences ought or ought not
8 to be taken.

9 With respect to what the public has to say,
10 this is a Public Inquiry and I have throughout this Inquiry
11 invited the public to wait until all of the evidence is
12 adduced, to hear all of the facts before making any
13 conclusions.

14 And, so, if there are any public reporting
15 or rumours that circulate, I will ask the public to always
16 return to this Inquiry, to the transcripts, to see exactly
17 what is being said and what is being done.

18 Accordingly, while there may be some small
19 minority who will take it out of context, I am satisfied
20 that the balance of the public in Cornwall are going to, as
21 I've indicated, be like a jury and wait until all of the
22 evidence is heard.

23 For those reasons, I will deny the motion
24 and we will hear the evidence of Ms. Derochie.

25 **MR. ENGELMANN:** I believe the witness is

1 just in one of the rooms outside. If Madam Clerk could get
2 her?

3 **THE COMMISSIONER:** Is there anyone opposed
4 to the request that the camera not be shown on this
5 witness? I think in the circumstances, no one is saying --
6 I think that it's a fair request and I will ask that the
7 camera not be put on the witness during her testimony.

8 Thank you.

9 Which means, Mr. Engelmann, that you will be
10 in the limelight for most of the testimony.

11 **MR. ENGELMANN:** I hope the tie is okay.

12 **THE COMMISSIONER:** You're fine.

13 Mr. Chisholm has someone new beside him whom
14 I haven't met yet, I don't think, or I have?

15 **MR. ENGELMANN:** I'm sorry, yes ---

16 **THE COMMISSIONER:** If I have, I'm getting
17 old and I ---

18 **MR. CHISHOLM:** Terry Mazerolle from my
19 office, Mr. Commissioner.

20 **THE COMMISSIONER:** A lawyer?

21 **MR. CHISHOLM:** A lawyer, yes.

22 **THE COMMISSIONER:** Very well. Welcome
23 aboard, sir.

24 **MR. ENGELMANN:** I think everybody else is a
25 face you've seen before.

1 **THE COMMISSIONER:** So there will be some
2 questions -- I guess I just want to make sure that we get
3 the order of cross-examination dealt with before we cross-
4 examine.

5 **MR. ENGELMANN:** Yes. On that note, sir, I
6 had advised -- Mr. McLelland asked questions about that and
7 ---

8 **THE COMMISSIONER:** Come forward, please.
9 We'll deal with that later, Mr. Engelmann.

10 Ms. Derochie, could you come forward,
11 please? Good morning.

12 **KAREN DEROCHIE, Affirmed/Sous affirmation solennelle:**

13 **THE COMMISSIONER:** Mrs. Derochie, I know
14 that there are a lot of other places you'd rather be this
15 morning. That's okay. What I've instructed is pursuant to
16 your request, the camera will not be on you. People on the
17 webcast will be able to hear your voice, and that's fine.

18 So what I want to do is reassure you that I
19 have ruled that there is a good reason for you to be here,
20 and so people are going to ask you questions, and all I
21 want you to do is answer the questions the best you can.
22 If you don't know the answer, you don't know the answer.
23 If you don't understand the question, just let me know and
24 I'll help you out with that. All right?

25 **MS. DEROCHIE:** M'hm.

1 **THE COMMISSIONER:** Now, a couple of things;
2 you're going to have to speak into the microphone because
3 we have to hear what you say and it has to be recorded. So
4 you can't say "M'hm". You have to say yes or no. All
5 right?

6 **MS. DEROCHIE:** Okay.

7 **THE COMMISSIONER:** There's water there for
8 you and a pitcher of fresh water. There is a speaker in
9 front of you, a little box, and if you can't hear, you turn
10 it up and if you don't want to hear, you turn it down a
11 little bit. All right?

12 If there are any documents that we're going
13 to show you, any papers, we'll give you a hard copy and it
14 will also be on the screen.

15 All right?

16 **MS. DEROCHIE:** M'hm. Yes.

17 **THE COMMISSIONER:** So let's start. Your
18 lawyer is here to represent you.

19 **MS. DEROCHIE:** M'hm.

20 **THE COMMISSIONER:** And if there's any
21 question of anything improper, either he, Mr. Engelmann or
22 one of the lawyers or even myself will stop the
23 proceedings, but I think we're just going to ask you a few
24 questions.

25 **MS. DEROCHIE:** Okay.

1 THE COMMISSIONER: All right?

2 MS. DEROCHIE: Okay.

3 THE COMMISSIONER: Thank you.

4 Mr. Engelmann.

5 --- EXAMINATION-IN-CHIEF BY/INTERROGATOIRE EN-CHEF PAR MR.
6 ENGELMANN:

7 MR. ENGELMANN: Good morning, Ms. Derochie.

8 MS. DEROCHIE: Hi.

9 MR. ENGELMANN: I understand that you live
10 here in the City of Cornwall; ---

11 MS. DEROCHIE: Yes.

12 MR. ENGELMANN: --- is that correct?

13 And do you presently work here in the City
14 of Cornwall?

15 MS. DEROCHIE: Yes.

16 MR. ENGELMANN: And who do you work for?

17 MS. DEROCHIE: Tilton Donihee.

18 MR. ENGELMANN: Tilton?

19 MS. DEROCHIE: Donihee.

20 MR. ENGELMANN: And he's a lawyer here in
21 Cornwall?

22 MS. DEROCHIE: Yes.

23 MR. ENGELMANN: And what type of work do you
24 do for Mr. Donihee?

25 MS. DEROCHIE: Criminal, family, real

1 estate, litigation.

2 MR. ENGELMANN: All right.

3 Would you describe yourself as a paralegal
4 or as a legal assistant, or both?

5 MS. DEROCHIE: Legal assistant.

6 MR. ENGELMANN: All right.

7 How long have you worked as a legal
8 assistant?

9 MS. DEROCHIE: Since 1982.

10 MR. ENGELMANN: All right.

11 And how long have you worked as a legal
12 assistant in the City of Cornwall?

13 MS. DEROCHIE: Since 1992.

14 MR. ENGELMANN: Okay. And I understand that
15 at one point you worked for a lawyer by the name of Duncan
16 McDonald?

17 MS. DEROCHIE: Yes.

18 MR. ENGELMANN: And am I correct in saying
19 that you worked for Mr. McDonald from sometime in late 1992
20 until approximately 1997?

21 MS. DEROCHIE: Yeah. It could have been
22 early 1993 when I started, at the beginning. I'm not clear
23 on the date when I started.

24 MR. ENGELMANN: All right.

25 Would it have been the winter of '92-'93?

1 **MS. DEROCHIE:** Yeah, probably.

2 **MR. ENGELMANN:** All right.

3 And did you work for a lawyer or lawyers in
4 Cornwall before Mr. Duncan McDonald?

5 **MS. DEROCHIE:** I worked for Anne-Marie
6 Levesque in 1991 when I first came here, and then I believe
7 I worked for Ann Bellefeuille for two or three months.

8 **MR. ENGELMANN:** Right.

9 So you worked for a couple of lawyers
10 briefly before you started with Mr. Duncan McDonald?

11 **MS. DEROCHIE:** Yes.

12 **MR. ENGELMANN:** And why did your employment
13 with Mr. Duncan McDonald come to an end?

14 **MS. DEROCHIE:** He had a stroke.

15 **MR. ENGELMANN:** All right.

16 And do you know approximately when that was?

17 **MS. DEROCHIE:** I believe it was 1997. I'm
18 not 100 percent sure. I believe it was 1997 he had a
19 stroke and he died in 2000, I believe.

20 **MR. ENGELMANN:** All right.

21 So after he had that stroke, he didn't
22 practise law any longer?

23 **MS. DEROCHIE:** No.

24 **MR. ENGELMANN:** And what happened to his
25 practice?

1 **MS. DEROCHIE:** They closed it down. I think
2 he may have sold some of it to another lawyer.

3 **MR. ENGELMANN:** All right.

4 Do you remember who that was?

5 **MS. DEROCHIE:** I think it was Barry
6 Desrosiers because I think they were partners at that time.

7 **MR. ENGELMANN:** Did Mr. Desrosiers share
8 office space at some point while you were working with Mr.
9 Duncan McDonald?

10 **MS. DEROCHIE:** Yes.

11 **MR. ENGELMANN:** All right.

12 And where was Mr. McDonald's office located
13 when you worked for him?

14 **MS. DEROCHIE:** Downstairs.

15 **MR. ENGELMANN:** All right.

16 Here? Could you just give me an address?

17 **MS. DEROCHIE:** Oh, here, on Sydney Street.
18 It was 126 Sydney Street. It's on Sydney. I don't know
19 the exact address.

20 **MR. ENGELMANN:** And that's here in the City
21 of Cornwall?

22 **MS. DEROCHIE:** Yes.

23 **MR. ENGELMANN:** And his office was on the
24 main floor ---

25 **MS. DEROCHIE:** Main floor.

1 **MR. ENGELMANN:** --- of the building?

2 **MS. DEROCHIE:** M'hm.

3 **MR. ENGELMANN:** And did someone have an
4 office on the second floor?

5 **MS. DEROCHIE:** I think Barry Desrosiers was
6 up there, but then he moved downstairs at one point.

7 **MR. ENGELMANN:** Okay.

8 **MS. DEROCHIE:** And I don't remember anybody
9 else being in there.

10 **MR. ENGELMANN:** Was Mr. McDonald a sole
11 practitioner?

12 **MS. DEROCHIE:** Yes.

13 **MR. ENGELMANN:** All right.

14 And during the time you worked for him, were
15 there other non-legal staff working for him?

16 **MS. DEROCHIE:** Yes.

17 **MR. ENGELMANN:** All right.

18 And aside from yourself, who else would have
19 worked for him?

20 **MS. DEROCHIE:** Bonnie Chisholm.

21 **MR. ENGELMANN:** Yes.

22 **MS. DEROCHIE:** And Heather Alguire.

23 **MR. ENGELMANN:** All right.

24 And what did those two women do for Mr.
25 McDonald, what type of work?

1 **MS. DEROCHIE:** Heather did his books, his
2 accounting, and Bonnie did estates and wills.

3 **MR. ENGELMANN:** Did either of them answer
4 the phone?

5 **MS. DEROCHIE:** We all answered the phone.

6 **MR. ENGELMANN:** Did anyone answer the phone
7 more than anyone else?

8 **MS. DEROCHIE:** Usually Bonnie would answer,
9 and if she were busy, I would answer.

10 **MR. ENGELMANN:** So Bonnie was the first
11 person who would answer the phone, typically?

12 **MS. DEROCHIE:** Usually, yeah.

13 **MR. ENGELMANN:** And you were the backup?

14 **MS. DEROCHIE:** Usually, yeah.

15 **MR. ENGELMANN:** And when, if at all, would
16 Ms. Alguire answer the phone?

17 **MS. DEROCHIE:** If we were both busy or out
18 of the office.

19 **MR. ENGELMANN:** Where were your offices
20 located? You said Mr. McDonald had an office on the main
21 floor?

22 **MS. DEROCHIE:** We were on the main floor.
23 Heather was upstairs. I think she was downstairs at one
24 point in the back and then she moved upstairs.

25 **MR. ENGELMANN:** And can you give us a sense

1 as to the layout of the office? Mr. McDonald had a private
2 office?

3 **MS. DEROCHIE:** Well, it was a main room and
4 then off of the main room he had his private office. It
5 was all one floor.

6 **MR. ENGELMANN:** And did you have a private
7 office or were you working in an open space?

8 **MS. DEROCHIE:** We were in an open space.

9 **MR. ENGELMANN:** And who was in that open
10 space with you?

11 **MS. DEROCHIE:** Bonnie and I.

12 **MR. ENGELMANN:** And where -- did you have a
13 reception area in the office?

14 **MS. DEROCHIE:** No.

