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Case No: QB/2021/001025

**IN THE HIGH COURT OF JUSTICE**  
**QUEEN'S BENCH DIVISION**  
**MEDIA AND COMMUNICATIONS LIST**

Royal Courts of Justice  
Strand, London, WC2A 2LL

Date: 24/11/2021

**Before :**

**THE HONOURABLE MRS JUSTICE TIPPLES DBE**

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**Between :**

**Roman Abramovich**

**- and -**

**(1) HarperCollins Publishers Limited**

**(2) Catherine Belton**

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**Hugh Tomlinson QC and Ian Helme** (instructed by **Harbottle & Lewis LLP**)

for the **Claimant**

**Andrew Caldecott QC, Godwin Busuttill and David Hirst** (instructed by **Wiggin LLP**)

for the **Defendants**

Hearing date: 28<sup>th</sup> July 2021

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**Approved Judgment**

**Covid-19 Protocol: This judgment was handed down by the judge remotely by circulation to the parties' representatives by email and release to Bailii. The date and time for hand-down is deemed to be 10am on Thursday 24 November 2021.**

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**The Honourable Mrs Justice Tipples DBE :**

**INTRODUCTION**

1.

This is a libel action which arises out of the publication of a book with the title 'Putin's People', and the sub-title 'How the KGB Took Back Russia and Then Took on the West' ("**the Book**"). The author is Catherine Belton ("**the author**") and the publisher is William Collins, an imprint of HarperCollins Publishers Limited. The Book was published electronically on 2 April 2020, in audiobook on 11 April 2020 and in hard copy on 16 April 2020. The paperback edition came out on 15 April 2021.

2.

The front dust cover includes a quote from the author of Moneyland which says: "This is the Putin Book that we've been waiting for".

3.

On 22 March 2021 the claim form was issued and served seeking damages, an injunction and related relief in defamation. The particulars of claim were served at the same time. The defendants are the publisher and the author.

4.

The claimant, Roman Abramovich, describes himself as "a successful Israeli-Russian entrepreneur and businessman" who has "a very substantial reputation in this jurisdiction, where he has been widely known since 2003 as the owner of Chelsea Football Club". The claimant complains that he has been defamed by the publication in the Book of the words identified in 26 specific passages of the Book. These 26 passages are set out in the Annex to this judgment (and the numbered passages referred to below are to the numbered passages in the Annex).

5.

The claimant's case is that, when read in their proper context of the Book as a whole (including Notes and Index), the passages complained of mean:

(1)

The claimant has a corrupt relationship with Russian President Vladimir Putin, covertly acting at his direction and for his benefit and operating as his cashier, as the custodian of slush funds that can be accessed and used by President Putin for his own purposes.

(2) Further to that corrupt relationship, while presenting himself as an independent businessman, the claimant:

a.

covertly provided President Putin with access to the fortune he had made through his stake in Sibneft, making the majority of the \$13 billion in cash that he received in 2005 from the sale of Sibneft to Gazprom available to President Putin and his associates;

b.

purchased Chelsea Football Club in 2003 at the secret direction of President Putin in order to infiltrate, manipulate and corrupt the British elite; and

c.

moved to New York at the direction of President Putin in order to cultivate influence with the family of Donald Trump on the Kremlin's behalf.

(3)

In 2001 the claimant made a corrupt payment of \$203 million to a company called Petromed, disguised as a donation for the purchase of medical supplies, but which he knew was in fact going to be paid in substantial part into a slush fund for President Putin's use.

(4)

The claimant helped the Kremlin use the UK court system to damage its opponents by achieving victory in the \$6.5 billion legal case brought by Boris Berezovsky in the London High Court through his dishonest denial that Mr Berezovsky had ever owned stakes in Sibneft or Rusal.

(5)

The claimant improperly attempted to influence the Judge in the case brought against him by Boris Berezovsky, Mrs Justice Gloster, by paying nearly £500,000 to her stepson and failing to disclose the full extent of that arrangement to Mr Berezovsky's lawyers.

(6)

The claimant had previously acted as cashier for former Russian President Boris Yeltsin, as the custodian of slush funds that were accessed and used by President Yeltsin and his family for their own private purposes.

6.

On 14 May 2021 Nicklin J made an order for the trial of the following preliminary issues, namely: (i) the natural and ordinary meaning of the respective statements complained of; (ii) whether the respective statements complained of, in the meaning(s) found, are defamatory of the claimant at common law; and (iii) whether the respective statements complained of are (or include) a statement of fact or expression of opinion.

7.

On 28 May 2021 (subsequently amended on 29 July 2021) the defendants served notice of their case on meaning. They take issue with the claimant's case and maintain that, when read in their proper context of the Book as a whole, the passages complained of mean:

(1) The claimant has made available much of his wealth, when called on by Vladimir Putin or his associates, to support Mr Putin's increasingly ruthless, kleptocratic and autocratic regime in Russia, the claimant having little practical choice but to comply if he wished to continue to enjoy that wealth and avoid retribution.

