

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

B E T W E E N:

BUDUCHNIST CREDIT UNION LIMITED

Applicant

and

2321197 ONTARIO INC., CARLO DEMARIA, SANDRA DEMARIA,
2321198 ONTARIO INC., SASI MACH LIMITED, VICAR HOMES LTD., and
TRADE FINANCE CAPITAL CORP.

Respondents

**BRIEF OF TRANSCRIPTS OF THE RESPONDENTS, 2321197 ONTARIO INC.,
CARLO DEMARIA, 2321198 ONTARIO INC. AND VICAR HOMES LTD.
(Receivership Application, returnable January 16, 2019)**

January 14, 2019

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INDEX

INDEX

<u>TAB NO.</u>	<u>DESCRIPTION</u>
1.	Transcript from the examination of Nestor Wolicki, held December 17, 2018
2.	Transcript from the examination of Roma Bereza, held December 17, 2018
3.	Transcript from the continued examination of Roma Bereza, held January 10, 2019
4.	Transcript from the continued examination of Roma Bereza, held January 11, 2019

TAB 1

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

NP/ke

B E T W E E N:

BUDUCHNIST CREDIT UNION LIMITED

Applicant

- and -

2321197 ONTARIO INC., CARLO DEMARIA,
SANDRA DEMARIA, 2321198 ONTARIO INC.,
SASI MACH LIMITED and VICAR HOMES LTD.

Respondents

- - - - -

This is the Examination Pursuant to Rule 39.03 of
NESTOR WOLICKI, taken at the offices of VICTORY VERBATIM
REPORTING SERVICES INC., Suite 900, Ernst & Young Tower,
222 Bay Street, Toronto, Ontario, on the 17th day of
December, 2018.

- - - - -

APPEARANCES:

KENNETH KRAFT
PHILIP UNDERWOOD

-- for the Plaintiff
-- for the Respondents,
2321198 Ontario Inc.,
Carlo DeMaria and
Vicar Homes Ltd.
-- for Nestor Wolicki

LEIGH YOUD

ALSO PRESENT:
Carlo DeMaria

INDEX OF PROCEEDINGS

	PAGE NUMBER
NESTOR WOLICKI, sworn	
Examination by Mr. Underwood	4 - 28
Index of Exhibits	29
Index of Undertakings	30
Index of Under Advisements	31
Index of Refusals	32
Certificate	33

1 -- upon commencing at 11:23 a.m.

2

3 NESTOR WOLICKI, sworn

4 EXAMINATION BY MR. UNDERWOOD:

5 1. Q. Good morning, Mr. Wolicki.

6 A. Good morning.

7 2. Q. Thanks for coming in. I am going to
8 try and make this pretty quick, so we will just get
9 down to it. I know that there has been some
10 questions about potential privilege, so I just want
11 to make clear that I am not going to try and get
12 into any issues about the contents of communications
13 that you have had that are privileged. I am sure
14 Mr. Youd will let me know if I accidentally stray
15 too far.

16 MR. YOUD: Yes, and I will just...very
17 briefly I will just say I have obviously
18 communicated with Mr. Wintning (phon.) and
19 Ms. Grossman, and they obviously seem to
20 have a difference of opinion as to what can
21 or can't be done. And I am going to tell
22 you right now, for any questions where I
23 think the objection would otherwise be
24 relevant, I am going to answer it and avail
25 myself of the Rules, I think it is 34.10.

1 With respect to the Stavebank
2 mortgages, I encourage you to put all the
3 questions on the record, but we will take
4 them all under advisement on the grounds
5 that, right now, we have been told by our
6 client, through Ms. Grossman, that it is
7 privileged and we can't answer any
8 questions about Stavebank. For what it is
9 worth, that is where we are going to be for
10 most of these, but that will be subject to
11 the questions, so...

12 3. MR. UNDERWOOD: As in you will take them
13 under advisement?

14 MR. YOUD: Yes.

15 4. MR. UNDERWOOD: You will refuse to
16 answer them today.

17 MR. YOUD: Yes.

18 5. MR. UNDERWOOD: Okay.

19 MR. YOUD: Because it is different from
20 relevance. The objection there is that any
21 question, any communication is somehow
22 lawyer/client privilege, so...

23 And then if there is a motion on the
24 point, I can assure you we are not taking a
25 position. We will let the courts decide.

1 6. MR. UNDERWOOD: However, there may be
2 questions regarding Stavebank that don't
3 concern communications, in which case I
4 assume you won't be...

5 MR. YOUD: Absolutely. No, we will have
6 to take some of the questions on a question
7 by question basis, but yes, but subject to
8 common sense, there will be some questions
9 which are so basic they couldn't possibly
10 otherwise be covered by lawyer/client
11 privilege.

12 7. MR. UNDERWOOD: Understood. Okay.
13 Well, if you are ready we will begin.

14

15 BY MR. UNDERWOOD:

16 8. Q. So, I would like to ask you about a
17 series of mortgages that you registered between 2012
18 and 2016, and I have provided your counsel with some
19 of the documents that I am going to be referring to,
20 and I see that you have them there.

21 So, I would like to start with tab 2 of the
22 documents that I sent. And this is a charge
23 registered as YR1920510.

24 A. Yes.

25 9. Q. And where it says, on the second

1 page here, number 192, "signed by", and is that your
2 name?

3 A. You are going to have to direct me
4 to...oh, is it...

5 10. Q. Sorry...

6 A. ...the first paragraph?

7 11. Q. Top of the page.

8 A. Yes, here it is.

9 12. Q. Yes. And did you register this
10 charge?

11 A. Yes, you just read the registration
12 number.

13 13. Q. Yes. And the chargors are Carlo
14 DeMaria and Sandra DeMaria, is that right?

15 A. It is so stated, yes.

16 14. Q. Yes. And it also says in the
17 "signed by" paragraph at the top of page 192, that
18 you were acting for the chargors. Is that right?

19 MR. YOUD: No, it speaks for itself.

20 There is the "acting for chargor", but it
21 says:

22 "...I have the authority to sign and
23 register the document on behalf of the
24 chargor..."

25 So...

1 15. MR. UNDERWOOD: Yes.

2 MR. YOUD: But the document speaks for
3 itself.

4 16. MR. UNDERWOOD: Right.
5

6 BY MR. UNDERWOOD:

7 17. Q. And did you, in fact, act for the
8 chargors in this transaction?

9 A. Well, I always for the Credit Union,
10 and the chargors sign an Acknowledgement and
11 Direction allowing us to register.

12 18. Q. So you were acting for the Credit
13 Union, in this case?

14 A. Correct. I received instructions
15 from them and I acted for them.

16 19. Q. And just for the record, the Credit
17 Union is Buduchnist Credit Union Limited, is that
18 right?

19 A. That is correct.

20 20. Q. So you acted for...and I am going to
21 call that "BCU".

22 A. That is fine.

23 21. Q. So you acted for BCU with respect to
24 this transaction?

25 A. That is correct.

1 22. Q. And you received...did you testify
2 that you received authorization from the chargors to
3 register the charge?

4 A. Well, it is
5 usually...Acknowledgement and Direction is usually
6 obtained, signed by the mortgagors, so I presume it
7 was in this case.

8 23. Q. And do you recall whether there was
9 another lawyer involved in this transaction?

10 MR. YOUD: In the registration?

11 THE DEPONENT: Not to my recollection.

12

13 BY MR. UNDERWOOD:

14 24. Q. And do you recall whether you met
15 the chargors in this case?

16 A. I don't recall, no.

17 25. Q. You don't recall. Was it a common
18 practice for you to register mortgages on behalf of
19 BCU?

20 A. I did quite a few for them, yes.

21 26. Q. And would you normally have met the
22 chargors?

23 MR. YOUD: Don't answer that question.

24 It impinges on lawyer/client privilege, in
25 the sense that it deals with the course of

1 practice when acting for the credit union.

2 No, it is refused.

/R

3

4 BY MR. UNDERWOOD:

5 27. Q. Do you have any specific
6 recollection of meeting either Mr. DeMaria or Ms.
7 DeMaria, in connection with this charge?

8 MR. YOUD: I think he said he doesn't
9 recall.

10 THE DEPONENT: I mentioned I don't
11 recall.

12 28. MR. UNDERWOOD: Okay. I just wanted to
13 clarify.

14

15 BY MR. UNDERWOOD:

16 29. Q. Do you recall receiving a direction
17 from either Mr. or Ms. DeMaria, in connection with
18 this charge?

19 A. In regards to what, sir?

20 30. Q. In connection with this charge.

21 MR. YOUD: The authorization and
22 direction that you mentioned earlier. Do
23 you recall receiving one for this charge?

24 THE DEPONENT: Well, I think I saw
25 something in the papers, and I presume that

1 is what is there.

2 MR. YOUD: Nestor, you will have to
3 focus on...this is the one for 2012.

4 THE DEPONENT: Right.

5 MR. YOUD: Now, most of the papers that
6 we have looked at...we have looked at the
7 papers this morning...

8 THE DEPONENT: Okay.

9 MR. YOUD: ...that dealt with Stavebank,
10 which is a later period of time.

11 THE DEPONENT: Okay.

12 MR. YOUD: All Mr. Underwood is asking
13 you is, do you recall whether you got an
14 Acknowledgement and Direction with respect
15 to this mortgage on...

16 THE DEPONENT: It is the usual practice
17 to obtain an Acknowledgement and Direction
18 before registering a mortgage.

19 MR. YOUD: I understand.
20

21 BY MR. UNDERWOOD:

22 31. Q. And do you recall whether you
23 attended at the execution of the documents, the
24 underlying documents for the mortgage, the mortgage
25 charge?

1 A. No, I don't recall.

2 32. Q. Okay. And I am going to turn now to
3 tab 4 of the documents that I have put up.

4 MR. YOUD: Yes, got it.
5

6 BY MR. UNDERWOOD:

7 33. Q. And this is, for the record, a
8 charge numbered YR2260847.

9 A. Yes.

10 34. Q. And the date is February 27th, 2015.

11 A. That is correct.

12 35. Q. And if you turn over the page, you
13 read that it is signed by...is your name under the
14 "signed by" section?

15 A. That is correct.

16 36. Q. And do you recall having registered
17 this charge?

18 A. Well, I would have attended to the
19 registration. I don't recall the physical
20 registration of the document itself.

21 37. Q. But do you recall submitting this
22 charge?

23 A. What do you mean "submitting this
24 charge"?

25 38. Q. Well, I notice that this says

1 "signed by Nestor Stefan Wolicki", and "submitted by
2 Wolicki & McClennan".

3 A. Yes.

4 39. Q. My question is, do you recall this
5 mortgage? Do you recall this charge?

6 A. Well, I don't specifically recall
7 it, but I agree with the fact that if my name is on
8 it, and registration particulars are on it...

9 40. Q. Okay.

10 A. ...I must have attended to this
11 registration.

12 41. Q. Okay. And the chargors, if you will
13 agree, on the other side are provided as...or,
14 written as 2321198 Ontario Inc.?

15 A. Correct.

16 42. Q. And it appears to be authorized by
17 the president, secretary and treasurer, Carlo
18 DeMaria?

19 A. Correct.

20 43. Q. Do you recall whether you met with
21 Mr. DeMaria?

22 A. I don't recall.

23 44. Q. You don't recall. And if you didn't
24 meet with them, on what basis were you authorized to
25 enter the charge, do you recall?

1 A. Instructions from the Credit Union
2 would instruct me to register the mortgage, and I
3 presume an Acknowledgement and Direction would have
4 been also received.

5 45. Q. Okay. So you...do you specifically
6 recall that, or do you assume?

7 A. Yes. I just assume.

8 46. Q. And again, do you recall whether
9 there was another lawyer involved for the chargor?

10 A. No.

11 47. Q. No. And again, do you recall
12 whether you attended at the execution of the
13 mortgage, the underlying agreement?

14 A. Meaning what?

15 48. Q. Well, this charge was registered
16 pursuant to an agreement. It is actually on the
17 next page of this tab here, starting at 141. There
18 is a line of credit, mortgage loan agreement.

19 A. That is usually signed at the Credit
20 Union offices.

21 49. Q. So you...

22 MR. YOUD: But did you attend?

23 THE DEPONENT: No. I just get the done
24 deed.

25 50. MR. UNDERWOOD: Okay.

1 BY MR. UNDERWOOD:

2 51. Q. So you didn't attend?

3 A. No.

4 52. Q. Okay. And under tab 9, which is...

5 MR. YOUD: Hang on a second.

6 53. MR. UNDERWOOD: So this is numbered

7 pages 108 and 109.

8

9 BY MR. UNDERWOOD:

10 54. Q. And I am going to essentially ask

11 you the same questions here. This is a charge

12 registered as YR2427027, dated February 5th, 2016?

13 A. Correct.

14 55. Q. And again, under the "signed by"

15 section, I see your name. Do you agree?

16 A. That is correct.

17 56. Q. And it also says "acting for

18 chargors"?

19 A. It doesn't say that. It says I have

20 the authority to sign and register the document on

21 behalf of the chargors.

22 MR. YOUD: Yes, and it also has an

23 "acting for chargors", up above it.

24 THE DEPONENT: Oh, okay.

25 MR. YOUD: The document speaks for

1 itself.

2 THE DEPONENT: Yes.

3 MR. YOUD: Yes.

4

5 BY MR. UNDERWOOD:

6 57. Q. I'm just ensuring that you agree.

7 A. No, I got the answer.

8 58. Q. And again, did you meet with Mr.
9 DeMaria?

10 A. I have no recollection.

11 59. Q. You have no recollection. And
12 sorry, I should say that it appears the chargor is a
13 company named 2321197 Ontario Inc., and that it was
14 acting through its president, Carlo DeMaria. I
15 presume you agree with that?

16 MR. YOUD: Well, that is what it says.

17 THE DEPONENT: It speaks for itself.

18 60. MR. UNDERWOOD: Yes.

19

20 BY MR. UNDERWOOD:

21 61. Q. And again, did you...in this case,
22 did you attend at the signing of the mortgage
23 agreement?

24 A. Once again, what do you mean by the
25 mortgage agreement? The documents that follow?

1 62. Q. Yes.

2 A. Those are usually initialled at the
3 Credit Union office.

4 63. Q. So, in this case...

5 MR. YOUD: Sorry. Just in this case, is
6 there one here, Counsel? Like, a lender
7 agreement? Oh, here we are. 112, is that
8 the subject...

9 64. MR. UNDERWOOD: Yes.

10 MR. YOUD: ...line of credit loan
11 agreement...

12 65. MR. UNDERWOOD: Yes.

13 MR. YOUD: ...that goes with this, then?

14 66. MR. UNDERWOOD: Yes.

15 MR. YOUD: Okay. Do you recall
16 attending to witness the agreement?

17 THE DEPONENT: I don't recall attending
18 on that.

19 67. MR. UNDERWOOD: Okay.

20

21 BY MR. UNDERWOOD:

22 68. Q. And so, again, if you recall...do
23 you recall how you were instructed, or authorized to
24 sign the charge on behalf of this company, 2321197
25 Ontario?

1 A. I received instructions from the
2 Credit Union. I had to prepare a mortgage, and then
3 subsequently to attend to its registration.

4 69. Q. And do you recall if, in any of
5 these three mortgages that we have discussed,
6 whether you collected Mr. DeMaria's identification
7 documents?

8 A. I don't recall that.

9 70. Q. You don't recall. Okay. And so I
10 will turn now to tab 11.

11 MR. YOUD: We have it, Counsel.

12

13 BY MR. UNDERWOOD:

14 71. Q. And this is a letter, I believe from
15 you to BCU and to, it says Ms. Maria DeMaria. If
16 you look to the second page, it says cc.

17 A. Yes.

18 72. Q. And this I am not sure about. Is
19 Maria DeMaria and Linda DeMaria, is that the same
20 person? Or do you recall?

21 A. I understand it should be Linda
22 DeMaria.

23 73. Q. Okay, so then was that an error?

24 A. I would say it is a typo.

25 74. Q. Okay. Just making sure.

1 MR. YOUD: Yes, in other words we are
2 not aware of an individual by the name of
3 Maria DeMaria, that had any involvement.

4 75. MR. UNDERWOOD: I was just making sure.
5 That is what I assumed as well, but I just
6 wanted to make sure we were on the same
7 page.

8

9 BY MR. UNDERWOOD:

10 76. Q. And so turning to...unfortunately
11 this isn't page numbered, but it is about nine or
12 ten pages in.

13 A. Yes.

14 77. Q. There is a charge mortgage document.
15 And unfortunately the file, as we got it, is
16 slightly jumbled. So, the first page of the
17 document of the mortgage is there, and then there is
18 an intervening line of credit mortgage schedule, and
19 then there is a...the second page.

20 A. Yes.

21 MR. YOUD: We have just put it together
22 now.

23 78. MR. UNDERWOOD: Yes.

24 MR. YOUD: That is fine.

25 79. MR. UNDERWOOD: Yes. So, this is a

1 charge bearing the number PR2865354. And
2 actually...sorry, before I forget. I don't
3 think that this letter is already in the
4 record, so could we enter this as an
5 exhibit, please?

6 MR. YOUD: What letter is that?

7 80. MR. UNDERWOOD: This is this letter at
8 tab 11. That is the reporting letter.

9 MR. YOUD: That is the reporting letter?

10 81. MR. UNDERWOOD: Yes. Yes, I believe it
11 to be a reporting letter regarding...

12 THE DEPONENT: That is a statement...

13 MR. YOUD: I mean, you have shown it to
14 Mr. Wolicki. You haven't asked any
15 questions about it. Obviously if we are
16 asked questions about it, we are going to
17 refuse. But it is your examination, you
18 can mark whatever. We have seen it, for
19 sure.

20 82. MR. UNDERWOOD: So, we will...I would
21 like to enter it as an exhibit. We can
22 call that, I guess, Exhibit 1.

23

24 --- EXHIBIT NO. 1: Reporting letter from Wolicki &
25 McClennan to BCU Limited, dated April

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4, 2018

BY MR. UNDERWOOD:

83. Q. And this mortgage, I believe, was also...it says it was signed by you acting for the chargors.

MR. YOUD: Yes, the document...

THE DEPONENT: That is correct.

MR. YOUD: ...speaks for itself again.

THE DEPONENT: Yes, yes.

BY MR. UNDERWOOD:

84. Q. And did you meet with Linda DeMaria when you were preparing this document?

A. I hadn't...

MR. YOUD: Counsel, only because this deals with Stavebank, and we have instructions from our client to refuse to answer questions in connection with that.

85. MR. UNDERWOOD: Okay.

MR. YOUD: I am happy to undertake to advise you as to the answer to that question, provided I obtain the waiver from BCU. And if they provide a waiver then we are happy to answer that question.

U/A

1 86. MR. UNDERWOOD: I appreciate that, Mr.
2 Youd, thank you.

3

4 BY MR. UNDERWOOD:

5 87. Q. Could I ask whether you were
6 also...did you act for Ms. DeMaria, Linda DeMaria,
7 in connection with this other transaction?

8 A. I always take the position here for
9 the mortgagee...

10 88. Q. So...

11 A. ...and I get the mortgagors to
12 acknowledge it. I am acting for the mortgagee, and
13 they are entitled to obtain their separate counsel
14 if they wish. That is my usual practice.

15 89. Q. So just to clarify, your position is
16 that you were not acting for Linda DeMaria?

17 A. I would take that position, yes.

18 90. Q. And did you have a...do you recall
19 having a conversation with Joseph Puccini in
20 mid-July of this year, about this mortgage?

21 MR. YOUD: Counsel, again, I am happy to
22 answer the question, and I will undertake
23 to take it under advisement, provided we
24 receive the approval of BCU.

U/A

25 91. MR. UNDERWOOD: Well, I don't think that

1 that question would...that is about
2 communication with a third party, so I
3 don't see how it could be privileged.
4 MR. YOUD: Well, it is about a piece of
5 threatened litigation involving parties
6 that is Linda DeMaria, who isn't
7 represented here in these proceedings, and
8 has her own counsel, or had her own
9 counsel, Mr. Puccini. So, I have got a
10 waiver of privilege from Linda DeMaria, and
11 I don't know whether I should be able to
12 talk about any communications that Mr.
13 Wolicki had with Mr. Puccini.

14 So, I am going to...I am happy to,
15 if BCU agrees.

16 92. MR. UNDERWOOD: Well, Mr. Wolicki said
17 that Ms. DeMaria was not his client.

18 MR. YOUD: Correct.

19 93. MR. UNDERWOOD: So, I don't see how a
20 communication with her counsel could
21 be...could be privileged.

22 MR. YOUD: Well, I will take it this
23 way. Right now, as I understand it, the
24 degree to which BCU believes that questions
25 relating to Stavebank are either proper or

1 relevant, and there is an agreement or
2 disagreement between counsel, as I
3 understand it.

4 We personally have no stake in that
5 disagreement. So, rather than err on...I
6 am going to err on the side of caution. I
7 am going to ask Ms. Grossman, who is acting
8 for BCU, whether that is a question which
9 her client takes no objection to. If her
10 client doesn't take any objection to it, we
11 will answer the question. And any
12 reasonable follow-up questions that flow
13 therefrom. U/A

14 94. MR. UNDERWOOD: I have your objection.
15 I don't...we don't agree that...

16 MR. YOUD: No, that is...

17 95. MR. UNDERWOOD: ...that is subject to
18 BCU's approval.

19 MR. YOUD: Yes. I understood that, in
20 any event. I understood.

21

22 BY MR. UNDERWOOD:

23 96. Q. Are you aware that Ms. DeMaria is
24 contesting the validity of the mortgage?

25 MR. YOUD: I can tell you, Counsel, we

1 Puccini, and the address names may be...

2 THE DEPONENT: It would be my practice
3 to send...

4 MR. YOUD: Sorry, he hasn't asked you
5 the question.

6 THE DEPONENT: Oh, sorry.

7 MR. YOUD: He said do you recall sending
8 copies of your reporting letter to Mr.
9 DeMaria, or the company in which he spoke?

10 THE DEPONENT: No, I don't.

11

12 BY MR. UNDERWOOD:

13 100. Q. So do you recall having any
14 correspondence at all directly with Mr. DeMaria
15 regarding any of those three mortgages? I know you
16 said you didn't meet with him, but did you have any
17 letters or e-mails or telephone calls that you can
18 recall?

19 A. No, I don't recall.

20 101. Q. So is it fair to say that the only
21 basis you had for inferring Mr. DeMaria's permission
22 was documentation provided to you by BCU?

23 MR. YOUD: Well, he said he doesn't
24 recall, so that isn't a fair assumption to
25 draw. It may be that it happened but he

1 just can't recall.

2

3 BY MR. UNDERWOOD:

4 102. Q. So, you don't recall having any
5 direct interaction with Mr. DeMaria. Could I ask
6 you to do a search for communications with Mr.
7 DeMaria regarding these mortgages?

8 MR. YOUD: So, what we will do is we
9 will try to locate the files that relate to
10 these three mortgages, and we will look
11 through those files and see if there is any
12 evidence of any interaction of a direct
13 communication with Carlo DeMaria, or, I
14 take it, any other authorized
15 representative of a numbered company.

16 103. MR. UNDERWOOD: Yes.

17 MR. YOUD: And if there is some evidence
18 which refreshes Mr. Wolicki's memory, we
19 will advise you. U/T

20 104. MR. UNDERWOOD: Okay.

21 MR. YOUD: That is assuming, of course,
22 that we can find these files, and, you
23 know, I take it, some level of...with some
24 level of expedition, given that we are on
25 Christmas holiday next week, but yes, we

1 will give that undertaking.

2 105. MR. UNDERWOOD: Okay. All right. Those
3 are all of...subject to the undertakings,
4 those are all of my questions.

5 MR. YOUD: Thank you, Counsel.

6 106. MR. UNDERWOOD: Mr. Kraft, do you have
7 an questions?

8 MR. KRAFT: No.

9 MR. YOUD: Thank you. Thank you both.

10

11 --- upon adjourning at 11:47 a.m.

INDEX OF EXHIBITS

1
2
3
4
5
6
7
8
9
10

EXHIBIT NUMBER	DESCRIPTION	PAGE NUMBER
1	Reporting letter from Wolicki & McClennan to BCU Limited, dated April 4, 2018	21

	INDEX OF UNDERTAKINGS		
1			
2			
3			
4	REFERENCE	PAGE	QUESTION
5	NUMBER	NUMBER	NUMBER
6			
7			
8	1	27	103

INDEX OF UNDER ADVISEMENTS

	REFERENCE NUMBER	PAGE NUMBER	QUESTION NUMBER
1			
2			
3			
4			
5			
6			
7			
8	1	21	85
9	2	22	90
10	3	24	93

	INDEX OF REFUSALS		
	REFERENCE	PAGE	QUESTION
	NUMBER	NUMBER	NUMBER
1			
2			
3			
4			
5			
6			
7			
8	1	10	26

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REPORTER'S NOTE:

Please be advised that any undertakings, objections, advisements and refusals are provided as a service to all their guidance only, and do not purport to be legally binding necessarily accurate and are not binding upon Victory Verbatim Reporting Services Inc.

I hereby certify the foregoing to be a true and accurate transcription of the above-noted proceedings held before me on 17th DAY OF DECEMBER, 2018, and taken to the best of my skill, ability and understanding.

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) Noemi Panameno
) Verbatim Reporter

TAB 2

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

NP/ke

B E T W E E N:

BUDUCHNIST CREDIT UNION LIMITED

Applicant

- and -

2321197 ONTARIO INC., CARLO DEMARIA,
SANDRA DEMARIA, 2321198 ONTARIO INC.,
SASI MACH LIMITED and VICAR HOMES LTD.

Respondents

- - - - -

This is the Examination Pursuant to Rule 39.03 of ROMA
BEREZA, taken at the offices of VICTORY VERBATIM REPORTING
SERVICES INC., Suite 900, Ernst & Young Tower, 222 Bay
Street, Toronto, Ontario, on the 17th day of December,
2018.

- - - - -

APPEARANCES:

KENNETH KRAFT
PHILIP UNDERWOOD

-- for the Plaintiff
-- for the Respondents,
2321198 Ontario Inc.,
Carlo DeMaria and
Vicar Homes Ltd.

ALSO PRESENT:

John Esteves
Carlo DeMaria

INDEX OF PROCEEDINGS

	PAGE NUMBER
ROMA BEREZA, sworn	
Examination by Mr. Underwood	4 - 28
Index of Exhibits	29
Certificate	30

1 -- upon convening at 10:00 a.m.

2 -- upon commencing at 10:25 a.m.

3

4 ROMA BEREZA, sworn

5 EXAMINATION BY MR. UNDERWOOD:

6 1. Q. Good morning, Ms. Bereza. Am I
7 pronouncing that properly?

8 A. Yes.

9 2. Q. My name is Philip Underwood, I am
10 counsel for Carlo DeMaria. So, I just want to
11 explain briefly what we are doing here today.

12 A. That would be nice, thank you.

13 3. Q. You received a summons...

14 A. Thursday at 10:00.

15 4. Q. Okay. So, what is happening here
16 essentially is there has been a proceeding that has
17 been started by Buduchnist Credit Union, and Mr.
18 Kraft here represents them. I am going to call them
19 "BCU".

20 A. M'hmm.

21 5. Q. So, there has been a proceeding that
22 has been started by BCU against Mr. DeMaria and
23 companies that he controls, and his wife. So, what
24 is happening here is basically you have been
25 summonsed to give evidence relating to that

1 proceeding.

2 So, I am not sure if you have been examined
3 before?

4 A. Never.

5 6. Q. So, just a couple of rules. I am
6 going to try and make the questions as...I am going
7 to try and ask questions in a way that should be
8 easy for you to understand, but please let me know
9 if you don't. Obviously it is important that you
10 know what I am asking and so you can respond to
11 them. And then all I will ask is please, if you are
12 going to respond, do say "yes" or "no", or whatever
13 the answer may be, just so the court reporter can
14 have it on the record.

15 A. Yes. Okay.

16 7. Q. Great. So, if you don't have any
17 questions, I am going to get...well, do you have any
18 questions?

19 A. I have tons, but I guess we will get
20 them out as we go along.

21 8. Q. Okay. Well, I am just going to get
22 started then. So...

23 A. Do I have a right, though...because
24 I am not sure. Again, like I said, I kind of was
25 made aware of this, obviously, somewhat. I didn't

1 know that this was happening right now, so I didn't
2 have a chance to get everybody together, like, on a
3 Friday, because my lawyer is not here. He is in
4 Florida. And I didn't know what this was about, and
5 I didn't know that I have...I mean, I have the right
6 to have a lawyer present. I do, right? Or no?

7 9. Q. Well...

8 MR. ESTEVES: 100 percent you do.

9

10 BY MR. UNDERWOOD:

11 10. Q. Well, you are required to be
12 summonsed today. You have the right to...you had
13 the right to retain counsel.

14 MR. ESTEVES: Yes.

15 THE DEPONENT: Which I didn't have a
16 chance to because of the timing.

17

18 BY MR. UNDERWOOD:

19 11. Q. Right, well, you could have retained
20 other counsel.

21 A. Well, I tried, but again, this is my
22 first foray into anything like this.

23 MR. ESTEVES: At 10:00 on a Thursday
24 evening when you have a...eleventh hour...

25 THE DEPONENT: This is just a friend of

1 mine because, like I said, I was a little
2 shaky and I don't know.

3 MR. ESTEVES: She will answer what
4 questions she can but whatever she can't
5 she will answer them once she has legal
6 counsel present, all right?

7 12. MR. UNDERWOOD: Right. So, sorry, I am
8 just going to ask that Ms. Bereza answers
9 the questions.

10 MR. ESTEVES: Yes, sure. I am just
11 advising her as to what she can, or doesn't
12 have to answer, right?

13 13. MR. UNDERWOOD: Well, you have to answer
14 all questions that are not privileged, and
15 that are relevant to the scope of the
16 application at issue, the proceeding.

17 THE DEPONENT: Yes. No, I don't have a
18 problem with that.

19 14. MR. UNDERWOOD: Okay.

20 THE DEPONENT: The truth is the truth.

21

22 BY MR. UNDERWOOD:

23 15. Q. Right, and that is all I ask. And
24 if you don't know the answer, then, you know,
25 obviously feel free to say you don't know the

1 answer.

2 So, you were employed by BCU, is that
3 right?

4 A. Yes.

5 16. Q. And what were the dates you were
6 employed?

7 A. I started there in 2004 and I ended
8 in 2016.

9 17. Q. Okay. And do you recall in 2016 you
10 left?

11 A. When I left?

12 18. Q. Yes.

13 A. Oh, August sometime.

14 19. Q. August, okay.

15 A. I don't know the exact date.

16 20. Q. And what was your position?

17 A. I was...at that...what, in August,
18 you mean?

19 21. Q. Yes. Well, in particular, when you
20 left.

21 A. When I left I was branch operations
22 manager.

23 22. Q. And what exactly does that entail?

24 A. I was responsible for the operation
25 of all the branches. Like, the branch managers

1 reported to me.

2 23. Q. Okay. And your day-to-day duties,
3 what did that include?

4 A. Well, it depended. It depended on
5 the day. It was, like, a lot of...well, I don't
6 know. Like, in...I was still kind of doing some
7 lending, so there was a little bit of that involved,
8 but it was basically to liaise with the managers on
9 their...you know, I can't remember. I don't even
10 know what I did in a day now.