15 **MR. ENGELMANN:** Okay. But where would
16 clients ---

17 **MS. DEROCHIE:** Well, we had a little lane --
18 well, a little walkway. There were chairs there when
19 people came in. They'd come in the door and either one of
20 us would greet them, and then they would just sit and wait
21 in the little area.

22 **MR. ENGELMANN:** Okay. So there was a little
23 waiting area?

24 **MS. DEROCHIE:** Yeah, it's all in the same
25 room; it was all open. It was ---

1 **MR. ENGELMANN:** That was in the same room
2 that you and Ms. Chisholm would work in?

3 **MS. DEROCHIE:** M'hm.

4 **MR. ENGELMANN:** All right.

5 **MS. DEROCHIE:** Yes.

6 **MR. ENGELMANN:** And was Mr. McDonald's
7 office off that waiting area or off your room or ---

8 **MS. DEROCHIE:** It was off of our room ---

9 **MR. ENGELMANN:** All right.

10 **MS. DEROCHIE:** --- facing the street.

11 **MR. ENGELMANN:** And you talked about a
12 second floor; was there a separate entrance to get up to
13 the second floor or how did that work?

14 **MS. DEROCHIE:** No, when you come in the
15 front doors you would go up the stairs to the second floor
16 or you would come through the door into our offices.

17 **MR. ENGELMANN:** All right.

18 So if I came into your -- that office and
19 wanted to go up to the second floor ---

20 **MS. DEROCHIE:** M'hm.

21 **MR. ENGELMANN:** --- would I be seen by
22 people working in the main area?

23 **MS. DEROCHIE:** No, because the door would
24 have been closed, because there was an entryway.

25 **THE COMMISSIONER:** So it's a separate

1 entrance?

2 **MS. DEROCHIE:** It's a separate entrance.

3 **MR. ENGELMANN:** All right.

4 And there's no glass there; there's a wall?

5 **MS. DEROCHIE:** There was a door.

6 **MR. ENGELMANN:** All right.

7 So could you see people walking in and up

8 the stairs?

9 **MS. DEROCHIE:** If the door were open, yes.

10 **MR. ENGELMANN:** All right.

11 And was the door often open or was it often

12 closed or do you remember?

13 **MS. DEROCHIE:** In the winter usually it was
14 closed because it was cold, but ---

15 **MR. ENGELMANN:** And what about in the
16 summer?

17 **MS. DEROCHIE:** It was open, I think, in the
18 summer; I don't really recall.

19 **MR. ENGELMANN:** All right.

20 Can you give us a sense when you worked for
21 Mr. McDonald, the areas of law he practiced in?

22 **MS. DEROCHIE:** Real estate and estates
23 mostly.

24 **MR. ENGELMANN:** And if that was most of his
25 practice, you were on the real estate side and Ms. Chisholm

1 was on the estate side; do I have that right?

2 MS. DEROCHIE: Yes.

3 MR. ENGELMANN: And did she ever do real
4 estate work?

5 MS. DEROCHIE: No, not while she worked for
6 Duncan, she didn't do that.

7 MR. ENGELMANN: And did you ever do estate
8 work?

9 MS. DEROCHIE: I did a little bit, she was -
10 - you know, when she went on holidays or what have you; I
11 just did very minimal.

12 MR. ENGELMANN: All right.
13 How would you describe Mr. McDonald as an
14 employer?

15 MS. DEROCHIE: He was a -- he was a good
16 employer. He was an elderly gentleman. He was -- he was a
17 good employer.

18 MR. ENGELMANN: Did you enjoy working for
19 him?

20 MS. DEROCHIE: Yes.

21 MR. ENGELMANN: And he was elderly when you
22 worked for him?

23 MS. DEROCHIE: Yes.

24 MR. ENGELMANN: Do you remember
25 approximately how old he would have been?

1 **THE COMMISSIONER:** And don't say, "50".

2 **MS. DEROCHIE:** I think he was in his
3 seventies when I -- early seventies, possibly. He was --
4 he was elderly.

5 **MR. ENGELMANN:** How would you describe as a
6 person?

7 **MS. DEROCHIE:** He was -- he was a very soft-
8 spoken person; very -- he was a kind person.

9 **MR. ENGELMANN:** Did you find him to be an
10 ethical person?

11 **MS. DEROCHIE:** Yes, very.

12 **MR. ENGELMANN:** Now, Mr. McDonald would have
13 had dealings with many lawyers here in Cornwall?

14 **MS. DEROCHIE:** Yes.

15 **MR. ENGELMANN:** During the time you worked
16 for him?

17 **MS. DEROCHIE:** Oh, yes.

18 **MR. ENGELMANN:** And those lawyers would
19 typically be doing either real estate or estate work?

20 **MS. DEROCHIE:** Yes.

21 **MR. ENGELMANN:** All right.

22 Did he ever have dealings with lawyers doing
23 other types of work, to your knowledge?

24 **MS. DEROCHIE:** Not to my knowledge.

25 **MR. ENGELMANN:** All right.

1 Do you know if he ever had dealings with a
2 lawyer also with the name MacDonald, but Malcolm MacDonald?

3 MS. DEROCHIE: Yes.

4 MR. ENGELMANN: All right.

5 And do you know what kind of work they might
6 have together?

7 MS. DEROCHIE: Real estate.

8 MR. ENGELMANN: Okay. And to your
9 knowledge, did he ever talk to or meet with Malcolm
10 MacDonald?

11 MS. DEROCHIE: M'hm. They used to have
12 lunch together; it was on Fridays or every other Friday
13 they used to.

14 MR. ENGELMANN: I'm sorry?

15 MS. DEROCHIE: Friday. On Fridays he used
16 to have lunch and Malcolm used to go or ---

17 MR. ENGELMANN: Would that happen every week
18 or would that happen every other Friday or do you have some
19 sense as to how often that would happen?

20 MS. DEROCHIE: No. It was fairly regular
21 but I don't know if it was like every week -- week, but ---

22 MR. ENGELMANN: All right.

23 But if it did happen, it was typically on a
24 Friday?

25 MS. DEROCHIE: On a Friday.

1 **MR. ENGELMANN:** All right.

2 And was his office close to your office, to
3 your knowledge?

4 **MS. DEROCHIE:** I believe it was.

5 **MR. ENGELMANN:** All right.

6 So he was a lawyer that you would have come
7 to know?

8 **MS. DEROCHIE:** Well, to see him.

9 **MR. ENGELMANN:** To see, yes.

10 **MS. DEROCHIE:** M'hm.

11 **MR. ENGELMANN:** Did Mr. Duncan McDonald ever
12 have any dealings with a lawyer by the name of Jacques
13 Leduc?

14 **MS. DEROCHIE:** Yes.

15 **MR. ENGELMANN:** All right.

16 And what kind of business dealings would
17 those be?

18 **MS. DEROCHIE:** Real estate.

19 **MR. ENGELMANN:** Okay. And do you know what
20 his relationship was like with Mr. Leduc?

21 **MS. DEROCHIE:** I think they had a business
22 relationship; lawyer/lawyer relationship, I ---

23 **MR. ENGELMANN:** I can barely hear you. I'm
24 sorry.

25 **MS. DEROCHIE:** Well, a lawyer-to-lawyer

1 relationship, just you know.

2 MR. ENGELMANN: All right.

3 So Mr. Leduc wasn't coming over to have
4 lunch ---

5 MS. DEROCHIE: No.

6 MR. ENGELMANN: --- with Duncan McDonald?

7 MS. DEROCHIE: No.

8 MR. ENGELMANN: So when they ---

9 MS. DEROCHIE: Not that I'm aware of.

10 MR. ENGELMANN: --- when they dealt with one
11 another, as far as you know, it was a business
12 relationship?

13 MS. DEROCHIE: So far as I know.

14 MR. ENGELMANN: All right.

15 And did you have occasion to meet Mr. Leduc
16 when he had dealings with your boss?

17 MS. DEROCHIE: On occasion I would go to the
18 Registry Office and close real estate deals.

19 MR. ENGELMANN: All right.

20 And I don't practice real estate law but
21 part of that is attending at a Registry Office and meeting
22 with counsel or a paralegal from another firm?

23 MS. DEROCHIE: M'hm.

24 MR. ENGELMANN: Is that how that works?

25 MS. DEROCHIE: Yeah, and you switch

1 documents whether you're purchasing or buying and close the
2 transaction.

3 **MR. ENGELMANN:** All right.

4 So you would have occasions, from time to
5 time, during the time you worked for Duncan McDonald, to
6 meet Mr. Leduc at the Registry Office?

7 **MS. DEROCHIE:** On a couple of occasions or
8 either I closed them or Duncan did; I don't know how many I
9 had closed with ---

10 **MR. ENGELMANN:** But you recall closing ---

11 **MS. DEROCHIE:** A couple.

12 **MR. ENGELMANN:** --- a couple of deals with
13 him ---

14 **MS. DEROCHIE:** M'hm.

15 **MR. ENGELMANN:** --- at the Registry Office?

16 **MS. DEROCHIE:** Yes.

17 **MR. ENGELMANN:** All right.

18 And what about a lawyer by the name of Sean
19 Adams; do you know if he did any work with Duncan McDonald
20 while you worked with Duncan McDonald?

21 **MS. DEROCHIE:** Yes.

22 **MR. ENGELMANN:** And do you remember what
23 kind of work he might have done with him?

24 **MS. DEROCHIE:** Well, real estate. He -- he
25 may have done estates. I didn't do the estates so I don't

1 know if they had any ---

2 **MR. ENGELMANN:** All right.

3 And, again, would they have had a business
4 relationship or a business and a personal relationship ---

5 **MS. DEROCHIE:** I would -- a business ---

6 **MR. ENGELMANN:** --- to your knowledge?

7 **MS. DEROCHIE:** To my knowledge, business.

8 I don't know what he did after hours, but to
9 my knowledge it was business.

10 **MR. ENGELMANN:** Do you know if they would go
11 for lunch from time to time, to your knowledge?

12 **MS. DEROCHIE:** To my knowledge, I don't
13 know; I can't answer that.

14 **MR. ENGELMANN:** And did you have occasion to
15 close real estate deals with Mr. Adams?

16 **MS. DEROCHIE:** I think on maybe one or two
17 occasions. He usually had a title searcher close his
18 deals.

19 **MR. ENGELMANN:** All right.

20 And where would you have met him?

21 **MS. DEROCHIE:** The Registry Office.

22 **MR. ENGELMANN:** All right.

23 So the same kind of an arrangement; if you
24 were there to close a deal for Duncan McDonald, he might
25 have been there on occasion and sometimes it would be

1 someone else from his office?

2 **MS. DEROCHIE:** Yeah. Not from his office,
3 he -- well, he usually had a title searcher, like I said,
4 from the Registry Office ---

5 **MR. ENGELMANN:** Oh, okay.

6 **MS. DEROCHIE:** --- that would close their
7 deals.

8 **MR. ENGELMANN:** All right.

9 Now when people would come in to see Duncan
10 McDonald, would they typically have an appointment, just
11 from your recollection?

12 **MS. DEROCHIE:** Not all the time, no.

13 **MR. ENGELMANN:** All right.

14 Sometimes they would; sometimes they
15 wouldn't?

16 **MS. DEROCHIE:** Yeah.

17 **MR. ENGELMANN:** What about lawyers, if they
18 wanted to see him; do you know if they would have an
19 appointment typically or not?

20 **MS. DEROCHIE:** No, sometimes they would just
21 drop in. He was from the old school and that's what he
22 practiced; people could just drop in and his door was
23 always open.

24 **MR. ENGELMANN:** Okay. And to your
25 knowledge, did lawyers drop in to see him from time to

1 time?

2 MS. DEROCHIE: Yes.

3 MR. ENGELMANN: All right.

4 And do you know why lawyers would drop in to
5 see him from time to time?

6 MS. DEROCHIE: No.

7 MR. ENGELMANN: All right.

8 You just know that they did?

9 MS. DEROCHIE: Yes.

10 MR. ENGELMANN: All right.

11 Now, I want to ask you about a meeting --
12 well, I want to ask you if you can recall a meeting that
13 Duncan McDonald would have had in his office with Jacques
14 Leduc and Malcolm MacDonald.