(1)

Examples of (1) have involved:

a.

the claimant paying by himself or through his Pole of Hope foundation a charitable donation of \$203 million to Petromed, a medical supplies company controlled by close associates of Mr Putin in Russia (not the claimant), of which some 35% was subsequently and in secrecy diverted offshore by those associates, with \$50 million of it being later sent to another offshore company which was being used as a cash store for Mr Putin's rule, from which the rapid expansion of Bank Rossiya was funded, including Bank Rossiya's acquisition of Sogaz (footnote 1: for the avoidance of doubt, the defendants deny that the Book alleges that the claimant was aware of this alleged diversion or misuse of part of his or his foundation's donation to Petromed at the time the donation was made);

b.

the claimant spending for the Kremlin's benefit some \$2.5 billion (a substantial part of his fortune) on investments in Chukotka while he was governor there between 2000 and 2008 after Mr Putin had come to power;

c.

the claimant building football stadiums in Russia;

and further the claimant's investment of \$300 million in Rosneft's Initial Public Offering in July 2006 was also indicative of the Claimant acting at the Kremlin's behest, the Kremlin being concerned that the IPO should not fail.

(2)

There are reasonable grounds to suspect that the claimant may have purchased Chelsea Football Club in July 2003 at Mr Putin's direction or with his encouragement as a means of gaining influence for (or softening opposition to) Russia in the West and furthering Russian interests in FIFA.

(3)

The claimant with his then wife developed a friendship with President Donald Trump's daughter (Ivanka Trump), son-in-law (Jared Kushner) and Kushner's brother in part to further the Putin regime's influence with President Trump, whose policies the Putin regime regarded with good reason as inimical to American interests and favourable to Russian interests.

(4)

There are reasonable grounds to suspect that the claimant was the Yeltsin family's 'cashier', based on the fact that oil sales by Sibneft at the time Mr Yeltsin was President had been made not just through Runicom, the Claimant's oil trading company, but also through a more obscure outfit called Belka controlled by Mr Yeltsin's then son-in-law, and the consequential suspicion that the relationship between Sibneft, Mr Berezovsky and the Claimant on the one hand and the Yeltsin family on the other was too close.

(5)

There are reasonable grounds to question the truth of the sole ownership case successfully advanced by the Claimant in his defence to Mr Berezovsky's claim to a joint interest in Sibneft as tried in the High Court in London.

(6)

The Claimant secured with Mr Berezovsky a major interest in Russia's oil assets by the privatisation of Sibneft with the assistance of President Yeltsin by a process which was rigged and corrupt and which laid the basis for his immense personal wealth.

8.

It is the defendants' case that the underlining indicates where the meanings comprise a statement of opinion, otherwise the meanings comprise statements of fact. Paragraph 4 of the defendants' notice of their case on meaning then says this:

"The defendants would deny that the meanings advanced at sub-paragraphs (1) to (4) inclusive of paragraph 2 above <sup>1</sup> are defamatory of the Claimant at common law if the increasingly extreme and objectionable nature of Mr Putin's regime (as presented in the Book) is left out of account."

9.

The trial of the preliminary issues took place on 28 July 2021.

10.

This judgment concerns that trial and only relates to the meaning of the passages complained of in the Book. The defendants have not yet been required to file a defence and so no substantive defences have been raised. The court is not, at this stage, adjudicating on any issue concerning the Book other than meaning (and the other preliminary issues identified in paragraph 6 above). Specifically, the court is not determining whether allegations made in the Book about the claimant or anyone else are true.

11.

I read the whole Book in hard copy in advance of the hearing. I was informed of the identity of the parties in the claim (and the two other claims brought in relation to the Book), but I did not know anything else about the claim. I therefore knew the claimant was complaining, but not what he was complaining about. On 14 May 2021 Nicklin J directed that I should only be provided with the documents relating to the claim shortly before the hearing and it was only then, when I had read the whole Book, that I read the passages complained of in the context of this claim. I did so without any reference to the parties' rival contentions or submissions on meaning. That was to capture my initial reaction as a reader, which is the accepted general practice in trials of this nature: see, for example, *Tinkler v Ferguson*[\[2019\] EWCA Civ 819](#) at [9] and [37].

12.

The claimant maintains that the meaning issues arising from the Book are "inevitably of some complexity" and, as a result, his 26 page skeleton argument is "much longer than would ordinarily be the case for the trial of a preliminary issue on meaning". Likewise, the defendants provided a very detailed skeleton argument of a not dissimilar length. In that context, it is important to remember, and I have kept well in mind, that at a trial on meaning over-elaborate analysis of the various passages relied on by the parties must be avoided (see, for example, *Sheikh v Associated Newspapers*[\[2019\] EWHC 2947 \(QB\)](#), Warby J at [25]).

### **RELEVANT LEGAL PRINCIPLES**

13.

The law to be applied by the court when determining the single meaning of a publication complained of is now "conveniently distilled" in *Koutsogiannis v The Random House Group Ltd*[\[2020\] 4 WLR 25](#), Nicklin J ("**Koutsogiannis**") at [11]-[12]: see *Corbyn v Millett*[\[2021\] EWCA Civ 567](#) ("**Corbyn**"), at [8]. The law is settled and very well known, and does not need to be repeated.