11 It was a lot of managing of the branches,
12 in terms of whatever their needs were. So, if they
13 had a...you know, if I was dealing with, like, our
14 North Toronto branch and they had some issues with,
15 like, their staffing or stuff like that, then I
16 would deal with that for the day. So, it was never
17 the same thing every day.

18 24. Q. Okay.

19 A. And it was just kind of all over the
20 map.

21 25. Q. But you also dealt with, did you
22 say, lending at that point, or financing? Did I...

23 A. I was doing some...like, I mean, I
24 still was responsible for some of my clientele, yes.

25 26. Q. Okay. And when did you start in

1 that position, do you recall?

2 A. When did I start in what position?

3 27. Q. Branch operations manager.

4 A. 2014, I think, maybe.

5 28. Q. Okay.

6 A. 2013.

7 29. Q. And while you were there, did you
8 have occasion to deal with Mr. DeMaria?

9 A. Oh, always.

10 30. Q. And in what capacity?

11 A. Well, I was assigned his accounts.

12 31. Q. Okay. And what do you mean by that?

13 A. I mean as in I was his...I was
14 supposed to be his manager, his account manager.

15 32. Q. You were his account manager?

16 A. Or, I was his account manager.

17 33. Q. You were his account manager. And
18 in that capacity, what were you responsible for,
19 with respect to Mr. DeMaria?

20 A. The day-to-day running of the
21 accounts.

22 34. Q. Okay. And which accounts were
23 those, do you recall?

24 A. From the beginning it was, well, his
25 first Cash House accounts.

1 35. Q. M'hmm.

2 A. And then all the other accounts,
3 guess. Anything that he needed, he would call me.

4 36. Q. And do you recall what types of
5 accounts? I mean, were they bank account, were
6 there loans, were there...

7 A. Yes. They were bank accounts, there
8 was his mortgages, there were his...mainly the
9 banking accounts, like, I guess...

10 37. Q. Okay.

11 A. ...at that time.

12 38. Q. Okay. And while you were there did
13 you know an employee named Oksana Prociuk?

14 A. Yes. Of course. She was my CEO.

15 39. Q. She was the CEO. And for the
16 reporter that is, first name is O-K-S-A-N-A. Last
17 name is P-R-O-C-I-U-K. And you said Ms. Prociuk was
18 the CEO...

19 A. M'hmm.

20 40. Q. ...of BCU.

21 A. And so what was her...what was the
22 relationship between you and her while you were
23 there? Did you report to her?

24 A. Yes.

25 41. Q. And you reported directly to her,

1 or...

2 A. M'hmm.

3 42. Q. Okay. And did you often...or, how
4 often did you interact with her while you were
5 there?

6 A. How often?

7 43. Q. Yes.

8 A. When I was in the position of branch
9 operations, you mean?

10 44. Q. Yes.

11 A. When I was there? I would see her
12 daily.

13 45. Q. Okay.

14 A. I don't know if I would report to
15 her daily, but I saw her daily.

16 46. Q. So you would speak to her generally
17 every day that you were at work?

18 A. Pretty much.

19 47. Q. Okay. And was there a time in the
20 summer of 2016 or otherwise, that you made a
21 recording of a conversation with Ms. Prociuk?

22 A. That I made a recording?

23 48. Q. Yes.

24 A. I had one, yes.

25 49. Q. Yes, you did make a recording?

1 A. M'hmm.

2 50. MR. UNDERWOOD: Okay. So, what I am
3 going to do is play a recording, and I have
4 a transcript of that recording, and I would
5 like you to...I will give you a transcript,
6 which, can we mark the transcript as
7 Exhibit 1?

8

9 --- EXHIBIT NO. 1: Transcription of video recording from
10 Roma Bereza

11

12 51. MR. UNDERWOOD: And I also have a USB
13 key of the recording maybe we can mark as
14 well.

15

16 --- EXHIBIT NO. 2: USB key of video recording

17

18 BY MR. UNDERWOOD:

19 52. Q. So, I am going to play you this
20 recording, and I will ask you to take a look at the
21 transcript and see if the transcript appears
22 accurate to you, and then I am going to ask you a
23 couple of questions about the recording.

24 A. I need my glasses.

25 53. Q. So, this contains the data files of

1 the video, so we can mark that as well, Exhibit 2.

2 MR. KRAFT: Sorry, transcript is Exhibit

3 1...

4 54. MR. UNDERWOOD: And the USB key is

5 Exhibit 2, yes.

6

7 BY MR. UNDERWOOD:

8 55. Q. So you have the transcripts.

9 A. Yes. I didn't bring my glasses
10 though. Well, I thought I did but I guess I must
11 have left them at home.

12 56. Q. Okay. Can you read the transcript?

13 A. Somewhat, yes.

14 57. Q. Okay. Well, what I am going to do
15 is I am going to play the recording, and I am going
16 to ask you, as best you can, to try and follow along
17 with the transcript.

18 A. Yes.

19 58. Q. And let me know if it seems to be
20 accurate. So, I am playing this here. The sound is
21 somewhat muffled at the beginning.

22 A. M'hmm.

23

24 --- VIDEO RECORDING PLAYS

25

1 BY MR. UNDERWOOD:

2 59. Q. And there is a...the recording
3 continues. There is a second half, which I am going
4 to play.

5

6 --- VIDEO RECORDING PLAYS

7

8 BY MR. UNDERWOOD:

9 60. Q. Sorry, there is a slight overlap
10 here, so I am going to skip forward just a little.

11

12 --- VIDEO RECORDING PLAYS

13

14 BY MR. UNDERWOOD:

15 61. Q. So, that is the end of the
16 recording. So, do you recognize the recording?

17 A. Yes.

18 62. Q. And we have, in the transcripts, the
19 two participants are identified as "Voice One" and
20 "Voice Two".

21 A. M'hmm.

22 63. Q. Do you know who those participants
23 are?

24 A. That is me and Oksana.

25 64. Q. And do you know which one is Voice

1 One and which is Voice Two?

2 A. Oh, I wasn't keeping track of that.

3 I guess, according to...

4 65. Q. Well, I will put it to you that you
5 were Voice Two.

6 A. Okay. Well, yes, I am just looking
7 at what I would have said.

8 66. Q. Yes. I think you can probably
9 determine from...

10 A. Yes.

11 67. Q. Okay. So, do you recall when this
12 conversation took place?

13 A. Yes, roughly. Last year sometime.
14 I don't remember the exact time. It would have
15 been, like, spring or summer, or something like
16 that.

17 68. Q. Spring or summer of 2018?

18 A. '17.

19 69. Q. Okay, spring or summer of 2017?

20 A. I think.

21 70. Q. Okay. And where did it take place,
22 do you recall?

23 A. At Oksana's house.

24 71. Q. Okay. And what was the purpose
25 of...I take it that you went to her house for a

1 meeting. Do you know what the purpose...do you
2 recall what the purpose of the meeting was?

3 A. There was some sort of lawsuit that
4 Corus, an account there, that had against Puccini,
5 so, she wanted me to address some questions.

6 72. Q. And why did you choose to record it?

7 A. Why did I choose to record it?

8 73. Q. M'hmm.

9 A. Because I was tired of being...of
10 getting the runaround all the time.

11 74. Q. Could you explain what you mean by
12 that?

13 A. I didn't know at that point who I
14 should talk to and who I shouldn't talk to, and I
15 was, like...thought that I had already been through
16 enough, and, like, had a nervous breakdown, got over
17 a nervous breakdown, and I just was protecting
18 myself.

19 75. Q. Protecting yourself. What were you
20 worried about?

21 A. I don't know. I wish I could tell
22 you. I have no idea.

23 76. Q. Okay.

24 A. This.

25 77. Q. I see. But was it the case that you

1 felt like you were not sure if you could trust Ms.
2 Prociuk?

3 A. I didn't know that I could trust
4 anybody.

5 78. Q. Okay. I understand. So, I would
6 like to ask you questions about a couple of specific
7 sections. Could you turn to page 11 of the
8 transcript? And could you look at line 14? And it
9 says:

10 "...I think we have with Carmel (phon.), we
11 all can't, that's the whole fricking
12 problem here, to be quite honest..."

13 It sounded to me like the video said "Carlo". Do
14 you recall whether...what was being discussed there?

15 A. We were dealing with the Corus
16 situation, and I can't remember why she would have
17 mentioned anything about...like, it has been a while
18 since I listened to this.

19 79. Q. Sure. Do you recall there being a
20 concern with...assuming this says Carlo, or Mr.
21 DeMaria, was there a problem with Mr. DeMaria at
22 this time?

23 A. Was there a problem? Oh, I don't
24 know. Like, at that time I wasn't working there at
25 the time.

1 80. Q. But did you know what she was
2 referring to, what Ms. Prociuk was referring to when
3 she said that?

4 A. If there was a problem with Carlo?

5 81. Q. Yes.

6 A. I don't even know...I don't really
7 know how to answer that. Like, I mean, there was an
8 issue that was going on, and I think this whole
9 thing centred around that.

10 82. Q. And can you tell me what that issue
11 was?

12 A. Off the top of my head. No. Like,
13 there was...it was a Corus...like, where do you want
14 me to start? Do you have five hours to keep me
15 here?

16 83. Q. Well, could you just tell me
17 what...and, I mean, briefly what the...to the best
18 of your recollection, what the issue was that she
19 was talking about?

20 A. The issue was that there was some
21 transactions that...I can't even remember if that
22 had happened at that time. I don't know how to
23 answer that. I am not sure to what that was
24 referring to. I think it was the whole...I am going
25 to be honest and say that it was the whole Corus,

1 that account and the Carlo connection. I think that
2 was the issue, because there was some...that they
3 wanted to go through...they wanted, at that time, to
4 deposit third party cheques, and then she wanted to
5 put a cap on them, and then that kind of went by the
6 wayside, and they wanted to deposit. So I...like, I
7 wasn't really involved in that at that time. Like,
8 they had taken me off those accounts.

9 So, when this stuff went down with Corus,
10 for example, I wasn't even...I didn't even have
11 anything to do with those accounts anymore. Like,
12 she had pulled me off of them. So, I had kind of
13 washed my hands of that. I didn't have anything to
14 do with that.

15 84. Q. Okay, so when she said, "Until we
16 have to deal with Carlo", did you...do you
17 understand that to be referring to this broader
18 issue with Corus?

19 A. Well, this was what she had called
20 me there for, was the Corus issue.

21 85. Q. And you understood that that is what
22 she was talking about when she..

23 A. That is what I thought she was
24 talking about.

25 86. Q. And if you go to the next line,

1 after that line 17, Voice Two, which you have
2 identified as yourself, says:

3 "...But you know what I did..."

4 A. M'hmm.

5 87. Q. Do you recall what you were
6 referring to there?

7 A. Yes. I had to quit.

8 88. Q. Could you elaborate?

9 A. Yes. Because I had had enough of
10 everything, and I just wanted to quit and get away
11 from it.

12 89. Q. So, "you know what I did" is
13 referring to you having quit?

14 A. Yes.

15 90. Q. Okay. And where you say, a little
16 earlier on that page, line 5:

17 "...And I don't want to be put in any
18 positions any more. I think I have already
19 suffered enough with this bullshit and
20 everything else..."

21 A. M'hmm.

22 91. Q. And what are you referring to there?

23 A. It was just the scope of the whole
24 thing that was going on. I don't know...
25 like...okay, can I...I am going to be very frank

1 here. I didn't know what this whole meeting was
2 about. I didn't know what to bring with me. I
3 didn't know how to prepare. Not that I prepare. I
4 can't answer these questions anything but
5 truthfully, like, and I am...it is my truth. This
6 is what I understand, that it is my truth, right?

7 But, it was the whole situation, and, like,
8 I don't know where you guys stand on it. Like, I
9 would like to know some information from that side,
10 like, where are you going with this? Like, why are
11 you asking me these questions?

12 92. Q. Well, the questions are to gather
13 information, relating to the application.

14 A. Which is why I wanted to have my
15 lawyer present.

16 93. Q. Well...

17 MR. ESTEVES: The question is, why is
18 she being called as a witness?

19 94. MR. UNDERWOOD: You...

20 MR. ESTEVES: What is her involvement as
21 a witness? Why is she...

22 THE DEPONENT: Yes, like, what do you
23 want from me? I don't understand. Like, I
24 mean I...and I am going to be truthful
25 here. I am going to say, here, it is on

1 recording, that I have been trying to talk
2 to Mr. DeMaria, but he doesn't want to talk
3 to me because he wants to talk in front of
4 lawyers, which is fine. And, you know, he
5 may think what he wants to think of
6 whatever situations are going on, but there
7 is no situation. It is just...I don't know
8 why I have been put in the position that I
9 have been put in, because I have not done
10 anything...anything to warrant being in the
11 middle of this, except being caught up in
12 whatever this is. I don't even know what
13 this is.

14

15 BY MR. UNDERWOOD:

16 95. Q. Well, we are also trying to
17 determine what this is, and so the reason why we
18 have summonsed you today is because we believe...we
19 understand that you have information that will help
20 us to understand this better.

21 A. No, I don't have any information
22 that will make you understand this better. I have
23 information that...like I said, I was being torn in
24 two different directions. It was...first it was a
25 problem with Corus, and then there was a problem

1 with Cash House, and then Mr. DeMaria had the legal
2 issues that he had with his...and I am sure that I
3 can say that here...freezing of his accounts.

4 Like, I don't know why any of this stuff
5 happened. I only know how it impacted me.

6 96. Q. And how was that?

7 A. It impacted me where I didn't want
8 to work there anymore and I wanted to quit, and I
9 wanted to get away from it all, because I had enough
10 pressure. That is it. That was it.

11 97. Q. I understand that. So, what was the
12 source of that pressure? Why did you want to quit?

13 A. Like, I don't understand why you
14 don't understand when I say that I have had
15 enough...that I had had enough.

16 MR. ESTEVES: I think the questions now
17 are irrelevant to what this is even about.

18 98. MR. UNDERWOOD: I don't think they are
19 irrelevant, because the question is about
20 your course of conduct with respect to
21 certain...

22 THE DEPONENT: My conduct was very
23 professional.

24 99. MR. UNDERWOOD: ...loans...

25 THE DEPONENT: I did nothing that I

1 wasn't asked to do. I did nothing that was
2 outside of the realms of what even Mr.
3 DeMaria had asked me. Like, I was...like,
4 the problem was that I think that I was
5 trying to help, and apparently I didn't do
6 anything but not help myself.

7

8 BY MR. UNDERWOOD:

9 100. Q. Who were you trying to help?

10 A. Mr. DeMaria.

11 101. Q. How so?

12 A. I don't know, to try to get him
13 through whatever this legal issue is, that I still
14 don't understand.

15 102. Q. Well, could you give any specifics?

16 A. No, I can't.

17 103. Q. Well, you just said that you were
18 trying to help him. How were you trying to help
19 him?

20 A. I think at this point that I would
21 like to defer and say that I need some time, and I
22 need to find...I need my lawyer present. I need a
23 lawyer present. I don't want to be set up. I
24 didn't set anybody up. I didn't set you up, Carlo.

25 MR. ESTEVES: I think she wants to seek

1 legal counsel. She has given this...

2 THE DEPONENT: Which I did. Which I
3 did.

4 104. MR. UNDERWOOD: You have been given the
5 opportunity...

6 MR. ESTEVES: No, no.

7 THE DEPONENT: I got the opportunity...

8 MR. ESTEVES: Eleven o'clock on
9 Thursday...

10 105. MR. UNDERWOOD: Could you...

11 THE DEPONENT: Sorry, John, give me one
12 second. I had the opportunity of a couple
13 of hours when I found out that the guy that
14 I was talking to, Mr. Mark Klaiman, is on
15 vacation now. And he did not respond to
16 any of my texts. So I came here, in good
17 will, not calling anybody, because I got
18 that letter that said I can call anybody,
19 and I said, "No, I will deal with it". But
20 at this point I am very uncomfortable with
21 the questioning. Like, I don't know what
22 you guys want and what the bottom line here
23 is. I don't understand. I don't get it at
24 all. And I have been telling you that,
25 Carlo, since the get-go. And I know I am

1 not allowed to talk to you, but I am
2 talking to you.

3

4 BY MR. UNDERWOOD:

5 106. Q. Well, I understand that you have
6 sought legal counsel, you are obliged to be present.
7 And you are obliged...

8 A. I did come.

9 107. Q. ...to answer questions.

10 A. Yes.

11 MR. ESTEVES: She is also entitled to
12 representation.

13

14 BY MR. UNDERWOOD:

15 108. Q. If you will agree to re-attend...

16 A. Yes. Of course I will.

17 109. MR. UNDERWOOD: ...with counsel, I
18 am...can we go off the record quickly?

19

20 --- upon recessing at 11:03 a.m.

21 --- A BRIEF RECESS

22 --- upon resuming at 11:14 a.m.

23

24 ROMA BEREZA, resumed

25 CONTINUED EXAMINATION BY MR. UNDERWOOD:

1 110. Q. So, Ms. Bereza, you have told me
2 that you contacted counsel but he couldn't be
3 present today, and now you have asked to have
4 counsel. So I think what we are going to do, if you
5 are okay with this, is if you agree to re-attend, if
6 you agree to have your counsel get in touch with us,
7 then we can re-attend and we can re-commence this,
8 and I think we will be able to pick up basically
9 where we left off.

10 MR. ESTEVES: Yes. We can agree that
11 this was kind of a shotgun situation here.

12 111. MR. UNDERWOOD: Well, are you okay with
13 that? Do you agree to that?

14 THE DEPONENT: Sure.

15 112. MR. UNDERWOOD: Okay.

16

17 --- upon adjourning at 11:15 a.m.

INDEX OF EXHIBITS

1
2
3
4
5
6
7
8
9
10
11
12

EXHIBIT NUMBER	DESCRIPTION	PAGE NUMBER
1	Transcription of video recording from Roma Bereza	13
2	USB key of video recording	13

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REPORTER'S NOTE:

Please be advised that any undertakings, objections, advisements and refusals are provided as a service to all their guidance only, and do not purport to be legally binding necessarily accurate and are not binding upon Victory Verbatim Reporting Services Inc.

I hereby certify the foregoing to be a true and accurate transcription of the above-noted proceedings held before me on 17th DAY OF DECEMBER, 2018, and taken to the best of my skill, ability and understanding.

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) Noemi Panameno
) Verbatim Reporter

TAB 3

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

AK/sp

B E T W E E N:

BUDUCHNIST CREDIT UNION LIMITED

Applicant

- and -

2321197 ONTARIO INC., CARLO DEMARIA, SANDRA DEMARIA,
2321198 ONTARIO INC., SASI MACH LIMITED
and VICAR HOMES LTD.

Respondents

This is the Continued Examination pursuant to Rule
39.03 of ROMA BEREZA, held at the Offices of VICTORY
VERBATIM REPORTING SERVICES, Suite 900, 222 Bay Street,
Ernst & Young Tower, Toronto-Dominion Centre, Toronto,
Ontario, on the 10th day of January, 2019.

A P P E A R A N C E S:

BARBARA GROSSMAN} --- for the Applicant
ALEXANDRE TOUPIN}
(Student-at-Law)

PHILIP UNDERWOOD} --- for the Respondents,
ALISA MAZO } 2321197 Ontario Inc., Carlo
DeMaria, 2321198 Ontario
Inc. and Vicar Homes Ltd.

CHRISTOPHER LEE --- for the Respondent,
Trade Finance Capital
Corporation (an added party)

JANE LO --- for Roma Bereza

ALSO PRESENT:
Carlo DeMaria, Oksana Prociuk

INDEX OF PROCEEDINGS

PAGE NUMBER

ROMA BEREZA, resumed

Continued Examination by:

Mr. Underwood

33 - 69

Examination by:

Ms. Mazo

70 - 138

Mr. Lee

138 - 161

Ms. Grossman

161 - 198

INDEX OF EXHIBITS

199

INDEX OF UNDERTAKINGS

200

INDEX OF UNDER ADVISEMENTS

201

CERTIFICATION

202

1 --- upon convening at 11:00 a.m.

2 --- upon commencing at 11:13 a.m.

3

4 ROMA BEREZA, resumed

5 CONTINUED EXAMINATION BY MR. UNDERWOOD:

6

7 113. MR. UNDERWOOD: First of all, Ms.
8 Grossman, we have discussed this, but I
9 wanted to object to the presence of Ms.
10 Prociuk this morning. I understand that
11 there is an expectation that Ms. Prociuk
12 will be examined on similar issues to what
13 are being discussed this morning, and I
14 don't think it's appropriate that she
15 observes the testimony of the witness
16 before that.

17 MS. GROSSMAN: Ms. Prociuk has already
18 been cross-examined in this proceeding.
19 There is another proceeding, a separate
20 proceeding, by Trade Capital dealing with
21 other properties, as I understand it, and
22 it's possible Ms. Prociuk will be examined
23 in that application, but I am insisting
24 that she be present.

25 Mr. DeMaria is present and I

1 understood that he will be opposing the
2 Trade Capital receivership application. I
3 therefore assume that he will be providing
4 some evidence in that proceeding, and
5 similarly will be cross-examined.

6 So he is in the identical position
7 to Ms. Prociuk in terms of the potential
8 that they will be examined in the Trade
9 Capital proceeding.

10 114. MR. UNDERWOOD: Well, I'm going to...I
11 have put my objection on the record. I'm
12 going to ask the judge to take into account
13 Ms. Prociuk's presence when assessing
14 her...any evidence she might give and her
15 future credibility.

16 MS. GROSSMAN: I'll reserve the right to
17 do the same with respect to Mr. DeMaria.
18

19 BY MR. UNDERWOOD:

20 115. Q. Ms. Bereza, thank you for coming
21 today. We are continuing the examination which we
22 began in December. So I'll just remind you that if
23 you have any answers, please do give them verbally,
24 and if ever you don't know the answer to a question,
25 obviously please feel free to tell me.

1 So we're going to start now with your
2 employment at BCU, Buduchnist Credit Union. I think
3 you told me last time that when you left BCU your
4 role was branch operations manager. Is that right?

5 A. Yes.

6 116. Q. And how senior of a role was that at
7 the credit union?

8 A. I'm not sure what you're asking. It
9 was just my job. It was my position.

10 117. Q. Was it a management position?

11 A. Well, yes, I was the manager of the
12 managers, I guess, yes.

13 118. Q. And who did you report to?

14 A. Oksana.

15 119. Q. And she was the CEO?

16 A. Yes.

17 120. Q. And what were your duties as branch
18 operations manager?

19 A. Just to take care of all the
20 branches.

21 121. Q. And when you say "take care of" what
22 are you...

23 A. Branch managers would report to me.

24 122. Q. So you supervised the branch
25 managers?

1 A. Yes.

2 123. Q. And the branch managers supervised
3 the individual branches?

4 A. Yes, and they took care of their own
5 individual branches.

6 124. Q. And did your duties include dealing
7 with lending to clients?

8 A. It had stopped a little bit at that
9 point, but I did occasionally for my core customers,
10 yes.

11 125. Q. And when you say your core
12 customers, what do you mean by that?

13 A. Just the book of my clients.

14 126. Q. So in addition to managing the
15 branch operations and the branch managers, you had
16 your own clients?

17 A. Well, they were clients of
18 Buduchnist. They weren't my clients.

19 127. Q. But you were responsible for their
20 accounts?

21 A. To a certain degree. All I did was
22 put applications together, but there was still a
23 credit adjudication. I didn't...it wasn't me.
24 Like, I didn't adjudicate files.

25 128. Q. But you would be...you would put

1 applications together?

2 A. Yes.

3 129. Q. And those applications included for
4 loans?

5 A. Yes, that's credit.

6 130. Q. Right, and mortgages?

7 A. Yes.

8 131. Q. And what was your role, generally?

9 You said you put files together. What does that
10 entail more specifically?

11 A. If you came to me for a mortgage,
12 then I would put together a mortgage application.

13 132. Q. Okay. So somebody comes in to a
14 branch and says...

15 MR. LEE: Can we go off the record
16 briefly?

17

18 --- DISCUSSION OFF THE RECORD

19

20 BY MR. UNDERWOOD:

21 133. Q. So if someone came into a branch and
22 they wanted a mortgage, what steps would be
23 required?

24 A. Again, like, I didn't do that too
25 often. So I mean it would be just...it was a

1 mortgage application process. It was a...you know,
2 sit down, talk about the mortgage, have a
3 conversation about it and see if you qualify.

4 134. Q. So you would have a conversation
5 with the customer, with the client?

6 A. Sure, yes.

7 135. Q. Yes, and in terms of the application
8 itself, what did that entail, the paper documents?

9 A. Are you asking me the forms that
10 were supposed to be filled out, or what are you
11 asking?

12 136. Q. Yes.

13 A. Initially, a credit application.

14 137. Q. And then if the application was
15 approved, what forms would you have at that point?

16 A. It depends on the credit facility.
17 It could be anything. It could be...with those
18 mortgage documents, it could be mortgage documents.
19 If it was just a car loan, it would be car loan
20 documents. If it was a line of credit, it would be
21 line of credit documents. If it was a Visa
22 application, it would be a Visa application.

23 138. Q. Okay, I understand. Thank you.
24 That's very helpful. We'll limit ourselves to
25 mortgages...

1 A. Okay.

2 139. Q. ...from now on. So after the
3 application was approved, hypothetically, what would
4 your role be with the customer in that case, in the
5 case of a mortgage?

6 A. If it was approved?

7 140. Q. Yes.

8 A. I kind of...like, after it was
9 approved, I would probably just...I wasn't...at that
10 point in time, when I was doing them, I was
11 responsible for taking it, but then I would probably
12 hand it over to a subordinate to finish.

13 141. Q. Okay. You mentioned that you had
14 certain clients who you were primarily responsible
15 for. Is that accurate?

16 A. Yes.

17 142. Q. And was Mr. DeMaria one of those
18 clients?

19 A. Yes.

20 143. Q. And when did you start dealing with
21 Mr. DeMaria? When did he...

22 A. When I was first introduced to him,
23 you mean?

24 144. Q. Yes.

25 A. I think in 2005, '04, '05.

1 145. Q. 2004, 2005?

2 A. Specifics, I don't know.

3 146. Q. And you met him through your
4 employment at BCU?

5 A. I didn't meet him specifically at
6 first. It was just I was given his, kind of, group
7 of files to look after at that time.

8 147. Q. I guess what I mean is you didn't
9 have a preexisting relationship before?

10 A. No.

11 148. Q. When you say you were given his
12 group of files to look after, do you recall what
13 files those were?

14 A. In the beginning, he had some small
15 mortgage files on some properties, Caledonia
16 property, something like that. I don't remember,
17 like, addresses specifically.

18 149. Q. So he had mortgages, at least one,
19 at that point?

20 A. Yes, one, two, three, maybe. I
21 don't remember.

22 150. Q. And did you also deal with
23 corporations that Mr. DeMaria owned? Was that part
24 of that same file?

25 A. Well, I think some of those

1 properties were owned by some...like, whether
2 personally or a corporation, so probably, yes.

3 151. Q. Yes, and over time, did Mr. DeMaria
4 have new products with BCU or did he open new
5 accounts?

6 A. Yes, there was a connected kind of
7 relationship, I guess. He had opened some other
8 corporations and accounts, and...yes.

9 152. Q. And was he a big client of the
10 credit union, would you say?

11 A. Yes, I would say so.

12 153. Q. And so starting in 2004, 2005,
13 that's when you became responsible for his accounts?

14 A. Yes, I guess. I mean, I was
15 assigned, I guess, as his contact at that point. So
16 if he needed something he would call me.

17 154. Q. Okay. So from then on, you would be
18 the contact person for Mr. DeMaria?

19 A. For the most part, yes.

20 155. Q. And did that last until...

21 A. And his father.

22 156. Q. And his father. Did that last until
23 you left BCU?

24 A. Yes, pretty much.

25 157. Q. And how frequently would you say...I

1 assume it varied over time, but in general, how
2 frequently would you say you dealt with Mr. DeMaria?

3 A. Over the course of that whole time?

4 158. Q. Or if it varied from time to time.

5 A. I don't know. There was days if he
6 needed something, or there were days when he wasn't.
7 So I can't really answer that. I don't know.

8 159. Q. So on an average week, do you
9 have...could you give me a sense of how often or an
10 average month how often you would talk to him?
11 Would it be once a week, once a month, once a day?

12 A. Again, depending on the situation...

13 160. Q. Yes.

14 A. ...I don't know.

15 161. Q. Okay.

16 A. A month...no, I don't know. I don't
17 know how many times specifically if you're asking
18 me.

19 162. Q. No, not how many times specifically,
20 but generally about how often?

21 A. Again, over the whole course of that
22 span of 12 years or 14 years or whatever the case
23 may be? Give me a month.

24 163. Q. Okay, say...

25 A. Give me a month and a date and I can

1 answer that.

2 164. Q. In 2016, say.

3 A. In 2016?

4 165. Q. Yes.

5 A. 2016, I probably talked to him a
6 lot.

7 166. Q. Okay. When you say "a lot" what do
8 you mean by that? Do you have a sense? I mean,
9 again, I'm not looking for specifics, but generally,
10 about how often?

11 A. I don't know, daily.

12 167. Q. Daily?

13 A. A couple of times.

14 168. Q. Okay. You said, I believe at your
15 last examination, that you were responsible for the
16 day-to-day running of Mr. DeMaria's accounts?

17 A. Yes.

18 169. Q. And could you explain what you mean
19 by that?

20 A. At that point, again, I don't know
21 which point in time you're talking about, but there
22 was his money service business account, and I guess
23 I was...like, I was not responsible, but the day-to-
24 day operations of that account, more or less. Like,
25 I did some stuff, like, if he needed something or

1 there was an issue, it would be me. I mean, there
2 was a compliance department at that point, too. So
3 I didn't really have anything to do with that part.

4 170. Q. I'm just trying to get a sense of
5 what you mean by the operations, the day-by-day.
6 You mentioned that you would be responsible for the
7 operations, I think, just now. So I'm just trying
8 to get a sense of what that means.

9 A. I'm trying to think back and try and
10 explain it in the easiest way to gauge that. It
11 would be if he was depositing, if he was picking up
12 cash orders, if he was...had some issues with
13 transferring monies, things like that, like, day-to-
14 day operations. Like, I don't know what to tell
15 you. It's just in, out, this go through, this okay,
16 this okay, you know, that kind of stuff.

17 171. Q. That's helpful. I mean, I know that
18 this is very familiar to you obviously. You have
19 lived it, but for me...

20 A. I'm trying to explain it so that you
21 would understand it.

22 172. Q. I appreciate that. Then when Mr.
23 DeMaria or a corporation he would control was
24 applying for a mortgage or a loan, another type of
25 loan, you would be assigned to that. Is that right?

1 A. Yes.

2 173. Q. Because you already have a
3 relationship with him?

4 A. Yes.

5 174. Q. Right. Did Mr. DeMaria...you spoke
6 to him frequently, at some points daily in 2016.

7 A. M'hm.

8 175. Q. At some points less frequently, I
9 assume?