15 All right?

16 MS. DEROCHIE: M'hm.

17 MR. ENGELMANN: And, first of all, do you
18 recall -- do you have any recollection of a meeting that
19 Duncan McDonald would have had with Malcolm MacDonald and
20 Jacques Leduc in his office, after which these gentlemen
21 would have been asked to leave?

22 MS. DEROCHIE: Shortly after I started
23 there, in the first year ---

24 MR. ENGELMANN: Okay.

25 MS. DEROCHIE: --- there was -- they had

1 come into the office.

2 **MR. ENGELMANN:** Who's "they"?

3 **MS. DEROCHIE:** Malcolm MacDonald and
4 Jacques, to speak with him.

5 **MR. ENGELMANN:** And do you remember if
6 they'd had an appointment?

7 **MS. DEROCHIE:** I don't recall.

8 **MR. ENGELMANN:** All right.

9 What do you recall about the meeting?

10 **MS. DEROCHIE:** I don't know anything about
11 the meeting. I don't know what the meeting was about.

12 I'm -- they -- they came in, and they saw
13 him, and he was upset at ---

14 **THE COMMISSIONER:** Who is "he"?

15 **MS. DEROCHIE:** Duncan.

16 Duncan was upset at the end of the meeting
17 and -- and after they had left, he was upset.

18 **MR. ENGELMANN:** All right.

19 Do you recall approximately how long that
20 meeting was?

21 **MS. DEROCHIE:** I don't. It could have been
22 10 minutes, 15; I don't ---

23 **MR. ENGELMANN:** All right.

24 **MS. DEROCHIE:** I can't, for certain, say.

25 **THE COMMISSIONER:** Was it two hours?

1 **MS. DEROCHIE:** No, it wasn't for two hours.

2 **THE COMMISSIONER:** Okay.

3 **MS. DEROCHIE:** It was a short meeting. It
4 wasn't ---

5 **MR. ENGELMANN:** How did the meeting end?

6 **MS. DEROCHIE:** He had opened his door and
7 they, you know, they left and he was upset.

8 **MR. ENGELMANN:** All right.

9 So you remember this meeting; correct?

10 **MS. DEROCHIE:** Yes.

11 **MR. ENGELMANN:** Why is it that you remember
12 this meeting?

13 **MS. DEROCHIE:** Because he was upset after
14 it.

15 **MR. ENGELMANN:** All right.

16 And was he -- was that unusual for him to be
17 upset after a meeting?

18 **MS. DEROCHIE:** Yes.

19 **MR. ENGELMANN:** All right.

20 And do you remember what he might have said
21 to these two lawyers or the manner in which he said it when
22 they left the office?

23 **MS. DEROCHIE:** No, he was upset and he had -
24 - he didn't say -- I don't think he said anything to them
25 in particular. He said -- you know, he had mentioned --

1 after they had left he said to us just kind of to himself I
2 think in the air really, not to anyone in particular, about
3 some things shake your faith in institutions or what you
4 believe in, and we weren't sure what -- I had no idea what
5 he was referring to, but he -- and he was upset, and we
6 asked if he was okay, and he went in his office.

7 **MR. ENGELMANN:** All right.

8 So some things shake your faith in
9 institutions you believe in or words to that effect?

10 **MS. DEROCHIE:** Something to that effect. I
11 can't recall the exact words.

12 **MR. ENGELMANN:** All right.

13 Do you recall the tone of his voice when
14 these gentlemen left? In other words, was it a normal tone
15 or did he raise his voice?

16 **MS. DEROCHIE:** No, he never raised his
17 voice. Duncan never raised his voice. He just -- he was
18 red in the face and upset. You could tell. He shook his
19 head and just his mannerisms.

20 **MR. ENGELMANN:** All right.

21 Before that meeting, had he had any type of
22 illness that you know of?

23 **MS. DEROCHIE:** He had a small stroke, slight
24 stroke.

25 **MR. ENGELMANN:** All right.

1 **MS. DEROCHIE:** I don't know when it -- well,
2 I think it was before I started working there. It could
3 have been just before because he had a slight limp and he
4 had a -- he dragged his right leg or his left leg, one or
5 the other.

6 **MR. ENGELMANN:** I can barely hear you.

7 **MS. DEROCHIE:** Sorry. He used to drag his
8 left leg or his right leg. I don't remember which one.
9 When he walked he had a slight impediment from a stroke
10 that he had had.

11 **MR. ENGELMANN:** To your knowledge, was there
12 any mental impediment at that time?

13 **MS. DEROCHIE:** No.

14 **MR. ENGELMANN:** All right.

15 And you said this happened some time during
16 the first year that you were working for Duncan McDonald;
17 right?

18 **MS. DEROCHIE:** I believe it was.

19 **MR. ENGELMANN:** And you started sometime in
20 the winter of '92-'93; correct?

21 **MS. DEROCHIE:** Yes.

22 **MR. ENGELMANN:** All right.

23 And do you recall if it was warm out when
24 this meeting took place?

25 **MS. DEROCHIE:** No, I don't -- I don't

1 recall. I don't recall overcoats and boots, but I don't
2 recall if it was warm outside, no, I don't.

3 **MR. ENGELMANN:** You don't recall boots or
4 overcoats?

5 **MS. DEROCHIE:** No.

6 **MR. ENGELMANN:** All right.

7 Do you know if this meeting happened during
8 the summer of 1993?

9 **MS. DEROCHIE:** It could have. You know, I
10 can't be certain as to time or I can't be exactly precise
11 as to when because this is a long time ago that I'm trying
12 -- you know, I just recall certain things.

13 **MR. ENGELMANN:** You said that he said
14 something to the effect about shaking faith in institutions
15 you believe in.

16 Do you recall if he said anything about his
17 faith at the time and what his faith was?

18 **MS. DEROCHIE:** He didn't say anything about
19 his faith. I knew he was Catholic but he didn't say
20 anything about his faith. I don't -- he said -- he just
21 said it shakes your faith in institutions you've believed
22 in.

23 **MR. ENGELMANN:** So you knew him to be a
24 practicing Catholic?

25 **MS. DEROCHIE:** Yeah.

1 **MR. ENGELMANN:** And you don't recall if he
2 said those words at that time, or are you saying he didn't
3 ---

4 **MS. DEROCHIE:** I don't ---

5 **MR. ENGELMANN:** --- about -- that he was a
6 practicing Catholic and that shakes your faith in
7 institutions?

8 **MS. DEROCHIE:** I don't recall. He may have
9 said that. I don't -- I'm not -- he may have. I don't
10 know. He may have said something to the effect that as a
11 practicing Catholic it shakes your faith in your
12 institutions that you've believed in all your life;
13 something to that effect.

14 **MR. ENGELMANN:** Why do you remember this
15 particular incident? Was there something unique about?

16 **MS. DEROCHIE:** It's just because he was
17 upset.

18 **MR. ENGELMANN:** Right.

19 **MS. DEROCHIE:** And he didn't normally get
20 upset.

21 **MR. ENGELMANN:** And was that rare?

22 **MS. DEROCHIE:** It was very rare. He didn't
23 normally get upset.

24 **MR. ENGELMANN:** And had you ever seen him be
25 upset after a meeting with either Jacques Leduc or Malcolm

1 MacDonalld?

2 MS. DEROCHIE: No, I don't recall if he ever
3 had any other meetings with them though.

4 MR. ENGELMANN: Meetings with them together?

5 MS. DEROCHIE: Yeah.

6 MR. ENGELMANN: All right.

7 You knew that he had lunch with Malcolm?

8 MS. DEROCHIE: Yeah.

9 MR. ENGELMANN: And that he had some
10 business dealings with ---

11 MS. DEROCHIE: Business dealings with them.

12 MR. ENGELMANN: --- both and individual?

13 MS. DEROCHIE: Yeah.

14 MR. ENGELMANN: All right.

15 Now, was there anybody else there at that
16 meeting on that occasion?

17 MS. DEROCHIE: No.

18 MR. ENGELMANN: All right.

19 Did he talk about another lawyer at that
20 time when he spoke to you about his faith being shaken in
21 institutions?

22 MS. DEROCHIE: He had said that -- he
23 referred to Sean Adams, who wasn't there, but he had said
24 if Sean Adams were to call he didn't want to take the
25 calls.

1 **MR. ENGELMANN:** All right.

2 And this was at the same time he was telling
3 you about his faith in institutions being shaken. These
4 gentlemen have just left and he says something like if Sean
5 Adams calls he doesn't want to take his calls?

6 **MS. DEROCHIE:** Yes.

7 **MR. ENGELMANN:** All right.

8 Did he explain to you why he didn't want to
9 take Mr. Adams' calls?

10 **MS. DEROCHIE:** No.

11 **MR. ENGELMANN:** Had he ever asked you not to
12 take a call from Mr. Adams before?

13 **MS. DEROCHIE:** No, not that I can recall,
14 no.

15 **MR. ENGELMANN:** Okay. And who was told
16 that, that you can recall, that he didn't want to take Mr.
17 Adams' calls?

18 **MS. DEROCHIE:** Well, I was ---

19 **MR. ENGELMANN:** Who was that said to?

20 **MS. DEROCHIE:** Well, I was there and I
21 believe Bonnie was there as well.

22 **MR. ENGELMANN:** All right.

23 And, to your knowledge, did Mr. Adams try
24 and call either that day or the next day?

25 **MS. DEROCHIE:** I recall a few calls and I

1 just said he wasn't available.

2 MR. ENGELMANN: All right.

3 And did those calls happen that same day or
4 were they the next day and the day after?

5 MS. DEROCHIE: Probably -- they could have
6 been the next day. I can't say. I can't be certain how
7 many or when.

8 MR. ENGELMANN: All right.

9 MS. DEROCHIE: I can't be specific.

10 MR. ENGELMANN: Do you know about how many
11 times Mr. Adams would have phoned trying to speak to Mr.
12 Duncan McDonald?

13 MS. DEROCHIE: No, I don't. I don't. I
14 don't know how many.

15 MR. ENGELMANN: I'm sorry?

16 MS. DEROCHIE: I don't. I don't.

17 MR. ENGELMANN: All right.

18 MS. DEROCHIE: I can't be specific.

19 THE COMMISSIONER: Was it one or more?

20 MS. DEROCHIE: It was more than one.

21 THE COMMISSIONER: All right.

22 MR. ENGELMANN: Was it more than five?

23 MS. DEROCHIE: I don't know.

24 MR. ENGELMANN: All right.

25 And you can't remember today whether it was

1 over one day or over two days?

2 MS. DEROCHIE: I think it was over a couple
3 of day period.

4 MR. ENGELMANN: All right.

5 And what would you say? Just that he wasn't
6 there or he was busy.

7 MS. DEROCHIE: He wasn't available.

8 MR. ENGELMANN: Sorry?

9 MS. DEROCHIE: He wasn't available.

10 MR. ENGELMANN: All right.

11 And you didn't give a reason.

12 MS. DEROCHIE: No.

13 MR. ENGELMANN: All right.

14 MS. DEROCHIE: Just that he's not available
15 at the moment.

16 MR. ENGELMANN: And did Mr. Adams -- did you
17 take some of those calls yourself?

18 MS. DEROCHIE: I did.

19 MR. ENGELMANN: Yes. And did Mr. Adams ever
20 say why he wanted to speak to Mr. McDonald?

21 MS. DEROCHIE: No.

22 THE COMMISSIONER: Did he leave a message
23 saying, "Ask him to call me," or did he say, "I'll call you
24 back," or ---

25 MS. DEROCHIE: I don't remember. I don't

1 think so. I don't know. I can't remember.