14.

The context of the words and the medium of the publication is all important when assessing meaning: *Stocker v Stocker*[\[2020\] AC 593](#), SC at [40]. Context is particularly important when the words complained of are part of a book. The ordinary reasonable reader is taken to have read the whole book and, in relation to ascertaining the meaning of words sued on in the context of a book, the exercise is essentially one of ascertaining the broad impression made on the hypothetical reader by the book taken as a whole. This is derived from the specific guidance provided by *Charman v Orion Publishing Co Ltd*[\[2005\] EWHC 2187 \(QB\)](#), Gray J ("**Charman**") at [11]-[12] where he explained that:

"[11.] It appears to me to be particularly important where, as here, a judge is providing written reasons for his conclusion as to the meaning to be attributed to the words sued on, that he should not fall into the trap of conducting an over-elaborate analysis of the various passages relied on by the respective protagonists. The parties are entitled to a reasoned judgment but that does not mean that the court should overlook the fact that it is ultimately a question of the meaning which would be put

on the words of the book by the ordinary reasonable reader. Such a hypothetical reader is assumed not to be a lawyer. He or she is very unlikely to read the whole book in a single sitting or to compare one passage with another or to focus on particular phrases. The exercise is essentially one of ascertaining the broad impression made on the hypothetical reader by the book taken as a whole.

[12.] A feature of the present dispute on meaning is that each side has pointed to different passages in the book which it maintains is supportive of its case as to the degree of seriousness of the libel. That is commonplace and legitimate. It is well established that the tribunal of fact, whether judge or jury, must take the bane and the antidote of the publication together: see *Chalmers v Payne* (1835) 2 Cr M&R 156, para 159. As Lord Nicholls pointed out in *Charleston v New Group Newspapers* at 73-74, there is an artificiality about this approach since, especially in the case of a book, not all readers will read it from cover to cover. It is, however, clear from that and earlier authorities that the publication must be taken as a whole."

15.

Two other principles are relevant to the issues in this case: Chase levels of meaning and the "repetition rule". It is convenient to take the summary of these principles from *Brown v Bower*[2017] 4 WLR 197 ("**Brown**"), a libel claim about a book, where Nicklin J explained:

"[17.] [The Chase levels of meaning] come from the decision of Brooke LJ in *Chase v News Group Newspapers Ltd*[2002] EWCA Civ 1772; [2003] EMLR 11, para 45 in which he identified three types of defamatory allegation: broadly, (1) the claimant is guilty of the act; (2) reasonable grounds to suspect that the claimant is guilty of the act; and (3) grounds to investigate whether the claimant has committed the act. In the lexicon of defamation, these have come to be known as the Chase levels. Reflecting on the almost infinite capacity for subtle differences in meaning, they are not a straightjacket forcing the court to select one of these prescribed levels of meaning, but a helpful shorthand. In [Charman], for example, Gray J found a meaning of "cogent grounds to suspect" at para 58."

16.

It is the claimant's case that the defamatory allegations against him in the Book are at Chase level 1. The defendants do not accept this and, in particular, maintain that their meanings 3, 5 and 6 are Chase level 2.

17.

The "repetition rule" is a rule of law that, where an allegation by a third party is repeated by the defendant, the words must be interpreted by reference to the underlying allegations of fact (Koutsogiannis at [15]). In *Brown* Nicklin J explained:

"[28.] The repetition rule clearly applies when the court is considering the meaning of words, but it takes its place alongside all other matters to which the court must have regard when determining meaning. The task is to determine what the ordinary reasonable reader would understand the words to mean. The repetition rule cannot be applied mechanistically to the determination of meaning ...

[29.] It seems to me that, as is nearly always the case in determining meaning, context is everything. It is easy to imagine cases where a publication refers to an allegation because the author wants to establish the fact that the allegation was made rather than any suggestion on her part that the allegation is true. Borrowing from Lord Devlin's analogy, it may be difficult to repeat the allegations of others without suggesting to the reader that the allegations are true, but it can be done. "One always gets back to the fundamental question: what is the meaning that the words convey to the ordinary

man: you cannot make a rule about that” [Lewis v Daily Telegraph[1964] AC 234, per Lord Devlin at p. 285].

[30.] In my judgment, to produce a Chase level 1 meaning, the effect of the publication (taken as a whole) has to be the adoption or endorsing of the allegation. That adoption or endorsement may come from “bald” repetition ... or it may come from other context which signals to the reader that the allegation is being adopted when it is repeated. The converse is also true. The context may signal to the reader that the allegation is not being adopted or endorsed. Sometimes allegations are repeated to criticise the person who made them. When doing so, prudent publishers often expressly state that the allegations were “baseless”, but whilst no doubt sufficient (in most cases) to prevent the publisher being found to have adopted the allegation by repetition it is not necessary in all cases for this to be stated expressly. It all depends on context...