10 A. Yes.

11 176. Q. So when you were speaking to him, he
12 was giving you instructions on how to manage his
13 accounts at BCU. Is that right?

14 A. Yes, if he needed something done. I
15 mean, there was times when we would...yes, like, I
16 mean, it was just...it's the client...it was, like,
17 he is a client and I'm a service provider, and it's
18 like, you know, walk into a restaurant and I want to
19 order a hamburger.

20 177. Q. Right. So he would call you up and
21 say...

22 A. I'll give you a hamburger.

23 178. Q. ..."Please handle this for my
24 account. I'm depositing money."

25 A. Yes.

1 179. Q. "Please move money around."

2 A. Yes.

3 180. Q. And he would do the same thing for
4 the corporations as well that he controlled?

5 A. Yes.

6 181. Q. And generally how did he give you
7 those instructions? What medium would he use?

8 A. The phone, text, sometimes e-mail.

9 182. Q. Okay. Was there...did you ever have
10 to execute documents for Mr. DeMaria? Did he ever
11 call you up and ask you to sign documents on his
12 behalf?

13 A. Did he ask me to sign documents on
14 his behalf, like, sign his signature for him? Is
15 that what you're asking me?

16 183. Q. No, just sign documents that you had
17 to execute for his accounts.

18 A. I'm not sure. I would prepare
19 documents. I don't know that I signed for him.

20 184. Q. Okay.

21 A. I don't know what you're asking me.
22 I don't understand the question.

23 185. Q. Well, was there a time that...did
24 you witness Mr. DeMaria's signature when he would
25 sign documents?

1 A. For the most part, yes, I would. I
2 would have had to.

3 186. Q. Okay. Did you have a close
4 relationship with Mr. DeMaria, would you say?

5 A. Yes.

6 187. Q. And did you speak outside of work as
7 well?

8 A. Yes.

9 188. Q. Were you aware in...did you become
10 aware that Mr. DeMaria was complaining about BCU's
11 actions towards him, that he had an issue with BCU's
12 conduct?

13 A. Like through whole span of that
14 relationship or are we talking about the last two
15 years? Because I think that is what we're talking
16 about, right? Am I correct?

17 189. Q. Well, is there a time that you
18 learned that Mr. DeMaria had an issue with BCU?

19 A. Well, the time that I learned that
20 Mr. DeMaria had an issue with BCU was when all this
21 stuff happened with why we're here.

22 190. Q. And...

23 A. Prior to that, no, I don't think he
24 had an issue with BCU.

25 191. Q. And can you say when that was?

1 A. When what was?

2 192. Q. You said you learned at a certain
3 time, and prior to that, you didn't think he had an
4 issue. What time was that?

5 A. Specific dates, I don't know, like,
6 when this stuff all happened, 2015, 2016.

7 MS. GROSSMAN: I don't want to
8 interfere, but I'm going to ask her to
9 specify "this stuff".

10 193. MR. UNDERWOOD: Yes, yes.

11 MS. GROSSMAN: Thank you.

12

13 BY MR. UNDERWOOD:

14 194. Q. As Ms. Grossman pointed out, could
15 you clarify... so you mentioned in 2015 there was
16 something that happened?

17 A. Yes.

18 195. Q. And could you explain what that was?

19 A. From what I can recall, it
20 was...there was a series of cheques that were
21 returned on an account that caused an overdraft.

22 196. Q. There was an overdraft in one of Mr.
23 DeMaria's accounts?

24 A. Yes.

25 197. Q. And what was Mr. DeMaria's complaint

1 about that?

2 A. I don't know that he complained. I
3 complained.

4 198. Q. You complained?

5 A. Yes.

6 199. Q. On what basis?

7 A. On why are all these cheques being
8 returned.

9 200. Q. And what was the result of that
10 complaint?

11 A. As in his answer to me?

12 201. Q. You complained...sorry, to whom did
13 you complain?

14 A. To Mr. DeMaria.

15 202. Q. I see. Mr. DeMaria had a complaint
16 about the conduct of BCU, as well. Is that right?

17 A. Well, I mean, he...grumblings, yes,
18 but again, I don't...like, I'm not sure how
19 to...what you want me...I don't know how to answer
20 that. I don't know.

21 203. Q. Well, you said that he had
22 grumblings?

23 A. Yes.

24 204. Q. What were those about?

25 A. That...I mean, to put it...can I put

1 it in layman's terms?

2 205. Q. Please do.

3 A. That somehow Buduchnist screwed him.

4 206. Q. So he thought that Buduchnist took
5 advantage of him or committed fraud against him. Is
6 that a fair way to describe it?

7 A. I don't know that I would use the
8 word "fraud", but...

9 207. Q. Well, when you say "screwed him" I
10 appreciate that it's layman's language, but could
11 you be a bit more precise? Do you know what he
12 thought that BCU had done, what he alleged that BCU
13 had done?

14 A. I'm not sure what this stems back
15 from, because like I said, this whole thing started
16 with these cheques that had been returned on his
17 account, and that's kind of my involvement, because
18 this was happening with me and him. I don't know if
19 it was daily. I don't remember specifics. I don't
20 remember amounts. It was kind of traumatic, but it
21 was after the fact that that situation had happened,
22 because of whatever it was that he thought that
23 Buduchnist had done, and I don't know to this day
24 what that is specifically, except for whatever
25 orders had come down that I was not privy to or I

1 don't know. I can't answer that. I don't know.

2 208. Q. So you don't know what Mr. DeMaria's
3 complaint was specifically?

4 A. At the time of...what are we talking
5 about? Are we talking about when those cheques came
6 back or after the fact?

7 209. Q. Well, you just said that Mr. DeMaria
8 complained, or he thought that BCU had screwed him.

9 A. Yes, that was pretty much the
10 conversation all the time.

11 210. Q. And what time frame was that? When
12 did you first become aware of that?

13 A. Specifically dates-wise, I don't
14 know. I don't know when that started to happen.

15 211. Q. Do you remember about when it was,
16 what year?

17 A. No, because it was all recent. No,
18 I don't remember.

19 212. Q. You don't remember what year?

20 A. No.

21 213. Q. But at some point you did learn that
22 Mr. DeMaria thought that BCU had screwed him?

23 A. Yes, when all this stuff, meaning
24 these chargebacks, had happened, and it was a result
25 of whatever orders were placed on him, and I don't

1 know. Like, I'm not...my legalese is awful. So I
2 don't know.

3 There was, like, something about a Norwich
4 order. There was something about a Mareva. I don't
5 know which is which, but in and around, I guess,
6 that time, when I guess his accounts were frozen
7 because of whatever order it was...I don't know
8 which was which, kind of around that time. I don't
9 know when that was, though, specifically.

10 214. Q. So you know, obviously I'm not going
11 to ask you for any legal analysis or anything like
12 that. I just want to know...

13 A. Thank you. I would assume you
14 wouldn't.

15 215. Q. Right.

16 A. I'm not a lawyer.

17 216. Q. I just want to know what happened.
18 You were there obviously. So I just want to know
19 from you what transpired at the time. So that's why
20 I'm asking these questions, to get your recollection
21 the best you can.

22 So this was 2015 you were discussing, and
23 you mentioned that there...you were aware of a
24 Mareva order?

25 A. I don't know which one is the

1 freezing one. That's the one that kind of the ball
2 dropped and his accounts were frozen.

3 217. Q. So that's what we call a Mareva
4 order.

5 A. Okay. I don't know the difference,
6 but okay.

7 218. Q. But you were aware that there was an
8 account freeze?

9 A. Yes, of course.

10 219. Q. And what was the mechanism for how
11 that was implemented?

12 A. I don't know. We got served and the
13 accounts had to be frozen.

14 220. Q. Did somebody tell you to freeze the
15 accounts?

16 A. Well, yes, it came down from
17 management.

18 221. Q. So management told you that there
19 had been this order?

20 A. Yes.

21 222. Q. And that the accounts should be
22 frozen?

23 A. Right.

24 223. MR. UNDERWOOD: I see. I'm going to
25 show you a series of text messages that we

1 have. If I could ask the court reporter,
2 could you mark this? We have two exhibits
3 from the previous examination. So I think
4 it makes sense to continue. We can mark
5 this as Exhibit 3.

6

7 --- EXHIBIT NO. 3: Text messages between Ms. Bereza and
8 Mr. DeMaria

9

10 BY MR. UNDERWOOD:

11 224. Q. So I will give you a chance to read
12 the messages. It's two pages worth of text
13 messages. So just let me know when you're ready.

14 A. Yes, okay.

15 225. Q. Do you recognize these messages?

16 A. No, not really, but okay.

17 226. Q. I see it says "Bereza" at the top
18 here.

19 A. Yes, no, it shows me.

20 227. Q. Do you agree that these are your
21 messages?

22 A. Well, yes, I guess it's me. I don't
23 know when this was, though.

24 228. Q. You don't recall when it was?

25 A. No.

1 229. Q. Would you agree that the white text
2 bubbles on the left side are your messages?

3 A. I think so.

4 230. Q. And do you know who the other person
5 is in the messages, the other conversant?

6 A. I'm going to guess that it's Carlo.

7 231. Q. So you're having a text message
8 conversation with Carlo here.

9 A. Yes.

10 232. Q. It's a bit difficult to read the
11 time stamps, but it looks like it starts at 11:11
12 a.m.

13 A. Well, what date?

14 233. Q. But the date is not included. So...

15 A. That's what I would want to know.

16 234. Q. Right. Well, that's what I would
17 like to know from you, as well, if you know.

18 A. I don't recall.

19 235. Q. Okay. Well, the date aside, perhaps
20 as we discuss it, it might refresh your memory as to
21 the date generally. So I'm starting...we have page
22 1 here, again, apologies for the quality here, but
23 there is a message at 11:12 a.m., and this is, I
24 believe from Mr. DeMaria. It says:

25 "...If you were Oksana and you seemed to

1 turn the way I want, would you be worried,
2 and if so, of what?..."

3 And then the next message from you:

4 "...You mean if I was her and I saw this
5 offer of yours on Monday would I be
6 worried?..."

7 Next message:

8 "...She has obviously been worrying about
9 you for quite a while. This is just the
10 icing..."

11 And do you recall what you meant when you said that?

12 A. No, I do not.

13 236. Q. You do not recall?

14 A. No.

15 237. Q. Okay.

16 A. I'm going to guess that this was
17 after I had left the credit union.

18 238. Q. Okay. So Does that help you date
19 the time that it took place, then?

20 A. No, it would...well, no.

21 239. Q. But you think it was...and if I
22 recall correctly, you left the credit union in...

23 A. 2016.

24 240. Q. Yes, August of 2016, is that
25 correct?

1 A. M'hm.

2 241. Q. So you believe that this dates from
3 after August of 2016?

4 A. I believe so, but I don't know for
5 sure.

6 242. Q. Okay. So perhaps if we continue
7 this will help you remember what you're talking
8 about...what was being discussed. So Mr. DeMaria
9 says:

10 "...Yes, but in general what would you be
11 worried about?..."

12 And I believe he is referring to Ms. Prociuk here in
13 terms of the worrying, and you say that:

14 "...DICO will come in and do a full
15 forensic audit and close up shop..."

16 Do you recall what you were referring to here in
17 this message?

18 A. I don't know, something to do with
19 whatever this is all about.

20 243. Q. You have used that phrase a few
21 times. Could you...when you say that, what do you
22 mean by that?

23 A. I mean that this all started with
24 the freezing of Mr. DeMaria's accounts, or this was
25 the trigger, and this is why we're here today, with

1 the cheques coming back, with the issues that...I'm
2 going to call him Carlo, because we have that kind
3 of relationship, that Carlo had with the credit
4 union in thinking that Oksana was somehow
5 spearheading this against him.

6 244. Q. Spearheading...

7 A. I don't know. The...whatever...
8 like...whatever this...like, what it has come to.
9 Like, I was just the middleman that had Mr.
10 DeMaria's accounts, unfortunately for me at that
11 time. It was very traumatic for me. So there is a
12 lot of this stuff that I don't even remember.

13 I was not mentally sound at that point
14 when all this happened, because I was...it's kind of
15 it was on me. It was my responsibility. That
16 happened on my watch, when all those cheques were
17 returned.

18 I felt that I was the one that...that was
19 the issue, and a lot of this was...like I said, I
20 can't even remember. It was just so traumatic for
21 me, and after the fact, it was even more traumatic,
22 and today, it's still traumatic.

23 245. Q. I apologize. This is obviously a
24 sensitive subject, but when you say it was
25 traumatic, what specifically are you referring to?

1 A. I'm specifically referring to the
2 situation that all of the sudden I found myself out
3 of a job and I'm a single mom and I have two kids to
4 support.

5 246. Q. And why did that happen?

6 A. Because there was upwards of
7 millions of dollars of cheques that were returned on
8 an account.

9 247. Q. And how did that involve you? Why
10 were you...

11 A. I was the account manager.

12 248. Q. You were the account manager. So
13 what was your responsibility for...

14 A. Not having cheques returned on an
15 account in the millions of dollars.

16 249. Q. I see. This was in what time
17 period? This was in 2015?

18 A. 2015.

19 250. Q. And this is after the Mareva order
20 was put into effect, after the accounts were frozen?

21 A. I believe so, yes. I guess, yes, it
22 would have been. I don't know.

23 251. Q. Okay.

24 A. Yes. I don't know.

25 252. Q. Okay. So at that point you had lost

1 your job as a result of these...

2 A. Well, I quit.

3 253. Q. You quit. You quit in 2016?

4 A. I did, yes.

5 254. Q. And you quit because why?

6 A. I quit because I couldn't handle
7 that anymore.

8 255. Q. I see, and...

9 A. I couldn't handle the pressure.

10 256. Q. Did you feel before you left that
11 you had been treated unfairly?

12 A. I don't think I was treated
13 unfairly. I thought...I thought mentally, I told
14 you, that I wasn't stable.

15 257. Q. Yes.

16 A. You can get my doctor's report on
17 that if you want. You can put that on the record.
18 I felt that I was treated unfairly maybe after the
19 fact. I was a little bitter. I'm not going to lie.

20 258. Q. After the fact...sorry, what time
21 period is that you're referring?

22 A. Before I quit.

23 259. Q. Before you quit.

24 A. July, 2016.

25 260. Q. July of 2016. You felt like you had

1 been treated unfairly, and that contributed to you
2 leaving BCU?

3 A. That contributed to me leaving BCU,
4 yes.

5 261. Q. When you say...again, I'm sorry to
6 pry here, but when you say you were mentally...you
7 were having mental health issues, could you be a bit
8 more specific?

9 A. I wasn't having mental health
10 issues. I just wasn't in a good place. I wasn't,
11 like, crazy. I'm not crazy.

12 262. Q. No.

13 A. But I was just having a hard time
14 processing that a client that I knew for so many
15 years could do this.

16 263. Q. And when you say...I'm going back to
17 the text messages here. When you refer to:

18 "...DICO will come in and do a full
19 forensic audit and close up shop..."

20 What does DICO refer to?

21 A. The Deposit Insurance Corporation of
22 Ontario.

23 264. Q. And what would their role be with
24 respect to BCU?

25 A. They were our regulators or

1 insurers, they're insuring.

2 265. Q. Okay, so they had some sort of
3 oversight role with respect to BCU. Is that right?

4 A. Yes.

5 266. Q. And DICO would do audits of BCU?

6 A. From time to time, yes.

7 267. Q. And when you refer to a "full
8 forensic audit", what are you referring to there, of
9 any specific...

10 A. I don't remember.

11 268. Q. You don't remember. When you say
12 that Ms. Prociuk would be worried that DICO would
13 close up shop, do you know what that is referring
14 to?

15 A. I don't know in what context I wrote
16 this. I don't remember. I know it's mine
17 obviously...

18 269. Q. Yes.

19 A. ...but I don't remember why I wrote
20 it. I don't remember.

21 270. Q. Okay. Do you remember whether you
22 had concerns that BCU was doing business in a way
23 that was contrary to regulations?

24 A. I don't think BCU was doing business
25 in contrary to regulations. I think that specific

1 instances called for specific ways of dealing with
2 situations.

3 271. Q. Could you be more specific?

4 A. No.

5 272. Q. I don't follow you.

6 A. I...certain...again, when you're
7 dealing with a customer that has the history that
8 Mr. DeMaria had with Buduchnist, there was a lot of
9 times that, you know, you would take that
10 relationship at that face value. So you know, you
11 trust people. That's all I can tell you. Like, I
12 don't know.

13 273. Q. You don't know?

14 A. I lost my train of thought. I don't
15 know what you were asking me.

16 274. Q. Well, so maybe I'll just rephrase
17 it.

18 A. Sure.

19 275. Q. You said that...it says...the way I
20 read this, you're suggesting that Oksana Prociuk,
21 the CEO of BCU, should be worried that the regulator
22 of BCU, DICO, will go to BCU, will do an audit and
23 will close down BCU.

24 A. Well, that's what it says. I don't
25 know in what context I meant that. I don't know to

1 what I was referring at that time.

2 276. Q. You don't know what you were
3 referring to, but is it fair to say that at the time
4 that you wrote that, you believed that Ms. Prociuk
5 should be worried about BCU being shut down by the
6 regulator?

7 A. No, but I'm going to ask you
8 something. Are you married?

9 277. Q. I'm just going to...why don't you
10 just answer.

11 A. Because sometimes, listen...well,
12 no, but I'm entitled...am I not entitled to...

13 MS. LO: You can't ask questions.

14 THE DEPONENT: I can't?

15 MS. LO: No, this is not the time...

16 MS. GROSSMAN: But she can answer
17 questions.

18 MS. LO: You can answer the question.

19

20 BY MR. UNDERWOOD:

21 278. Q. Certainly, you can answer the
22 question but...

23 A. Sometimes you just want to tell
24 people what they want to hear.

25 279. Q. I see. So if you want to turn over

1 the page here, then, I think this kind of continues
2 and maybe this will shed a little bit more light on
3 it. I'm on to page 2 here, sorry. I think you
4 might have double-turned.

5 So I think this is a continuation of the
6 same conversation, and this is more specific
7 reference to an audit, I think, of BCU.

8 A. M'hm.

9 280. Q. I'm looking at the large white
10 message here:

11 "...She is worried that auditors will find
12 out about all the shit that went down when
13 I was still there..."

14 So this does suggest to me that this is after you
15 left. That's my inference.

16 A. M'hm.

17 281. Q. And that you're talking about
18 something that happened while you were still
19 employed there.

20 A. M'hm.

21 282. Q. Does this help to clarify what you
22 were referring to?

23 A. No, not really, because for me, at
24 this point in time, and probably in that point in
25 time, it was a jumble of everything that had

1 happened up to that point.

2 283. Q. And continuing on with the sentence:
3 "...all the shit that went down when I was
4 still there, which will blow her so-called
5 policies and procedures out of the
6 water..."

7 Again, do you have any recollection as to what
8 policies and procedures you were talking about
9 there?

10 A. No.

11 284. Q. But...

12 A. I think I was just generalizing
13 whatever I was feeling at the time.

14 285. Q. And what you were feeling was that
15 BCU had...

16 A. I was very angry at BCU at that
17 time.

18 286. Q. You were angry at BCU, and you felt
19 that they had taken actions that were inappropriate?

20 A. They had taken action. I don't know
21 if it was appropriate or inappropriate. I can't
22 answer that.

23 287. Q. But do you agree at the time that
24 you thought that they should be worried about an
25 audit being conducted by DICO?

1 A. At the time, I don't know, maybe.

2 288. Q. Maybe you thought that or maybe they
3 should have been worried?

4 A. Maybe I thought that.

5 289. Q. And you speak to...just going a
6 little bit further down in this message:

7 "...an investigation which will then turn
8 eyes to this Maria joke and what she has
9 done..."

10 And then I think that that is a correction there.

11 You correct "Maria" to "Mareva".

12 A. Mareva.

13 290. Q. Yes, and it looks like Mr. DeMaria
14 says:

15 "... Mareva joke, how is that a joke?..."

16 291. Q. And you respond:

17 "...I meant she has turned that into a
18 joke..."

19 A. Yes, okay.

20 292. Q. Do you recall what you were talking
21 about here?

22 A. No.

23 293. Q. So you recall that the Marvea order
24 was...it has to do with the freezing of accounts?

25 A. Well, yes, okay.

1 294. Q. Yes. Do you recall that?

2 A. Do I recall what, that it happened
3 to him...

4 295. Q. Yes.

5 A. ...or that that's what the Mareva
6 is?

7 296. Q. Do you recall that that is what
8 happened?

9 A. Yes, he was frozen.

10 297. Q. Yes.

11 A. I think that's made public.

12 298. Q. I think you said before that that
13 was the result of an order that was received.

14 A. The Mareva?

15 299. Q. Yes.

16 A. Yes, I don't know how that stuff
17 happens. You guys are the lawyers. You tell me.

18 300. Q. Right, but the Mareva had the effect
19 of BCU freezing the accounts?

20 A. Yes, of course.

21 301. Q. Right, and then you say here that
22 Ms. Prociuk turned that into a joke.

23 A. Okay.

24 302. Q. Well, is that what it says here?

25 A. Well, that's what it says here, yes.

1 I'm not disputing what it says here.

2 303. Q. Yes, and do you have any
3 recollection of what that would have meant?

4 A. No, I do not.

5 304. Q. And do you think it's fair to say
6 that that meant she was taking steps that were
7 inconsistent with the Mareva order?

8 A. Inconsistent with the Mareva order?
9 I don't know. I can't answer that. I don't know.

10 305. Q. You don't know, but do you recall at
11 the time, before you departed BCU, feeling like
12 there was an issue with the Mareva order?

13 A. No, I don't feel that there was an
14 issue with the Mareva order. The Mareva order was
15 what the Mareva order was. Like, I can't answer
16 that. I don't know how that came about.

17 306. MR. UNDERWOOD: I see we have used about
18 an hour of our time. Can we just take a
19 quick five-minute break? Is that okay with
20 everyone?

21

22 --- upon recessing at 11:54 a.m.

23 --- A BRIEF RECESS

24 --- upon resuming at 12:03 p.m.

25

1 ROMA BEREZA, resumed

2 EXAMINATION BY MS. MAZO:

3

4 307. Q. Ms. Bereza, what is your highest
5 level of education?

6 A. My highest level of education?

7 308. Q. Yes.

8 A. Would be some university.

9 309. Q. How many years were you at BCU?

10 A. How many years was I at...

11 310. Q. Yes.

12 A. From '04 to 2016, I guess.

13 311. Q. When did you first start, in 2004?

14 A. 2004.

15 312. Q. And what position did you start?

16 A. I don't remember. I think I had
17 started out as, like, just an FSO, like, a financial
18 services officer.

19 313. Q. And what experience did you bring
20 with you to BCU in order to obtain that job?

21 A. I had worked at Scotiabank
22 and...like, I had some financial stuff along the
23 way.

24 314. Q. And at some point you were promoted
25 to the operations manager.

1 A. Yes.

2 315. Q. And you have already indicated the
3 operations manager was in charge of overseeing the
4 managers at each individual branch?

5 A. Yes, in terms of, like, daily
6 operation.

7 316. Q. And was it your experience that
8 brought you to that promotion?

9 A. Experience at BCU you mean?

10 317. Q. Or some other experience at other
11 banks.

12 A. It was...well, I guess so,
13 cumulatively.

14 318. Q. Prior to joining BCU how many years
15 did you have experience in the financial service
16 industry?

17 A. From...oh, all in, even now? Like,
18 I mean, up until the time that I left?

19 319. Q. Just prior to 2004 when you started.

20 A. Prior to 2004, 11 years, then
21 probably about five, so call it 15.

22 320. Q. So it's fair to say you had quite a
23 lengthy track record of experience prior to joining
24 BCU?

25 A. Well, I'm going from teller all the

1 way up to, like, doing teller duties and doing a
2 little bit of mortgage underwriting and then getting
3 into PBOing.

4 321. Q. Your university experience, was it
5 related to the financial service industry?

6 A. No, it wasn't.

7 322. Q. So is it fair to say that most of
8 the experience you obtained was on the job through
9 other employment?

10 A. Yes.

11 323. Q. And then at BCU?

12 A. Yes.

13 324. Q. Did you receive any training at BCU?

14 A. We did. We had some courses that we
15 took for...through...I don't remember, like, the
16 company that offered it, but it was...I think it was
17 Central 1 Credit, whatever credit guaranteeing
18 courses and schools and stuff.

19 325. Q. Prior to becoming the operations
20 manager of BCU, did you receive any additional
21 training for that new position?

22 A. For the branch operations manager?

23 326. Q. Yes.

24 A. No, I was pretty much doing that
25 already anyway.

1 327. Q. Okay, but you had received some
2 updated courses throughout your time at BCU?

3 A. Yes.

4 328. Q. Were there any courses specifically
5 with respect to FSCO or DICO compliance that you
6 were required to undergo?

7 A. We had our regular yearly courses
8 that we had to do.

9 329. Q. Was that just an annual course or
10 was it more often?

11 A. I don't remember.

12 330. Q. Would that be somebody that you...

13 A. At least annually I guess.

14 331. Q. Would that be something that you
15 would lead or something that you would participate
16 in?

17 A. Did I lead those courses?

18 332. Q. Yes.

19 A. No, I didn't lead them.

20 333. Q. Did you provide any training
21 sessions for other staff or other managers at BCU
22 locations?

23 A. In terms of compliance?

24 334. Q. Any training at all.

25 A. We would have our managers meetings,

1 but those were just, like, monthly updates and how
2 the branches were doing.

3 335. Q. Once you became an operations
4 manager, you would have monthly meetings with all
5 managers of all locations?

6 A. Yes.

7 MS. GROSSMAN: Ms. Mazo, I believe you
8 misstated her title. I think she said it
9 was branch operations.

10

11 BY MS. MAZO:

12 336. Q. Branch, I apologize, branch
13 operations manager. So you would have meetings with
14 managers from other branches?

15 A. Yes, the managers at our other
16 branches.

17 337. Q. And how frequently would these
18 meetings take place?

19 A. We would have to do...I believe we
20 were doing them at least once a month.

21 338. Q. And what kind of things would be
22 discussed in these meetings?

23 A. And sometimes we would do...again,
24 if they needed me, then I would be on...you know, I
25 mean, it was an open door policy. If there were any

1 issues, then they would call me.

2 339. Q. What types of things would be
3 discussed at these monthly meetings?

4 A. I don't know. Off the top of my
5 head, just I mean, we had certain, I guess, goals,
6 FSO goals, how many credit cards did you...cross-
7 selling opportunities, new...we had just...I
8 believe, at that time, we were still trying to get
9 into our...a computer program called SalesBuilder,
10 so to make sure that the managers and their staffs
11 were using this.

12 340. Q. Okay. Your branch operations
13 management role at BCU, was that your first
14 management type role for any financial institution?

15 A. No, because I was a branch manager
16 at the Mississauga branch prior to that.

17 341. Q. Okay. As you are now a branch
18 operations manager in more of a supervisory role,
19 had you held any previous supervisory role beyond
20 just branch management?

21 A. No.

22 342. Q. Something that exceeded?

23 A. No.

24 343. Q. Did you need to receive any
25 additional compliance training once you moved on to

1 the supervisory role at BCU?

2 A. Did I need to...I don't remember if
3 I did. I think I did. I think we took a couple of
4 courses. I took a couple of courses.

5 344. Q. Was there any other unique specific
6 expertise that you had to be in that branch
7 operations management role?

8 A. Well, if you're asking me to toot my
9 own horn, I was pretty good at it, yes.

10 345. Q. And would you say that's why you had
11 the expertise that you could have handled large
12 volume clients, like, for example, Mr. DeMaria?

13 A. Well, I was coming from the
14 back...like, a bank background. So...I mean, it
15 was, you know, a little bit of a faster pace in the
16 bank than it was in the credit union.

17 346. Q. When you were assigned Mr. DeMaria's
18 accounts back in 2004, 2005, as you had indicated,
19 was there a specific expertise that you had had at
20 that time that you would take on that account? What
21 reason was there that you took on those accounts, as
22 opposed to just a regular business accounts manager?

23 A. Well, at the time when I first got
24 his accounts back in 2004, '05...I don't remember
25 the dates, but again, as I have mentioned before, it

1 was...his accounts at that time were, I think, just
2 the mortgages. So I just had knowledge of, you
3 know...

4 347. Q. Is it fair to say that his accounts
5 grew and so did your position at BCU?

6 A. My...yes, I mean, over time that's
7 what people aspire to, right.

8 348. Q. Okay, and when you were promoted to
9 this branch operations manager position, for what
10 reason did you retain control and management over
11 Mr. DeMaria's accounts?

12 A. It wasn't only Mr. DeMaria's
13 accounts. It was all the accounts that I managed
14 that I had brought with me, my book of business.

15 349. Q. Okay. Why was Mr. DeMaria's account
16 one of those accounts?

17 A. Because I had started with him back
18 in 2004 when I first started.

19 350. Q. Was it a larger volume account would
20 you say, Mr. DeMaria's account?

21 A. What at that time?

22 351. Q. Yes, at the time that you continued
23 to carry it as a branch operations manager.

24 A. Oh, it got bigger, I guess, sure.

25 352. Q. Okay. Mr. Underwood had asked you

1 some questions. I'm just going to ask you some
2 additional questions regarding lending. So at some
3 point, Mr. DeMaria had approached you for some
4 additional loans that were required.

5 A. Possibly. I don't remember
6 specifics.

7 353. Q. You understand that part of the
8 subject of the reason why you're here today is
9 concerning some loans, mortgages and lines of credit
10 that were extended to Mr. DeMaria by BCU?

11 A. I found that out after the fact,
12 yes.

13 354. Q. Okay. As a branch operations
14 manager and as a manager of his accounts, were you
15 aware that he had mortgages and lines of credit over
16 certain properties and businesses as...

17 A. Yes.

18 355. Q. When did you become aware of that?
19 Was it at the time that the loans and lines of
20 credit were obtained?

21 A. Sorry, say again.

22 356. Q. You were his account manager,
23 correct?

24 A. Yes.

25 357. Q. Throughout the entire time that you

1 were at BCU...

2 A. Yes.

3 358. Q. ...you handled Mr. DeMaria's
4 accounts?

5 A. Yes.

6 359. Q. Okay. At some point in time, Mr.
7 DeMaria's certain accounts and properties received
8 mortgages and lines of credit.

9 A. Yes.

10 360. Q. At the time that these mortgages and
11 lines of credit were received, were you the person
12 who was managing his accounts?

13 A. Yes.

14 361. Q. So certainly if there was a mortgage
15 or a line of credit that needed to be obtained, you
16 would have some input or involvement in the securing
17 of such funding. Is that correct?

18 A. Sure, yes.

19 362. Q. Okay, so at some point you would
20 have learned that a mortgage was placed over
21 properties that Mr. DeMaria had owned or controlled?

22 A. I would have learned...yes, I mean,
23 I was there. I'm not sure what you mean I would
24 have learned it.

25 363. Q. So you had indicated previously that

1 you were involved in some of the lending aspects?

2 A. Yes.

3 364. Q. And that at some point you would
4 have a conversation with the client about their
5 mortgage or line of credit needs?

6 A. Okay, yes.

7 365. Q. Do you recall having such a
8 conversation with Mr. DeMaria?