2 THE COMMISSIONER: Okay.

3 MR. ENGELMANN: Did you take telephone --
4 did you write up telephone message pads at all?

5 MS. DEROCHIE: Did I?

6 MR. ENGELMANN: Yes.

7 MS. DEROCHIE: Yes.

8 MR. ENGELMANN: All right.

9 And what would you have written on if you
10 wrote on telephone message pads?

11 MS. DEROCHIE: Well, who called.

12 MR. ENGELMANN: Do you remember what colour
13 they were or whether there was a book?

14 MS. DEROCHIE: They were a book and it was
15 pink.

16 MR. ENGELMANN: The pages were pink?

17 MS. DEROCHIE: Yeah, I believe they were
18 pink.

19 MR. ENGELMANN: All right.

20 And who would typically write those
21 messages?

22 MS. DEROCHIE: Whoever took the call.

23 MR. ENGELMANN: All right.

24 Was there just one book, or to your
25 knowledge, were there multiple books?

1 For example, did you have a book; did Ms.
2 Chisholm have a book? How did that work?

3 **MS. DEROCHIE:** Well, I had a book and Bonnie
4 had a book.

5 **MR. ENGELMANN:** All right.

6 And those books would have been left at the
7 office when you left?

8 **MS. DEROCHIE:** Yes.

9 **MR. ENGELMANN:** All right.

10 Now, did something happen with any of these
11 gentlemen and Mr. Duncan McDonald shortly after that first
12 meeting that you've described when Malcolm MacDonald and
13 Jacques Leduc were in Duncan McDonald's office?

14 **MS. DEROCHIE:** Well, shortly after that,
15 they came into the office. There were four people. There
16 was Sean, and Malcolm, and Jacques, and someone else.

17 **MR. ENGELMANN:** All right.

18 So Malcolm MacDonald, Jacques Leduc, Sean
19 Adams and you did not know the fourth person?

20 **MS. DEROCHIE:** No.

21 **MR. ENGELMANN:** Do you have any recollection
22 as to what the fourth person looked like?

23 **MS. DEROCHIE:** No, I couldn't tell you, no.

24 **MR. ENGELMANN:** Do you have any recall about
25 the possible age of that person?

1 MS. DEROCHIE: No. He was younger, I think,
2 younger.

3 MR. ENGELMANN: He was younger than Mr.
4 Malcolm MacDonald?

5 MS. DEROCHIE: Yes.

6 MR. ENGELMANN: Younger than Mr. Jacques
7 Leduc?

8 MS. DEROCHIE: Yes.

9 MR. ENGELMANN: What about Mr. Adams?

10 MS. DEROCHIE: Possibly. I'm not good with
11 ages. I don't know.

12 MR. ENGELMANN: So he was an adult?

13 MS. DEROCHIE: Yes.

14 MR. ENGELMANN: And it was a man?

15 MS. DEROCHIE: Yes.

16 MR. ENGELMANN: Do you remember if the man
17 had any facial hair? Do you remember anything about what
18 he looked like?

19 MS. DEROCHIE: I don't.

20 MR. ENGELMANN: All right.

21 Do you recall, shortly thereafter, are we
22 talking a few days or possibly a week? Can you remember?

23 MS. DEROCHIE: I think it was -- I can't --
24 probably, it could have been a couple of weeks after.

25 MR. ENGELMANN: All right.

1 MS. DEROCHIE: It wasn't days.

2 MR. ENGELMANN: And do you remember if they
3 had an appointment?

4 MS. DEROCHIE: Not to my knowledge, no.

5 MR. ENGELMANN: All right.

6 And when they came to the office, was Mr.
7 McDonald, Duncan McDonald, was he there when they arrived?

8 MS. DEROCHIE: No.

9 MR. ENGELMANN: All right.

10 And did they wait for him?

11 MS. DEROCHIE: Yes.

12 MR. ENGELMANN: And what happened when he
13 arrived?

14 MS. DEROCHIE: Well, he came in, and he saw
15 them and he turned around, and he went upstairs, and he had
16 -- he phoned down and said he didn't want to see them.

17 MR. ENGELMANN: All right.

18 So just describe that for me again. He
19 walks in the front door?

20 MS. DEROCHIE: Yes.

21 MR. ENGELMANN: He walks through that second
22 door. He sees them; turns around and goes up the stairs?

23 MS. DEROCHIE: He went back out the door and
24 upstairs.

25 MR. ENGELMANN: All right.

1 And was that something you had seen him do
2 before?

3 **MS. DEROCHIE:** No.

4 **MR. ENGELMANN:** What would he typically do
5 if he saw people he knew in the waiting area?

6 **MS. DEROCHIE:** He would greet them.

7 **MR. ENGELMANN:** Was there any greeting on
8 that occasion?

9 **MS. DEROCHIE:** No.

10 **MR. ENGELMANN:** Okay. And he called down
11 and said what? What can you recall?

12 **MS. DEROCHIE:** I recall he said -- he asked
13 us to get rid of them, that he didn't want to see them.

14 **MR. ENGELMANN:** Now, you talked about the
15 fact that he was upset after the first meeting. How would
16 you describe him after this meeting, this incident?

17 **MS. DEROCHIE:** Well, I think he must have --
18 he came downstairs after they had gone. He was upset, but
19 he didn't say anything to anybody.

20 **MR. ENGELMANN:** All right.

21 So he didn't make a comment like he did the
22 first time?

23 **MS. DEROCHIE:** No.

24 **MR. ENGELMANN:** Had he ever asked you to get
25 rid of people from his office before?

1 MS. DEROCHIE: Not that I can recall, no.

2 MR. ENGELMANN: Did they leave when they
3 were asked to leave?

4 MS. DEROCHIE: Yes.

5 MR. ENGELMANN: Now ---

6 THE COMMISSIONER: Are you the one who asked
7 them to leave?

8 MS. DEROCHIE: Yes.

9 THE COMMISSIONER: How did you do that?

10 MS. DEROCHIE: I just said he wasn't
11 available and could they, you know, please leave.

12 THE COMMISSIONER: Was there any reaction
13 from them?

14 MS. DEROCHIE: I don't recall. I don't
15 think so.

16 THE COMMISSIONER: Okay.

17 MR. ENGELMANN: After that incident, do you
18 remember if he continued to have lunch with Malcolm
19 MacDonald?

20 MS. DEROCHIE: Not right after that, no.
21 No, I don't believe so. But then I don't know what he did
22 on his lunch hours. I don't know what he did after hours.
23 I don't.

24 MR. ENGELMANN: All right.

25 But you had been familiar before then about

1 regular lunches between these two men?

2 MS. DEROCHIE: Yes.

3 MR. ENGELMANN: And did you see that after
4 the incident is what I'm asking you?

5 MS. DEROCHIE: No.

6 MR. ENGELMANN: What about Mr. Leduc? To
7 your knowledge, did he continue to have any business
8 dealings with Mr. Duncan McDonald?

9 MS. DEROCHIE: I believe so.

10 MR. ENGELMANN: Do you know what, if any,
11 personal relationship they would have had after that
12 incident?

13 MS. DEROCHIE: No.

14 MR. ENGELMANN: All right.

15 What about Mr. Adams? You had mentioned
16 that Mr. Duncan McDonald had asked you not to -- or to not
17 take his calls for a couple days after the first incident.
18 What about -- were there calls after the second incident,
19 that you can remember, or not?

20 MS. DEROCHIE: What do you mean? I don't --

21 -

22 MR. ENGELMANN: Were there phone calls from
23 Mr. Adams after he and the other three gentlemen attended
24 at Duncan McDonald's office?

25 MS. DEROCHIE: Well, I believe they

1 continued to do business together, yes.

2 **MR. ENGELMANN:** All right.

3 And did he ever ask you -- he being Duncan
4 McDonald -- did he ever ask you not to take Mr. Adams'
5 calls after that one or two days?

6 **MS. DEROCHIE:** No.

7 **MR. ENGELMANN:** These incidents happened a
8 long time ago?

9 **MS. DEROCHIE:** Yes.

10 **MR. ENGELMANN:** Approximately 14 years ago.
11 I'll go back to 1993. Have you had any discussions about
12 these two -- well, the two meetings and the phone call
13 issue with anybody since?

14 **MS. DEROCHIE:** What do you mean?

15 **MR. ENGELMANN:** All right.

16 Well, have you been asked questions by
17 Commission counsel about this recently?

18 **MS. DEROCHIE:** Yes.

19 **MR. ENGELMANN:** All right.

20 And did you ever have any discussions with
21 your co-worker at the time, Ms. Chisholm? Do you recall
22 having any discussions with her about these events at any
23 time subsequent to the events?

24 **MS. DEROCHIE:** Yeah -- well, yeah. We were
25 at a golf tournament and I had mentioned in passing --

1 there was something in the paper. I can't remember what it
2 was. I don't even remember what sparked it. There was
3 something to do with the Inquiry, and I said, "Do you
4 remember that time, you know, when Duncan was upset?" and
5 what have you, and that was the extent of the conversation.

6 **MR. ENGELMANN:** All right.

7 And do you recall -- the golf tournament, is
8 it -- do you attend a golf tournament on an annual basis?

9 **MS. DEROCHIE:** Yes.

10 **MR. ENGELMANN:** All right.

11 And is it a tournament for legal assistants
12 or ---

13 **MS. DEROCHIE:** It's for the legal
14 assistants.

15 **MR. ENGELMANN:** Okay. And do you remember
16 what year this would have been that that would have
17 happened? Was that this past summer or the summer before?
18 Or maybe I shouldn't assume people only play golf in the
19 summer.

20 **MS. DEROCHIE:** I don't ---

21 **MR. ENGELMANN:** Okay. You just remember --
22 were you in a foursome with Ms. Chisholm?

23 **MS. DEROCHIE:** Yes.

24 **MR. ENGELMANN:** All right.

25 And you brought this up because the Inquiry

1 was on and in the news?

2 **MS. DEROCHIE:** Yeah. There must have been
3 something in the paper. I don't really -- I don't pay too
4 much attention to it. I hate to say that, but I don't
5 because it doesn't affect me or my family.

6 **MR. ENGELMANN:** That's fine.

7 **MS. DEROCHIE:** But there must -- there was
8 something in the paper. Either it had to do with -- it
9 must have had to do with Malcolm. I don't know what.

10 **MR. ENGELMANN:** All right.

11 You were wondering if there was any
12 connection to these events and the Inquiry?

13 **MS. DEROCHIE:** We just kind of said, "Yeah,
14 I wonder if that..." Yeah.

15 **MR. ENGELMANN:** All right.

16 And what, if anything, did Ms. Chisholm seem
17 to recall about these two incidents at the time?

18 **MS. DEROCHIE:** She didn't recall. She said
19 she didn't recall.

20 **MR. ENGELMANN:** Ms. Derochie, are you here
21 under a summons?

22 **MS. DEROCHIE:** Yes.

23 **MR. ENGELMANN:** I understand that you would
24 have preferred not to have testified?

25 **MS. DEROCHIE:** That's right.

1 **MR. ENGELMANN:** Why is that?

2 **MS. DEROCHIE:** Because this doesn't involve
3 me. This is -- you know, I have to work in this community
4 and I work for lawyers here. It's just -- I don't want my
5 name associated with this at all. This is something that
6 happened years ago and I have no idea what happened at that
7 time or what was going on. So ---

8 **MR. ENGELMANN:** What was your concern,
9 working with lawyers?

10 **MS. DEROCHIE:** My concern is just that it's
11 a small community and you work with lawyers and, you know,
12 if you're saying something about another lawyer and, you
13 know, say something happens with my current employment and
14 I'm with a lawyer, I'll never be able to work for another
15 lawyer because they'll think, "Oh, she said something about
16 so and so." It's just a small town, how that works.

17 **THE COMMISSIONER:** What you have told us
18 today, is it the truth?

19 **MS. DEROCHIE:** Well, of course, it's the
20 truth.

21 **THE COMMISSIONER:** Okay. And do you feel
22 good about telling the truth?