[32.] ... When the authorities speak of rejecting submissions that words repeating the allegations of others bear a lower meaning than the original publication that is a rejection of the premise that the statement is less defamatory (or not defamatory at all) simply because it is a report of what someone else had said. That kind of reasoning is what the repetition rule prohibits when applied to meaning. The meaning to be attached to the repetition of the allegation has still to be judged, applying the rules of interpretation I have set out above, looking at the publication as a whole.”

18.

Poroshenko v BBC[2019] EWHC 213 (QB) was a libel claim brought by the President of Ukraine in relation to broadcast of an item on the BBC’s News at Ten. Nicklin J explained the inter-relationship between Chase levels of meaning and the repetition rule in these terms:

“[26.] The main section of the Television Report presents a series of factual allegations. The application of the repetition rule in this case does play a significant role in the determination that the meaning is Chase level 1. Viewers are presented with information provided by sources which they are given no reason to doubt beyond the various denials. Publications that result in a meaning at Chase level 2 or 3, tend to flag clearly to viewers/readers that there are reasons why they should be cautious before accepting allegations made by others, perhaps for motives of their own, for example. Not only are there no independent signals in either Report for the need for caution, on the contrary, the various sources’ credibility appears to the reader/viewer mutually to support the overall credibility of the allegations being presented.”

19.

The common law principles to be applied to determine whether a statement complained of contains allegations of fact or opinion were also summarised by Nicklin J in Koutsogiannis at [16] (recently referred to by the Court of Appeal in Corbyn at [12]). These principles are well known and, for completeness, I set them out here:

“... when determining whether the words complained of contain allegations of fact or opinion, the court will be guided by the following points:

(i)

The statement must be recognisable as comment, as distinct from imputation of fact.

(ii)

Opinion is something which is or can be reasonably be inferred to be a deduction, inference, conclusion, criticism, remark, observation etc.

(iii)

The ultimate question is how the words would strike the ordinary reasonable reader. The subject matter and context of the words may be an important indicator of whether they are fact or opinion.

(iv)

Some statements which are, by their nature and appearance opinion, are nevertheless treated as statements of fact where, for instance, the opinion implies that a claimant has done something but does not indicate what that something is, ie the statement is a bare comment.

(v)

Whether an allegation that someone has acted “dishonestly” or “criminally” is an allegation of fact or expression of opinion will very much depend on context. There is no fixed rule that a statement that someone has been dishonest must be treated as an allegation of fact.”

20.

The court must be wary of adopting too rigid or formulaic an approach when deciding whether a publication would be understood as an expression of opinion or allegation of fact: *British Chiropractic Association v Singh*[2011] 1 WLR 133, [16], [32]. Likewise, there are dangers the court must be alive to of drawing too rigorous a distinction between the question of whether words are defamatory and the question of whether they are fact or comment. To ask the questions separately, in that order, “may not always be the best approach, because the answer to the first question may stifle the answer to the second”: *Sube v News Group Newspapers Ltd*[2018] EWHC 1234 (QB), Warby J at [33]. Indeed, it has become common for those two questions to be considered in the reverse order: see *Corbyn* at [13].

21.

There is no dispute that a meaning will be defamatory of the claimant at common law if it tends to have a substantially adverse effect on the way that right-thinking members of society generally would treat him or her: see, for example, *Corbyn* at [9]; *Monroev Hopkins*[2017] 4 WLR 68, Warby J at [23(2)]; *Thornton v Telegraph Media Group Ltd*[2011] 1 WLR 1985, Tugendhat J at [98].

22.

Having set out those principles, I turn first to my broad impression of the Book. This is the impression I noted down when I had read the Book.

### **THE BOOK: BROAD IMPRESSION**

23.

The Book is a work of investigative journalism based, in large part, on years of interviews with very many different people, some of whom are identified, and some of whom are not. The narrative sets out the author’s thesis as to how the KGB took back Russia, and took on the West, which is the subtitle to the Book. She does so by reference to a vast amount of information she has gathered during what she has described as her “odyssey” to write the Book. Some of this information is complex and, at times, dense to follow. There is a *dramatis personae* at the start of the book in which the author has described who she has identified as the key players, and there is also a 27-page index which is of assistance to the reader if, for example, he or she needs to be reminded about any particular topic. The narrative runs to 500 pages, and there is a list of illustrations, photographs relating to people or topics in the text, four pages of acknowledgements, and 90 pages of notes which set out the contents of the footnotes in the main text. There is no chronology or timeline of important events. That was something I noticed when I read the Book, as sometimes the order in which things happened was not entirely clear to me.



24.

The broad impression that the Book made on me is that it is the story of Vladimir Putin's rise to power, and how he has maintained his grip on power. That has been achieved through those described in the book as "Putin's People" and, in particular, his inner circle at the KGB, the siloviki. The narrative begins in St Petersburg in the early 1990s where Mr Putin was the Deputy Mayor. The story tells that it was at that time that Mr Putin made links through KGB networks and organised crime, and he was involved in siphoning cash abroad to create "slush funds" which he and the KGB would use in the future. As the story unfolds it is clear that Mr Putin's connections from St Petersburg remain with him for many years to come. Mr Putin moves from St Petersburg to Moscow and, although unknown to many, is promoted rapidly and, by the end of the decade, is the Prime Minister, an appointment driven by the KGB at a time when the Yeltsin family were threatened with financial scandal. He was anointed as President Yeltsin's successor on 31 December 1999 and in March 2000 elected President. This transfer of power from President Yeltsin to President Putin involved some apparent compromises between the Yeltsin family and the KGB, and people with connections with the Yeltsin family remained in positions of power, although after a few years they were all gone from government.