9 A. Well, no. Yes, no. I don't know
10 how to answer that. I mean, if he needed something
11 then we would talk about it.

12 366. Q. So we're going to talk about
13 something more specifically. So there
14 is...specifically we are talking about three
15 properties in question that had received mortgages
16 and lines of credit from BCU.

17 A. Okay.

18 367. Q. This was during a time that you were
19 the account manager on his accounts. With respect
20 to the Elm Grove property, does that property ring a
21 bell to you?

22 A. It sounds familiar. I don't know
23 specifics about the property. I can't remember.

24 368. Q. Somebody who had nearly 20 years
25 experience, I would imagine that you have some

1 recollection of how a mortgage is typically secured
2 at a financial institution.

3 A. One would...

4 369. Q. Yes. You had said that you would
5 have a conversation, and then the matters will be
6 moved on to the lending...department or credit
7 adjudicator as you had referred to them.

8 A. M'hm.

9 370. Q. Who are these credit adjudicators of
10 BCU that you would have used?

11 A. Well, it would have been Roman
12 Sharanewych, because he was the credit manager.

13 371. Q. Would it surprise you to learn that
14 there are at least three properties in question that
15 had obtained mortgages from BCU that were owned by
16 Mr. DeMaria on which you had been as the signing
17 officer on those mortgages?

18 A. Would it surprise me?

19 372. Q. Yes.

20 A. No, I'm not surprised.

21 373. Q. So do you recall arranging for these
22 mortgages?

23 A. Yes.

24 374. Q. What were the steps that you took to
25 arrange for these mortgages? Did you have a

1 conversation with Mr. DeMaria about the need for a
2 mortgage?

3 A. Yes.

4 375. Q. Was an application of credit
5 completed with yourself and Mr. DeMaria?

6 A. I believe so.

7 376. Q. That's a yes or a no. Do you know
8 if one was completed?

9 A. I don't know.

10 377. Q. Okay. If we assume that one,
11 perhaps, was not completed, as we understand BCU has
12 not provided us with a copy of the application
13 materials, what steps would you have taken after?
14 Would you gather financial records on the party to
15 obtain a mortgage?

16 A. Yes.

17 378. Q. Would there be any other mortgage
18 documents that would have to be completed in order
19 to secure the mortgage?

20 A. Well, the standard forms that
21 Buduchnist would have used to place a mortgage on a
22 property, yes.

23 379. Q. What are these standard forms?

24 A. I don't remember anymore. Okay, are
25 you are asking about Carlo specifically...

1 380. Q. Yes.

2 A. ...or are you asking about just
3 any...generally someone coming in for a mortgage?

4 381. Q. Okay, so let's start with what is
5 generally the process? You have told us that there
6 is an application that would have been completed.

7 A. Okay, so we're back to square one.

8 382. Q. Okay, let's just backtrack. So
9 typically you had indicated that an application, a
10 mortgage application, would need to be completed in
11 order to secure a property...a mortgage, correct?

12 A. Yes.

13 383. Q. And it seems you do not recall
14 completing such an application with Mr. DeMaria for
15 his mortgage. Is that correct?

16 A. I do not. I don't know.

17 384. Q. Would it surprise you to learn that
18 there was no application completed?

19 A. I don't know that I would be
20 surprised. I don't know. I don't know how to
21 answer that.

22 385. Q. But you do not recall him ever
23 completing or signing a mortgage application?

24 A. No.

25 386. Q. So assuming you went ahead with

1 securing a mortgage without this mortgage loan
2 application, what would be the next step that would
3 be required in your role to secure this mortgage?

4 A. I guess preparing of the documents.

5 387. Q. What are the documents that would
6 need to be prepared?

7 A. It depends on what he wanted. So if
8 it was a mortgage loan document...I think there was
9 some schedules. I don't know.

10 388. Q. When did you complete these mortgage
11 loan documents with Mr. DeMaria?

12 A. When did I complete them?

13 389. Q. Yes.

14 A. At the time that he would have
15 needed them. Are we...okay, are we talking about
16 these...are these the ones that were
17 registered...because that is what this about, the
18 ones that were registered in 2016? 2015 that
19 happened. 2016 I guess.

20 390. Q. Just to backtrack a bit, you keep
21 referring to "2015 that happened". What
22 specifically are you referring to in 2015?

23 A. That all those chargebacks came
24 back.

25 391. Q. And you're referring to accounts

1 that became overdrawn...

2 A. Yes.

3 392. Q. ...due to certain cheques becoming
4 NSF?

5 A. Yes.

6 393. Q. Okay, and that's at the time that
7 the bank took it upon themselves to transfer those
8 overdrawn accounts to other accounts that had
9 secured collateral on them?

10 A. Well, there would have been...there
11 would have been a recourse for...to collect that
12 loss.

13 394. Q. And what was the recourse that was
14 taken?

15 A. Well, that's what this is about. So
16 it's the mortgages...the mortgages and whatever
17 deposits...I don't remember.

18 395. Q. So let's try to refresh our memory.
19 So you keep referring to a traumatic event that
20 occurred in 2015 with chargebacks of cheques.

21 A. Yes.

22 396. Q. As far as you're aware and you can
23 recall, there were some cheques that had become non-
24 sufficient funds.

25 A. I don't know what the reason was

1 that they came back, but I just know that they came
2 back. I don't know if it was NSF or for whatever
3 reason.

4 397. Q. Okay. At that time the negative
5 balance was carried over to another corporate
6 account?

7 A. The negative balance...no, it was on
8 that account. I don't remember.

9 398. Q. Would it surprise you to learn that
10 the negative balance was transferred to another
11 corporate entity?

12 A. I don't...again, I don't know how to
13 answer that because I don't know. They were all his
14 accounts.

15 399. Q. On a previous day of an examination
16 of Oksana Prociuk, certain account information was
17 disclosed wherein it was shown that certain
18 overdrawn accounts for one corporate entity were
19 transferred. The negative balances were transferred
20 to another corporate entity because there was a
21 secured line of credit over that corporate entity.

22 Ms. Prociuk also confirmed that she
23 had...that this transfer was made without
24 authorization of the client. Do you recall making
25 that transfer?

1 A. No, I do not.

2 MS. GROSSMAN: I'm not sure you're
3 accurately stating the...you know, I think
4 you should put the transcript...the
5 evidence that was given by Ms. Prociuk was
6 that a transfer of funds from one account
7 to another account was reversed when the
8 source...

9 400. MS. MAZO: I apologize, yes.

10 MS. GROSSMAN: ...in account number one
11 turned out to be fictional, because cheques
12 had been returned. So you misstated the
13 evidence.

14 401. MS. MAZO: You're right. I apologize.
15 You're absolutely right.

16 THE DEPONENT: I just lost all that. I
17 don't know what that meant.

18

19 BY MS. MAZO:

20 402. Q. Okay. So in another examination it
21 was shown that one account...this is, I guess, the
22 traumatic event that you're referring to, had become
23 overdrawn...

24 A. Okay.

25 403. Q. ...and it was around a million

1 dollars. At some point, BCU had taken funds from
2 another account to cover the losses, to what they
3 called return the funds that were moved.

4 A. Okay.

5 404. Q. Okay. As the account manager for
6 that account, would it have been done by yourself,
7 under your authorization or by somebody else?

8 MS. GROSSMAN: Ms. Mazo, what you're
9 putting to the witness happened after this
10 witness was no longer at BCU. So I think
11 it's important, if you're grounding the
12 questions in something that has already
13 been covered in evidence, that you actually
14 go to the specifics of the evidence,
15 because the event you're talking about
16 happened after August, 2016.

17

18 BY MS. MAZO:

19 405. Q. So what...

20 A. I don't know.

21 406. Q. So when accounts that you were
22 managing had become overdrawn in 2015...

23 A. Yes.

24 407. Q. ...and you talked about this
25 traumatic event that happened to you, what steps did

1 you take in relation to this overdrawn account and
2 why was it so traumatic for you?

3 A. Because I had an account that had
4 millions of dollars that came back on, and I called
5 Carlo and I asked him, "What is going on?"

6 408. Q. And then what happened?

7 A. I don't know. I guess we had some
8 back and forth banter about why it is happening,
9 and, "Are you going to cover this?" and, "Yes, don't
10 worry about it. It's all good." I don't remember.

11 409. Q. Okay. Are you aware that the 2015
12 account that you're referring to is...I believe a
13 Cash House account? Is that the account you're
14 talking about?

15 A. There was that...I don't know. Yes,
16 I guess so, Cash House, whatever the other accounts
17 were.

18 410. Q. Are you aware that at that time Mr.
19 DeMaria was not the owner of the company Cash House,
20 that it was, in fact, owned by a gentleman by the
21 name of Osman Khan?

22 A. I think he did transfer ownership,
23 yes, or I know that he did, yes.

24 411. Q. Okay. So in fact, it wasn't Mr.
25 DeMaria's account at the time?

1 A. Mr. DeMaria acted like it was his
2 account at the time.

3 412. Q. But you are aware that it was not
4 his account?

5 A. I knew that he was involved somehow.

6 413. Q. To get back to the mortgages that we
7 were talking about, so we are talking about three
8 mortgages and lines of credit that were applied on
9 certain properties. After you ascertained the fact
10 that Mr. DeMaria needed the...or you understood
11 needed the mortgage, what steps did you take to
12 complete the paperwork?

13 A. I don't remember.

14 414. Q. Did you meet with Mr. DeMaria in
15 person?

16 A. I...yes, maybe, once, twice, a
17 couple of times, yes.

18 415. Q. And you completed the mortgage
19 application paperwork?

20 A. Well, there was documents. I don't
21 remember specifics. I don't remember what specific
22 documents were in there.

23 416. Q. Were those documents ever signed by
24 Mr. DeMaria in your presence?

25 A. Some of them, yes.

1 417. Q. What about the ones that weren't?

2 A. The ones that weren't were one if I
3 am...I don't know which property that was, but I
4 think there was a scanned copy because he was away.
5 I'm not sure. That one, I can't tell you. I don't
6 know.

7 418. Q. So would you typically witness
8 signatures even when you didn't watch him sign it in
9 person?

10 A. Would I typically do that? No.

11 419. Q. Did you do it in this instance?

12 A. The witness of the signatures that I
13 didn't know that he did? Yes, I did.

14 420. Q. Did you at that time know that that
15 was in contravention with compliance?

16 A. No, I did not.

17 421. Q. Do you know that now?

18 A. Now that I'm not working there,
19 after the fact, sure.

20 422. Q. Is that the reason why you had quit
21 your position?

22 A. No. I had quit my position because
23 of the stress of the situation itself.

24 423. Q. Elaborate more about the situation.
25 So you have told us about some overdrawn accounts in

1 2015 that you have now confirmed were not
2 actually...

3 A. Yes.

4 424. Q. ...Mr. DeMaria's accounts, but what
5 other stressful situations were preventing you from
6 keeping your job?

7 A. That was the lead that was...it was
8 that and everything else that kind of rolled into a
9 ball that...dealing with overdrafts, dealing with
10 texting back and forth, dealing with conversations
11 back and forth, running around trying to get
12 documents signed, all that.

13 425. Q. Were you reprimanded for not
14 properly witnessing a client's signature?

15 A. I don't remember.

16 426. Q. Okay.

17 A. Possibly.

18 427. Q. Did it come to be known to your
19 management that you were witnessing signatures that
20 did not happen in your presence?

21 A. I don't...can't answer that. I
22 don't know.

23 428. Q. Were you reprimanded for using
24 someone else's passwords on their terminals?

25 A. Yes and no. Not really, but yes,

1 after the fact.

2 429. Q. You had advised your management...I
3 imagine more specifically, Ms. Oksana Prociuk...

4 A. Yes.

5 430. Q. ...that you had conducted such
6 transactions?

7 A. Yes.

8 431. Q. And just to elaborate for the
9 record, this would be use of a password on a
10 terminal wherein you are essentially bypassing
11 security measures that are in place at the branch?

12 A. I wasn't bypassing security
13 measures.

14 432. Q. So just so I understand correctly,
15 because I don't work at a bank, so sometimes you
16 have a teller, and it's a computer, and you're
17 logged in as yourself?

18 A. M'hm.

19 433. Q. And sometimes where there are
20 certain things that are beyond your...whether it be
21 limits or authority, you have to get a team member
22 to come in and use their password to do what is
23 sometimes called an override.

24 A. Yes.

25 434. Q. Is that correct? I understand that

1 at times, in order to short circuit processes or to
2 make things quicker or simpler for yourself, you
3 would simply put in someone else's password or their
4 override number...

5 A. Me personally?

6 435. Q. Yes.

7 A. No, not often, just on...sometimes
8 if we...I mean, specifically because we were
9 sometimes short-staffed, it wasn't uncommon that we
10 would do that.

11 436. Q. So you would do that?

12 A. That...well, not just me.

13 437. Q. Other people in your organization
14 would also do this?

15 A. From time to time.

16 438. Q. And was Ms. Prociuk aware of this?

17 A. Probably not.

18 439. Q. We have been provided with a video
19 that you had taken when you attended at Ms.
20 Prociuk's home.

21 A. Yes.

22 440. Q. Okay, and this was Exhibit 1 to your
23 examination. In your conversation that you had with
24 Ms. Prociuk in her home, you talk about specifically
25 this instance of using someone's terminal or their

1 passwords.

2 A. M'hm.

3 441. Q. Do you think that this was the first
4 time Ms. Prociuk had learned of this activity that
5 was going on at her branch, or do you think she was
6 aware of it previously?

7 A. No, I don't think she was aware
8 prior to that.

9 MS. GROSSMAN: Sorry, I didn't hear the
10 answer.

11 THE DEPONENT: No, I don't think she
12 was. I think that came up when that came
13 up, and that was after the fact when I
14 wasn't working there anymore.

15

16 BY MS. MAZO:

17 442. Q. And this meeting that you had with
18 Ms. Prociuk in her home that you video recorded,
19 this happened in 2017. Is that correct?

20 A. I don't know when it happened.

21 443. Q. Do you know what year this meeting
22 happened?

23 A. No, no, I...it was after I had gone
24 from Buduchnist. So I don't know if it was 2016,
25 2017. I don't remember, but it was after I had

1 left. I was no longer employed.

2 444. Q. And you said other people at the
3 financial institution, Buduchnist Credit Union, had
4 also typically engaged, or at times, engaged in this
5 practice of using other people's passwords?

6 A. To help each other out.

7 445. Q. And was it other people's practice,
8 as well, to witness signatures when the client was
9 not in the branch?

10 A. I can't speak for other people.

11 446. Q. Okay, you can only speak for
12 yourself. Is that a yes?

13 A. I can only speak for myself.

14 447. Q. Okay. After you had received these
15 completed documents and you witnessed the signature,
16 despite Mr. DeMaria not being present to sign the
17 documents in front of you...

18 A. I didn't say Mr. DeMaria wasn't
19 present.

20 448. Q. Okay, so you...

21 MS. GROSSMAN: I'm not sure what
22 documents we're talking about. Is there a
23 document we're talking about?

24 THE DEPONENT: I don't know. We're
25 talking, I think, about those collateral

1 mortgages that were placed on those
2 properties after all those cheques were
3 returned.
4

5 BY MS. MAZO:

6 449. Q. I believe you just confirmed that
7 you had witnessed a signature that was sent to you
8 electronically. Is that correct?

9 A. Maybe. I don't remember some of the
10 documents that were going back and forth. I don't
11 know.

12 450. Q. But it is possible, because you have
13 indicated you have done this on previous occasions?

14 A. No, I haven't done it on previous
15 occasions. What do you mean?

16 451. Q. You had indicated that sometimes to
17 simplify...

18 A. The one occasion when this happened?

19 452. Q. Not...I'm just asking in general.
20 Was this something...

21 A. No, never.

22 453. Q. Okay, but at times you had done this
23 for Mr. DeMaria?

24 A. To...

25 454. Q. Can you say with 100 percent

1 certainty that every signature that Mr. DeMaria has
2 put on a piece of paper that is filed with
3 Buduchnist Credit Union where your signature is as
4 the witness has been witnessed in person by you?

5 A. For most...for every single paper, I
6 don't know. I can't answer that. I don't know.

7 455. Q. Can you say that in relation to the
8 Elm Grove property, that you had...

9 A. I don't know which one that is, and
10 I don't know when that happened.

11 456. Q. Can you say that in relation to the
12 Stavebank property?

13 A. The Stavebank property, no, I
14 cannot. I don't know. I can't answer that, either.

15 457. Q. You can't confirm that you witnessed
16 him signing the document in person?

17 A. No, I cannot.

18 458. Q. Would it surprise you to learn that
19 the Stavebank property...there is currently...the
20 mortgage is currently being disputed as being put on
21 fraudulently?

22 A. Well, so I have heard, but...

23 459. Q. Would it surprise you?

24 MS. GROSSMAN: Counsel, Mr. DeMaria is
25 not the mortgagor in the Stavebank

1 property.

2 460. MS. MAZO: That's fine.

3 MS. GROSSMAN: So these questions are
4 really quite misleading, asking the witness
5 if she witnessed Mr. DeMaria signing
6 something where he is not even a mortgagor.

7 You have the documents before you,
8 in fairness to the witness.

9 MR. LEE: Hold on, hold on. It's not
10 misleading. Someone can sign the document
11 without being the mortgagor. I can sign a
12 document on behalf of other entities. So
13 it's not necessarily misleading, Ms.
14 Grossman, and I mean counsel is allowed
15 to...

16 MS. GROSSMAN: His signature is we
17 have...counsel has put together a document
18 brief with the document. For some reason
19 she is not showing it to the witness, and
20 Mr. DeMaria is not a party to the document.
21 So the question is misleading, asking if
22 the witness saw Mr. DeMaria sign a document
23 that he is not a party to.

24 MR. LEE: Hold on. You can sign
25 documents without being a party to it. It

1 happens all the time. When a corporation
2 needs to sign a document, a person applies
3 their individual signature...

4 MS. GROSSMAN: There is no corporation
5 involved.

6 MR. LEE: Let me...this, I don't know
7 because I don't have the document either.

8 MS. GROSSMAN: Well, if we had the
9 documents, it would be helpful, if we had
10 the document...

11 MR. LEE: But saying it's impossible is
12 not...

13 MS. GROSSMAN: It is impossible in a
14 case where we're not dealing with a
15 corporation and Mr. DeMaria is not a party
16 to the document.

17 461. MS. MAZO: Thank you, Counsel.

18 MS. GROSSMAN: We have the documents
19 before us. In fairness to the witness, if
20 you want to ask her about a document, put
21 the document to her.

22 462. MS. MAZO: I think the witness has
23 already confirmed that she can't recall
24 witnessing every single signature. So
25 that's sufficient. Thank you.

1 BY MS. MAZO:

2 463. Q. So just to switch topics for a
3 moment, you have talked about the Mareva order.

4 A. Sure, yes.

5 464. Q. Do you know what a Mareva order is?

6 A. Generally speaking, all I know is
7 that it is a freezing of an account.

8 465. Q. Okay, and you have also referred to
9 this Mareva order in the text message that is
10 Exhibit 3 that you have in front of you.

11 A. Yes.

12 466. Q. Okay. Do you know what a Norwich
13 order is?

14 A. I wasn't sure what each were. Like,
15 I knew...I heard about the Norwich, and then I heard
16 about the Mareva, but I'm getting them confused, but
17 now I know that the Mareva is a freezing, and a
18 Norwich is...I don't know the legal point of it.
19 Norwich is a collection of information or something
20 like that.

21 467. Q. Prior to these legal proceedings
22 within the last six months to a year, had you heard
23 about something called a Norwich order?

24 A. Had I heard about it?

25 468. Q. Yes, at the institution, at BCU?

1 A. No, like, well, after the fact.

2 Actually I think...

3 469. Q. What do you mean by "after the
4 fact"?

5 A. After the freezing happened, then I
6 had heard there was or I was made aware of a Norwich
7 order, or I had heard it.

8 470. Q. When were you first aware of the
9 Mareva order?

10 A. The date that it was served to us.

11 471. Q. How was it served?

12 A. I don't know. Some courier came and
13 dropped it off, I guess. I don't know.

14 472. Q. It was served by a courier?

15 A. I don't know.

16 473. Q. Who was it served on?

17 A. I...Buduchnist.

18 474. Q. Was it served on yourself?

19 A. No.

20 475. Q. Who was it served on?

21 A. I don't know. It came to
22 Buduchnist, and I can't guess. I don't know who
23 exactly got...who it came to.

24 476. Q. Okay, so it wasn't served on you?

25 A. No, it was not.

1 477. Q. But at some point you learned about
2 the Mareva order?

3 A. Yes.

4 478. Q. Who was it that made you aware of
5 the Mareva order?

6 A. Oksana.

7 479. Q. What did Oksana say to you?

8 A. That, "We got a Mareva order, and
9 call Carlo and tell him that his accounts have been
10 frozen," or whoever was...whatever the Mareva was
11 on. I don't even remember.

12 480. Q. Did she tell you anything else at
13 that time?

14 A. I don't know.

15 481. Q. Did she provide you with any kind of
16 instructions or training with respect to what the
17 Mareva order means?

18 A. I can't answer that. I don't know.

19 482. Q. Did she give you any specifics about
20 what was acceptable and unacceptable for Mr.
21 DeMaria's accounts?

22 A. I don't know.

23 483. Q. Did she provide you with anything in
24 writing to say what was to take place on Mr.
25 DeMaria's account following the Mareva order?

1 A. I do not know.

2 484. Q. Did any lawyer ever give you
3 instructions about how to properly handle Mr.
4 DeMaria's accounts following the Mareva order?

5 A. No, no one did. I didn't talk to
6 any lawyers.

7 485. Q. Did you speak to anyone, besides Ms.
8 Prociuk, about the Mareva order?

9 A. No.

10 486. Q. Can you more clearly try to recall
11 what her instructions were about the handling of his
12 accounts as it relates to the Mareva order?

13 A. I cannot, because all I know is from
14 what I can remember that a Mareva was a freeze, and
15 it just meant freeze his accounts. Now, how she
16 told me that, how I was instructed, I do not
17 remember.

18 487. Q. What actions did you take following
19 the Mareva?

20 A. I don't remember, but I'm going to
21 guess, and say I called Mr. DeMaria and told him
22 that I got this on my desk.

23 488. Q. Did you handle his accounts any
24 differently than you had prior to the Mareva?

25 A. Did I...well, he couldn't transact

1 on them, so I guess that was different. I don't
2 know.

3 489. Q. What was your relationship like with
4 Mr. DeMaria before the Mareva on a professional
5 level?

6 A. Professionally we were...like, in
7 terms of...are you asking if we were on good terms
8 or bad terms?

9 490. Q. Just how was he as a client to BCU?

10 A. He was a very good client.

11 491. Q. Would you say he was one of the top
12 clients that you had?

13 A. He was probably up there, yes.

14 492. Q. Okay, and everything was in good
15 standing and the relationship was good prior to the
16 Mareva?

17 A. I didn't really have any issues, I
18 don't think, that I can remember.

19 493. Q. And BCU appeared to be happy to be
20 conducting business with Mr. DeMaria?

21 A. Yes.

22 494. Q. Okay, and what happened after the
23 Mareva order? What happened to that business
24 relationship with Mr. DeMaria and BCU?

25 A. The...well, I guess it was a little

1 more challenging because of what he was going
2 through, but I don't know that he was treated any
3 differently. Like, I can only speak for myself.

4 495. Q. And I'm asking about...

5 A. So my relationship with him was...I
6 tried to, you know...I understood. Like, there is
7 the human component of it where you...like, it's not
8 all business. You also understand personally what a
9 person is going through. So you feel for them.
10 There is an emphatic, you know...

11 496. Q. BCU continued to conduct business
12 with Mr. DeMaria following the Mareva order?

13 A. I believe so, from what I can
14 remember.

15 497. Q. Do you recall any conversations that
16 would have taken place between Ms. Prociuk and Mr.
17 DeMaria following the Mareva, or any instructions
18 that she would have given him?

19 A. I don't know. I can't speak for
20 that. There was maybe a couple of conversations,
21 but I don't recall one specifically, no.

22 498. Q. Do you recall any conversations that
23 Ms. Prociuk would have had with Mr. DeMaria just
24 prior to the Mareva?

25 A. Prior, I don't know. Ask her.

1 499. Q. Were you present for any of these
2 conversations?

3 A. Well, I mean, there was...there was
4 some conference calls that I recall, but right now,
5 I don't...like, the actual, really what they were
6 about, I can't recall.

7 500. Q. Do you recall Ms. Prociuk telling
8 Mr. DeMaria to sell The Cash House?

9 A. I don't know if she told him to sell
10 it, no.

11 501. Q. Do you recall Ms. Prociuk telling
12 Mr. DeMaria to try to transfer Cash House so that
13 she can continue doing business with him?

14 A. There was an issue with Carlo's
15 accounts. I don't know what the issue was. I don't
16 know about specific instructions. I
17 remember...like, vaguely.

18 502. Q. Do you remember her advising him
19 that he should sell the business so that you could
20 continue banking...

21 A. I don't know that she advised
22 him...vaguely, those conversations.

23 503. Q. Do you recall what the issues were,
24 why she was having difficulty banking him?

25 A. I think it was our...well, it was

1 just right across the board compliance-wise. I
2 think MSBs, money service businesses, were...like,
3 it was harder and harder to try to find...if he were
4 a client that had a money service business, it was
5 harder to go out into the world and get a bank
6 account somewhere because...I mean, it was a
7 compliance nightmare, to be honest.

8 So I think that the banks and...well,
9 financial institutions, in general, weren't really
10 big on opening those kinds of accounts anymore. So
11 there was always some sort of, like, compliance
12 issue or something that went along with that.

13 504. Q. And why do you think that she would
14 advise him to sell Cash House?

15 A. I didn't think that she would advise
16 him to sell it.

17 505. Q. What are the conversations that you
18 do recall surrounding...

19 A. I'm trying to take myself back.
20 There was a...I don't know. I can't answer that. I
21 don't remember specifics. I don't know.

22 506. Q. After the Mareva was put in place in
23 2015, do you recall Ms. Prociuk advising Frank Di
24 Nardo about his business that he was doing with BCU?

25 A. Frank Di Nardo was doing...he had

1 some sort of...I think it was currency account or
2 something like that.

3 507. Q. Foreign exchange account?

4 A. Foreign, yes, some currency foreign
5 exchange account.

6 508. Q. Do you recall her advising him to
7 sell his business?

8 A. I was not...no, I was not in on that
9 conversation. I don't know anything about Frank Di
10 Nardo.

11 509. Q. You said that you have been really
12 traumatized by this process and everything that has
13 happened after 2015 and 2016.

14 A. M'hm.

15 510. Q. And you said that you had quit
16 before they could fire you, and by "them" I mean
17 BCU.

18 A. Yes.

19 511. Q. Why were you worried that they would
20 fire you?

21 A. Because all this cheque return stuff
22 happened on my watch.

23 512. Q. Why do you think it was your fault?

24 A. I felt at the time...well, I was
25 responsible for that account. That's why I felt

1 that it was my fault, like, it was my
2 responsibility. His accounts were my
3 responsibility, and that happened on my watch.

4 513. Q. Was that also because certain safety
5 checks and measures weren't adhered to in the
6 handling of his account?

7 A. Like, that I didn't...

8 514. Q. Yes.

9 A. Specifically me?

10 515. Q. Yes.

11 A. Safety checks, well, I mean, if...we
12 wouldn't be here if that didn't happen, right, so...

13 516. Q. So is it fair to say that maybe some
14 rules were bent or twisted a little bit in order to
15 accommodate a client?

16 A. Well, whenever it's a high volume
17 client, whenever they have a lot of business with us
18 and we have good relations with them, then of
19 course, you know, there is a certain trust factor
20 that is built, and at the end of the day, you know,
21 I...like, I don't remember the specifics of it. I
22 don't remember when it started to happen. I know it
23 was towards the end of 2105 that these cheques had
24 been returned, but again, his was a very high volume
25 account, or had high volume accounts.

1 There was lots of money going through
2 there. So I don't know that I would have bent any
3 rules, aside from what was already...what the
4 agreement was with him up until that time, where
5 there was no holds placed on the account because it
6 was Carlo.

7 517. Q. It's fair to say that certain
8 policies and procedures may have been bent or
9 splayed a little bit to assist a high volume client?

10 A. I don't think that they were bent in
11 this case. It was just that it was...that was the
12 way that the account had operated, and we never had
13 a problem with it.

14 So when he was depositing high...big
15 cheques, I didn't really turn...like, I didn't even
16 look at that really too much, because it was the
17 normal course of operations over the years for that
18 type of...

19 518. Q. Mr. DeMaria had direct contact with
20 you throughout his dealings at the bank?

21 A. With me specifically?

22 519. Q. Yes.

23 A. Well, me, and I don't know
24 if...probably some other people as well.

25 520. Q. Mr. DeMaria also had direct contact

1 with Oksana Prociuk at the bank?

2 A. I believe so.

3 521. Q. Okay, and I would imagine that a
4 typical customer of BCU, who is somebody who has a
5 chequing account where they pay their hydro and
6 water bill, does not have direct access to Oksana
7 Prociuk at BCU. Is that a fair statement?

8 A. No, it's not the case...

9 522. Q. So what made Mr. DeMaria...

10 MS. GROSSMAN: Sorry, can the witness
11 complete her answer? I think she was in
12 the middle of her sentence when you jumped
13 in, Ms. Mazo.

14 523. MS. MAZO: Sorry, I think the answer was
15 no.

16 MS. GROSSMAN: No...

17 THE DEPONENT: No, the answer was no,
18 she can. She would speak to regular guys
19 who had regular chequing accounts.

20

21 BY MS. MAZO:

22 524. Q. Okay, but she was...

23 A. It was...we're a small, you know,
24 kind of community credit union, right, so...

25 525. Q. Would Ms. Prociuk take it upon

1 herself to receive e-mail instructions from clients
2 and basic banking instructions from clients on a
3 daily basis for all clients, or was it reserved for
4 only some privileged clients?

5 A. No, I wouldn't say privileged. It
6 depends on who knew who well.

7 526. Q. Okay.

8 A. Like, I didn't only have Mr.
9 DeMaria's accounts. I had, you know, the grandma
10 down the street that had an account with me. I
11 mean, we were all like that.

12 527. Q. Exhibit 1 of this examination is a
13 transcript of a video that you had taken...

14 A. Yes.

15 528. Q. ...at Ms. Prociuk's house. Why did
16 you take that video?

17 A. On the advice of counsel at the time
18 afterwards, because this was in regards to a
19 Choras...there was another account that had opened
20 an account with Buduchnist at that time under the
21 name of Choras, because it's on there.

22 There was...I'm not sure of why that
23 happened. Like, I'm not sure...how it led up to
24 that...

25 529. Q. Are you scared of Oksana Prociuk?

1 MS. LO: Sorry, Counsel. You keep
2 interrupting. It's really difficult for my
3 client to answer.

4 530. MS. MAZO: Sorry, I'm just trying to
5 keep this brief. We only have two hours,
6 and it's not...

7 MS. GROSSMAN: Interrupting the witness
8 is not a way to keep an examination brief.
9 The witness has to be able to give her
10 complete answer.

11 THE DEPONENT: I don't even know where
12 in the conversation...

13 531. MS. MAZO: Okay, the question was...