23 **MS. DEROCHIE:** I do.

24 **THE COMMISSIONER:** Okay.

25 Thank you.

1 **MS. DEROCHIE:** I just don't understand. I
2 don't understand the whole ---

3 **THE COMMISSIONER:** Right. I understand.

4 **MS. DEROCHIE:** --- what this has to do with
5 anything, really.

6 **THE COMMISSIONER:** M'hm.

7 **MR. ENGELMANN:** You mention that you weren't
8 associated with people involved at the Inquiry?

9 **MS. DEROCHIE:** Pardon me?

10 **MR. ENGELMANN:** I think you just said you
11 weren't associated with people involved with the Inquiry?

12 **MS. DEROCHIE:** No.

13 **MR. ENGELMANN:** You don't have any family
14 members ---

15 **MS. DEROCHIE:** No.

16 **MR. ENGELMANN:** --- who were associated with
17 this Inquiry in any way?

18 **MS. DEROCHIE:** No.

19 **MR. ENGELMANN:** As either alleged victims,
20 alleged perpetrators, institutional officials?

21 **MS. DEROCHIE:** No.

22 **MR. ENGELMANN:** No one at all?

23 **MS. DEROCHIE:** No.

24 **MR. ENGELMANN:** And, Ms. Derochie, do you
25 have any notes or any agendas that you would have written

1 any of these events that you've described to us down in; do
2 you know what I mean? You ever written down what you
3 observed?

4 **MS. DEROCHIE:** No.

5 **MR. ENGELMANN:** And what you heard?

6 **MS. DEROCHIE:** No.

7 **MR. ENGELMANN:** To your knowledge, either
8 while working for Duncan McDonald or subsequent, have you
9 ever been in a situation of conflict of any kind with
10 Malcolm MacDonald, Jacques Leduc or Sean Adams?

11 **MS. DEROCHIE:** No.

12 **MR. ENGELMANN:** When I say conflict, either
13 personal or business that you could think of?

14 **MS. DEROCHIE:** No.

15 **MR. ENGELMANN:** All right.

16 If I could just have a minute, sir?

17 **(SHORT PAUSE)/(COURTE PAUSE)**

18 **MR. ENGELMANN:** Just a couple of other
19 questions, if I could, Ms. Derochie?

20 Before you worked for Duncan McDonald ---

21 **MS. DEROCHIE:** Yes.

22 **MR. ENGELMANN:** --- do you know if he
23 practiced criminal law or civil litigation at all?

24 **MS. DEROCHIE:** I believe in his younger
25 years, he was a criminal lawyer.

1 **MR. ENGELMANN:** All right. And before you
2 were served with a summons to be here, were you contacted
3 by Commission counsel about possibly -- about talking to
4 Commission counsel to whether or not you worked for Duncan
5 McDonald and when?

6 **MS. DEROCHIE:** Yes.

7 **MR. ENGELMANN:** Those are the questions that
8 I have for Ms. Derochie.

9 **THE COMMISSIONER:** Thank you.

10 **MR. ENGELMANN:** Ms. Derochie, my friends may
11 have some questions for you, the other lawyers here, and if
12 they do they will identify themselves and they will tell
13 you who it is they represent and they will have some
14 questions for you.

15 I spoke to counsel about an order. I also
16 reminded counsel -- certain counsel, certainly counsel that
17 are not familiar with our practice -- about not duplicating
18 questions that may have been asked by others.

19 **THE COMMISSIONER:** M'hm.

20 **MR. ENGELMANN:** I'm concerned that we not
21 have duplicate questions. I made that clear to Mr.
22 McClelland, in particular, about where he wanted to go in
23 the order and I understand it's Mr. Cameron that will ask
24 questions for Mr. Adams. They wish to go last ---

25 **THE COMMISSIONER:** M'hm.

1 **MR. ENGELMANN:** --- and counsel for Mr.
2 Leduc asked to go second last.

3 And I don't know if there was any discussion
4 with their peers about that, but unless I hear an objection
5 to that, I will assume that that's an agreed-upon order.

6 **THE COMMISSIONER:** M'hm. What about counsel
7 for the witness?

8 **MR. ENGELMANN:** Well, counsel for the
9 witness always goes last ---

10 **THE COMMISSIONER:** Okay.

11 **MR. ENGELMANN:** --- after cross-examination
12 and just before re-exam by Commission counsel.

13 **THE COMMISSIONER:** All right.

14 **MR. ENGELMANN:** That's by way of our rules.
15 I was just talking about order for witnesses who may want -
16 - or counsel who may wish to cross-exam.

17 **THE COMMISSIONER:** Does anybody have any
18 objections to that procedure? Terrific, thank you.

19 Mr. Horn.

20 **MR. HORN:** My name is Frank Horn and I'm a
21 lawyer for the Coalition for Action and I don't know if you
22 know too much about the -- what we've been doing over the
23 years, but I can indicate to you that I know a little about
24 the office you worked in. I used to work with Grace
25 Robinson ---

1 **MS. DEROCHIE:** No, I don't ---

2 **MR. HORN:** --- upstairs and also, I don't
3 know if you know -- Ian Paul also had an office in that
4 building. Do you remember if he had an office when you
5 were there?

6 **MS. DEROCHIE:** Not when I was there.

7 **MR. HORN:** But I didn't know Mr. McDonald,
8 Duncan McDonald, your employer, but from what I understand,
9 he was a very honourable man and you should be happy that
10 you worked with somebody of his reputation and high stature
11 in this town and that's all I can say. I just want to say
12 that I don't have any questions for you.

13 **MS. DEROCHIE:** Thank you.

14 **THE COMMISSIONER:** Thank you.

15 Mr. Lee?

16 **MR. LEE:** Ms. Derochie, my name is Dallas
17 Lee. I'm counsel for the Victims Group.

18 I don't have any questions for you either.
19 Thank you for coming.

20 **MS. DEROCHIE:** Thank you.

21 **THE COMMISSIONER:** Did we talk -- Mr.
22 Neville?

23 --- CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR MR.

24 **NEVILLE:**

25 **MR. NEVILLE:** Good morning.

1 Ms. Derochie, my name is Michael Neville. I
2 represent the Estate of Ken Seguin and also Father Charles
3 MacDonald. I just have a few moments of questions for you.

4 These two events that you've described for
5 the Commissioner, who all was in the office that day? The
6 -- let's take the first one, sorry.

7 The day when the two persons who come are,
8 as you recall it, Malcolm and Jacques Leduc. You're
9 present' who else do you recall -- independently recall
10 being on -- on the premises?

11 **MS. DEROCHIE:** I believe Bonnie was there as
12 well.

13 **MR. NEVILLE:** Right. What about Mr.
14 Desrosiers?

15 **MS. DEROCHIE:** I can't recall.

16 **MR. NEVILLE:** And at that particular time
17 when that first event happened -- I guess these two events,
18 I should say, are as you recall it today, a week or two
19 apart?

20 **MS. DEROCHIE:** I believe so.

21 **MR. NEVILLE:** Pardon me?

22 **MS. DEROCHIE:** I believe so, yes.

23 **MR. NEVILLE:** And so on that particular set
24 of events or set of occasions, where was Mr. Desrosiers'
25 office?

1 **MS. DEROCHIE:** I don't recall at the time if
2 Barry was upstairs or in the back. I don't ---

3 **MR. NEVILLE:** In the back meaning on the
4 same floor as Mr. McDonald?

5 **MS. DEROCHIE:** On the same floor but in the
6 back. There was an office in the back.

7 **MR. NEVILLE:** If you could just keep your
8 voice for me; I'm even having trouble hearing you, ma'am.

9 **MS. DEROCHIE:** Sorry.

10 **THE COMMISSIONER:** Mr. Neville isn't
11 elderly, but we do lack some hearing skills sometimes.

12 **MR. NEVILLE:** It's all relative, I think.

13 **THE COMMISSIONER:** I -- I included myself in
14 there; there's a "we" in there.

15 **MR. NEVILLE:** There was a "we"?

16 **THE COMMISSIONER:** Yes.

17 **MR. NEVILLE:** I might have missed the "we".

18 **(LAUGHTER/RIRES)**

19 **THE COMMISSIONER:** You did; let the record
20 show.

21 **MR. NEVILLE:** M'hm.

22 Mr. Desrosiers and Mr. Duncan McDonald, as
23 you recall it, were partners?

24 **MS. DEROCHIE:** Not in the beginning. When I
25 -- when I started there, they weren't. They just shared

1 office space.

2 MR. NEVILLE: Right. When did they become
3 partners?

4 MS. DEROCHIE: I don't -- I can't say; I
5 don't know.

6 MR. NEVILLE: And there seems to be some
7 uncertainty in your mind as to when you started your
8 service with Mr. McDonald?

9 MS. DEROCHIE: I can't be sure if I started
10 in the end of '92 or right at the beginning of '93.

11 MR. NEVILLE: So it's -- it's certainly by
12 that start of '93. Are you sure about that?

13 MS. DEROCHIE: Yes.

14 MR. NEVILLE: Pardon me?

15 MS. DEROCHIE: Yes.

16 MR. NEVILLE: All right. You can't just nod
17 because the reporter has to ---

18 MS. DEROCHIE: I'm sorry.

19 MR. NEVILLE: --- take your answer down.
20 That's all right.

21 Now, when the -- after the first incident
22 happened, do you recall seeing Mr. Desrosiers that day?

23 MS. DEROCHIE: No.

24 MR. NEVILLE: You just don't recall?

25 MS. DEROCHIE: I just don't recall.

1 **MR. NEVILLE:** All right. And on the second
2 occasion, do you recall seeing Mr. Desrosiers that day?

3 **MS. DEROCHIE:** I don't recall, no.

4 **MR. NEVILLE:** So you're not saying he wasn't
5 there on each occasion, you just don't recall either way?

6 **MS. DEROCHIE:** I don't recall.

7 **MR. NEVILLE:** Either way?

8 **MS. DEROCHIE:** Either way.

9 **MR. NEVILLE:** Okay. Now, you've testified
10 for us today, the 14th of December, and Mr. Engelmann asked
11 you just at the end of your Examination in-Chief about
12 being contacted by Commission counsel to confirm whether
13 you'd worked for Mr. McDonald?

14 **MS. DEROCHIE:** Yes.

15 **MR. NEVILLE:** Do you recall when that was,
16 relative to today?

17 **MS. DEROCHIE:** I don't know. September
18 maybe.

19 **MR. NEVILLE:** September?

20 **MS. DEROCHIE:** Possibly, I don't recall. My
21 husband's been ill and at the same time that they contacted
22 me, we were going through some ---

23 **MR. NEVILLE:** All right.

24 **MS. DEROCHIE:** --- issues ---

25 **MR. NEVILLE:** So they contacted you by

1 phone, did they?

2 MS. DEROCHIE: Yes.

3 MR. NEVILLE: And did you at that -- shortly
4 thereafter meet with them?

5 MS. DEROCHIE: Yes.

6 MR. NEVILLE: And gave them an interview
7 statement, discussed these events with them?

8 MS. DEROCHIE: They asked me some questions.

9 MR. NEVILLE: On these events?

10 MS. DEROCHIE: On these events.

11 MR. NEVILLE: Pardon?

12 MS. DEROCHIE: They asked me, yes.

13 MR. NEVILLE: The same events we've heard
14 about today, they asked you about? Is that fair?

15 MS. DEROCHIE: Yes.

16 MR. NEVILLE: All right.

17 And that would have been, when? In relation
18 to this September contact? Shortly after?

19 MS. DEROCHIE: Yeah, I think about a week
20 after, maybe.

21 MR. NEVILLE: About a week after. So is it
22 fair to say that, let's take as a benchmark, Thanksgiving,
23 in October, you had been contacted and interviewed prior to
24 Thanksgiving?