25.

In the meantime during the Yeltsin-era, a number of individuals had become extremely wealthy. Individuals, such as Mikhail Khodorkovsky, had made vast amounts of money through banking. These "tycoons" then became "oligarchs" as a result of the privatisations of the oil and gas industries in the 1990s and, in particular, the "loans for shares auctions". This resulted in Russia's natural wealth being held by a handful of individuals. Another was Boris Berezovsky, who also had a substantial media empire. This was a state of affairs that the KGB actively disliked.

26.

It is obvious to the reader that the claimant is one of the "Yeltsin-era oligarchs". His enormous wealth is attributable to his interests in Sibneft and Rusal, giant Russian oil and aluminium companies, which he acquired during the Yeltsin-era.

27.

The Book then tells the story of how the Yeltsin-era oligarchs were "cowed" by the KGB and their assets taken over by the Russian state. The state took control of the media, and then law enforcement with the "trial that changed everything" of Mr Khodorkovsky. Mr Khodorkovsky was at the time Russia's richest man, but was then charged with tax fraud and, as a result of a trial controlled by the KGB, ended up in prison with a lengthy jail sentence. He was then stripped of his assets as his Yukos empire was split up and sold off, with the immensely valuable Yugansk plant being sold off at an undervalue and ending up in the hands of Rosneft, a state-owned oil company. This is one example of the "kleptocracy" of the regime described by the author. The message was clear: what had happened to Mr Khodorkovsky could happen to any other of the Yeltsin-era oligarchs if they did not comply with the regime of President Putin and his men. Unless they were loyal to President Putin, and did what was asked of them, they would end up in jail.

28.

The author compares the fate of Mr Khodorkovsky with the claimant, whose business interests were not dissimilar in size to those of Mr Khodorkovsky. The reader is given the clear impression that the claimant has retained his extremely wealthy status because he has complied with the Putin regime and what President Putin has asked of him and, if he hadn't, he could just as easily have had his vast business empire taken away by the state or ended up in prison.

29.

President Putin's second term as President began in 2004. This was a time when vast "slush funds" were created abroad, termed *obschak*, by siphoning billions and billions of dollars out of companies such as Gazprom to be used by President Putin and his regime for corrupt purposes. President Putin's regime became increasingly "kleptocratic" and authoritarian and the Yeltsin-era oligarchs were replaced by loyal businessmen – "the custodians" – connected with the KGB who took control of the economy.

30.

Russian money flooded into London as Russian companies were being listed on the London Stock Exchange. The claimant purchased Chelsea Football Club in 2003 and the reader is given the impression that he did so on the direction of President Putin for Russia to gain influence and acceptance in British Society. The claimant was seen as an acceptable face of Russian business and independent of the Kremlin. However, the reader is told that he, together with other Russian tycoons who appeared acceptable to the West, were under the control of President Putin and the Kremlin. The author describes the situation as having become that of a feudal system, with President Putin at the head.

31.

Mr Putin, although Prime Minister from 2008, remained in control throughout Dmitry Medvedev's term as President. In 2012 Vladimir Putin was re-elected as President, with his term extended. Any opposition to him was quashed, the state continued to acquire assets of the Yeltsin-era oligarchs, there was war in Ukraine and Crimea was annexed to Russia. Based on information exposed by the Panama papers the reader is told that the KGB were involved in siphoning off billions and billions of dollars in cash from Russia to a highly complex web of offshore companies in numerous different jurisdictions to create "slush funds" and "black cash networks" that could be used to influence and destabilise Western democracies. The final pages of the Book bring the story to the present day and describe the links between the KGB, organised crime networks and the business empire of Donald Trump and the influence used by Russia on the 2016 Presidential election. The Book concludes describing the endemic corruption in Russia today and that everything is under the control of Putin and the KGB.

#### **THE PARTIES' SUBMISSIONS: CONTEXT**

32.

The parties provided the court with detailed skeleton arguments and at the hearing Mr Tomlinson QC, for the claimant, and Mr Caldecott QC, for the defendants, made succinct oral submissions. Counsel were mindful of the trap of over-elaborate analysis, although Mr Tomlinson was keen to point out it was a trap into which he said Mr Caldecott was continually falling.

33.

The Book is one of contemporary history. There was no dispute between the parties that the ordinary reasonable reader is likely to have some interest in current affairs. However, he or she is not a lawyer or an academic or a historian, and would read the Book over a period of time in instalments of widely varying length. The ordinary reasonable reader is most unlikely to juxtapose detailed references, widely apart, to draw adverse conclusions unless signposted to do so (see Charman at [11]). There was also no dispute that the footnotes were an integral part of the Book and they have to be considered as part of the relevant text. This is because the footnotes do more than simply identifying sources, and many contain extensive narrative.