14 MS. GROSSMAN: Well, the reporter can
15 read it back so that the witness can pick
16 up her train of thought.

17

18 BY MS. MAZO:

19 532. Q. It's not answering my question.

20 A. But what did you ask me? Sorry, go
21 back.

22 533. Q. My question is are you fearful of
23 Oksana Prociuk?

24 A. No. I mean...no, I'm not. I
25 was...I mean, when I was working with her I was

1 fearful in that, you know, I had to do my job
2 correctly, but I mean, I wasn't fearful for any
3 other reason, no.

4 534. Q. Have you ever signed any statements
5 prepared by Oksana Prociuk on your behalf?

6 A. Have I ever signed any statements?
7 I don't remember. I don't think so.

8 535. Q. Okay. This video that you had
9 taken, which is Exhibit 1 of this examination,
10 refers to some statements that you were going to go
11 over with Ms. Prociuk...

12 A. Right.

13 536. Q. ...that she had prepared?

14 A. Yes.

15 537. Q. Have there been any other instances
16 where Ms. Prociuk has asked you to sign off on...

17 A. But I don't think she prepared those
18 statements. I think she was...if...may I answer how
19 that came up?

20 538. Q. Yes.

21 A. So going back to my regular...I know
22 you only have two hours. So I'll try to get through
23 it as fast as possible for you, but it was...Choras
24 was a money service business that had opened up
25 accounts with us.

1 I was kind of taken off that account.
2 Like, I didn't have really anything to do with it.
3 In the initial stages of the opening of the account,
4 there was some...again, I don't remember the
5 technicalities of it, but then this lawsuit came up,
6 and then someone from Buduchnist called me, which
7 was our HR manager and said that, "We got served,"
8 and that I should take a look at this paperwork, to
9 which my response was, "I don't want to have
10 anything to do with it because I don't work for you
11 anymore," and then Oksana called me, or I called
12 Oksana.

13 I'm not really sure how that even came
14 about, and she wanted to meet me because she says I
15 haven't been served, but she wanted to go over some
16 of the incidents where one of the principals of
17 Choras wanted some...they wanted some clarification
18 on some, again, text messages.

19 539. Q. So she wanted to corroborate her
20 story with you.

21 A. So...I don't know if it's
22 corroborate, but she just wanted to say whether or
23 not I had sent this, and whether they would be yes
24 or no, and my stance was that I didn't want to have
25 anything to do with it, and I'm walking away from

1 it, and that was the end of that.

2 So on the advice of counsel, at that time,
3 when I had showed him the paperwork, they told me
4 that, "You know what, just to be on the safe side
5 and protect you, record it." That's how that came
6 about.

7 MR. LEE: Sorry, just since we have got
8 a bit of a break here, I know it was booked
9 from 11 to one. I think that was counsel's
10 estimate. I don't think there is anything
11 that prevents an examination from
12 continuing as long as it needs to. So
13 don't feel the need on anyone's part to
14 rush.

15 THE DEPONENT: No, but I think my
16 counsel has to go, and I'm not going to
17 continue without my counsel here.

18 MS. LO: Yes.

19 540. MS. MAZO: Has Oksana...

20 MR. UNDERWOOD: Wait, sorry. You said
21 you were available until two.

22 MS. LO: I was available until two. So
23 that's my drop dead time.

24 541. MS. MAZO: Okay, two is good. We're
25 good. Has Oksana...

1 MR. LEE: And just also for the record,
2 I want to ask questions as well, and I
3 believe Ms. Grossman wants to ask questions
4 as well.

5 MS. GROSSMAN: Yes.

6 THE DEPONENT: Of me?

7 MS. GROSSMAN: Yes, but we may...I don't
8 think the witness should feel pressured to
9 be interrupted by virtue of these time
10 constraints. If we have to pick another
11 time to resume, we'll have to do that.

12 MR. LEE: I agree completely.

13 MS. GROSSMAN: We'll try and fit it in,
14 but I don't think that...if counsel for Mr.
15 DeMaria occupies all the time until two, we
16 will definitely have to resume.

17 MR. LEE: But I agree. Let's be fair to
18 the witness. Let her give complete answers
19 and not have anyone feel that they are
20 under a time pressure.

21 542. MS. MAZO: Thanks you.

22

23 BY MS. MAZO:

24 543. Q. Has Oksana ever asked you to sign
25 documents that she had prepared?

1 A. No.

2 544. Q. Have you ever signed off on
3 statements that are coming from you, but have been
4 prepared by someone else?

5 A. Not to my knowledge, no.

6 545. Q. Do you recall a meeting that you
7 would have had with Oksana Prociuk at the Old Mill
8 just prior to this video being recorded?

9 A. Yes, I had a meeting first there,
10 yes.

11 546. Q. Was the purpose of that meeting to
12 go over a statement that was prepared for you, that
13 you were going to be asked to sign off on?

14 A. No, the purpose of that meeting was
15 to go over this lawsuit when I said, "I don't want
16 to do that. I want to take it to my lawyer and talk
17 about it first."

18 547. Q. Okay. So to go back to the training
19 that we had touched upon earlier, so you said that
20 there was some annual training that the bank had
21 engaged in?

22 A. Yes.

23 548. Q. Was it part of this compliance
24 training?

25 A. Some of it, sure.

1 549. Q. Did you ever participate in anything
2 called fraud prevention training?

3 A. Possibly, yes.

4 550. Q. Okay. Do you recall the names of
5 the companies that would have been used in order to
6 conduct this training at BCU?

7 A. It would have been through Credit
8 Union Central. So I think they were the same...the
9 CRIMS was one, and I believe that the other one was
10 Level Five.

11 551. Q. Do you recall a company by the name
12 of Level Five?

13 A. Yes.

14 552. Q. Okay, and who were you dealing with
15 at the company Level Five?

16 A. Candis.

17 553. Q. Did you ever with a gentleman by the
18 name of Todd Moore?

19 A. No.

20 554. Q. Do you recall Todd Moore as being
21 the president of Level Five?

22 A. The name sounds familiar. Except
23 Mr. Carlo...I don't know. I think he had something
24 to do with Level Five. I don't know what his role
25 was at Level Five.

1 555. Q. When the people at Level Five
2 attended BCU, did they ever deal with you or were
3 they dealing with Ms. Prociuk directly?

4 A. No, they didn't deal with me.

5 556. Q. Who were they dealing with?

6 A. Candis. I don't know. I'm guessing
7 Oksana and maybe Bob, our CFO.

8 557. Q. Who was in charge of booking and
9 scheduling training with Level Five at Buduchnist
10 Credit Union?

11 A. From a...well, there was a couple of
12 courses. So I'm going to guess that...again, I
13 don't know. I can't answer that.

14 MS. LO: Sorry, I don't want you to
15 guess.

16 THE DEPONENT: Okay, then, no, then, I
17 don't know who scheduled it.

18

19 BY MS. MAZO:

20 558. Q. Who would take it upon themselves to
21 decide that BCU needed a training course? Would
22 that be the role of Ms. Prociuk? Would that be one
23 of Ms. Prociuk's roles?

24 A. It might be hers. It might be at
25 board level.

1 559. Q. Okay, and who would make the
2 decision about which company to employ to conduct
3 such training at BCU?

4 A. Oh, I don't know. I don't know who
5 chose that.

6 560. Q. Would that be done at the management
7 level?

8 A. I don't even know that it would be
9 done at management. I don't know where it would be
10 done.

11 561. Q. And when do you recall Level Five
12 first becoming involved with BCU?

13 A. I think when I started, because they
14 were doing those credit granting courses that I
15 took.

16 562. Q. Would they have been there, do you
17 think, from the years, let's say, 2013 to 2015?

18 A. Maybe. I don't know.

19 563. Q. But it's possible?

20 A. Yes.

21 564. Q. Okay, and did they continue to be
22 involved at Buduchnist Credit Union after your
23 departure in 2016?

24 A. Oh, I don't know.

25 565. Q. Okay. Did they ever provide any

1 kind of documentation or training materials to staff
2 at BCU?

3 A. I don't know. Possibly. I don't
4 remember.

5 566. Q. Did they ever collect any
6 information or materials at BCU during the time that
7 they were conducting training?

8 A. Again, I don't know.

9 567. Q. Were there any kind of
10 certifications or compliance certifications that
11 would have been given following these training
12 courses?

13 A. Well, I can only speak for what I
14 remember of going to credit granting school. So
15 when we went there, I got a nice little diploma that
16 I can hang on my wall that says I passed credit
17 granting school.

18 568. Q. Was there any police investigations
19 going on at Buduchnist Credit Union prior to the
20 Mareva or the Norwich orders?

21 A. Not that I'm aware of, not that I
22 was familiar with at the time.

23 569. Q. Did the police ever attend and ask
24 to see copies of Mr. DeMaria's files or accounts or
25 records?

1 A. I don't know.

2 570. Q. You were the account manager, yes?

3 A. I was, but they never asked me.

4 That's what I'm saying. I don't know, like if they
5 asked someone else.

6 571. Q. Do you recall police attending at
7 Buduchnist Credit Union and speaking to other people
8 in relation to Mr. DeMaria's account?

9 A. No.

10 572. Q. Are you aware that Detective Todd
11 Moore is the president of Level Five teacher
12 partners?

13 A. No. Well...

14 573. Q. When did you first become aware of
15 that?

16 A. When I guess Carlo told me.

17 MS. GROSSMAN: The witness should be
18 permitted to complete her answers to the
19 questions. It seems as though Counsel is
20 jumping in with the next question.

21 574. MS. MAZO: My apologies. I speak very
22 quickly. I'm very sorry.

23 THE DEPONENT: It's okay. I'm following
24 you.

25 575. MS. MAZO: We will take a break.

1 --- upon recessing at 12:52 p.m.

2 --- A BRIEF RECESS

3 --- upon resuming at 1:00 p.m.

4

5 ROMA BEREZA, resumed

6 CONTINUED EXAMINATION BY MS. MAZO:

7

8 576. Q. Roma, can you tell me what kind of
9 training Level Five was doing at BCU?

10 A. No, I can't tell you specifics. I
11 just know that they were the company that we went
12 to. Like, my involvement with them was credit
13 granting. I don't know outside of that what else
14 they were doing.

15 It may have been some of the online...I'm
16 not sure. No, I don't know.

17 577. Q. And who is Candis? You said you had
18 dealt with a Candis there.

19 A. Yes, that was a long time ago. She
20 was the...I don't remember what her last name was,
21 actually to be honest. She was just, when I had
22 started, she was the lady that was responsible for
23 the booking of the credit granting facilities that
24 we used to go...the courses that we had to take.

25 The school was in Waterloo I think or

1 Wilfred Laurier, I think.

2 578. Q. And did Level Five also provide DICO
3 preparedness audit training?

4 A. I don't know. I wasn't involved in
5 the compliance part of it. I don't know.

6 579. Q. To go back to your text message that
7 you have in front of you, where you say "She", and
8 I'm assuming you're referring to Oksana.

9 A. M'hm.

10 580. Q. You confirmed that you are:
11 "...She is worried that auditors will find
12 out about all the shit that went down when
13 I was still there..."

14 A. Okay.

15 581. Q. What is your definition of the word
16 "shit" in this text message?

17 A. I can't say directly, but it is...I
18 don't remember what I was referring to.

19 582. Q. I'm sure, having worked there since
20 2004, you would have some recollection. I'm sure
21 you have a lot of recollection.

22 A. But this didn't go back to 2004.
23 This went back to when...

24 583. Q. "...all the shit that went down..."

25 MS. LO: Counsel, she has already

1 answered.

2 MS. GROSSMAN: You're cutting off the
3 witness again.

4 584. MS. MAZO: Counsel, with all due
5 respect, her answer was, "I don't
6 remember." I would imagine that her memory
7 is a little bit better than, "I don't
8 remember."

9 MS. GROSSMAN: She is mid-sentence. I
10 think she should be permitted to complete
11 her answers.

12 THE DEPONENT: I wasn't referring to
13 anything that happened from 2004 to...I was
14 referring to what had happened with the
15 situation with Mr. DeMaria from
16 twenty...that year that I had left. It
17 happened in 2016, 2015 to 2016.

18

19 BY MS. MAZO:

20 585. Q. You go on to say:
21 "...which will blow her so-called policies
22 and procedures out of the water..."

23 What do you mean "so-called policies and
24 procedures"?

25 A. I don't know. I don't recall.

1 There was...

2 586. Q. I'm not asking you to recall. I'm
3 just asking you to explain it to me. There's
4 nothing to recall here. It's not a memory
5 retrieving question. I'm only asking for your
6 personal opinion. You're here today to give
7 evidence under oath.

8 A. I am giving evidence under oath. I
9 don't think that I'm not.

10 587. Q. I'm asking you specifically what you
11 mean when you say "so-called policies and
12 procedures". I'm not asking you to draw on memory.

13 A. I don't know in what context, and I
14 don't recall in what context I was writing this
15 text.

16 588. Q. "...That will in turn trigger an
17 investigation into connected accounts,
18 which will then turn eyes to this Maria
19 [and you correct it to] Mareva joke and
20 what she has done..."

21 A. M'hm.

22 589. Q. So you talk about "Mareva joke".

23 A. M'hm.

24 590. Q. Why do you think that the Mareva was
25 a joke, or why did you refer to it as a Mareva joke?

1 A. I didn't think that it was a joke.

2 591. Q. You're suggesting here that Ms.
3 Prociuk thought it was a joke?

4 A. I don't remember what I was
5 suggesting. I don't remember under oath why I had
6 started to write this.

7 592. Q. I'm asking you to remember.

8 A. Well, I'm telling you that I don't.

9 593. Q. Is it possible that you're referring
10 to the Mareva joke meaning that Ms. Prociuk was not
11 taking the Mareva order seriously?

12 A. No, I don't know what I meant. I
13 have answered that question.

14 594. Q. You don't have any recollection of
15 any Mareva breaches or violation on the part of Ms.
16 Prociuk and BCU?

17 A. That I do not, no.

18 595. Q. You say here:

19 "...and what she has done..."

20 Is that referring to the Mareva?

21 A. I don't know to what I was referring
22 to. I think when this text was brought to my
23 attention with Mr. Underhill (sic), that I said the
24 same thing. I don't recall this text. I don't
25 recall how I wrote it. I don't recall in what

1 context I wrote it. I don't recall why.

2 596. Q. Well, it seems to be pretty clear
3 you say here in response to Mareva joke:

4 "...How is that a joke?..."

5 You say:

6 "...And then she has turned that into a
7 joke..."

8 So again, you can confirm that by "she" you're
9 referring to Ms. Prociuk?

10 A. Yes.

11 597. Q. And you can confirm at the very
12 least that at the time of writing this text message,
13 you were of the belief that Ms. Prociuk was not
14 taking the Mareva order seriously?

15 A. At the time of the text, possibly,
16 but I don't remember.

17 598. Q. I'm asking for a yes or no.

18 A. No.

19 599. Q. You don't think she had turned it
20 into a joke?

21 A. No.

22 600. Q. You think that she was in full
23 compliance with the Mareva order?

24 A. I don't know what she thought. I
25 can't say that. That's hearsay.

1 601. Q. I'm asking what you thought.

2 A. I don't remember. I don't know what
3 part of that you don't understand.

4 602. Q. On the back of the page, if you turn
5 the page, you say that Ms. Prociuk has been worrying
6 about Mr. DeMaria for quite a while.

7 A. Yes, I guess I did.

8 603. Q. And you said that:

9 "...DICO will come and do a full forensic
10 audit and close up shop..."

11 A. M'hm.

12 604. Q. What do you think that DICO would
13 find if they did a full forensic audit that would
14 force them to close down BCU?

15 A. At the time, I don't remember. I
16 don't remember how I wrote that and in what context.

17 605. Q. I'm asking for your personal
18 experience, Ms. Bereza.

19 A. My personal experience in dealing
20 with what, this situation?

21 606. Q. In dealing with BCU.

22 A. In dealing with BCU...

23 607. Q. And why your dealings over 14 years
24 at BCU would form your opinion at that time...

25 A. It wasn't over 14 years. It was the

1 last year of having to deal with that.

2 608. Q. Okay, over a year. Okay, so
3 over...you have confirmed that over that year you
4 had formed the opinion that if DICO were to come and
5 do a full forensic audit, they would close up shop.

6 A. I don't recall writing this, but
7 sure. Like, I wrote it obviously. It came from me,
8 but I don't know why. I don't remember the context
9 that it was. I don't remember the conversation. I
10 don't remember why I wrote it. I don't remember.

11 609. Q. Ms. Bereza, that's not a good enough
12 answer, "I don't recall." That has been your answer
13 to every question I have asked you.

14 A. But that's my answer.

15 MS. LO: Counsel, she has given her
16 answer. You can't badger my client into
17 answering more than what she said.

18 610. MS. MAZO: I'm only asking...

19 MS. LO: You may feel that it is not
20 good enough, but that is the answer that
21 she is giving on the record.

22 611. MS. MAZO: Counsel, it's my examination.
23 I'm only asking her for her opinion of why
24 she would have come to the conclusion,
25 based on her years of experience of working

1 with Buduchnist Credit Union, that a DICO
2 audit will cause DICO to close down BCU.

3 MS. LO: And she has answered that she
4 can't recall the context.

5 612. MS. MAZO: I know. Counsel, I'm not
6 asking for her recollection or for her
7 memory. I'm asking for her opinion today.

8 THE DEPONENT: My opinion is that I
9 don't recall why I had written this. I
10 don't recall how I had written this. All I
11 know is that when whatever...when I say
12 stuff, I know that I'm saying it generally,
13 but I'm saying the situation that brings us
14 here at this point in time and why I'm
15 sitting in front of you, trying to remember
16 this and trying to answer these questions.

17 There was a lot of stuff that I had
18 said that I don't recall. I don't know if
19 it was because I was still in a state of
20 flux, because again, for me, the traumatic
21 experience...maybe it wasn't traumatic for
22 you and whatever, but again, I found myself
23 out of a job. I found myself having to
24 support myself. I found myself having to
25 support two kids. So a lot of this

1 conversation with Mr. DeMaria was just
2 that. It was me probably blowing off
3 steam, and I don't recall the specifics of
4 this text.

5 I don't recall the specifics of a
6 lot of texts. I don't recall the specifics
7 of whatever you had...the transcript that
8 Mr. Underhill had given me the first time
9 that I was here. I don't recall.

10

11 BY MS. MAZO:

12 613. Q. I understand all that, yes.

13 A. Good.

14 614. Q. But what I'm asking for is your
15 opinion today on this statement.

16 A. My opinion today is...

17 615. Q. Not what your recollection of the
18 circumstances surrounding the text message, but I am
19 asking you as a person who is of sound mind today,
20 sitting before me, looking at a text message that
21 you had written, that put down a statement where you
22 had indicated that DICO would come and do a full
23 audit and close up shop. I'm asking, based on your
24 opinion today, what that means to you.

25 MS. LO: She has just said that a lot of

1 it could be her blowing off steam. So...

2 616. MS. MAZO: Counsel, I'm not asking for
3 your evidence. I'm asking for your
4 client's evidence.

5 MS. LO: That was her evidence.

6 THE DEPONENT: But that was my opinion.
7 That was what I was...

8 MS. LO: You asked her a question. She
9 has given her answer. She is not answering
10 any further than that.

11 THE DEPONENT: I would have to say I
12 can't answer any further than that because
13 I'm not understanding your question. I
14 don't understand it. I have given you....I
15 have told you...like, we have been sitting
16 here for, what, two minutes, and I have
17 been saying the same thing over and over
18 again.

19

20 BY MS. MAZO:

21 617. Q. The only question I have for you is
22 when you say:

23 "...DICO will come and do a full forensic
24 audit and close up shop..."

25 My only question to you is why would they do that?

1 Why would they close up shop?

2 A. I don't know. I don't know. I
3 don't know.

4 618. Q. Ms. Bereza, are you fearful of Ms.
5 Prociuk?

6 A. No.

7 619. Q. Are you feeling uncomfortable that
8 she is sitting in the room here next to you?

9 A. I am feeling uncomfortable for a lot
10 of reasons.

11 620. Q. Why?

12 A. That I have to go through this, that
13 I have to go through this in front of Mr. DeMaria,
14 that I have to go through this with Ms. Prociuk,
15 that I have to get a lawyer. I feel uncomfortable
16 with all of it, every single part of it.

17 621. Q. Do you recall how frequently Mr.
18 DeMaria's files were being audited internally at
19 BCU?

20 A. How often they were?

21 622. Q. Yes, on average.

22 A. Well, he had a money service
23 business, so I believe...I don't...I personally
24 didn't audit them. I don't know. I can't guess,
25 but the compliance for the money service business

1 accounts that we had...we had a compliance
2 department. The compliance officer would have been
3 checking those accounts. I don't know if they were
4 weekly, monthly. I don't know.

5 623. Q. Was it happening more frequently
6 than other money service business accounts?

7 A. Not that I'm aware of.

8 624. Q. You had indicated previously that
9 both Mr. DeMaria and his father, Mr. DeMaria, were
10 also clients of yours. Is that correct?

11 A. I knew him, yes.

12 625. Q. Jimmy DeMaria, that is Mr. DeMaria's
13 father...

14 A. Yes, I know.

15 626. Q. ...having any dealings with you in
16 relation to his accounts, or was it primarily Mr.
17 DeMaria, Carlo DeMaria?

18 A. No, it was...I mean, in the
19 beginning, like way back in 2005 or whatever, it
20 was...no, I think it was...I mean, I had met him a
21 number of times, but after that, I did some
22 business, I think, with his dad, and then it was
23 more or less Carlo...actually, more so Carlo over
24 the years.

25 627. Q. Did Jimmy DeMaria ever instruct you

1 on any of The Cash House accounts?

2 A. I don't remember.

3 628. Q. Or any related accounts, related to
4 Cash House?

5 A. I don't remember.

6 629. MS. MAZO: Those are all my questions.

7

8 --- DISCUSSION OFF THE RECORD

9

10 EXAMINATION BY MR. LEE:

11

12 630. Q. So I am Chris Lee, and I represent
13 Trade Capital Finance Corporation, one of the
14 respondents in this matter. I would just like to
15 start by asking you some questions about the
16 operation and hierarchy of Buduchnist Credit Union
17 Limited and your role in it. I will refer to
18 Buduchnist Credit Limited as Buduchnist.

19 A. Buduchnist.

20 631. Q. Buduchnist, okay. So who did you
21 report to when...

22 A. Oksana.

23 632. Q. Oksana. That was while you were the
24 branch operations manager?

25 A. That's right.

1 633. Q. And while you were branch manager,
2 who did you report to then?

3 A. When I was branch manager, I
4 reported to the branch operations manager at that
5 time.

6 634. Q. Okay. Do you recall...sorry if this
7 was already covered...when you were promoted to
8 branch operations manager?

9 A. Specifically, no. 2013, 2014. I
10 don't remember.

11 635. Q. Okay, but before 2015...

12 A. Yes.

13 636. Q. ...when, as you have been referring
14 to it, all this stuff occurred?

15 A. Yes.

16 637. Q. Okay. You said that the problems
17 arose when a bunch of cheques were returned on his
18 account, being Mr. DeMaria's account. Do you recall
19 which account that was?

20 A. No.

21 638. Q. Was it a personal account?

22 A. No, it was a business account.

23 639. Q. Okay. Do you remember which of his
24 businesses it was?

25 A. No, they're all getting jumbled. I

1 don't know.

2 640. Q. When that occurred, did you...you
3 said you called Mr. DeMaria about it to discuss it
4 with him. Did you talk to anyone else in the
5 Buduchnist organization about it?

6 A. Yes.

7 641. Q. You told Ms. Prociuk about it?

8 A. No, she...I don't know if she was
9 here. I don't remember the circumstances. I think
10 it was Bob Cup, the CFO, that I was talking to.

11 642. Q. Okay, but not immediately, but Ms.
12 Prociuk became aware of the bounced cheques rather
13 quickly when she came back?

14 A. After the fact, yes.

15 643. Q. And did she instruct you on how to
16 deal with the bounced cheques?

17 A. Well, we discussed it. I don't know
18 if there was instruction. We were just trying to
19 figure out how to fix it.

20 644. Q. Did she talk to Mr. DeMaria about
21 it, or were you the only one who talked to Mr.
22 DeMaria about this issue?

23 A. No, I can't say. I don't know. I
24 don't know if she did or not. I don't remember.

25 645. Q. Were you the one who made all the

1 decisions on how to deal with the bounced cheques,
2 or did other people make decisions on how to deal
3 with the bounced cheques?

4 A. No, it was cumulative, like.

5 646. Q. Did you make all the decisions on
6 how to handle Mr. DeMaria's accounts or did Ms.
7 Prociuk make some of the decisions on how to handle
8 his account or aspects of his account?

9 A. No, it was joint. It was...

10 647. Q. Joint.

11 A. ...Oksana, I, Bob Cup, the board,
12 the board of directors.

13 648. Q. Okay, so the board of directors was
14 aware of some of the issues with Mr. DeMaria's
15 accounts?

16 A. What specific one? Are you relating
17 to these bounced cheques?

18 649. Q. Just any issues with Mr. DeMaria's
19 account.

20 A. No. Well, there would be reporting
21 for all our MSBs. So it wasn't just Mr. DeMaria's
22 accounts. It was just money service businesses in
23 general.

24 650. Q. So prior to the issue that occurred
25 in 2015 with the bounced cheques, there was regular

1 reporting on...

2 A. All of the MSBs.

3 651. Q. ...all of the MSBs, including The
4 Cash House?

5 A. Yes, including everything.

6 652. Q. But not on Mr. DeMaria's other
7 accounts with BCU, just on The Cash House accounts?

8 A. I don't know.

9 653. Q. You're not aware?

10 A. I'm not aware.

11 654. Q. Okay. When the accounts were
12 frozen, you didn't receive the Mareva order. Ms.
13 Prociuk received the Mareva order?

14 A. I don't know who received it.

15 655. Q. You don't know who received it, but
16 you were told about it by Ms. Prociuk?

17 A. Yes.

18 656. Q. So at that time, she must have
19 received it?

20 A. I guess, yes.

21 657. Q. Right. Did you ever get a copy of
22 the Mareva order given to you?

23 A. No, I think I saw a bunch of papers,
24 but I never...

25 658. Q. You never took a look at it?

1 A. No.

2 659. Q. The decision of which accounts to
3 freeze in accordance with the Mareva order was not
4 made by you?

5 A. No.

6 660. Q. That decision was made by Ms.
7 Prociuk?

8 A. I assume so. I don't know.

9 661. Q. You don't know who it was made by?

10 A. No.

11 662. Q. It wasn't explained which accounts
12 needed to be frozen or which accounts don't need to
13 be frozen to you?

14 A. I don't recall.

15 663. Q. Ms. Prociuk didn't explain that to
16 you?

17 A. I don't remember if she did or not.

18 664. Q. Okay, but she was your director
19 supervisor?

20 A. Yes.

21 665. Q. And no other person explained it to
22 you?

23 A. No.

24 666. Q. Okay.

25 A. But I don't know that...I don't

1 remember.

2 667. Q. Okay. There is a Roma Denderys in
3 here.

4 A. That was me before I got...

5 668. Q. That is you, as well?

6 A. Yes, yes.

7 669. Q. I just wanted to make sure. So your
8 last name...when there are documents that are signed
9 by Roma Denderys, that is your former name, and that
10 is you?

11 A. Yes, I wish it was someone else, but
12 unfortunately...

13 670. Q. Okay. Now, you said that Mr.
14 DeMaria controlled a number of accounts. Can you
15 give me an estimate as to how many accounts Mr.
16 DeMaria controlled?

17 A. No.

18 671. Q. Was it more than five?

19 A. I don't know. Maybe.

20 672. Q. Well, you managed them for 12 years.
21 You would have an idea as to the number, right?

22 A. Yes, but I'm talking about, like,
23 individual mortgages and accounts. You're talking
24 about, like, the number of or...

25 673. Q. Right.

1 A. There is a difference for me. There
2 is a difference of, like, how many kind of
3 businesses he had, and how many products he had. So
4 the products would far outweigh what he had on the
5 business side, I'm guessing. I don't know. I don't
6 remember.

7 674. Q. But you dealt with the businesses
8 that he controlled, and his own accounts, correct?

9 A. Yes, that's fair.

10 675. Q. How many businesses did Mr. DeMaria
11 control accounts for?

12 A. Probably it was five, I guess, like
13 you said. I don't know. I don't know specifically.
14 I don't remember.

15 676. Q. Was it more than five?

16 A. I don't know. I can't answer that.

17 677. Q. You don't know?

18 A. No.

19 678. Q. Okay. What was...if I were to give
20 you names of businesses, would you remember if they
21 were a business that you worked...that Mr. DeMaria
22 controlled or not?

23 A. Yes, probably.

24 679. Q. Okay.

25 A. I don't know if he controlled them.

1 680. Q. So well...did he sign on behalf of
2 them? Did he give you instructions on behalf of
3 them?

4 A. Again, you can read them, but I
5 don't remember. Maybe.

6 681. Q. Okay. So you're not sure that you
7 would be able to remember them?

8 A. No.

9 682. Q. Okay.

10 A. It has been a while.

11 683. Q. So after...the cheques were returned
12 on his account in May...in 2015. That was in or
13 around May, 2015?

14 A. No, I think it happened towards more
15 the end of the year, I think.

16 684. Q. So you think it was in the end of
17 the year, in the winter?

18 A. Yes.

19 685. Q. Okay.

20 A. I think.

21 686. Q. In May of 2015 there wasn't anything
22 in Mr. DeMaria's relationship with Buduchnist that
23 alarmed you or caused you to be stressed?

24 A. In May?

25 687. Q. In May of 2015.

1 A. I don't know. I don't recall. I
2 don't think so.

3 688. Q. You don't recall, but that's not the
4 event that you're talking about that was very
5 stressful to you?

6 A. No.

7 689. Q. And in the early part of 2015, in
8 the summer of 2015, Mr. DeMaria continued to have
9 regular contact with you?

10 A. I guess so, yes.

11 690. Q. And continued to give you
12 instructions on his accounts?

13 A. I don't recall. I can't remember.

14 691. Q. Did he continue to give you
15 instructions on the corporation's accounts?

16 A. Well, if they were his accounts and
17 he gave me instruction, I guess the answer would be
18 yes.

19 692. Q. You earlier said that in 2015 you
20 were talking to him once a day. You were talking to
21 him about his accounts?

22 A. Yes...no, not really. We had a
23 relationship with, "How is your kids? How is your
24 wife?"

25 693. Q. So when you were talking to him once

1 a day, you were exchanging pleasantries and not
2 dealing with business?

3 A. It could have been. I don't know.

4 694. Q. You don't remember?

5 A. No.

6 695. Q. But you remember that you were
7 talking once a day, and you think that most of it
8 was exchanging pleasantries and not dealing with
9 business?

10 A. No, I can't answer that either. I
11 don't know why I was talking to him once a day, and
12 I think the once a day was just because I was being
13 pressured into asking how many times I talked to the
14 guy. I don't remember how many times I talked to
15 the guy.

16 696. Q. So before it was around once a day
17 because there was a lot going on, and now you don't
18 know?