25 MS. DEROCHIE: I think so. You know I can't

1 say -- my dates I don't know. My husband was having heart
2 issues in August. He was due to have stints put in another
3 angiogram and it was just ---

4 MR. NEVILLE: Right.

5 MS. DEROCHIE: I don't know.

6 MR. NEVILLE: You came here to this building
7 to be interviewed?

8 MS. DEROCHIE: No.

9 MR. NEVILLE: No.

10 MS. DEROCHIE: No.

11 MR. NEVILLE: Where were you interviewed?

12 MS. DEROCHIE: At my office.

13 MR. NEVILLE: At your office. Oh, okay.

14 And you think that was about a week after the initial
15 contact?

16 MS. DEROCHIE: I believe so.

17 MR. NEVILLE: And you recall -- as best as
18 you can recall, the initial contact was September 2007 this
19 year?

20 MS. DEROCHIE: I think so, yes.

21 MR. NEVILLE: That's all I wish to ask Mr.
22 Commissioner. Thank you.

23 THE COMMISSIONER: Thank you.

24 Mr. Chisholm?

25 MS. DEROCHIE: I wish I knew.

1 **THE COMMISSIONER:** I'm sorry.

2 **MS. DEROCHIE:** I said I wish I could
3 remember. I don't.

4 **THE COMMISSIONER:** That's okay.

5 **MR. CHISHOLM:** Good morning, Ms. Derochie.
6 My name is Peter Chisholm. I'm counsel for
7 the local CAS. I have no questions for you.

8 Thank you.

9 **THE COMMISSIONER:** Thank you.
10 Corrections are not here.

11 Mr. Sharbach?

12 **MR. SHARBACH:** Good Morning, Ms. Derochie.
13 My name is Stephen Sharback. I'm counsel
14 for the Ministry of the Attorney General. I have no
15 questions for you this morning.

16 Thank you.

17 **MS. DEROCHIE:** Thank you.

18 **THE COMMISSIONER:** Ms. Robitaille?

19 No, I don't think -- I -- let me go through
20 the list. Diocese ---

21 Mr. Crane do you have any questions?

22 **MR. CRANE:** No questions.

23 Thank you.

24 **THE COMMISSIONER:** Thank you.

25 The Diocese is not here.

1 Mr. Kozloff, any questions?

2 **MR. KOZLOFF:** No questions.

3 **THE COMMISSIONER:** Mr. Carroll?

4 **MR. CARROLL:** No, thank you.

5 **THE COMMISSIONER:** There you go.

6 Ms. Robitaille?

7 **---CROSS-EXMINATION BY/CONTRE-INTERROGATOIR PAR MS.**

8 **ROBITAILLE:**

9 **MS. ROBITAILLE:** Good Morning, Ms. Derochie.

10 My name is Danielle Robitaille. I'm counsel
11 for Mr. Jacques Leduc. I just have a very few questions
12 for you this morning.

13 I just want to clarify a few points from
14 your evidence earlier this morning. You said that you
15 can't be certain of the date of this alleged meeting or
16 even the year. You can't be 100 percent certain.

17 **THE COMMISSIONER:** I don't know what she
18 said about the year. About the meeting. I think she can't
19 be sure of the date.

20 **MS. ROBITAILLE:** One moment.

21 **THE COMMISSIONER:** Mr. Engelmann?

22 **MS. ENGELMANN:** She said it was within the
23 first year. She wasn't sure.

24 **MS. ROBITAILLE:** Yes. My note here says
25 that you -- Mr. Engelmann asked you if it was in the summer

1 of '93 and you said you could not be certain of the time,
2 it was a long time ago. Does that ---

3 **MS. DEROCHIE:** I can't be specific to the
4 time of the year. I don't recall like they said overcoats
5 and boots, snow, but it was within the first year that I
6 worked there and it was in 1993, but I started -- or late
7 1992, when I started there, so ---

8 **MS. ROBITAILLE:** Thank you.
9 And you don't know what the meeting was
10 about?

11 **MS. DEROCHIE:** No.

12 **MS. ROBITAILLE:** You don't know why those
13 men were there?

14 **MS. DEROCHIE:** No.

15 **MS. ROBITAILLE:** And you're not sure if
16 Duncan McDonald mentioned anything about his faith. You
17 said that you were a bit unsure on that point.

18 **THE COMMISSIONER:** About a what?

19 **MS. ROBITAILLE:** His faith.

20 **THE COMMISSIONER:** Faith. Right.

21 **MS. DEROCHIE:** I'm not sure if he said
22 specific -- he said, "It rocks your faith in institutions."
23 I don't recall if he said Catholic or I'm -- I don't recall
24 specific.

25 **MS. ROBITAILLE:** Thank you.

1 And when Mr. Engelmann asked you about the
2 summons that required you to be here, you said, "I don't
3 know what this has to do with anything." Is that right?

4 **MS. DEROCHIE:** Yes.

5 **MS. ROBITAILLE:** Thank you.

6 Those are my questions.

7 **THE COMMISSIONER:** Thank you.

8 All right.

9 So now we go to Mr. Cameron?

10 **MR. CAMERON:** Mr. Commissioner, as is to be
11 expected, the evidence of the witness was rather more
12 detailed than the statement of anticipated evidence.

13 **THE COMMISSIONER:** M'hm.

14 **MR. CAMERON:** And if it meets your approval
15 I'd like a very brief adjournment now to consult with my
16 client, in anticipation of the cross-examination.

17 **THE COMMISSIONER:** How long would you like?

18 **MR. CAMERON:** Five minutes should do it.

19 **THE COMMISSIONER:** We'll take ten.

20 **MR. CAMERON:** Thanks.

21 **THE COMMISSIONER:** All right.

22 Thank you.

23 **THE REGISTRAR:** Order; all rise. À l'ordre;
24 veuillez vous lever.

25 **THE REGISTRAR:** This hearing will resume at

1 15 after noon.

2 --- Upon recessing at 12:06 p.m./

3 --- L'audience est suspendue à 12h06

4 **THE REGISTRAR:** This hearing is now resumed.
5 Please be seated. Veuillez vous asseoir.

6 --- Upon resuming at 12:18 p.m./

7 --- L'audience est reprise à 12h18

8 **THE COMMISSIONER:** Mr. Cameron, go ahead.

9 **MR. CAMERON:** Thank you.

10 ---CROSS-EXAMINATION BY/CONTRE-INTERROGATOIRE PAR MR.

11 **CAMERON:**

12 **MR. CAMERON:** Ms. Derochie, my name is
13 Gordon Cameron. I'm going to be asking you some questions
14 on behalf of Sean Adams.

15 **MS. DEROCHIE:** Okay.

16 **MR. CAMERON:** We've heard you describe when
17 you started working, at least as best as you could remember
18 it -- am I correct that you called Bonnie Chisholm recently
19 to get her recollection of when you worked with Duncan
20 McDonald?

21 **MS. DEROCHIE:** Yes.

22 **MR. CAMERON:** And why was it you called
23 Bonnie Chisholm?

24 **MS. DEROCHIE:** I wanted to be accurate on my
25 dates. But I don't recall. She felt I started there right

1 after -- shortly after she did.

2 **MR. CAMERON:** Okay. So I take it you
3 weren't yourself -- you didn't remember yourself when you
4 started and so you called Bonnie to get her information on
5 that?

6 **MS. DEROCHIE:** I have a vague idea of when I
7 started.

8 **MR. CAMERON:** Okay. Did you ask Bonnie
9 about anything else with respect to the evidence you've
10 given today?

11 **MS. DEROCHIE:** No.

12 **MR. CAMERON:** Okay. The discussions that
13 you had with Bonnie about her recollection of these events,
14 were those discussions limited to the golf course exchange
15 you described in your evidence in response to Mr.
16 Engelmann's questions?

17 **MS. DEROCHIE:** No. She came to my office
18 after she had been contacted by Mr. Engelmann. She was
19 delivering some papers and she came to the office to talk
20 to me about it. She said she had been contacted, and she
21 heard that I was going to have to testify, and she just
22 said she basically didn't remember what I remembered. And
23 that's ---

24 **MR. CAMERON:** Sorry. You faded out. She
25 didn't remember what?

1 **MS. DEROCHIE:** She doesn't remember what I
2 remember.

3 **MR. CAMERON:** And when was that?

4 **MS. DEROCHIE:** Probably three weeks ago or
5 so.

6 **MR. CAMERON:** Now, you've also described
7 that -- the timing of what I'll call, the first of these
8 incidents, the meeting in which Malcolm MacDonald and
9 Jacques Leduc met with Duncan McDonald, in Duncan
10 McDonald's office, and as I heard you say it, you don't
11 remember people wearing overcoats and snow boots, but other
12 than that -- and that it was sometime in 1993, you can't be
13 very clear about when it was.

14 **MS. DEROCHIE:** That's right.

15 **MR. CAMERON:** Right. Is it fair to say then
16 that it could have been in September, October or maybe even
17 November of 1993?

18 **MS. DEROCHIE:** It could be, yes.

19 **MR. CAMERON:** Okay. Now, as you described
20 the first meeting, Mr. Leduc and Malcolm MacDonald spent
21 some time in Duncan McDonald's office and then they left;
22 is that correct?

23 **MS. DEROCHIE:** Yes.

24 **MR. CAMERON:** You didn't suggest in your
25 evidence, I don't think, that Duncan McDonald threw them

1 out or asked them to leave or ejected them from his office.
2 It's just that the meeting ended and he left -- sorry, they
3 left?

4 **MS. DEROCHIE:** And he was upset.

5 **MR. CAMERON:** Sorry.

6 **MS. DEROCHIE:** And he was upset, yes, after
7 they left.

8 **MR. CAMERON:** Right. He was upset to you,
9 but he wasn't upset in the course of them leaving his
10 office.

11 **MS. DEROCHIE:** No, I think he was upset in
12 the course of them leaving as well but he -- I mean -- he
13 wasn't screaming, "Get out of my office." No.

14 I don't understand the question. I don't
15 understand what you're asking.

16 **MR. CAMERON:** Well, your recollection during
17 your examination was rather vague and I'm just trying to
18 find out if I can pin it down a little more.

19 You said you didn't what they were meeting
20 about; correct?

21 **MS. DEROCHIE:** No.

22 **MR. CAMERON:** When you say, "No," you mean,
23 no you don't remember what they -- you -- didn't know what
24 the meeting was about?

25 **MS. DEROCHIE:** I mean no, I don't know what

1 they were meeting about.

2 **MR. CAMERON:** And was it after these
3 gentlemen, Mr. Leduc and Malcolm MacDonald, had left Duncan
4 McDonald's office that you heard Duncan McDonald make the
5 comment about calls from Sean Adams?

6 **MS. DEROCHIE:** Yes.

7 **MR. CAMERON:** Okay. And do you know who he
8 said that to?

9 **MS. DEROCHIE:** He said it to -- well, I was
10 in the office, he said it in general to -- Bonnie and I
11 were both in the office, I believe.

12 **MR. CAMERON:** So he said this to Bonnie
13 Chisholm as well as to you?

14 **MS. DEROCHIE:** Well, he would have said it
15 to both of us in general. He would have directed it to
16 both of us.

17 **MR. CAMERON:** You were sitting by or close
18 to Bonnie Chisholm, then, at the time he said this?

19 **MS. DEROCHIE:** Our desks were beside each
20 other.

21 **MR. CAMERON:** I understand that.

22 At the time he said this, you were sitting
23 at your desk and Bonnie Chisholm was at her desk?

24 **MS. DEROCHIE:** I believe Bonnie was.

25 **MR. CAMERON:** And where were you?

1 **MS. DEROCHIE:** At my desk.

2 **MR. CAMERON:** And as I understood your
3 evidence, Duncan McDonald said nothing to you about why it
4 was he wanted you not to put Mr. Adams' calls through to
5 him?

6 **MS. DEROCHIE:** No.

7 **MR. CAMERON:** To your knowledge, Ms.
8 Derochie, did Duncan McDonald take any steps in consequence
9 of this meeting with Mr. Leduc and Malcolm MacDonald?