34.

However, where the parties parted company was how the court should approach the exercise of “ascertaining the broad impression made on the hypothetical reader by the Book taken as a whole” (see Charman at [11]). Mr Caldecott submitted that the Book had many themes and, in particular, six overarching themes, namely (1) the different KGB groupings; (2) the Yeltsin-era tycoons/oligarchs and the source of their wealth; (3) Putin’s attitude to the Yelstin-era oligarchs; (4) Putin’s power over the Yeltsin-era oligarchs; (5) the key role of Bank Rossiya in the rise of the siloviki; and (6) the nature of President Putin’s regime. Mr Caldecott submitted that these themes were relevant to the application before the court, and the context in which the words complained of should be considered. Mr Tomlinson submitted that was the wrong approach, as it is over-analytical because the ordinary reasonable reader is not dissecting the Book into themes, or taking any notes in order to do so. Rather, there is only one overall or basic theme and that is the renaissance of the KGB and the evils of the Putin regime, and it is that which sets out the context.

35.

I have set out above my broad impression of the Book when I read it. There are certainly common threads which run through the Book, which are repeated from time to time. In the context of the overall narrative, it is inevitable that those threads make an impression on the reader and in a book of this length, form a part of the reader’s broad impression. Therefore, whilst I agree with Mr Tomlinson that the ordinary reasonable reader is not studying the Book in order to dissect it into themes, it would be impossible to read this book without being struck, for example, by the frequent mention of the Yeltsin-era oligarchs and the KGB’s disapproval of them, together with the fate of Mr Khodorkovsky compared to that of the claimant, both of whom are Yeltsin-era oligarchs. These topics come up time and again in the narrative and will inevitably contribute to the reader’s broad impression of the Book and it is in that context in which the words complained of need to be considered.

36.

As to the *dramatis personae*, this lists the key players in the Book, with a short description of who they are. The reader can refer to it in order to remind him or herself who a particular person is, and where he or she fits into the narrative. However, the description of the claimant in the *dramatis personae* is not determinative of what the words complained of mean about the claimant, which need to be considered in the context of the Book as a whole.

37.

There was some disagreement between the parties as to how the Book is presented to the reader. Mr Tomlinson submitted that the Book is held out to readers as a serious, authoritative and detailed work of history, which is a ground-breaking investigative work by a former journalist at the Financial Times. Most of the time the author is clearly presenting facts and readers are not going to regard the contents of the Book as evidentially questionable. Mr Caldecott accepted that the author had spoken to numerous people inside and outside of Russia but submitted that, given what is said about President Putin’s regime, the subject matter of the book is a difficult one to cover, and that would be obvious to the reader. This is relevant as to whether any particular passage of which the claimant complains is fact or opinion. That may well be so, but in the end I do not consider this to be an area of significant dispute between the parties. In large part, what the author presents to the reader are facts, derived from her research. However, on some topics she does not have a complete picture. There was no dispute that, as an investigative journalist, she is plainly capable of expressing an opinion on any facts she has presented.

## **MEANING**

38.

I now turn to the parties' respective submissions in relation to the six meanings advanced by the claimant. It is helpful to group these under topic headings in order to set out, at the same time, the defendants' response or alternative meaning.

39.

I set out my initial view or impression in each case. This was the view I noted down before the hearing when having read the Book, I read the words complained of in the particulars of claim, the claimant's meanings and the defendants' meanings, but before I had read the skeleton arguments, or heard any oral argument from Counsel. I have then identified the conclusion I have reached.

### **The claimant's relationship with President Putin**

40.

This relates to the claimant's meanings 1, 2(a) and 3 and the defendants' meanings 1 and 2(a) (and also 2(b) and 2(c)). There are three main aspects to this: the nature of the claimant's relationship with President Putin, the nature of the payment to Petromed and what happened to that money, and what happened to the proceeds of sale of Sibneft.

#### **Parties' submissions**

41.

Claimant's meaning 1. Mr Tomlinson submitted that an ordinary reasonable reader would understand the Book to be alleging that the claimant has a corrupt relationship with President Putin, operating as his "cashier" and as a custodian of "slush funds". This is because the claimant is described as Putin's "cashier" (passage (1)), referred to as a "close Kremlin ally" in the Prologue (passage (2)), and later described as "one of the Kremlin's trusted custodians" (passage (14)) of "slush funds" (or *obshchak* in Russian, "a common cash pot or slush fund for a criminal gang") (passage (4)). "Cashier" has a clear ordinary meaning in this context: someone who receives and pays out money for a corrupt President. Overall, the claimant is presented as a central figure in a tale of corruption, with a constant drip of bane and little or no antidote. This is a Chase level 1 allegation.

42.