19 A. But what time frame are we looking
20 at? Again...

21 697. Q. The spring and summer of 2015.

22 A. I don't recall. I don't know.

23 698. Q. You don't know?

24 A. No.

25 699. Q. Mr. DeMaria gave you instructions by

1 phone, by e-mail and by text. Is that correct?

2 A. Yes, from time to time, I guess.

3 700. Q. Okay, and the e-mail would have been
4 to a BCU e-mail account, not your own personal e-
5 mail account?

6 A. No...yes, that's right.

7 701. Q. And you would no longer have access
8 to that BCU e-mail account?

9 A. No.

10 702. Q. Okay. The text messages were to a
11 personal phone of yours or a phone that was provided
12 by BCU?

13 A. No, it was just my personal phone.

14 703. Q. Your personal phone. Do you still
15 have that phone?

16 A. No.

17 704. Q. So you're not still using that
18 phone?

19 A. No.

20 705. Q. But you still have that phone in
21 your house or have you gotten rid of it?

22 A. No, I got rid of it a long time ago.

23 706. Q. You got rid of it. Now, The Cash
24 House was transferred from...in 2015 Mr. DeMaria
25 continued to make transactions on The Cash House's

1 bank accounts?

2 A. I don't remember. I guess if it was
3 his account at the time. I don't remember.

4 707. Q. Earlier you said that he continued
5 to operate as though it was his account, and now
6 you're saying you don't remember?

7 A. No, like I said, I don't remember
8 the specifics of it. My conversations with him
9 towards the end of the year were my conversations
10 with him.

11 708. Q. And what were those?

12 A. Just when all those cheques got
13 returned.

14 709. Q. So what were the conversations?
15 Were transactions still occurring on his account?

16 A. No, on that account.

17 710. Q. On which account?

18 A. I don't remember the name of the...I
19 don't know which account that was at that time, in
20 2015. I don't recall.

21 711. Q. Okay.

22 A. It was the account. I know it as
23 "the account". That's all I know.

24 712. Q. Okay.

25 A. Like, it's just that.

1 A. I can't recall, but I'm going to
2 guess yes. I don't know. I can't guess, though. I
3 don't know.

4 721. Q. Okay. The accounts in the name of
5 The Cash House Armoured Transport Services Inc...

6 A. Okay.

7 722. Q. ...Mr. DeMaria gave you instructions
8 on those accounts?

9 A. I don't know that he did. I can't
10 answer that. I don't know.

11 723. Q. Okay, and a numbered company account
12 that was in the name of Cash House Armoured Services
13 Transport...sorry, Cash House...

14 A. They sound...

15 724. Q. ...Armoured Transport Services...

16 A. They sound familiar, but I can't
17 recall specifics. I don't remember how...what kind
18 of accounts he had or if he or whatever...what
19 accounts there were at Buduchnist at that time. I
20 don't remember.

21 725. Q. So you don't remember...

22 A. No.

23 726. Q. ...whether or not that was an
24 account of his or not. There would be records of
25 the person who made transactions in the credit

1 union, in Buduchnist?

2 A. Sure.

3 727. Q. If someone made a transaction,
4 Buduchnist would have a record of the person who
5 made it?

6 A. Yes.

7 728. Q. Either because that person attended
8 in person, then they would have a record of what
9 person signed the document?

10 A. Fair.

11 729. Q. If they e-mailed you instructions,
12 you would have a record of the e-mail that would be
13 kept by the bank?

14 A. Sure.

15 730. Q. And if someone used a debit card,
16 the bank would have a record of whose debit card it
17 was?

18 A. I'm going to assume yes. I wasn't
19 on that side of the...I didn't...I didn't do the
20 electronic part of it. So I'm going to guess...I
21 can't guess, but probably.

22 731. Q. Okay. Did other people...no other
23 person, other than Mr. DeMaria, gave you
24 instructions on his account?

25 A. I don't recall.

1 MS. GROSSMAN: Can we just clarify what
2 account you're talking about when you say
3 "his accounts"?

4 THE DEPONENT: Yes, I don't know what
5 accounts you're talking about.
6

7 BY MR. LEE:

8 732. Q. You said that he controlled a number
9 of accounts before, and that there were a number of
10 corporations that he controlled accounts for.

11 A. That I recall, yes.

12 733. Q. Right, that for all of those
13 accounts, no person other than Mr. DeMaria gave you
14 instructions on those accounts?

15 A. No, if they were his accounts, then
16 it would be him.

17 734. Q. Right.

18 A. It's like it's your account.

19 735. Q. Right.

20 A. Then you would be advising me,
21 right.

22 736. Q. And if he was controlling an
23 account, other people didn't give instructions on
24 those accounts?

25 A. Yes, if it was his account, then it

1 would be him. If it was you, it would be you. If
2 it was me, it would be me.

3 737. Q. So if the account was in the name of
4 another person, but Mr. DeMaria was the signing
5 officer for it, he gave you the instructions on the
6 account?

7 A. If he was signing on that account,
8 sure, I guess. I don't recall specifically, but
9 that would...

10 738. Q. Okay.

11 A. ...make sense, yes.

12 739. Q. But that's the process you would
13 follow, because if he was the signing officer, he
14 would give the instructions?

15 A. Pretty much.

16 740. Q. And you don't recall other people
17 giving you instructions on the accounts?

18 A. Specifically, no, with relation to
19 his accounts, no, I don't remember.

20 741. Q. Okay. Mr. DeMaria had direct
21 contact with Ms. Prociuk?

22 A. I don't know that he did. He could.

23 742. Q. Earlier you said that he did.

24 A. Well, yes, again, if you're asking
25 me about specific instances, then I don't know. I

1 can't answer those specific instances.

2 743. Q. But you're aware that he had direct
3 contact with Ms. Prociuk?

4 A. Yes, yes.

5 744. Q. You said that earlier today in this
6 examination.

7 A. Yes, he has spoken with her. Again,
8 I don't know where this is going. I don't
9 understand the questioning, because...

10 745. Q. Answer the questions truthfully, and
11 I'll continue asking. If you keep on changing your
12 answers from what you said earlier, I'm going to
13 have to ask why. It's very suspicious.

14 A. Well, with all due respect, Mr. Lee,
15 I am, but again when I'm asking...when you're asking
16 me these questions, and I'm truthful...when you
17 lie...when you're telling the truth, you don't have
18 to worry about what you're telling because it is
19 always the truth, but you're asking me whether or
20 not Mr. DeMaria had access to Oksana, and I'm saying
21 yes, he did.

22 746. Q. Okay, so...

23 A. So he did speak to her, sure, he
24 did.

25 747. Q. And she was aware of his accounts?

1 A. Yes, of course.

2 748. Q. And she was actively involved in the
3 management of his accounts?

4 A. I don't know if she was actively
5 involved, but she was involved in the management of
6 his accounts, as the CEO, any money service
7 businesses.

8 749. Q. But also his other accounts?

9 A. I don't know. I can't answer that.
10 I don't know if she was actively involved in any of
11 his other accounts.

12 750. Q. So let's give an example of another
13 account. So there is the money services business
14 accounts, but Vicar Homes Limited...

15 A. Okay.

16 751. Q. ...is an account that Mr. DeMaria
17 controlled.

18 A. Right.

19 752. Q. He signed the documents for Vicar
20 Homes Limited's bank account?

21 A. Okay, I guess, sure.

22 753. Q. And you dealt with Vicar Homes
23 Limited's bank account?

24 A. From what I can recall, yes.

25 754. Q. It was assigned to you?

1 A. Yes.

2 755. Q. And you dealt with Mr. DeMaria in
3 relation to that?

4 A. Yes.

5 756. Q. After the Mareva order, so in May
6 and later in 2015, was Ms. Prociuk involved in Vicar
7 Homes Limited's bank accounts?

8 A. She had knowledge of them. I don't
9 know what you mean by "involvement". I don't
10 understand.

11 757. Q. Did she speak to you about them?

12 A. About the Vicar Homes accounts?

13 758. Q. Yes.

14 A. I don't know. I guess we were
15 talking about all his accounts because of the Mareva
16 order.

17 759. Q. Okay, so you talked about all his
18 accounts because of the Mareva order?

19 A. I guess. I don't know.

20 760. Q. And that included the Vicar Homes
21 Limited account?

22 A. It may have. I don't know.

23 761. Q. You don't know. But you considered
24 the Vicar Homes Limited account one of his accounts?

25 A. I know of it, yes.

1 762. Q. And it was an account that was
2 controlled by him?

3 A. It was his account.

4 763. Q. Okay. What was the...in 2015, after
5 May, let's say June, 2015, any time in 2015 after
6 May, 2015, how much money flowed through the
7 accounts controlled by Mr. DeMaria?

8 A. I don't know.

9 764. Q. Can you give me an estimate?

10 A. No.

11 765. Q. Was it over 40 million?

12 A. I don't know.

13 766. Q. Was it over 60 million?

14 A. I don't know.

15 767. Q. Was it over 80 million?

16 A. I don't know.

17 768. Q. So you didn't keep track of the
18 level of activity on your customers' accounts while
19 you were at Buduchnist?

20 A. I don't remember.

21 769. Q. You don't remember if you kept track
22 of the activity on your customers' accounts?

23 A. No, I don't remember the activity on
24 those particular accounts.

25 770. Q. So you didn't keep...

1 A. I can't give you a dollar...

2 771. Q. Did you keep track of the activity
3 on your customers' accounts?

4 A. Did I personally?

5 772. Q. Yes.

6 A. No, I did not.

7 773. Q. You did not?

8 A. I don't remember. I don't think I
9 did. I don't know.

10 774. Q. So you don't think you did. So you
11 didn't get any sort of statistics or reporting as to
12 the activity on your customers' accounts?

13 A. I don't recall.

14 775. Q. You don't recall?

15 A. No.

16 776. Q. Okay. So you don't recall how large
17 certain customers were and how small certain
18 customers were to the bank?

19 A. No.

20 777. Q. But the bank would have that
21 information?

22 A. I assume so, yes.

23 778. Q. You just don't have access to it
24 anymore?

25 A. No.

1 779. Q. And Ms. Prociuk, as CEO of the bank,
2 would have access to that information?

3 A. I would assume.

4 780. MR. LEE: Okay. Thank you.

5

6 --- upon recessing at 1:38 p.m.

7 --- A BRIEF RECESS

8 --- upon resuming at 1:52 p.m.

9

10 ROMA BEREZA, resumed

11 EXAMINATION BY MS. GROSSMAN:

12

13 781. Q. Thank you, Ms. Bereza. I'm counsel
14 for Buduchnist Credit Union Limited, which I'll
15 refer to probably as BCU.

16 When you were examined on the first day,
17 so not today, you provided that videotape which was
18 marked as an exhibit. The transcript was Exhibit 1,
19 and the actual tape was Exhibit 2, but that seemed
20 to be a document that Carlo DeMaria had and gave to
21 his counsel. It wasn't a document that you produced
22 on the examination.

23 So how was it that your taped, videotaped,
24 conversation with Ms. Prociuk that you have told us
25 you videotaped it on the advice of counsel, came to

1 be in Mr. DeMaria's possession?

2 A. I gave it to him.

3 782. Q. And was it on his instructions at
4 all that you taped this?

5 A. No.

6 783. Q. No. So how did he come to know that
7 you had it, and how did he come to know that...come
8 to get it?

9 A. Because there was an exchange
10 between myself and him, and it's a long story. Do
11 you want to hear?

12 784. Q. Yes, I do want to know how he came
13 to have that tape.

14 A. I provided it because there was some
15 issue with Mr. DeMaria, Carlo, thinking that I was
16 taking sides. I just wanted to get away from the
17 situation, and basically it was, "Listen, does this
18 sound like I want to give involved in this at all?"

19 785. Q. Sorry, you were showing him the
20 videotape as...

21 A. It wasn't really a video. It was
22 more audio.

23 786. Q. Did you have it transcribed or did
24 he have it transcribed?

25 A. He had it transcribed. I did not.

1 787. Q. So you actually have the audio tape
2 and you gave it to him as proof that you weren't
3 trying to take sides?

4 A. Yes, pretty much, but that
5 doesn't...I didn't have...I didn't want to get
6 involved in this. It doesn't sound like I'm trying
7 to get involved in it.

8 788. Q. And your conversation with Ms.
9 Prociuk that you audiotaped was about the Choras
10 lawsuit, correct?

11 A. Yes.

12 789. Q. And in what way did you feel that
13 that audio or videotape demonstrated that you did
14 not want to take sides?

15 A. Just in me saying that, "I'm not
16 going to answer any questions," whether they be from
17 Oksana or Choras. I wasn't going to get involved.

18 790. Q. So it was demonstrating...

19 A. Or didn't want to.

20 791. Q. It was demonstrating your reluctance
21 to get involved in the lawsuit between Choras and
22 BCU?

23 A. Yes.

24 792. Q. And that demonstrated that you
25 weren't in the BCU camp, so to speak?

1 A. Pretty much.

2 793. Q. And am I correct that what Ms.
3 Prociuk was showing you and asking you to comment on
4 were Choras' allegations that involved you?

5 A. Yes.

6 794. Q. And you were asked by Mr. DeMaria's
7 counsel whether you were being shown some statements
8 that Ms. Prociuk had prepared. Can you be...I would
9 like you to clarify your evidence on that point. My
10 understanding is that what you were being shown were
11 Choras' allegations?

12 A. Yes, it was the...I don't know, the
13 legal paperwork that came in for that lawsuit.

14 795. Q. Right, but it was the Choras legal
15 paperwork that you were being shown and asked to
16 comment on?

17 A. It...yes. Well, yes, my text
18 messages to one of the principals of Choras.

19 796. Q. Right. So Ms. Prociuk was asking
20 you to explain these text messages and asking you
21 whether there were any more text messages that you
22 had with the Choras representatives?

23 A. Yes, if I recalled, whatever. I
24 just didn't want to answer.

25 797. Q. The document, the text exchange

1 between you and Mr. DeMaria that we have marked as
2 Exhibit 3 today, which I believe has come from Mr.
3 DeMaria's phone...

4 A. Yes.

5 798. Q. ...and it has a time at the top, and
6 it looks to me to be 3:49 a.m. Can you look at your
7 copy? Is that what it appears to you? On one side
8 3:49 a.m., on the other side 3:52 a.m., but it
9 doesn't have a date.

10 A. Yes, I don't know when this
11 happened. I don't recall. After I left Buduchnist
12 but...

13 799. Q. But did Mr. DeMaria have a habit of
14 engaging you in text conversations in the middle of
15 the night?

16 MS. MAZO: Counsel, that's the time of
17 the screenshot.

18 800. MS. GROSSMAN: Okay, just the side of
19 the...

20 MR. UNDERWOOD: Yes, I think there are
21 actually time stamps on the messages
22 themselves.

23 MS. MAZO: The time at the top is the
24 time that the screenshot was taken.

25 801. MS. GROSSMAN: I see.

1 MS. MAZO: And the actual time is along
2 the side of the wording, which reads to be
3 12:40 in the afternoon.

4 802. MS. GROSSMAN: Okay, I don't see...

5 MS. MAZO: It's between 11:17 a.m. to 12
6 p.m.

7 803. MS. GROSSMAN: Okay, thank you, Counsel.
8

9 BY MS. GROSSMAN:

10 804. Q. So is there a...I know you are
11 having a hard time recalling all this, but you left
12 Buduchnist in August of 2016, and as we sit here
13 today, it's January of 2019. Where in that time gap
14 did this conversation take place?

15 A. I don't remember.

16 805. Q. But is it recently?

17 A. Oh, I don't know. It...I don't
18 know. I don't remember. I can't even tell you.

19 806. Q. You have told us in answer to the
20 other questions that other counsel have asked you,
21 that you continued, and it's obvious from this that
22 you continued to communicate with Mr. DeMaria after
23 you left Buduchnist, so after you had your
24 customer/client relationship with him through BCU.

25 What...did you have any ongoing

1 relationships with Mr. Carlo DeMaria after that
2 point in time, after you had left BCU?

3 A. Like business relationship?

4 807. Q. Any relationships.

5 A. Well, no. We still texted.

6 Obviously we were still texting.

7 808. Q. Did you consider him a personal
8 friend?

9 A. I considered him a friend.

10 809. Q. So you had what we'll call a
11 friendship relationship with him that continued even
12 after you left BCU?

13 A. Yes.

14 810. Q. Did you have any other relationship
15 with him?

16 A. I don't know what kind of
17 relationship you're implying.

18 811. Q. I'm not implying anything. I'm just
19 saying was it just your friendship? Was that the
20 full extent of your ongoing relationship with Carlo
21 DeMaria?

22 A. Yes, I guess. I don't know what
23 you're implying.

24 812. Q. Well, didn't you also make personal
25 loans to Carlo DeMaria?

1 A. Well, that was part of that whole
2 exchange. So listen, he...yes, I guess I did.

3 813. Q. When did you make personal loans to
4 Carlo DeMaria?

5 A. I don't remember. That was some
6 time in 2016. I'm not even sure.

7 814. Q. Was it before or after you left
8 Buduchnist?

9 A. No, it was before I left Buduchnist.

10 815. Q. And did Carlo DeMaria approach you
11 for a personal loan?

12 A. No, no, he didn't approach me.

13 816. Q. How did that come about?

14 A. Again, it's kind of convoluted, but
15 it was in and around that this situation was
16 happening, and he had...he was stuck in...I'm not
17 even sure what the situation was. I don't know if
18 there was...what the...and I'm...I don't know. I
19 don't remember why. I remember kind of the
20 circumstances being that there was a transaction
21 that needed to happen, and I said, "Okay, well,
22 listen, I'll try to help you out."

23 Like, I mean, there was that relationship
24 that we had established, and you know, "I'll front
25 the money," or whatever, and, "Just get your stuff

1 together," kind of...it was very haphazard. It
2 wasn't...Oksana was aware of it. I did tell Oksana.

3 817. Q. You told Oksana about it at the
4 time. So my understanding is that you made a loan
5 in the magnitude of \$300,000 to Mr. DeMaria?

6 A. I don't remember the specific
7 amount, but it was up there pretty much.

8 818. Q. Is that...you may not remember the
9 specific amount.

10 A. I know you are probably thinking
11 that I should remember, but I don't. Like, I would
12 have to go back and check.

13 819. Q. Will you check?

14 A. Yes.

U/T

15 820. Q. You can check?

16 A. I can.

17 821. Q. Okay, so please check and tell me
18 what the amount of the loan was.

19 A. Buduchnist can check as well. It's
20 on the book. I mean, it would have been in my
21 account and it would have been transferred out.

22 822. Q. So you made the loan from your
23 personal account at Buduchnist?

24 A. M'hm.

25 823. Q. I would rather you check, though, so

1 it's your evidence.

2 A. Okay, sure.

3 824. Q. So you made a personal loan to Mr.
4 DeMaria, and you think it's of the order of
5 magnitude of around \$300,000?

6 A. At the time I believe so, yes.

7 825. Q. And you made that to help Mr.
8 DeMaria out in some transaction?

9 A. Yes.

10 826. Q. What was the transaction?

11 A. I don't recall.

12 827. Q. A business transaction of his?

13 A. It was a business transaction, yes.
14 It was a business transaction. I'm not sure what it
15 was for. I don't remember anymore.

16 828. Q. Okay, and you're saying he didn't
17 approach you for it. He knew he was in a tough spot
18 and you offered it as a friend?

19 A. Yes.

20 829. Q. And is there loan documentation for
21 this?

22 A. No, we never got anything. I don't
23 remember. I think I had suggested it, and I believe
24 that I did sign something with Oksana on that, but I
25 don't remember. I don't have a copy.

1 830. Q. But you weren't doing this in any
2 official capacity as a representative of BCU. This
3 was a friendship loan that you were making to a
4 personal friend?

5 A. Pretty much.

6 831. Q. Have you been repaid?

7 A. Yes, I have been.

8 832. Q. Are you fully repaid?

9 A. I don't...again, I haven't been
10 really tracking amounts, but I mean, no, I don't
11 think so, but it's close. We'll call it even.

12 833. Q. I thought that you were owed about
13 \$100,000 still by Mr. DeMaria.

14 A. I'm not sure of the exact amount. I
15 couldn't tell you. I would have to check.

16 834. Q. Well, please do check, but I want to
17 know if it's...if you're repaid, which is what I
18 thought you were saying when, "It's close. We'll
19 call it even." I thought that conveyed you had been
20 repaid, versus being owed \$100,000 on a loan of an
21 order of magnitude of \$300,000 means that you're
22 approximately one-third not repaid.

23 A. I would have to check.

24 835. Q. Have you had to chase Mr. DeMaria to
25 repay you?

1 A. I don't know if "chase" is the right
2 word. I have had to keep in touch with him because
3 of it.

4 836. Q. You have had to keep on top of him
5 to make sure that he is repaying you?

6 A. Well, I would have to...yes.

7 837. Q. I would like to know if you are
8 repaid or not, and if you have been repaid in full,
9 I would like to know when that occurred.

10 A. I don't know what bearing that has
11 on this, however, considering that that was
12 something that I had done personally, and I didn't
13 hold anybody liable, except myself, and it was an
14 agreement between myself and Mr. DeMaria, and really
15 didn't have much to do with the credit union,
16 because I signed off on that with them.

17 838. Q. What do you mean by that, when you
18 say you "signed off"?

19 A. Well, I just told Oksana it's not
20 her problem. It's mine, to take all liability off
21 of the credit union. That was me.

22 839. Q. Okay, but what I...the bearing it
23 actually has on this is what relationship you have
24 with a person who asked you to give testimony in
25 this case. So that's the reason I'm exploring it.

1 It's really not to be a busybody in any way, but
2 it's to know what the relationship is and what the
3 motivations might be.

4 MS. LO: We're going to have to take
5 that under advisement.

U/A

6 840. MS. GROSSMAN: The undertaking I have
7 asked for, you're going to take under...

8 MS. LO: So you have asked two questions
9 so far. You have asked for the amount of
10 the loan, which we're willing to tell you,
11 and to check to see how much money is
12 outstanding, but then you went on to ask
13 further questions...

14 841. MS. GROSSMAN: About when it was repaid.

15 MS. LO: ...when it was repaid and so
16 on.

17 842. MS. GROSSMAN: Correct, yes, yes.

18 MS. LO: Those would be under
19 advisement.

20 843. MS. GROSSMAN: Under advisement, okay,
21 thank you.

22

23 BY MS. GROSSMAN:

24 844. Q. I had asked you if you had to, to
25 sort of stay on top of Mr. DeMaria to repay you, and

1 I want to know, you know, the repayment, was it
2 going on in 2018 and 2019?

3 A. Well, now it's 2019, right.

4 845. Q. Yes.

5 A. So no, not right now. In 2018 there
6 was a couple of...yes, repayments.

7 846. Q. Okay, and in 2017? So I'm just
8 dealing with the period after you left the credit
9 union?

10 A. Yes, throughout '17, '18.

11 847. Q. There were repayments?

12 A. Yes.

13 848. Q. Did you consider that you were
14 having to chase Mr. DeMaria to repay you?

15 A. I don't know that I would use the
16 word "chase", but it would be a reach-out.

17 849. Q. You were initiating the...

18 A. Yes.

19 850. Q. ...occasions where he was ultimately
20 repaying you?

21 A. Yes.

22 851. Q. Has Mr. Carlo DeMaria put any
23 pressure on you in the period since you left the
24 credit union?

25 A. Pressure in what sense?

1 852. Q. In any sense.

2 A. He has been trying, but no, there
3 was just back and forth on texts, and sometimes the
4 texts got a little heated and...

5 853. Q. Did his continuation of texting you
6 relate to matters that went on at BCU in the period
7 that you were employed at BCU?

8 A. Yes.

9 854. Q. Was he...I'll use the colloquial
10 here, trying to pump you for information?

11 A. Well, I don't know if "pump" would
12 be, but asking me questions, like, i.e. this.

13 855. Q. Referring to Exhibit 3.

14 A. Exhibit 3.

15 856. Q. While you were at BCU you were asked
16 by one of the other counsel about DICO audits, and
17 that's referred to in Exhibit 3.

18 A. Yes.

19 857. Q. It's my understanding that there
20 were regular audits of BCU by DICO. So my
21 understanding is that there were regular audits that
22 took place of BCU and all credit unions by DICO. Is
23 that your understanding as well?

24 A. That's my understanding, yes.

25 858. Q. And did you actually observe these

1 audits, like the DICO auditors coming in?

2 A. Well, I mean, I didn't observe the
3 actual audits. I saw them coming in, but I wasn't
4 really...like, I didn't sit with them or anything.

5 859. Q. No, but you were aware that they
6 would come in?

7 A. Yes.

8 860. Q. And I understand that the audits
9 take place every two years. Is that correct?

10 A. I think that was what it was, yes.

11 861. Q. So DICO audits were taking place
12 throughout the period that Mr. DeMaria and various
13 companies he was related to were customers of BCU
14 and you were the account manager?

15 A. Yes.

16 862. Q. And are you aware of anything that
17 happened in that period that, if DICO only knew
18 about it, they would shut BCU down?

19 A. I don't recall. As I mentioned to
20 the other counsel, if you're specifically referring
21 to Exhibit...whatever you called it, I don't
22 remember.

23 863. Q. Exhibit 3.

24 A. I don't remember the Exhibit 3.

25 864. Q. Because when you were asked about

1 Exhibit 3 you said earlier, "Sometimes you just want
2 to tell people what they want to hear," and you said
3 that in reference to questioning about Exhibit 3.

4 A. That is correct.

5 865. Q. And I want you to just elaborate on
6 that. Did you believe when you were in this text
7 dialogue with Mr. DeMaria he wanted to hear from you
8 bad things about BCU?

9 A. I can't answer what Mr. DeMaria
10 thought or wanted to hear or didn't want to hear.
11 Sometimes, because in my texts, and maybe he has
12 more that is going to come to light...I don't know.
13 Sometimes it was just that there were a lot of
14 texts. There was a lot of correspondence and I just
15 wanted it done. I didn't want to have anything else
16 to do with this, and I just wanted to put it to bed.

17 866. Q. So by that do you mean that Mr.
18 DeMaria was continuing to text you about BCU?

19 A. Yes.

20 867. Q. And you wanted to shut down those
21 text conversations?

22 A. Sometimes, yes.

23 868. Q. Okay, and you thought by telling him
24 what he wanted to hear, that would be a quick way to
25 shut down the text conversations?

1 A. At times. Like, that was...I can't
2 answer that, and I don't know for sure. It was a
3 very confusing time for me, and it's still
4 confusing. You know, what I feel and what I felt,
5 what I was going through, it was pressure. There
6 was a lot of stress. There was a lot of pressure.

7 869. Q. And that's why I...because you
8 referred to pressure and stress, that's why I wanted
9 to ask you did you consider that Mr. DeMaria was
10 creating that stress and pressure for you?

11 A. After I left BCU?

12 870. Q. Well, we can start with after you
13 left BCU.

14 A. After I left BCU there was a little
15 bit of that, because it was still...I didn't want to
16 be involved, and I still found myself somehow to be
17 involved.

18 When I was at BCU, it was the pressure of
19 BCU, and trying to get a handle on this and try to
20 fix this situation. That was the pressure from
21 there.

22 871. Q. And the situation you're referring
23 to are the large volume of returned cheques on Mr.
24 DeMaria's accounts?

25 A. That's the one that I'm referring

1 to.

2 872. Q. I just want to deal with that now.

3 My understanding is that, and you have told us, that
4 Mr. DeMaria was running a money service business, an
5 MSB business, and is it in connection with that
6 business that the cheques were returned, or can you
7 help us out at all about the returned cheques?

8 A. I don't remember what...like, I
9 just...I don't remember which account it was. I
10 don't remember. I don't remember who it was. I
11 don't remember who the cheques were written from. I
12 don't remember what they were negotiated on behalf
13 of. I don't remember that.

14 873. Q. You don't remember that.

15 A. I just remember that it was a huge
16 volume, a big amount, that came back. That's all I
17 remember.

18 874. Q. A huge volume being a large volume
19 of cheques?

20 A. No, I don't know if it's a large...I
21 mean, I meant amount, amount-wise, not really
22 cheques, individuals.

23 875. Q. The amount, the dollar value of the
24 returned cheques?

25 A. The...yes, sorry.

1 876. Q. Do you recall that in connection
2 with the money service business, that at some point
3 Mr. DeMaria had said that he would provide BCU with
4 mortgage security over the Elm Grove property and
5 the Stavebank property so that there would be
6 recourse that BCU would have in the event of
7 returned cheques?

8 A. No, I don't...I don't remember
9 specific properties. I remember, I think, when he
10 first opened those accounts way back when, there was
11 some sort of contingency plan in place, or should
12 have been, or we were putting in place to allow for
13 should some cheques return because of the way the
14 cheques were being cashed, or because of the kind of
15 account it was, that there was security that should
16 have been placed on whatever properties he had at
17 the time. I don't remember specific properties.

18 877. Q. So the security that you are
19 remembering that was intended to be in place was
20 mortgage security?

21 A. Yes. Well, that's the only kind we
22 used to take, or I mean if he had deposits, but I
23 don't remember that either.

24 878. Q. When I identified for you the Elm
25 Grove property and the Stavebank property as two

1 properties I'm suggesting to you that Mr. DeMaria
2 had identified as properties he would give mortgage
3 security over in the event of returned cheques, that
4 does not ring any bells with you, because you didn't
5 keep track of the properties?

6 A. No. Like, I don't know what point
7 of time we're talking to. Prior to? I...

8 879. Q. Prior to the time you left BCU is
9 what we're talking about.

10 A. Prior to the time, no, I remember
11 those properties being the properties in question,
12 but...

13 880. MS. GROSSMAN: Okay. So I want to take
14 you to tab 6 of a brief of documents that
15 counsel for Mr. DeMaria put together and
16 provided to your counsel for the purposes
17 of this examination, and we're going to
18 mark that as the next exhibit. I believe
19 that will be Exhibit 4.

20

21 --- EXHIBIT NO. 4: Tab 6 or productions of Mr. DeMaria
22 re: Stavebank

23

24 BY MS. GROSSMAN:

25 881. Q. This tab relates to the Stavebank

1 property at 1407 Stavebank Road. There are a number
2 of documents...the pages aren't numbered, but there
3 are a number of documents that appear to have your
4 signature on them, and I want to just take you to
5 those documents, and where your signature appears.
6 So the first page is three pages in.

7 A. M'hm.

8 882. Q. And the date is January 29th, 2016,
9 and there is the initials "R.B", with a stamp "Roma
10 Bereza, branch operations manager"?

11 A. M'hm.

12 883. Q. Correct, and then there is a
13 signature above the words "Linda DeMaria"?

14 A. M'hm.

15 MR. UNDERWOOD: Ms. Grossman, you
16 objected to this, to questions about these
17 documents or about this transaction when
18 they were put to Ms. Bereza before.

19 884. MS. GROSSMAN: No, I didn't. I wasn't
20 even here when you put this to Ms. Bereza.
21 I wasn't at the examination.

22 MR. UNDERWOOD: Just earlier this
23 afternoon or this morning, I believe you
24 objected to it.

25 885. MS. GROSSMAN: No, I didn't. I never

1 objected.