10 **MS. DEROCHIE:** No.

11 **MR. CAMERON:** I think you mentioned in your
12 answer to Mr. Engelmann's questions that it was Bonnie
13 Chisholm who was Duncan McDonald's assistant, in the sense
14 that it would be she who would be the one to take his calls
15 and if she wasn't available, you were there as a backup.
16 Is that right?

17 **MS. DEROCHIE:** Yeah. We both -- we both
18 answered the phone but she would usually answer the phones.
19 We both answered the phones but she would
20 usually answer the phone.

21 **MR. CAMERON:** And when you said that Mr.
22 Adams called over the course -- I think you had different
23 recollections of the length of time, but either that day of
24 the meeting or that day and perhaps for a few days after --
25 do you know was Bonnie Chisholm taking messages from Mr.

1 Adams?

2 **MS. DEROCHIE:** I don't know. She may have
3 been, I don't know.

4 **MR. CAMERON:** Okay. And what -- how long
5 did this go on? At what point did Mr. Adams' calls get
6 taken by Mr. McDonald?

7 **MS. DEROCHIE:** I don't know. I don't know.
8 I don't recall. I can't answer that.

9 **MR. CAMERON:** Well, was there an instruction
10 that "I'm now willing to take Mr. Adams' calls"?

11 **MS. DEROCHIE:** No.

12 **MR. CAMERON:** Well, how did you know when it
13 was appropriate to put Mr. Adams through to Mr. McDonald?

14 **MS. DEROCHIE:** I don't know; I don't recall.
15 He never discussed it with us again or not to my knowledge
16 to me; perhaps to Bonnie.

17 **THE COMMISSIONER:** So after this incident,
18 you recalled having recollection of Mr. Adams phoning and
19 you transferring the call to Mr. McDonald?

20 **MS. DEROCHIE:** I didn't, no.

21 **MR. CAMERON:** Is it fair to say that it
22 wasn't unusual for Mr. Adams to be calling Mr. McDonald on
23 real estate transactions that the two of them were working
24 on?

25 **MS. DEROCHIE:** Yes. Is it fair to say that

1 he would be calling, yes.

2 **MR. CAMERON:** Yes. And have you had an
3 opportunity to look at the phone message logs that Bonnie
4 Chisholm took during the summer of 1993?

5 **MS. DEROCHIE:** Yes.

6 **MR. CAMERON:** Okay.

7 **MR. McCANN:** Mr. Commissioner ---

8 **THE COMMISSIONER:** First of all, you have to
9 come up to the microphone.

10 **MR. McCANN:** We've been provided with copies
11 of some phone messages but clearly not all of the message
12 logs because we have one page, for example, that has
13 several messages on one date and then it jumps several
14 dates to another group of messages.

15 So, I mean, it's quite apparent that this is
16 not a complete message ---

17 **THE COMMISSIONER:** Well, I'm sure -- just a
18 second.

19 **MR. ENGELMANN:** That's hard to read.

20 What we would have done is -- it was Mr.
21 Desrosiers that provided these documents to Commission
22 counsel.

23 **THE COMMISSIONER:** M'hm.

24 **MR. ENGELMANN:** Apparently, they're message
25 books of Bonnie Chisholm.

1 **THE COMMISSIONER:** M'hm.

2 **MR. ENGELMANN:** And we've reviewed the
3 document and we decided to excerpt or redact irrelevant
4 names and that was an effort made by some of my colleagues.

5 **THE COMMISSIONER:** M'hm.

6 **MR. ENGELMANN:** That's all it is.

7 **THE COMMISSIONER:** Okay. Thank you.

8 Carry on, Mr. Cameron.

9 **MR. CAMERON:** Thank you.

10 I'm wondering, Mr. Commissioner, if we could
11 have document 200185, which has been filed but not yet made
12 an exhibit, brought up on the screen?

13 **THE COMMISSIONER:** Sure. Well, we'll make
14 it an exhibit first.

15 All right, so this is -- Exhibit 1117 is a
16 document called "Bonnie's livre de messages téléphoniques"
17 -- oh, Phone Message Book, okay, May 18th, 1993 to
18 September 22nd, 1993.

19 **--- EXHIBIT NO./PIÈCE NO. P-1117:**

20 (200185) Bonnie Chisholm's Phone Message
21 Book dated May 18, 1993 to September 22,
22 1993

23 **MR. CAMERON:** Ms. Derochie, when I flip
24 through the pages of those messages, I find about five
25 pages in -- and I appreciate that the photocopying

1 exacerbates the handwriting and the fact that these are
2 duplicates -- but there's a message if you can see it there
3 dated August 9th, 1993, with a time of 3:15 p.m. Do you see
4 that?

5 **THE COMMISSIONER:** It's on the screen right
6 now.

7 **MS. DEROCHIE:** It's on the screen, yes.

8 **THE COMMISSIONER:** Yeah.

9 **MR. CAMERON:** And on the next page of that
10 exhibit, we have a message dated August 10th, 1993, at
11 9:30 a.m. Do you see that?

12 **MS. DEROCHIE:** Yes.

13 **MR. CAMERON:** And these are both messages
14 from Sean Adams for Duncan McDonald?

15 **MS. DEROCHIE:** Yes.

16 **MR. CAMERON:** And then on the next page we
17 see another message on August 10th =, at 2:30 in the
18 afternoon, again from Sean Adams. Do you see that?

19 **MS. DEROCHIE:** Yes.

20 **MR. CAMERON:** And if you go down on the same
21 page you see a message the next day in the morning, August
22 11th at 10:20, another message from Sean Adams for Duncan
23 McDonald?

24 **MS. DEROCHIE:** Yes.

25 **MR. CAMERON:** Do you see those?

1 MS. DEROCHIE: Yes.

2 MR. CAMERON: And so we have, indeed, an
3 example in the summer of 1993 of Mr. Adams persistently
4 trying to get ahold of Mr. McDonald, calling him the
5 afternoon of the 9th, the morning of the 10th, the afternoon
6 of the 10th and then the morning of the 11th; correct?

7 MS. DEROCHIE: Yes.

8 MR. CAMERON: And we can also -- I think you
9 can agree with me, having worked in this area for some
10 time, agree that those telephone messages have to do with
11 what appears to be a real estate transaction; correct?

12 MS. DEROCHIE: Yes, I believe so.

13 THE COMMISSIONER: Well, it says "Woods and"
14 ---

15 MS. DEROCHIE: Yeah.

16 MR. CAMERON: You'd agree with that?

17 MS. DEROCHIE: Yes.

18 MR. CAMERON: Okay. And so we can see from
19 just this one example that it wasn't unusual for Mr. Adams
20 to being persistent in trying to get a hold of Mr. McDonald
21 despite having to make several attempts to do so; correct?

22 THE COMMISSIONER: Well -- go ahead. Do you
23 have an answer for him?

24 MR. CAMERON: Okay.

25 MS. DEROCHIE: Was there a question? I

1 don't know if there is a question.

2 MR. CAMERON: Do you agree with that
3 proposition?

4 MS. DEROCHIE: What was the -- I don't
5 understand, what was the question? Just that there was
6 calls for a real estate deal?

7 MR. CAMERON: Well, you worked in this
8 office, right? You were taking messages, as well, and you
9 worked ---

10 MS. DEROCHIE: Yes.

11 MR. CAMERON: --- with Bonnie Chisholm?

12 MS. DEROCHIE: Yes.

13 MR. CAMERON: Okay. And we just looked at a
14 series of messages ---

15 MS. DEROCHIE: Yes.

16 MR. CAMERON: --- where Mr. Adams was
17 persistently trying to get ahold of Duncan McDonald,
18 correct?

19 MS. DEROCHIE: Yes.

20 MR. CAMERON: Okay. But that was on a real
21 estate transaction, correct?

22 MS. DEROCHIE: Yes.

23 MR. CAMERON: Okay. So we have at least
24 this example from the messages we've got, which don't
25 include any messages you took, of Mr. Adams persistently

1 trying to get a hold of Mr. McDonald but on exactly the
2 type of thing you'd expect him to be getting a hold of Mr.
3 McDonald on; that is, a real estate transaction; correct?

4 **MS. DEROCHIE:** Right.

5 **MR. CAMERON:** Okay. Now, did you and Bonnie
6 discuss why -- sorry, Bonnie Chisholm -- discuss why you
7 were screening Mr. McDonald's calls?

8 **MS. DEROCHIE:** No.

9 **MR. CAMERON:** Let's go to the second
10 incident, the meeting sometime later, perhaps a week or two
11 later. And I want to ask you, first of all, you've
12 mentioned that you knew Malcolm MacDonald and Jacques Leduc
13 from working on real estate transactions with them, and I
14 wanted to ask you to consider this. You had, in the summer
15 of 1993, perhaps worked for eight or nine months for Duncan
16 McDonald; correct?

17 **MS. DEROCHIE:** Yes.

18 **MR. CAMERON:** And are you aware how long Mr.
19 Adams had been in practice in Cornwall at that time?

20 **MS. DEROCHIE:** No.

21 **MR. CAMERON:** Okay. I want to be careful
22 here, but would it surprise you if Mr. Adams said that, in
23 fact, he had not closed a real estate transaction with you
24 in 1993 or even closely approximate to that time?

25 **MS. DEROCHIE:** Would it surprise me?

1 **MR. CAMERON:** Yes. I mean, isn't it
2 possible that in 1993 or around that time, you only having
3 been working there for eight or nine months, that you
4 hadn't yet had any occasion to close a transaction with Mr.
5 Adams?

6 **MS. DEROCHIE:** I closed transactions with
7 Mr. Adams' office.

8 **MR. CAMERON:** Absolutely.

9 **MS. DEROCHIE:** Either he used a title
10 searcher or ---

11 **MR. CAMERON:** Understood. But he invariably
12 uses title searchers to close his transactions, doesn't he?

13 **MS. DEROCHIE:** Yes. Yes, he does.

14 **MR. CAMERON:** Okay. Now, is it possible
15 then that in 1993 you hadn't yet met Mr. Adams?

16 **MS. DEROCHIE:** No, because I worked in 1991
17 and I did real estate for Ann Marie Levesque, and I knew of
18 him. I knew what he looked like.

19 **MR. CAMERON:** Okay. You knew of him and you
20 knew what he looked like because of why? Because he was in
21 the paper or because you've seen pictures of him?

22 **MS. DEROCHIE:** Well, in real estate deals,
23 real estate transactions.

24 **MR. CAMERON:** Well, is it your ---

25 **MS. DEROCHIE:** Going to his office.

1 **MR. CAMERON:** --- certain recollection, Ms.
2 Derochie, that you did a face-to-face closing of a real
3 estate transaction with Mr. Adams before 1993?

4 **MS. DEROCHIE:** Yes. Yes.

5 **MR. CAMERON:** Okay.

6 **THE COMMISSIONER:** But not necessarily with
7 ---

8 **MS. DEROCHIE:** I believe, but not
9 necessarily with Duncan.

10 **MR. CAMERON:** Not necessarily for Duncan
11 McDonald?

12 **MS. DEROCHIE:** No.

13 **MR. CAMERON:** Okay. The second incident,
14 the one in which the three lawyers, as you understood it,
15 and another man came to Duncan McDonald's office, were you
16 the only one that saw this?

17 **MS. DEROCHIE:** No, I believe Bonnie was
18 there. I can't be sure though.

19 **MR. CAMERON:** Okay.

20 **THE COMMISSIONER:** She said, "I think Bonnie
21 was there. I can't be sure though."

22 **MR. CAMERON:** Thank you.

23 And to whom did Mr. McDonald, as you
24 recollect it, call down from upstairs when he went
25 upstairs?

1 **MS. DEROCHIE:** I picked up the phone.

2 **MR. CAMERON:** Okay. After that incident,
3 did you discuss it with Bonnie Chisholm?