Claimant's meaning 2(a). Mr Tomlinson submitted that the Book provides examples of the claimant acting in furtherance of his alleged corrupt relationship with President Putin, whilst presenting himself as an independent businessman. First, when the claimant sold his interest in Sibneft for \$13 billion, he secretly shared the proceeds of sale with President Putin and his associates, which is corrupt conduct (passages (14) and (15)). The second and third examples are set out in claimant's meanings 2(b) and 2(c) and at no point is the reader told that the claimant has not participated in the many and various corrupt schemes described in the book or that he is distant from President Putin.

43.

Claimant's meaning 3. Mr Tomlinson submitted that it was obvious from passages (4), (12) and (20) that the payment made by the claimant to Petromed, a "donation" of \$203 million, was a corrupt payment pursuant to which his money was being transferred to a "slush fund", an *obshchak*, for President Putin's own purposes. Further, it is unrealistic for the defendants to contend that the Book does not allege that the claimant was unaware that the donation would be misused at the time the donation was made. The bane is plain – any antidote would have to be in the clearest terms, and none

is present. In short, Mr Tomlinson submitted that the defendants' meanings do not remove the sting and the ordinary reasonable reader will think the claimant is a willing participant in President Putin's corrupt regime.

44.

Defendants' meanings 1 and 2. Mr Caldecott submitted that, although the Book provides specific examples of the relationship between the claimant and President Putin, it is important to establish what the ordinary reasonable reader would conclude about the Book's allegations about corruption in President Putin's regime and the claimant's relationship to it. He submitted that the starting point is how the Book presents the acquisition of the claimant's wealth, the nature of his relationship with the Yeltsin family and his position when President Putin came to power. The next stage, he submitted, was to identify what the author adopts from her various sources (referring, in particular, to passages (4), (10), p.312, (13), (15), (16), p.485, p.462, p.487).

45.

He argued that there a number of reasons why no reasonable reader would conclude that the claimant authorised or was otherwise involved in the subsequent misuse of part of his donation to Petromed. In particular, there is no such suggestion in the text, and the Book repeatedly stresses that the Yeltsin-era oligarchs had little option but to comply with state requests if they wished to keep their wealth. This remained the position in the years that followed (p.362), and that did not mean the Yeltsin-era oligarchs were knowingly involved in creating the vast offshore networks of "black cash" or "slush funds" or that they have made corrupt payments to officials or authorised anyone else to do so.

46.

In relation to the sale of Sibneft in 2005, passage (14) refers to the rumours that the claimant "had had to split the lion's share of the \$13 billion he'd received with Putin's men" and that Mr Berezovsky had said at the time that "I have no doubt that the profits from the sale of Sibneft will be shared between [the claimant] and Putin as well as among several other individuals". This Mr Caldecott submitted is not a factual statement as to what happened, but an opinion from Mr Berezovsky as to the likely outcome from one of President Putin's most outspoken critics.

Conclusion: the claimant's relationship with President Putin

47.

My initial view, having read the Book, is that the claimant is under the control of President Putin. He is an agent of President Putin, and he does what he is told by President Putin or the Kremlin. That is the consequence of what has happened over the last 20 years in Russia to all the other Yeltsin-era oligarchs and their business empires and, in particular, Mr Khodorkovsky. The Book more than once tells the reader that the claimant had "little choice" but to do something at the request of the Kremlin. It is on this basis that the claimant has spent large parts of his enormous wealth on projects or payments directed by the Kremlin and been loyal to President Putin and, at the same time, been able to retain his fabulously wealthy status. The reader is told that "whether he wanted to or not" the claimant became "part of the Putin machine" (p. 353). That has been the position since President Putin came to power as it was in the very first year of his presidency, 2000, that the claimant was sent to the remote region of Chukotka on the orders of President Putin as he wanted the claimant's fortune to be at his command.

48.

The claimant's wealth is derived from his business empire, Sibneft and Rusal, which he acquired before President Putin came to power. Precisely how or precisely when those interests were acquired

was not entirely clear to me from reading the Book, except that it was plainly in the Yeltsin-era. This is because the reader is given conflicting information. The reader is told at the outset that the claimant was an “oil trader who became Berezovsky’s protégé and later outmanoeuvred him to take over Berezovsky’s business empire” (*dramatis personae*, p. xii-xiii), then a number of times the reader is told that Mr Berezovsky and the claimant were business partners, and also that it was Mr Berezovsky who participated in the “loans for shares auctions” pursuant to which he acquired Sibneft (pp. 80-81). Yet elsewhere in the Book the reader is told that it was a partnership of Mr Berezovsky and the claimant “as young bankers close to the Yeltsin government” who purchased Sibneft for “just” \$100 million (p. 212). The most important point is that the reader clearly understands that the claimant’s business empire, in giant oil and aluminium industries, which had been owned by the state in the past, was acquired by the claimant during the Yeltsin-era, that he was a Yeltsin-era oligarch close to President Yeltsin, and once President Putin was in power, his status and wealth were at risk because of this. That was plain to him, and other Yeltsin-era oligarchs, by dint of what happened to Mr Khodorkovsky.

49.