2 MR. UNDERWOOD: I believe you did, on
3 the basis that Ms. Bereza...or sorry, Mr.
4 DeMaria was not a party, and I remember Mr.
5 Lee...

6 886. MS. GROSSMAN: No. I simply said...

7 MR. UNDERWOOD: ...intervened...

8 887. MS. GROSSMAN: ..."Put the document to
9 the client...to the witness." You were
10 asking generically about whether the
11 witness had or had not viewed Mr. DeMaria
12 signing, and I simply said, you know, "Put
13 the document to the witness because many of
14 the documents here have nothing to do with
15 Carlo DeMaria signing," and I used
16 Stavebank as an example, and said, "That's
17 not something that Carlo DeMaria even
18 signed. It's Linda DeMaria."

19 I never objected. I just thought it
20 was misleading the witness. So I'm trying
21 to do exactly what I thought should have
22 been done by the questioner, put the
23 document to the witness.

24

25 BY MS. GROSSMAN:

1 888. Q. So looking at that, were you present
2 when Linda DeMaria signed?

3 A. No.

4 MR. LEE: Sorry, just to interrupt, do
5 you mind if I look at your...at this copy
6 here so I can follow up?

7 889. MS. GROSSMAN: Yes.

8 MR. LEE: There are notes there, right?

9 MS. LO: My client would like a break,
10 just quickly.

11 890. MS. GROSSMAN: That's fine.

12

13 --- upon recessing at 2:20 p.m.

14 --- A BRIEF RECESS

15 --- upon resuming at 2:22 p.m.

16

17 ROMA BEREZA, resumed

18 CONTINUED EXAMINATION BY MS. GROSSMAN:

19

20 891. Q. So Ms. Bereza, we were talking about
21 the third page in at tab 6. We have marked that as
22 Exhibit 4. You identified your initials. I asked
23 you if you actually saw Linda DeMaria sign this and
24 you said no.

25 A. M'hm.

1 892. Q. Do you know whether...who signed
2 this for Linda DeMaria?

3 A. No.

4 893. Q. So tell me the circumstances where
5 you came to sign in the witness block on this
6 document?

7 A. It was a job that just had to get
8 done, and I...that was the part of the whole...when
9 I was talking about the traumatic events leading up
10 to me quitting. Part of this was this whole
11 situation, because I was just running around, trying
12 to solve a problem that Buduchnist had.

13 So I can't even take you back to that time
14 because I don't remember. I didn't even...like, I
15 was trying to remember. I don't even remember how I
16 got there, but then I remembered after the fact that
17 someone drove me, because I wasn't in any condition,
18 to try to get Linda to sign these papers.

19 894. Q. Was Linda there on this occasion?

20 A. I don't remember.

21 895. Q. Had you made an arrangement to meet
22 with Linda DeMaria to get her to sign up mortgage
23 documentation on the Stavebank property?

24 A. No, I did not talk to Linda.

25 896. Q. Who did you speak to to make those

1 arrangements?

2 A. I spoke to her son, Carlo.

3 897. Q. And did you go to an address on
4 Caledonia Road...

5 A. Yes.

6 898. Q. ...for this mortgage documentation
7 signup?

8 A. Yes.

9 899. Q. Were you expecting Linda DeMaria to
10 be there?

11 A. I was expecting her to be there, I
12 guess, sure.

13 900. Q. Had her son Carlo told you that's
14 where the mortgage signup by Linda DeMaria, the
15 mother, will take place?

16 A. That's...I don't remember the
17 specifics of the conversation, but that's what I
18 believed.

19 901. Q. And when you got there, who was
20 present?

21 A. I don't know, because some of
22 them...I saw Carlo.

23 902. Q. So Carlo DeMaria was present?

24 A. Yes.

25 903. Q. Okay, and did you interact with

1 Carlo DeMaria in order to get the Stavebank mortgage
2 documentation signed up?

3 A. We spoke. I don't remember what we
4 spoke about, except to say that, "I'm here to get
5 your mother to sign these papers."

6 904. Q. And at some point did somebody give
7 you the documentation signed by Linda DeMaria?

8 A. Yes, there was an envelope that
9 just...it was kind of like left on the counter.

10 905. Q. And it contained the signed mortgage
11 documentation?

12 A. Yes.

13 906. Q. Who left the envelope on the
14 counter?

15 A. I'm not sure. That's not...I was
16 kind of waiting around. Like, I couldn't recall.

17 907. Q. Did you come with documentation to
18 this meeting?

19 A. I came with documentation to this
20 meeting.

21 908. Q. Who did you give your documentation
22 to?

23 A. I gave it to Carlo.

24 909. Q. To Carlo DeMaria?

25 A. Yes.

1 910. Q. And what happened to your
2 documentation after you gave it to Carlo DeMaria?

3 A. I don't know, because I stepped
4 outside. I don't remember, because I was outside.

5 911. Q. So you stepped outside, and at some
6 point, did you come to learn that the mortgage
7 documentation had been signed?

8 A. Yes, I got the envelope back, but it
9 was kind of just left on the counter, and I don't
10 remember who it was that told me just to pick it up.

11 912. Q. Okay, and was it Carlo DeMaria who
12 told you that?

13 A. No, because I came back inside, I
14 think. It's a little convoluted.

15 913. Q. Yes.

16 A. I got the package back. I don't
17 know. I don't remember really if it was Carlo that
18 gave it back to me or maybe his grandfather. I
19 don't remember.

20 914. Q. You said "or maybe his grandfather"?

21 A. Yes, I don't know, because there was
22 some family members there. So that's why I just
23 assumed that maybe Linda would have been there.

24 915. Q. So as best as you can recall now,
25 you have Carlo DeMaria there and other family

1 members there who you think...

2 A. No, like, there was other people
3 there. I don't know if they were family members or
4 not.

5 916. Q. Was this at a house?

6 A. No, it was at the bakery.

7 917. Q. Okay, so the DeMaria family bakery
8 on Caledonia?

9 A. Yes.

10 918. Q. And was everybody who was present on
11 that occasion, did you understand them to all be
12 DeMaria family members?

13 A. No, I didn't. I didn't have that
14 conversation. I don't remember what I was talking
15 about.

16 919. Q. Okay, but whoever told you that,
17 "The documents are signed. They're in the envelope.
18 Go back inside and pick them up," you can't recall
19 whether that was Carlo DeMaria or some other...

20 A. Well, I think there was some sort
21 of...like, I don't know if I called them or if I
22 came inside, and they said, "Is the documentation
23 ready?" and someone said, "Yes, the envelope is
24 here. So just grab it."

25 920. Q. Right, but you weren't speaking to

1 patrons of the bakery. You were speaking to DeMaria
2 family members?

3 A. I don't know that. I don't know if
4 they worked for...like, I don't know. That, I don't
5 know. I can't answer that.

6 921. Q. When you got the envelope back, did
7 you open it up?

8 A. No, actually I didn't. I don't
9 think I opened it up until I got back to the credit
10 union.

11 922. Q. And when you opened it up, you saw
12 that all the signature lines that have the name
13 "Linda DeMaria" typed under them had been completed
14 with a signature?

15 A. Yes, I believe so.

16 923. Q. When is it that you put your
17 initials on the document?

18 A. I think it was back at Buduchnist,
19 when I got back to the office.

20 924. Q. When you returned with the signed
21 documentation, you added your signature as witness?

22 A. Yes.

23 925. Q. Is this the occasion that you were
24 mentioning to Ms. Mazo when she was asking you about
25 signing as a witness on a document when you had not

1 been present when the primary...

2 A. Yes.

3 926. Q. ...signatory signed?

4 A. M'hm.

5 927. Q. So it was not a Carlo DeMaria

6 document at all that you were talking to her about.

7 It was a Linda DeMaria document?

8 MS. MAZO: Counsel, I never asked that.

9 THE DEPONENT: I don't remember

10 the...what she asked me.

11 MS. MAZO: Counsel, you are putting...

12 928. MS. GROSSMAN: Well, the record will

13 speak for itself as to what you asked.

14 MS. MAZO: Yes. I asked for specific

15 signatures. I never specified with respect

16 to who the signatures were witnessed for.

17 929. MS. GROSSMAN: Well, the record...

18 MS. MAZO: So Counsel, you are putting

19 evidence to...

20 930. MS. GROSSMAN: The record will speak for

21 itself. I'll be corrected if I'm wrong,

22 and...

23 THE DEPONENT: All right, I don't know.

24 I just...okay, sorry. You're asking me

25 specifically about this document or you're

1 asking me what...

2

3 BY MS. GROSSMAN:

4 931. Q. I was asking you is this the
5 occasion you were talking about when you responded
6 to Ms. Mazo's questions about signing as a witness
7 on a document when you had not, in fact, seen the
8 primary party sign the document.

9 A. Yes, I was, I guess, alluding to
10 this one.

11 932. Q. Okay. Are there any other occasions
12 that...where you did that, or is it just this
13 documentation that we have marked as Exhibit 4?

14 A. I don't remember the specifics of
15 these particular mortgages, how they were signed
16 or...like, what...some of them...again, I think
17 there was a point there where one of them...and I
18 might be wrong.

19 Again, I...like, my counsel will say I
20 can't guess, but there was a few properties that
21 were mortgaged. So some of the documentation went
22 through, like, scans, I guess, or e-mail. I don't
23 know that we collected original...I don't recall. I
24 don't recall.

25 So I mean, in those cases, I don't know

1 that I signed it as a witness. I can't recall. I
2 don't remember anymore.

3 933. Q. I'm aware that your counsel has to
4 leave for another appointment and I have more
5 questions to ask you. So we're going to have to
6 adjourn this examination and reconvene. It's not
7 what any of us want, but it's unfortunately what
8 we're going to have to do.

9 There is only one document I want to ask
10 you about before we do that. We're going to give
11 you a volume called volume 1 of the BCU application
12 record. Just bear with me for one minute. I was
13 just going to ask you to turn up a document which is
14 at page 135 of the record. It's at tab M.

15 MR. LEE: Are you in your supplementary
16 or your...

17 934. MS. GROSSMAN: I'm in volume 1 of the
18 main BCU application record.

19
20 BY MS. GROSSMAN:

21 935. Q. So this is an agreement for line of
22 credit loan made on October 20th, 2015, and there
23 has been evidence given that this increased the
24 limit on this line of credit that had been signed up
25 earlier, in February of 2015.

1 A. Okay.

2 936. Q. So do you recognize your initials on
3 the document?

4 A. Yes.

5 937. Q. And is that every place next to the
6 stamp Roma Bereza?

7 A. Yes.

8 938. Q. And the document purports to be
9 signed by the mortgagor, which is one of the DeMaria
10 corporations, 2321198 Ontario Inc.

11 A. Okay.

12 939. Q. And then there is a signature line
13 for guarantor.

14 A. Right.

15 940. Q. Do you recall witnessing this
16 document, like being present when this document was
17 signed up?

18 A. I don't remember. I don't recall.

19 941. Q. You just can't recall one way or
20 another?

21 A. I can't recall one way or another.
22 Like, maybe, probably. I'm guessing.

23 942. Q. This relates to the property known
24 as the Puccini property. Is that property familiar
25 to you?

1 A. No, the name sounds familiar, but I
2 don't remember the particulars around that property.

3 943. Q. Right. It's a Richmond Hill
4 property that...a house built by Vicar Homes, a new
5 build.

6 A. Oh, kind of, okay.

7 944. Q. Are you able to identify the
8 signature on the line for the corporation and on the
9 guarantor line?

10 A. As in, like, do I know what Mr.
11 DeMaria signs like?

12 945. Q. Yes.

13 A. Well, it looks like his signature, I
14 think. I'm no handwriting expert.

15 946. Q. Right, okay. Is this an occasion
16 where you presigned as witness or you signed as
17 witness having actually observed the document being
18 signed?

19 A. I don't think that I would have
20 presigned it.

21 947. Q. You don't think you would have
22 presigned?

23 A. No. I don't know what date this
24 dates back to.

25 948. Q. This is October of 2015.

1 A. I don't recall.

2 949. Q. You can't recall one way or another?

3 A. I can't recall one way or another,
4 but I mean I'm pretty much 100 percent sure that I
5 wouldn't have presigned this, unless I witnessed a
6 signature. It was just the one that I had questions
7 about.

8 950. Q. So to understand, the one you had
9 questions about and that you knew you had signed as
10 a witness without actually witnessing the signature,
11 was Exhibit 4, the Stavebank mortgage documentation,
12 correct?

13 A. Yes.

14 951. Q. And are you saying that you knew,
15 when you answered the earlier questions that were
16 asked to you of Ms. Mazo, and indicated you had done
17 that, that you were remembering you had done that on
18 the one occasion with respect to the Stavebank
19 property?

20 A. Yes.

21 MS. MAZO: Counsel, you're putting
22 evidence to the witness. She never...

23 952. MS. GROSSMAN: I'm entitled to. This is
24 a cross-examination. Read Rule 39.03.

25 MS. MAZO: Counsel, you're suggesting to

1 her that she had done it on one occasion.
2 There was never any amount of occasions
3 discussed in her evidence.

4 953. MS. GROSSMAN: It doesn't matter what
5 she discussed when you were asking her.
6 Counsel, please do not interfere. I'm
7 entitled to cross-examine and in a cross-
8 examination I can put suggestions to the
9 witness.

10

11 BY MS. GROSSMAN:

12 954. Q. Ms. Bereza, back to my questions.
13 Ms. Mazo had asked you whether you had ever done
14 this, had ever signed as a witness, when you, in
15 fact, had not viewed the main signatory, signing
16 party as signing, and you said that yes, you think
17 you had done that.

18 I have no put Exhibit 4 to you, which
19 relates to the Stavebank property, and you said to
20 us that, yes, on that occasion you did that.

21 A. Yes.

22 955. Q. What I want you to tell us is if
23 that is the one occasion you were remembering having
24 done that, or if there are more occasions when you
25 did that.

1 A. No, that was the only time.

2 956. MS. GROSSMAN: So we'll adjourn now, and

3 I will make arrangements with your counsel

4 to resume. Thank you.

5

6 --- upon adjourning at 2:37 p.m.

INDEX OF EXHIBITS

1
2
3
4
5
6
7
8
9
10
11

EXHIBIT NO.	DESCRIPTION	PAGE NO.
3.	Text messages between Ms. Bereza and Mr. DeMaria	54
4.	Tab 6 or productions of Mr. DeMaria re: Stavebank	181

	INDEX OF UNDERTAKINGS		
	UNDERTAKING NO.	PAGE NO.	QUESTION NO.
1			
2			
3			
4			
5			
6			
7	1.	169	819

	INDEX OF UNDER ADVISEMENTS		
1			
2			
3			
4	ADVISEMENT NO.	PAGE NO.	QUESTION NO.
5			
6			
7	1.	173	839

1
2
3
4
5
6
7
8
9
10
11
12
13
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} Certified Verbatim
Reporter

TAB 4

ONTARIO
SUPERIOR COURT OF JUSTICE
(COMMERCIAL LIST)

AK/sp

B E T W E E N:

BUDUCHNIST CREDIT UNION LIMITED

Applicant

- and -

2321197 ONTARIO INC., CARLO DEMARIA, SANDRA DEMARIA,
2321198 ONTARIO INC., SASI MACH LIMITED
and VICAR HOMES LTD.

Respondents

This is the Continued Examination pursuant to Rule
39.03 of ROMA BEREZA, held at the Offices of VICTORY
VERBATIM REPORTING SERVICES, Suite 900, 222 Bay Street,
Ernst & Young Tower, Toronto-Dominion Centre, Toronto,
Ontario, on the 11th day of January, 2019.

A P P E A R A N C E S:

BARBARA GROSSMAN} --- for the Applicant
ALEXANDRE TOUPIN}
(Student-at-Law)

PHILIP UNDERWOOD} --- for the Respondents,
ALISA MAZO } 2321197 Ontario Inc., Carlo
DeMaria, 2321198 Ontario
Inc. and Vicar Homes Ltd.

CHRISTOPHER LEE --- for the Respondent,
Trade Finance Capital
Corporation (an added party)

JANE LO --- for Roma Bereza

ALSO PRESENT:
Carlo DeMaria

INDEX OF PROCEEDINGS

PAGE NUMBER

ROMA BEREZA, resumed

Continued Examination by:

Ms. Grossman

205 - 240

Mr. Underwood

240 - 252

INDEX OF EXHIBITS

253

INDEX OF UNDERTAKINGS

254

CERTIFICATION

255

1 --- upon convening at 4:00 p.m.

2 --- upon commencing at 4:05 p.m.

3

4 ROMA BEREZA, resumed

5 CONTINUED EXAMINATION BY MS. GROSSMAN:

6

7 957. Q. Ms. Bereza, we're just continuing
8 from where we left off yesterday, and I had been
9 taking you to some of the documents that were signed
10 up in connection with the Elm Grove mortgage, where
11 we saw that you had signed as witness and you had
12 identified a signature under the name Carlo DeMaria
13 as being Mr. DeMaria's signature.

14 So if you can just go to volume 1 of 2 of
15 the Buduchnist application record? I'm going to
16 take you to page 80 of the record, and it's at tab
17 E. This document, if you...it starts at page 71 of
18 the record, and it's...the subject line says
19 "Commercial credit facility for 2.2 million
20 dollars". Do you see that?

21 A. M'hm.

22 958. Q. Then if you turn to the page I
23 initially referred you to, page 80, is a signature
24 page, and that's your signature under "Buduchnist
25 Credit Union"?

1 A. It is.

2 959. Q. The date of this is January 29th,
3 2016 that it indicates it's accepted by the
4 borrower, which is 2321197 Ontario Inc.

5 A. Okay.

6 960. Q. And the person purporting to be
7 signing for that company is Carlo DeMaria,
8 president?

9 A. M'hm.

10 961. Q. And then again Carlo DeMaria signing
11 as guarantor. Do you know whether you were present
12 when Mr. DeMaria signed this document?

13 A. I believe I was, yes.

14 962. Q. And then I want to ask you in the
15 course of your dealings with Mr. DeMaria, did you
16 become aware of the fact that he had an executive
17 assistant or assistant of some sort?

18 A. Well, he had...there was a
19 secretary. I don't remember what her name was.

20 963. Q. Was it Vanessa?

21 A. Vanessa, yes.

22 964. Q. Do you know what Vanessa's last name
23 is?

24 A. No.

25 965. Q. No, okay. We'll turn to the next

1 document at page 91 of the record.

2 A. M'hm.

3 966. Q. This is handed up "Line of credit
4 loan agreement".

5 A. Okay.

6 967. Q. You'll see a signature in the
7 witness block, and it's Vanessa, and I can't make
8 out the last name. It seems to start with a C.
9 Have you ever seen the signature of Mr. DeMaria's
10 assistant, Vanessa?

11 A. No. Prior to this, no, from what I
12 can remember, no.

13 968. Q. Then if you look to the right of
14 that, you see a signature above the line that
15 indicates the numbered company. We have been
16 abbreviating it and calling it 197 in this
17 proceeding. Then beneath that is "Guarantor, Carlo
18 DeMaria", and you'll see the signature that appears
19 on both those lines.

20 Based on your familiarity with Mr.
21 DeMaria's signature, does that appear to you to be
22 his signature?

23 A. This was a different situation,
24 because I guess it...yes. I mean, I kind of
25 remember but...

1 969. Q. And then you signed for Buduchnist
2 Credit Union, because it's your signature in the
3 stamp underneath with your name.

4 A. M'hm.

5 970. Q. Is that correct? Then over at the
6 next page, page 92 of the record, again, it appears
7 to be Vanessa...

8 A. M'hm.

9 971. Q. ...who is witnessing the signature
10 of...on behalf of 197, the corporation and on behalf
11 of the guarantor.

12 A. Okay.

13 972. Q. Now, do you have any recollection of
14 where these documents, which relate to the Elm Grove
15 mortgage, where they were signed, physically where
16 they were signed?

17 A. No, I think...I'm not sure if
18 he...no.

19 973. Q. I'm going to suggest to you, and you
20 tell me if I'm right or wrong about this, that you
21 went with these documents up to the DeMaria offices
22 on Bass Pro Road.

23 A. I did attend, but I don't know that
24 it was with these. I was driving back and forth.

25 974. Q. Okay.

1 A. So I can't confirm that.

2 975. Q. But you do recall on an occasion
3 going to the DeMaria office premises on Bass Pro
4 Road?

5 A. Yes. I don't know when that was,
6 though.

7 976. Q. Okay, and was the purpose of that
8 attendance to get...to drop off mortgage documents
9 to be signed, mortgage loan documents?

10 A. I believe it was to be so, yes. I
11 don't know which one it was, though.

12 977. Q. You're not sure which property it
13 was for. Then if I can take you to tab F, pages 96
14 and 97 of the record, that's a guarantee and
15 postponement of claim. It is between Buduchnist
16 Credit Union Limited and that same corporation that
17 we have abbreviated as 197 as the borrower and Carlo
18 DeMaria as guarantor. If you turn to page 97 where
19 we see the signature page, is that your signature as
20 the witness?

21 A. Yes.

22 978. Q. And you seem to be witnessing Carlo
23 DeMaria signature's on January 29th, 2016?

24 A. Yes.

25 979. Q. If you signed as the witness on this

1 document, are you confident that you were present
2 when the document was signed by Mr. DeMaria?

3 A. I am. I believe so.

4 980. Q. Thank you. Then I want to take you
5 to tab H of the record, the document that starts at
6 page 112. It's called "Line of credit loan
7 agreement". Do you see that?

8 A. M'hm.

9 981. Q. Actually I'm going to skip over
10 that, because that one isn't signed by the borrower.
11 So you don't need to look at that.

12 I'm going to show you a...do we have an
13 extra one of these for the other counsel? This was
14 the one we got the copies made of?

15 MR. TOUPIN: Yes, that was the one...so
16 there is one somewhere.

17 982. MS. GROSSMAN: Give this to the other
18 counsel, then.

19

20 BY MS. GROSSMAN:

21 983. Q. Okay. I'm showing you a document
22 now, and it's called "Application for business
23 loan". It's to Buduchnist Credit Union Limited from
24 the same corporation, 2321197 Ontario Inc. The
25 contact person is Carlo DeMaria, president.

1 If you look over at page 2 of the
2 document, it says "Security offered, 87 Elm Grove,
3 Richmond Hill, marker value 2.2 million dollars".

4 A. That is "market" but...

5 984. Q. Market, oh, I'm sorry.

6 A. I just think it's a typo.

7 985. Q. Thank you. It's a typo. I thought
8 I misread, but you're right. I read it correctly.
9 It's a typo. So it should say "Market value, 2.2
10 million".

11 A. Well, that's what it says. I don't
12 know if it should, but...

13 986. Q. It says "marker", but you think it
14 should say "market"?

15 A. Yes, that's just a typo.

16 987. Q. What is this document?

17 A. It's the application for, I guess,
18 the line of credit for that property on Elm.

19 988. Q. And does it contemplate a mortgage
20 on Elm as security?

21 A. Well, that's what it states.

22 989. Q. So when you were...we didn't have
23 this document in the application record, and when
24 you were examined yesterday by...I believe it's by
25 Ms. Mazo, she was suggesting to you that there was

1 no application ever made for the loan in relation to
2 Elm Grove.

3 Does this document that I have just shown
4 you satisfy you that there was an application of the
5 sort you had indicated you would typically take when
6 a mortgage loan is obtained by a customer?

7 A. Yes, this is the application.

8 990. MS. GROSSMAN: We'll mark this as the
9 next exhibit.

10

11 --- EXHIBIT NO. 5: Line of credit application re 87 Elm
12 Grove Avenue

13

14 BY MS. GROSSMAN:

15 991. Q. On this document, the one we're just
16 looking at, Exhibit 5, it's signed four times on the
17 witness line with your stamp with your name next to
18 it. Are those your...is that your signature next to
19 your stamp?

20 A. Yes.

21 992. Q. And then on the customer side or
22 borrower and guarantor side, it seems to be signed
23 four times as well. If you signed as witness, are
24 you confident that the borrower and guarantor signed
25 this document in your presence?

1 A. Yes.

2 993. Q. Now, I want to focus now on the Elm
3 Grove mortgage, the one we have just been talking
4 about, the Puccini mortgage that we talked a little
5 bit about yesterday, and the...let's start with
6 those two. I'm going to then take you to the
7 mortgage on the home of Mr. DeMaria, the Woodland
8 Acres property where the material shows that
9 Buduchnist Credit Union Limited has both a
10 conventional first mortgage and a collateral second
11 mortgage. So we'll come to the home in a few
12 moments.

13 Let's start with the Elm Grove mortgage
14 and the Puccini mortgage. Did you interact in any
15 way with Carlo DeMaria to arrange for payments to be
16 made on those mortgages? Were you involved in that
17 process?

18 A. After they were...what do you mean,
19 after this was placed?

20 994. Q. Yes, after the mortgages were
21 placed, did you have any interactions with Mr.
22 DeMaria in connection with payments being made on
23 those mortgages?

24 A. In terms of telling him how...well,
25 yes, I would have.

1 995. Q. Okay. Tell me how you were involved
2 in the process of getting payments made on those
3 mortgages.

4 A. Well, it was just...like, it depends
5 on what it was. Like, I don't remember really, but
6 it was...I think these were lines of credit.

7 996. Q. Yes.

8 A. Is that what they all were?

9 997. Q. Yes. Well, you just see from
10 Exhibit 5 that the Elm Grove mortgage relates to a
11 line of credit for 2.2 million.

12 A. Okay.

13 998. Q. And the Puccini mortgage also
14 relates to a line of credit.

15 A. So it would have been...the line of
16 credit, as they were paid at Buduchnist, was usually
17 at the end of the month, and there had to be a
18 certain payment that was made that was interest
19 only, at least interest only, plus a couple of extra
20 bucks to cover off if there was...you know, if it
21 was close to the limit.

22 So you know, I don't remember the
23 conversation. I can't tell you exact dates, but
24 usually in and around the end of the month I would
25 call or e-mail or he would text me and ask me how

1 much was owing, and then make deposits. Like, I
2 don't remember exact...

3 999. Q. I appreciate that you can't remember
4 the exact words that were spoken on each occasion,
5 but I'm interested in the process that you went
6 through so that...for a typical month end. So
7 that's what you were describing to me?

8 A. Yes, like, I mean anything for a
9 line of credit, regardless of whether or not it was
10 Mr. DeMaria, that was usually, you know...like, I
11 mean, most of the...I can't speculate on what most
12 of our customers, members, did, but they knew that
13 if they had lines of credit, they have to pay them
14 by the end of the month.

15 1000. Q. So speaking specifically about Mr.
16 DeMaria's lines of credit, both the line of credit
17 that relates to the Elm Grove mortgage and his line
18 of credit that relates to the Puccini mortgage, was
19 it the practice for you to have some kind of
20 communication with Mr. DeMaria at the end of every
21 month about what would be paid on those mortgages?

22 A. Yes.

23 1001. Q. And whenever there was a payment
24 that is reflected in the...we have got here
25 printouts of transaction history.

1 A. M'hm.

2 1002. Q. So if there is a payment reflected
3 in the account, would Mr. DeMaria have been aware of
4 that payment?

5 A. Yes, I would assume so. I
6 would...there would be a transfer done or a deposit
7 to the account.

8 1003. Q. But would it be done by you without
9 communication with Mr. DeMaria or only with
10 communication with Mr. DeMaria?

11 A. No, it would be with communication.

12 1004. Q. At any point in time did Mr. DeMaria
13 assert to you that he was unaware of payments that
14 were being made by him towards either the Elm Grove
15 or the Puccini mortgage?

16 A. No.

17 1005. Q. At any point in time did Mr. DeMaria
18 assert that he was unaware of or challenged the
19 validity of the Elm Grove mortgage?

20 MR. UNDERWOOD: Ms. Grossman, sorry, I'm
21 not sure I understand the question.

22 1006. MS. GROSSMAN: No?

23 MR. UNDERWOOD: Did he say that he
24 didn't know about it?

25 1007. MS. GROSSMAN: Yes.

1 MR. UNDERWOOD: Well, how is that
2 possible? If he didn't know about it, how
3 could he say that he didn't know about it?

4 1008. MS. GROSSMAN: Well, he could say, "What
5 Elm Grove mortgage are you talking about?
6 I don't know anything about an Elm Grove
7 mortgage. I have never signed an Elm Grove
8 mortgage," when Ms. Bereza is calling him
9 about payments that she is talking about
10 applying to the Elm Grove mortgage.

11 So it's possible that in the course
12 of these communications that such an
13 assertion could be made, and I'm asking
14 whether any such assertion was ever made.

15 THE DEPONENT: Not that I remember, no.
16

17 BY MS. GROSSMAN:

18 1009. Q. When you talked to Mr. DeMaria about
19 these mortgage payments, how would you be
20 identifying the particular loan? Would you call it
21 the "Elm Grove line of credit", the "Puccini line of
22 credit"?

23 A. Yes, I would have. I don't recall
24 now.

25 1010. Q. So you have no recollection now, but

1 that would have been...

2 A. That would have been the process at
3 the time, yes.

4 1011. Q. I want to take you to our response
5 to the request to inspect documents. So I am now
6 placing with your counsel an unbound copy of it, and
7 I apologize for the fact that yours isn't bound, but
8 if you just flip open to the tab, it's tab 6, and it
9 says "87 Elm Grove". Exactly, yes.

10 MS. LO: Sorry, which tab?

11 1012. MS. GROSSMAN: It says "87 Elm Grove".

12 MS. LO: Tab 6?

13 1013. MS. GROSSMAN: Yes, at tab 6, but within
14 tab 6 there is an 87 Elm Grove tab.

15

16 BY MS. GROSSMAN:

17 1014. Q. Turn to or find the date that says
18 November the 30th, 2015.

19 MS. LO: 2015? There is no date...

20 1015. MS. GROSSMAN: Yes, yes, sorry.

21 MS. LO: Sorry, it starts with 2016?

22 1016. MS. GROSSMAN: 2016, it does, the wrong
23 date reference, okay. So I meant to refer
24 you to the Puccini...well, let's stick with
25 this one.

1 BY MS. GROSSMAN:

2 1017. Q. Let's start with the first payment.

3 Can you identify for us on this document...we have
4 called this a transaction history printout.

5 A. M'hm.

6 1018. Q. Can you identify for us the first
7 payments you see?

8 A. It has been a while. I guess it
9 would have been the March the 29th one.

10 1019. Q. Okay, that's the \$10,000 one?

11 A. Yes.

12 1020. Q. And it says:

13 "...Transfer in from 61525..."

14 Is that identifying a member number?

15 A. That would be another account
16 number.

17 1021. Q. And on March 30th there seems to be
18 a second payment of \$10,000. Do you see that?

19 A. Yes, right up here.

20 1022. Q. Okay, and that one is coming from
21 61537.

22 A. Yes.

23 1023. Q. So that's a different...

24 A. Account number.

25 1024. Q. ...account number. In the process

1 that you described to us of how payments were made,
2 would these payments be made only after a
3 conversation with Mr. DeMaria, or could they be made
4 by Buduchnist on its own, without any conversations
5 with Mr. DeMaria?

6 A. No, those were conversations that
7 either he would have e-mailed or he would have
8 called and said, "Transfer money from wherever to
9 wherever."