4 **MS. DEROCHIE:** No. No.

5 **MR. CAMERON:** Are you aware -- and I realize
6 you tried to answer this question in your examination-in-
7 chief -- are you aware of the relationship that Mr. Adams
8 and Duncan McDonald had in the period following 1993?

9 **MS. DEROCHIE:** Am I aware of the
10 relationship? No. I'm sure they had a business
11 relationship. Other than that, I don't know what he did
12 after hours. I don't know.

13 **MR. CAMERON:** Okay. And, again, I asked you
14 earlier whether the consequence of the first meeting
15 resulted in any follow-up by Duncan McDonald with respect
16 to further steps related to the meeting with Jacques Leduc
17 and Malcolm MacDonald.

18 Was there anything that happened or was said
19 by Duncan McDonald after the incident in which the three
20 lawyers, as you understood it, and the other man came to
21 his office?

22 **MS. DEROCHIE:** No.

23 **MR. CAMERON:** So that was it? That incident
24 occurred and that was the end of it?

25 **MS. DEROCHIE:** Yes.

1 **MR. CAMERON:** Okay.

2 Thank you.

3 Those are my questions, Mr. Commissioner.

4 **THE COMMISSIONER:** Okay.

5 Mr. McCann first or Mr. Engelmann?

6 Mr. McCann?

7 **MR. McCANN:** Thank you, Mr. Commissioner.

8 Mr. Commissioner, I just have three
9 questions that I think arise out of what we've heard so
10 far.

11 --- RE-CROSS-EXAMINATION BY/RÉ-CONTRE-INTERROGATOIRE PAR
12 **MR. McCANN:**

13 **MR. McCANN:** The first question, Ms.
14 Derochie, had to do with the message pads that you were
15 shown.

16 First of all, all of those messages that
17 you've seen are not your -- none of them are your
18 handwriting; am I correct?

19 **MS. DEROCHIE:** No.

20 **MR. McCANN:** All right.

21 And you had your own pad, I believe?

22 **MS. DEROCHIE:** Yes.

23 **MR. McCANN:** And if you were to receive a
24 call from somebody and that person didn't leave a message
25 such as, "Please ask them to call me back," or, "Tell him I

1 called," if it was nothing at all, would you make a note of
2 that? Would you fill out a message?

3 **MS. DEROCHIE:** No, not normally, no.

4 **MR. McCANN:** All right.

5 You were just asked some questions about
6 your -- when you became aware who Sean Adams was. And I
7 wanted to ask you; other than closing real estate deals
8 with lawyers in the city, in your experience, would you in
9 your normal practice have occasion to know the local
10 lawyers who would be involved in real estate?

11 **MS. DEROCHIE:** Know them how?

12 **MR. McCANN:** Get to know who they were.

13 **THE COMMISSIONER:** By sight, you mean?

14 **MS. DEROCHIE:** By sight?

15 **MR. McCANN:** By sight, recognize them, and
16 would you know from other -- maybe sort of your colleagues
17 that ---

18 **MS. DEROCHIE:** Yes.

19 **MR. McCANN:** ---act as assistants to real
20 estate lawyers, know who the other lawyers are ---

21 **MS. DEROCHIE:** Oh yes.

22 **MR. McCANN:** --- that you do business with?

23 **MS. DEROCHIE:** Yes.

24 **MR. McCANN:** Even though you might not have
25 ever been introduced to them?

1 MS. DEROCHIE: Yes.

2 MR. McCANN: Okay. And one last question,
3 Ms. Derochie. You mentioned you were first contacted by
4 Commission counsel sometime within the last two or three
5 months, I think you said?

6 MS. DEROCHIE: Yes.

7 MR. McCANN: I'm not interested in the exact
8 time, but when you were initially contacted by Commission
9 counsel, you spoke to them?

10 MS. DEROCHIE: I spoke to them?

11 MR. McCANN: Yes ---

12 MS. DEROCHIE: Yes.

13 MR. McCANN: --- you met with them, I think,
14 in your office? You described, I think, two meetings in
15 your office?

16 MS. DEROCHIE: Yes, they came to my office.

17 MR. McCANN: Okay. During that first
18 meeting or after that first meeting, were you given any
19 assurances about whether or not you would be required to
20 testify?

21 MS. DEROCHIE: They told me they just wanted
22 to speak with me and I wouldn't have to testify, and they
23 just wanted to ask me some questions. And here I sit.

24 MR. McCANN: Thank you.

25 Those are all the questions I have.

1 **THE COMMISSIONER:** Mr. Engelmann.

2 **MR. ENGELMANN:** Just a couple of questions,
3 if I may.

4 I didn't get the exhibit number for the --
5 -

6 **THE COMMISSIONER:** One-one-one-seven (1117).

7 **MR. ENGELMANN:** One-one-one-seven (1117)?

8 **THE COMMISSIONER:** Yes.

9 **MR. ENGELMANN:** And that was May 18th, '93 to
10 September 26th -- September 22nd, '93?

11 **THE COMMISSIONER:** Yes.

12 **MR. ENGELMANN:** There were a couple of other
13 excerpts and maybe we should just also have them marked.

14 Document Number 200184, if the witness could
15 just be shown the document?

16 **THE COMMISSIONER:** So Exhibit 1118 is
17 another message -- phone message book.

18 --- **EXHIBIT NO/PIÈCE NO. P-1118:**

19 (200184) Bonnie Chisholm's Phone Message
20 Book dated January 14th, 1993 to May 11th,
21 1993

22 --- **RE-EXAMINATION BY/RÉ-INTERROGATOIRE PAR MR. ENGELMANN:**

23 **MR. ENGELMANN:** Ms. Derochie, do you have
24 that document?

25 **MS. DEROCHIE:** I do.

1 **MR. ENGELMANN:** Okay. Again, would this be
2 your handwriting or would this be someone else's?

3 **MS. DEROCHIE:** No, it's not my handwriting.

4 **MR. ENGELMANN:** Okay. Do you know if it's
5 Bonnie Chisholm's?

6 **MS. DEROCHIE:** I believe it is, yes.

7 **MR. ENGELMANN:** All right. And these are
8 references to a couple of calls from Sean Adams apparently
9 in January of '93. Is that fair?

10 **MS. DEROCHIE:** Yes.

11 **MR. ENGELMANN:** And then if the witness
12 could also be shown document 200186.

13 **THE COMMISSIONER:** All right.

14 So Exhibit 1119 will be another of Bonnie's
15 phone message books, September 23rd, '93 through March 7th of
16 1994.

17 **---EXHIBIT NO./PIÈCE NO. P-1119:**

18 (200186) Bonnie Chisholm's Phone Message
19 Book dated September 23, 1993 to March 7,
20 1994

21 **MR. ENGELMANN:** Do you have a copy, Ms.
22 Derochie?

23 **MS. DEROCHIE:** Yes.

24 **MR. ENGELMANN:** All right. Again, there
25 seems to be some references to phone calls with Sean Adams

1 starting in or around December 23rd of '93?

2 **MS. DEROCHIE:** Yes.

3 **MR. ENGELMANN:** There's also a reference to
4 a fellow by the name of Peter McDerby, and we see his name
5 in these other excerpts as well.

6 Do you know who he was?

7 **MS. DEROCHIE:** He was a lawyer.

8 **MR. ENGELMANN:** Okay. And what kind of a
9 relationship did he have with Duncan McDonald?

10 **MS. DEROCHIE:** Peter did real estate, I
11 believe, as well.

12 **MR. ENGELMANN:** Yeah. Sorry?

13 **THE COMMISSIONER:** He did real estate as
14 well?

15 **MR. ENGELMANN:** Right. Was he a friend of
16 Duncan McDonald's?

17 **MS. DEROCHIE:** I don't know. He may have
18 been.

19 **MR. ENGELMANN:** All right. Well, would they
20 go for lunch from time-to-time?

21 **MS. DEROCHIE:** I don't know. I can't answer
22 that.

23 **MR. ENGELMANN:** You were asked about when
24 you first met with Commission counsel?

25 **MS. DEROCHIE:** Yes.

1 **MR. ENGELMANN:** And if I suggested to you
2 that it was on or about October 17th, would that seem about
3 right?

4 **MS. DEROCHIE:** It may have been. I don't --
5 I can't remember.

6 **MR. ENGELMANN:** All right. And at that
7 first meeting, was there any discussion at that time about
8 whether you'd be testifying?

9 **MS. DEROCHIE:** I don't recall.

10 **MR. ENGELMANN:** All right.

11 **MS. DEROCHIE:** I think I said I don't want
12 to be involved or to testify.

13 **MR. ENGELMANN:** All right. And subsequent
14 to that meeting, were you informed that the Commission felt
15 that you had to testify?

16 **MS. DEROCHIE:** Yes.

17 **MR. ENGELMANN:** And you expressed some
18 concern about that and after that you were served with a
19 summons?

20 **MS. DEROCHIE:** I expressed a lot of concern,
21 and yes.

22 **MR. ENGELMANN:** Those are all my questions.
23 Thanks very much for coming, Ms. Derochie.

24 **MS. DEROCHIE:** Thank you.

25 **THE COMMISSIONER:** Thank you.

1 Ms. Derochie, I want to thank you for
2 coming. I know that it's not pleasant. Sometimes public
3 duty has to be called in and I certainly don't want you to
4 feel any adverse effect from all of this. And I guess I
5 can tell you that if anyone didn't want to hire you because
6 of what you came and said here today then I don't think you
7 should work for him.

8 Thank you very much.

9 **MS. DEROCHIE:** Thank you.

10 **THE COMMISSIONER:** So you may step down.

11 Is that it?

12 **MR. ENGELMANN:** Mr. Commissioner, that's all
13 for today.

14 There was the possibility of a motion. I've
15 been informed by Mr. Manson that the Citizens for Community
16 Renewal wish -- they've indicated to me and to all counsel
17 they wish to bring a motion dealing with police
18 disciplinary records.

19 **THE COMMISSIONER:** M'hm.

20 **MR. ENGELMANN:** It's tentatively been set
21 for the Wednesday the 19th.

22 I have asked Mr. Manson to have those
23 materials filed no later than Monday ---

24 **THE COMMISSIONER:** M'hm.

25 **MR. ENGELMANN:** --- to allow people to have

1 some time with that.

2 **THE COMMISSIONER:** Right.

3 **MR. ENGELMANN:** In addition to that, we have
4 the evidence of Deborah Newman, who is the Deputy Minister
5 for the Ministry of Corrections. That will be Monday and
6 Tuesday.

7 And then on Wednesday, if we have time, we
8 also have, aside from the motion, possible evidence from
9 Carole Cardinal ---

10 **THE COMMISSIONER:** All right.

11 **MR. ENGELMANN:** --- a former -- current
12 probation officer.

13 **THE COMMISSIONER:** So subject to any weather
14 changes ---

15 **MR. ENGELMANN:** Yes.

16 **THE COMMISSIONER:** --- or changes caused by
17 the weather, we will resume Monday at 2:00.

18 **MR. ENGELMANN:** Thank you.

19 **THE COMMISSIONER:** All right.

20 Thank you.

21 **THE REGISTRAR:** Order; all rise. À
22 l'ordre; veuillez vous lever.

23 This hearing is adjourned until December
24 17th, at 2:00 p.m.

25 --- Upon adjourning at 12:47 p.m./

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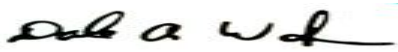
L'audience est ajournée à 12h47

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C E R T I F I C A T I O N

I, Dale Waterman a certified court reporter in the Province of Ontario, hereby certify the foregoing pages to be an accurate transcription of my notes/records to the best of my skill and ability, and I so swear.

Je, Dale Waterman, un sténographe officiel dans la province de l'Ontario, certifie que les pages ci-hauts sont une transcription conforme de mes notes/enregistrements au meilleur de mes capacités, et je le jure.



Dale Waterman, CVR-CM