10 1025. Q. Now, those \$10,000 payments, can you
11 just...it's only one page here. Can you just take
12 us through and identify all the items here that
13 reflect payments being made on this particular Elm
14 Grove line of credit? Is it all the positive
15 numbers here? Are they all payments or might the
16 positive numbers be something else?

17 The reason I ask you that is we had
18 evidence that indicated that on lines of credit the
19 way these transaction printouts work is they merge
20 your actual current account or chequing account with
21 the line of credit loan account. So I didn't want
22 to...

23 A. Well, on some. It depends if there
24 is activity. I, like, haven't looked at these in a
25 while, but...

1 1026. Q. Is it fair to assume that all the
2 \$10,000 amounts that are positive numbers here all
3 represent payments?

4 A. Yes, just give me a second.

5 1027. Q. Yes, take all the time you need.

6 A. Yes, like, there is nothing else
7 here except for the debit interest that is hitting
8 the account and the...like, the credits, the
9 transfers in this case.

10 1028. Q. And I hope I'm reading this
11 correctly, because you have to take a page or a
12 ruler in order to...just give the witness...

13 A. It's okay. I have got one here.

14 1029. Q. You have got one, okay. You'll see
15 it says next to the date September 30th, 2016
16 "Deposit Vicar", and then I believe the number
17 opposite that is \$10,000. Do you read that the same
18 way?

19 A. Yes.

20 1030. Q. So what does that mean?

21 A. Well, depending...like, you put
22 a...on their system at the time...well, again, I
23 don't know about now, but at that time, you
24 can...there is a...like, when you're typing in what
25 the transaction is, you could type in what it

1 was...where it was from. So...

2 1031. Q. Where the money is coming from?

3 A. Where the money was coming from.

4 1032. Q. So is this...

5 A. Or itemizing what it was at the
6 time.

7 1033. Q. So the words "Deposit Vicar", and
8 then the payment of \$10,000, did that mean that the
9 payment is coming from the Vicar account?

10 A. Yes.

11 1034. Q. And at this point in time, and I
12 realize it is a while since you have been at BCU,
13 are you able to line up any of these account numbers
14 or member numbers with particularity? Do you know
15 which ones...

16 A. No.

17 1035. Q. ...relate to which companies?

18 A. I don't remember anymore.

19 1036. Q. But we see one transaction, January
20 31st, 2017, where it says:

21 "...Transfer in from 61537, Vicar..."

22 A. M'hm.

23 1037. Q. Is that entry identifying both the
24 account number and the account holder?

25 A. I'm going to guess. I don't...I

1 wasn't there. I don't know.

2 1038. Q. Okay. Then let's turn to Puccini,
3 which is just the tab after. We're still in the
4 same volume, the response to request to inspect
5 documents, tab 6, but the tab that is labelled
6 "Puccini", that is the one where I wanted to take
7 you to November 30th, 2015.

8 A. November 30th, 2015.

9 1039. Q. 2015.

10 A. Okay.

11 1040. Q. And that's a transfer in from 61537
12 of \$10,000. So does that represent a payment?

13 A. Yes.

14 1041. Q. And does that coding tell you that
15 the payment is coming from account or member number
16 61537?

17 A. Well, it says "Transfer in from", so
18 that was pretty straightforward, no? Sorry, I
19 just...yes.

20 1042. Q. So we're in agreement on that one.
21 Then December 31st, that's another...where it says
22 "Deposit \$10,000", is that another way of indicating
23 a payment being made on this line of credit?

24 A. Yes.

25 1043. Q. And then January 30th, it just says

1 "Deposit \$10,000". Is that the same?

2 A. Where is January 30th, what year?

3 1044. Q. Sorry, 2016.

4 A. Yes.

5 1045. Q. So that's another \$10,000 payment,
6 and at this point in time, on those dates that I
7 have indicated to you, November 30th, 2015, December
8 31st, 2015, January 30th, 2016, you were still at
9 Buduchnist and you were the account manager...

10 A. Yes.

11 1046. Q. ...for Mr. DeMaria and you were
12 administering this Puccini line of credit?

13 A. From what I can recall, yes.

14 1047. Q. And are you confident that you had
15 conversations with Mr. DeMaria before making each of
16 these mortgage payments?

17 A. Yes.

18 1048. Q. Now, you talked to us when you were
19 being examined by Mr. Underhill and Ms. Mazo about a
20 large amount of cheques that had been returned...

21 A. M'hm.

22 1049. Q. ...and that this was under your
23 watch and something that was a traumatic event when
24 it occurred. Do you recall funds being used from
25 either of these lines of credit to cover those

1 returned cheques?

2 A. Yes.

3 1050. Q. Okay. So tell me what you recall of
4 that.

5 A. Well, I just know that there
6 was...again, I don't remember specific instances of
7 what the conversations were, or how much it was. I
8 just remember that there was a shortfall and there
9 was money being transferred from other accounts to
10 cover that shortfall.

11 1051. Q. And when monies were transferred
12 from other accounts to cover the shortfall, was that
13 a result of...was that happening with BCU doing that
14 on its own, or was that happening in consultation
15 with Mr. DeMaria?

16 A. No, Mr. DeMaria would have been
17 consulted.

18 1052. Q. And was Mr. DeMaria consulted with a
19 request for his authorization to do that, to cover
20 the cheques in that manner?

21 A. I can't...yes.

22 1053. Q. I mean, you were the one having
23 these conversations with Mr. DeMaria?

24 A. Yes, but I don't remember how that
25 went down. I'm going to say yes, he was consulted.

1 1054. Q. Did you ever use money to cover
2 cheques by taking advances on lines of credit
3 without Mr. DeMaria's authority?

4 A. Without Mr. DeMaria's authority, no.

5 1055. Q. So whenever you processed an advance
6 on a line of credit of Mr. DeMaria's in order to
7 cover off these returned cheques...

8 A. We would have had that conversation,
9 and there would have been either an e-mail or a
10 call.

11 1056. Q. An e-mail or a call with Mr.
12 DeMaria?

13 A. Yes.

14 1057. Q. Did you receive his authority before
15 you engaged in such transactions?

16 A. Verbally?

17 1058. Q. In any way.

18 A. Verbally, e-mail?

19 1059. Q. Sure.

20 A. Yes.

21 1060. Q. Did you ever process such
22 transactions without Mr. DeMaria's authority?

23 A. Not that I can recall.

24 1061. Q. No? My understanding of the
25 situation is that...and you can tell me if I am

1 right or wrong about this, is Mr. DeMaria, one of
2 the companies he had was called Do You Know Inc. Is
3 that familiar to you?

4 A. Yes.

5 1062. Q. And that Do You Know Inc. had an
6 account at BCU and also an account at TD?

7 A. Okay.

8 1063. Q. Well, only tell me this if you're
9 familiar with it. That's what I'm trying to
10 understand.

11 A. I vaguely recall. Like, I know that
12 he had one at Buduchnist, and TD rings a bell, but I
13 can't...

14 1064. Q. Were you aware that Do You Know Inc.
15 had an account at another financial institution,
16 besides BCU?

17 A. Now that you're telling me this,
18 yes, I recall it, but I didn't...like, I didn't have
19 anything to do with that account.

20 1065. Q. No, but I have refreshed your
21 memory...

22 A. Memory, yes.

23 1066. Q. ...by mentioning it to you. Do you
24 remember this returned cheque incident as being a
25 situation where Mr. DeMaria had written a large

1 money volume of cheques on the Do You Know account
2 at another financial institution, and had processed
3 those cheques through the CHATS money business
4 account at BCU?

5 A. Are you asking...I'm not sure I
6 understand the question. Are you asking me if he
7 deposited cheques from Do You Know or if those
8 cheques were deposited into Do You Know?

9 1067. Q. No. I'm suggesting to you that the
10 incident that you have been telling us about, about
11 a large of volume of...

12 A. Cheques being returned?

13 1068. Q. ...cheques being returned involved
14 the situation...

15 A. Yes.

16 1069. Q. ...whereby Mr. DeMaria was writing
17 Do You Know cheques on the other financial
18 institution account and...

19 A. Oh, I don't know where...

20 1070. Q. ...and depositing those cheques at
21 Buduchnist through the CHATS account? Is that
22 familiar to you?

23 A. I don't remember where those cheques
24 came from or who they were for, what amounts they
25 were.

1 1071. Q. Okay.

2 A. No, I don't.

3 1072. Q. So you just remember that there was
4 a large volume of returned cheques...

5 A. That's right.

6 1073. Q. ...but you can't remember the
7 specifics of...

8 A. Specifics, no, I don't know who they
9 were from, where they were deposited. I don't
10 remember.

11 1074. Q. Let me just discuss with you the
12 second mortgage on Mr. DeMaria's house property on
13 Woodland Acres. You will...if you are still in that
14 respect to request to inspect documents, you'll see
15 at tab 6 there is a tab that says "211 Woodland
16 Acres (Vicar Homes line of credit).

17 MS. LO: Sorry, this is tab...

18 1075. MS. GROSSMAN: It's tab 6, and then in
19 terms of the labelled tabs within tab 6,
20 you're turning to the second tab in that
21 says "211 Woodland Acres (Vicar Homes line
22 of credit)".

23

24 BY MS. GROSSMAN:

25 1076. Q. Ms. Bereza, there is evidence in the

1 record that indicates that this is the line of
2 credit, this Vicar Homes line of credit, that is
3 secured by the second mortgage on the Woodland Acres
4 home. There is a first mortgage in favour of BCU
5 but there is also a second.

6 A. Okay.

7 1077. Q. Is that something that you remember
8 or have any recollection about?

9 A. Yes, I remember it.

10 1078. Q. And did...if you look through
11 this...let's go to the period of 2016, which I think
12 you will find at the page that says "40 out of 76".
13 On this page, towards the bottom, I see the first of
14 the...January 25th, 2016 deposit, \$10,000.

15 A. M'hm.

16 1079. Q. Does that represent a payment on the
17 mortgage?

18 A. Payment, credit, yes.

19 1080. Q. And then if you flip the page, you
20 will see a number of other occasions. In fact, the
21 next one is also in the month of January. It's just
22 a few days later, January 28th, 2016. There is
23 another deposit of \$10,000? Is that another
24 payment?

25 A. It would be.

1 1081. Q. And any time that we see a positive
2 \$10,000 figure, one that isn't following a negative
3 sign, is that to your understanding a payment being
4 made or processed on this line of credit?

5 A. M'hm, or deposited. You can call it
6 a payment, but...

7 1082. Q. And when you say "or deposited, you
8 can call it a payment"...

9 A. Well...

10 1083. Q. ...can you elaborate on that?

11 A. I mean, it's a line of credit. So
12 it's debits and credits. You deposit. You
13 withdraw. You write cheques in this case, right.

14 1084. Q. So any time you make a deposit
15 you're, in effect...

16 A. Making a payment.

17 1085. Q. ...making a payment? It's the same
18 thing. In the period up until you left BCU in
19 August of 2016, when we see these payments being
20 processed for \$10,000 or larger amounts, are you
21 confident that before you processed these
22 payments...

23 A. I would have had a conversation with
24 Mr. DeMaria?

25 1086. Q. Yes.

1 A. Yes.

2 1087. Q. Now, one mortgage that we talked
3 about yesterday was the Stavebank mortgage that
4 involved Linda DeMaria, and we marked as an exhibit
5 tab...something called tab 6 in that document book
6 that Mr. Underhill provided to your counsel.

7 MR. UNDERWOOD: Underwood.

8 1088. MS. GROSSMAN: Pardon me?

9 MR. UNDERWOOD: Underwood.

10 1089. MS. GROSSMAN: Underwood, I'm so sorry.

11 MR. UNDERWOOD: Quite all right.
12

13 BY MS. GROSSMAN:

14 1090. Q. You'll recall the Stavebank
15 mortgage? That's at 1407 Stavebank Road in
16 Mississauga.

17 A. Yes.

18 1091. Q. Was this a mortgage loan that you
19 administered?

20 A. What do you mean "administered"?
21 Like, that I did the administration on?

22 1092. Q. Yes.

23 A. I guess so, yes.

24 1093. Q. If there were payments that were
25 being made on the Stavebank line of credit...

1 A. Yes.

2 1094. Q. ...did they follow the same process
3 that you have described to us with respect to...

4 A. The other ones?

5 1095. Q. ...the other ones.

6 A. Yes.

7 1096. Q. Do have any recollection of payments
8 being processed in connection with the Stavebank
9 mortgage?

10 A. Again, it's...at the time that it
11 was happening, I would have. Now, it's very...it's
12 a long time ago, but it would have been the same
13 right across the board for all of these mortgages.

14 1097. Q. When we looked at Exhibit 4, and I
15 can show you my copy, this Stavebank mortgage, which
16 we looked at yesterday when we marked it, the date
17 on the documentation is January 29th, 2016, and you
18 told us how it came to be signed up, that Mr.
19 DeMaria arranged for you to go to the Caledonia
20 address at the bakery to meet his mother, et cetera.

21 So I'm just trying to put you in the
22 context. You were at BCU for about seven months of
23 the mortgage administration or line of credit
24 administration?

25 A. I guess, m'hm. I think there was a

1 point, though, that I wasn't, but I don't...like, I
2 don't know that I did all of these transfers. I
3 mean, the record, they could check that at
4 Buduchnist. I don't remember.

5 1098. Q. Okay, but do you recall Mr. DeMaria
6 ever authorizing you to process payments on the
7 Stavebank mortgage?

8 A. Again, specifically, I would have
9 processed them wherever he told me to process them.
10 So I'm going to say yes, if that was the case.

11 1099. Q. So you're saying if there were
12 payments made on the Stavebank mortgage...

13 A. Then they would have been
14 authorized.

15 1100. Q. Then they would have been
16 authorized?

17 A. Verbally or otherwise.

18 1101. Q. Are you aware...can you recall now
19 whether Mr. DeMaria had online access to his line of
20 credit accounts?

21 A. I don't remember.

22 1102. Q. You indicated to us that you
23 continued to be in touch with Carlo DeMaria as a
24 friend even after you left BCU in August of 2016.

25 A. Yes.

1 1103. Q. Did Mr. DeMaria ever threaten you?

2 A. No, he never threatened me.

3 1104. Q. At any point in time, either while
4 you were at BCU or afterwards, did Mr. DeMaria,
5 Carlo DeMaria, ever tell you that the Stavebank
6 mortgage was not signed by his mother?

7 A. I don't...there was something that
8 came up after the fact, but that was after.

9 1105. Q. So when you say "after" you mean
10 after you left BCU?

11 A. After...I don't recall the exact
12 time.

13 1106. Q. Well, when you say "afterwards" I'm
14 just trying to understand after what.

15 A. At the time I didn't know what was
16 going on with those mortgages.

17 1107. Q. Okay. By "afterwards" you mean
18 after the mortgages were executed and processed?

19 A. Yes.

20 1108. Q. And advanced?

21 A. Yes.

22 1109. Q. Okay. So given that the date on the
23 Stavebank one is January 29th, 2016, by that you
24 mean after January 29th, 2016 or thereabouts?

25 A. Yes, I don't know when.

1 1110. Q. What is it that Mr. DeMaria told you
2 afterwards on the topic that I have just put to you?

3 A. All I know about that mortgage was
4 that he said that his mother was aware of it.

5 1111. Q. And in what context did he say that
6 to you?

7 A. I'm not understanding what you mean
8 by that.

9 1112. Q. Okay. How was it that he came to
10 tell you that his mother was aware of it?

11 A. I don't know. It's just in
12 conversations that we had, and I can't remember
13 specific dates or times or months or even, well,
14 year probably. It would have been in and around
15 2016, but again, I can't confirm that.

16 1113. Q. Okay. Were you asking him, "Is your
17 mother aware of that mortgage?" or was he just
18 volunteering that in passing?

19 A. I don't know how that came about.

20 1114. Q. I understand that the Stavebank
21 property was sort of a teardown situation where it
22 was a lot that had an old, not too nice house on it,
23 and that house was being torn down, and one of Mr.
24 DeMaria's companies, Vicar Homes, which is a
25 builder, was building a luxury home on that

1 property.

2 A. Yes.

3 1115. Q. Was that your understanding?

4 A. It was a construction property, yes.

5 1116. Q. And did you understand that Vicar
6 Homes was the builder constructing the house?

7 A. From my understanding, yes.

8 1117. Q. Okay, and that...are you able to
9 tell me anything more about the circumstances that
10 led Mr. DeMaria to tell you, "My mother is aware of
11 that mortgage, the Stavebank mortgage"?

12 A. No.

13 1118. Q. Do you have any doubt in your mind
14 that he told you that?

15 A. That he told me that? No.

16 1119. Q. Now, turning back to the Woodland
17 Acres second mortgage, the one that secures the
18 Vicar Homes line of credit, at any point in time did
19 Mr. DeMaria ever assert to you that the amounts that
20 BCU was suggesting were owing on that mortgage
21 weren't, in fact, owing? Did he ever challenge the
22 balance that BCU recorded as owing on the...or
23 secured by that particular mortgage?

24 A. Not to me, he didn't.

25 1120. Q. And when you say, "Not to me, he

1 didn't," you're referring to both when you worked at
2 BCU and in your communications with him after you
3 left BCU as well?

4 A. Yes, I don't...like, again, I don't
5 recall him specifically talking about that mortgage.

6 1121. Q. When you say you don't recall him
7 specifically talking about that mortgage, do you
8 mean in the period after you had left BCU or even
9 while you were at BCU?

10 A. No, while I was at BCU we probably
11 discussed these mortgages all the time. When I
12 left, I don't remember.

13 1122. Q. Okay. Were there any points in time
14 while you were at BCU where Mr. DeMaria asked you to
15 tell him, "What is owing on my various lines of
16 credit?" or, "What is owing on my various mortgage
17 loans?"

18 A. Yes.

19 1123. Q. So he asked you to recap that for
20 him at points in time?

21 A. Again, I can't remember specific
22 dates or times, but it would have been conversations
23 that we would have had.

24 1124. Q. And when you gave him the numbers,
25 were you giving him the numbers off of the BCU

1 system?

2 A. Yes.

3 1125. Q. And did he ever challenge those
4 numbers and say, you know, "No, that's not what is
5 owing"?

6 A. I didn't have that conversation.

7 1126. Q. So when you say, "I didn't have that
8 conversation," you're saying you were never in a
9 conversation with him where you gave him the numbers
10 from the BCU system and he challenged those numbers?

11 A. No.

12 1127. Q. Yesterday you gave me an undertaking
13 where you were going to check how much you lent to
14 Mr. DeMaria and how much he had paid you back, and
15 what the balance was. Did you have an opportunity
16 to do that?

17 A. No, because I wasn't at the office
18 today, and I had some personal things to attend to.
19 So I didn't get a chance to.

20 1128. Q. Because we're in court next week on
21 this, do you think you could answer that undertaking
22 by Monday...

23 A. Afternoon?

24 1129. Q. ...afternoon?

25 A. Well, I need the morning, right.

1 1130. Q. That's fine. I'm just asking you if
2 you could do...when you can do it.

3 A. Yes, I'll talk to Jane, sure.

4 1131. Q. By Monday afternoon?

5 A. If she says she can, then...I'll
6 have to let you know what she tells me.

7 1132. Q. Thank you. Well, could you let
8 us...try to give us the answer by Monday afternoon,
9 and if for any reason, you can't give us the answer,
10 at least let us know what the status is of that
11 particular undertaking.

12 A. M'hm.

U/T

13 1133. Q. We are in court on January the 16th,
14 which is Wednesday morning, so Monday afternoon is
15 pretty much as late as we can leave it.

16 A. I'll try my best.

17 1134. MS. GROSSMAN: Well, subject to the
18 undertaking, those are my questions, and
19 thank you very much.

20 MS. LO: Off the record.

21

22 --- DISCUSSION OFF THE RECORD

23

24 CONTINUED EXAMINATION BY MR. UNDERWOOD:

25

1 1135. Q. Good afternoon. I just have a
2 couple of questions for you coming out of Ms.
3 Grossman's cross-examination. So yesterday Ms.
4 Grossman referred to a meeting between you and
5 Oksana Prociuk which was...which you audiorecorded,
6 and the transcript of which is Exhibit 1. Do you
7 remember that?

8 A. Yes.

9 1136. Q. At that meeting you were discussing
10 a lawsuit by a company called Choras against BCU.
11 Is that right?

12 A. Yes.

13 1137. Q. And are you aware of the allegations
14 in that lawsuit?

15 A. No.

16 1138. Q. Were there any allegations about you
17 in that lawsuit?

18 A. No.

19 1139. Q. Did Ms. Prociuk ever...

20 A. Not that I'm aware of. I didn't see
21 it.

22 1140. Q. Ms. Prociuk asked you to come to her
23 house to discuss the lawsuit. Is that right?

24 A. Yes.

25 1141. Q. And she wanted to talk to you about

1 the evidence you might give in that lawsuit?

2 A. No, she wanted to talk to me about
3 some of the evidence that was...there was some
4 paperwork in there or something that related to some
5 back and forth texts between the principals of that
6 account.

7 1142. Q. But there was...it was information
8 that you would have?

9 A. No, I don't know that it was
10 information that I would have.

11 1143. Q. But Ms. Prociuk asked you to come to
12 speak about it?

13 A. Yes.

14 1144. Q. So she wanted to learn something
15 from you about it?

16 A. Yes, she just wanted me to answer to
17 those texts, I guess, or whoever. I'm not even
18 sure. Like, I don't know because I didn't really
19 look at it.

20 1145. Q. I understand.

21 A. I didn't want to have anything to do
22 with it.

23 1146. Q. And are you familiar with Choras,
24 the company?

25 A. I...yes. Well, I mean, at the time.

1 1147. Q. And do you know who operates the
2 company? Do you know who the proprietor is?

3 A. It was Grace...two girls, Grace and
4 Nicole.

5 1148. Q. And is Mr. DeMaria involved in
6 Choras?

7 A. Not...no, not at the time. I don't
8 know.

9 1149. Q. You don't know if he was involved?

10 A. No, it wasn't his company.

11 1150. Q. So you have no reason to think he
12 was involved?

13 A. No.

14 1151. Q. Okay. Did Ms. Prociuk ever suggest
15 that he was involved with Choras?

16 A. No. Ms. Prociuk just knew that Mr.
17 DeMaria knew the principals of the account.

18 1152. Q. He knew them...

19 A. Yes.

20 1153. Q. ...but he wasn't involved in the
21 company; it wasn't his company?

22 A. No, it wasn't his company.

23 1154. Q. And do you know the amount of the
24 Choras lawsuit, the size of the claim?

25 A. No.

1 1155. Q. Okay. I would like to talk briefly
2 about...you spoke with Ms. Grossman about payment of
3 certain loans, mortgages that Mr. DeMaria had with
4 BCU.

5 A. M'hm.

6 1156. Q. So you were aware of the amounts
7 that were owed on those loans and the payments that
8 were being made?

9 A. At the time?

10 1157. Q. Yes.

11 A. Sure, I guess.

12 1158. Q. When you worked at BCU?

13 A. Yes.

14 1159. Q. And you would keep track of the
15 accounts?

16 A. Well, yes, I...no, I wouldn't
17 keep...I wasn't looking at them every day, but I
18 guess when necessary.

19 1160. Q. And when necessary would be when a
20 payment was owed?

21 A. Needed to be done.

22 1161. Q. Yes, and that would be the same with
23 all of your accounts. You would keep track of when
24 payments were owed?

25 A. Well, you mean my personal accounts

1 or...

2 1162. Q. The accounts that you were
3 administering?

4 A. Yes, for the most part.

5 1163. Q. Yes, and so you would be aware if
6 payments had not been made?

7 A. I...well, because...I would only be
8 aware if payments hadn't been made on the day
9 after...especially on lines of credit, if the lines
10 of credit were at their max, and they weren't made
11 then what would have happened is there would have
12 been a report the next day that the line of credit
13 was over because the interest would have hit it, and
14 then there was not a payment made.

15 1164. Q. So the next day you would have
16 learned?

17 A. That the payments weren't...that
18 they weren't up to date, yes.

19 1165. Q. And if there had been a mortgage
20 that a payment had been missed and it had gone into
21 default, would you know about that, as well?

22 A. I...well, again, I would be made
23 aware of it. I wasn't responsible for the arrears
24 on loans.

25 1166. Q. But you would be aware of it?

1 A. After the fact.

2 1167. Q. Yes. Was it the normal
3 practice...or what was the normal practice of BCU
4 when there was a missed payment? Do you know?

5 A. For...just for Mr...in this case,
6 for Mr. DeMaria or just general practice?

7 1168. Q. No, for...general, general practice.

8 A. General...well, sometimes it
9 depended on the situation where the payment wasn't
10 made because it might be the system didn't pull it
11 or...there was a lot of reasons that a payment came
12 back NSF. It really depended, right.

13 So I mean, general practice was to check
14 the account to make sure that a PAD didn't come back
15 or if there was money in the account because a
16 transfer wasn't made.

17 1169. Q. But if there was a mortgage that had
18 payments that were owing each month, and say, over
19 the course of a couple of months, payments hadn't
20 been made...

21 A. Okay.

22 1170. Q. ...what would be the normal
23 practice?

24 A. The normal practice would be to talk
25 to the member and say, "Listen, your loan, line of

1 credit or your mortgage isn't up to date."

2 1171. Q. And would BCU take steps to enforce
3 the mortgage, to collect on a mortgage, if it hadn't
4 been paid?

5 A. Well, I guess depending...that's,
6 again, not a decision that I would make, but I'm
7 assuming that they would. That was up to the credit
8 department, not me.

9 1172. Q. Okay, were you ever aware of that
10 happening?

11 A. On mortgages?

12 1173. Q. Yes.

13 A. Here and there, sometimes.

14 1174. Q. Okay. Do you know...sorry, just
15 give me a second. I mean, would you agree that if
16 Mr. DeMaria had...if one of his accounts a payment
17 hadn't been made, and you spoke to him about it,
18 would you have notified him that a payment hadn't
19 been made and was owing?

20 A. Yes.

21 1175. Q. So you would generally speak to him
22 about the payments on a monthly basis?

23 A. At least.

24 1176. Q. At least, or more often, and if
25 there was an amount owing that hadn't been paid and

1 it had fallen into arrears, you would have informed
2 him of that?

3 A. I think so.

4 1177. Q. Those are all of my questions.

5 Thanks. Oh, yes, sorry, I actually do have one
6 follow-up question or a couple of follow-up
7 questions.

8 So you met with Ms. Prociuk regarding the
9 Choras lawsuit?

10 A. Yes.

11 1178. Q. Were there other times where you met
12 with BCU employees after you left BCU?

13 A. If I met with BCU employees after I
14 met BCU?

15 1179. Q. After you left BCU, after you left
16 your job?

17 A. I...well, I still kept in contact
18 with some people. I don't know. Like, yes. I
19 can't recall specific instances, but I would have
20 kept in contact with some people.

21 1180. Q. Well, were there times where BCU
22 employees, management, Ms. Prociuk in particular,
23 contacted you to discuss Mr. DeMaria after you left
24 BCU?

25 A. To discuss Mr. DeMaria? No, but to

1 discuss the Choras...I met with Oksana on two
2 occasions to just discuss the Choras thing.

3 1181. Q. And she never contacted you to
4 discuss Mr. DeMaria?

5 A. She didn't call me to discuss Mr.
6 DeMaria.

7 1182. Q. And did you ever meet with an
8 individual named Walter Burych to discuss Mr.
9 DeMaria?

10 A. No, I never met with Walter Burych.

11 1183. Q. Do you know who Walter Burych is?

12 A. Yes, he is a lawyer.

13 1184. Q. But you never discussed Mr. DeMaria
14 with him?

15 A. I didn't discuss Mr. DeMaria. Well,
16 actually, yes, I did, but that was because Mr.
17 DeMaria asked me to call Walter Burych and talk to
18 Walter Burych.

19 1185. Q. And when was that?

20 A. I don't remember.

21 1186. Q. Was it before you left BCU or
22 afterwards?

23 A. No, it was afterwards.

24 1187. Q. It was afterwards. So you did...you
25 spoke to Mr. Burych at Mr. DeMaria's request...

1 A. Yes.

2 1188. Q. ...after you left BCU?

3 A. M'hm.

4 1189. Q. And what did you speak about?

5 A. I recall the conversation being
6 that, "Call Walter and tell him to tell Oksana..."
7 I don't remember the specifics. It was something
8 about that he was going to call DICO. I'm not sure,
9 something along those lines. I can't be...I don't
10 know for sure.

11 1190. Q. When you said, "Tell Oksana," tell
12 Oksana what?

13 A. To tell Oksana to call Walter, I
14 guess, for them to...I don't know. I don't know
15 what that conversation was about. I don't remember
16 the specifics of it. I don't understand what the
17 context of it was.

18 1191. Q. You don't understand what the
19 context of it was?

20 A. No, I don't understand what you're
21 asking me. Like, Mr. DeMaria...Carlo had called me
22 and said, "You better call Walter and tell him to
23 talk to Oksana," and I went, "Okay."

24 1192. Q. So the purpose of you speaking to
25 him was to tell him to speak to Ms. Prociuk?

1 A. Yes.

2 1193. Q. Was there anything else involved in
3 the conversation?

4 A. Not, that I can remember, no.

5 1194. Q. So you picked up the phone and you
6 told him to call Oksana and then you hung up?

7 A. No, I talked to...well, we were
8 talking about other stuff. We didn't even discuss
9 Walter. I just...I'm sorry, Carlo. I talked to
10 Carlo. Let me start again.

11 Mr. DeMaria, Carlo, called me to say...and
12 I don't remember what...why the reason was. I don't
13 recall. He texted me a lot and spoke to me a lot
14 about that stuff. Asked me to call Walter to talk
15 to him about Oksana, to ask Walter...sorry, to ask
16 Walter to call Oksana to put to bed whatever the
17 issue was. I don't know, and I don't know what the
18 issue was. I don't know a lot of the stuff that...I
19 just kind of went along with it.

20 1195. Q. And did you have a relationship with
21 Mr. Burych? Why were you the intermediary?

22 A. I don't know. Maybe you should ask
23 Mr. DeMaria.

24 1196. Q. Okay, and there were no other
25 occasions where you spoke to other BCU

1 representatives about Mr. DeMaria after you left?

2 A. No.

3 1197. MR. UNDERWOOD: Okay. Those are my

4 questions. Thank you.

5

6 --- upon adjourning at 5:11 p.m.

1 2 3 4 5 6 7 8	EXHIBIT NO.	INDEX OF EXHIBITS	PAGE NO.
	5.	Line of credit application re 87 Elm Grove Avenue	212

INDEX OF UNDERTAKINGS

	UNDERTAKING NO.	PAGE NO.	QUESTION NO.
1			
2			
3			
4			
5			
6			
7	1.	240	1132

1
2
3
4
5
6
7
8
9
10
11
12
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14
15
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Reporter

BUDUCHNIST CREDIT UNION LIMITED
Applicant

-and-
Respondents

2321197 ONTARIO INC. et al.

Respondents

Court File No. CV-18-00608356-00CL

**ONTARIO
SUPERIOR COURT OF JUSTICE
COMMERCIAL LIST**

PROCEEDING COMMENCED AT
TORONTO

BRIEF OF TRANSCRIPTS

(Receivership Application, returnable January 16, 2019)

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