It is the claimant’s vast wealth through his oil and aluminium business empire to which President Putin wanted access from the outset of his regime. My impression of the Book is that it draws a distinction between, on the one hand, the Putin regime accessing or taking over businesses within Russia and, on the other, the creation of vast “slush funds” or networks of “black cash” abroad to which President Putin and his regime also have access. The latter have been created by the KGB and the reader is told that the foundations for doing so goes back years, before the collapse of the Soviet Union. The reader is told that President Putin wanted to be able to access the claimant’s money. However, nowhere in the Book is the claimant described as being in control of any “slush funds” which he could give President Putin, or indeed President Yeltsin or anyone else access to. Rather, it is his wealth associated with his own business empire that he is described as giving access to at the direction of President Putin and the Kremlin and, given his loyalty to the Kremlin, it is in that context he is described to the reader as a “cashier to Putin” and a “trusted custodian”.

50.

There was no dispute between the parties that the claimant’s relationship with President Putin is a significant one. However, as I have already explained in relation to the parties’ submissions on context, the reader understands the nature or basis of that relationship by reference to what he or she is told about the Yeltsin-era oligarchs and what has happened to them, and their business empires, once President Putin came to power. That was my initial impression and it was not altered by Mr Tomlinson’s submissions. I do not agree that the Book is telling the reader that the claimant is a “willing participant” in a secret criminal enterprise orchestrated by President Putin, and that has been the position since President Putin came to power two decades ago. I also do not accept Mr Tomlinson’s characterisation of the relationship between the claimant and President Putin as a “corrupt relationship” as that description overlooks the broad impression that the Book will have made on the hypothetical reader, which is that the claimant is under the control of President Putin.

51.

That is also the context in which the reader forms his or her impression of what he or she is then told about what has happened to the claimant, or what he has done, during the course of President Putin’s regime. The reader is told that the claimant was sent Chukotka on President Putin’s orders; he purchased Chelsea Football Club; he or his charitable foundation paid \$203 million to Petromed; Sibneft was sold to Gazprom; he purchased shares in Rosneft; and, later in the story, that he moved to

New York. The defendants' overall approach to meaning in relation to the description of these events is, in my view, the right one. However, I do not agree that the six themes identified by Mr Caldecott can be factored into account, as they are the result of an examination of the Book which is far too forensic, and Mr Caldecott's approach falls foul of over-elaborate analysis.

52.

Further, in the defendants' meaning they have picked up on further examples of the claimant acting on the directions of President Putin, namely the investment of \$2.5 billion of his fortune in Chukotka (pp. 344-5, footnote 3); building football stadiums in Russia (p. 356; passage (15)) and investing \$300 million in Rosneft's initial public offering (p. 358; passage (16)). I agree with Mr Caldecott here. The reader will pick up that the claimant spent part of his fortune on investments in Chukotka and also that he bought \$300 million of shares in Rosneft on the direction of the Kremlin, so that the initial public offering did not fail. The sums involved are large and striking. The reader will not fail to understand that the claimant spent this money on the direction of President Putin. However, I do not think that the reader would pick up the detail in relation to "building football stadiums" on p. 356 as that, it seems to me, is over-analysis on the part of Mr Caldecott.

53.

Taking the specific examples in relation to Petromed and Sibneft in turn. Chelsea Football Club and the claimant's move to New York are dealt with below.

Conclusion: Petromed

54.

My initial impression was that the payment made by the claimant of \$203 million to Petromed was one that the claimant made to keep favour with President Putin and his new regime. It was a payment to buy medical equipment. I also equated the claimant with his charitable foundation Pole of Hope Foundation. The narrative does not tell the reader that the claimant knew where the money would go, or indeed that he knew who the people were behind Petromed, or who were involved in transferring 35% of the claimant's donation to offshore companies. Further, the reader is not told what happened to the rest of the donation made by the claimant.

55.

In terms of immediate context the reader is told that this donation was made by the claimant or his Pole of Hope Foundation in July 2001. This donation, and Petromed, is mentioned 30 pages later in the text, by which time the reader has been told that in 2000 the claimant had been sent on President Putin's orders to Chukotka, a region in the middle of nowhere, as the President wanted the entirety of the claimant's fortune at his command. The reader is told that a later donation of \$203 million by the Pole of Hope Foundation, was not enough.

56.

The claimant's case is that the words complained of mean that he knew that this payment of \$203 million was not in fact a payment for the purchase of medical equipment and that he knew a substantial part of this money would be laundered through off-shore companies and end up in a slush fund to be used for President Putin's personal use.

57.

The defendants accept that this payment was made to support President Putin's regime, but maintain there is no suggestion in the text that the claimant knew the money would not be used to buy medical equipment or that it would be transferred into an off-shore "slush fund". Mr Caldecott argued this was

particularly so given the secrecy around Bank Rossiya was a constant theme, together with the extraordinary accounts given by Mr Kolesnikov years later, in relation to the KGB-connected “slush funds”. For my part, I did not find the secrecy around Bank Rossiya one of the themes that stood out when I read the book.

58.

I agree that the hypothetical reader would understand the claimant’s donation of \$203 million to Petromed to be for the purchase medical equipment. That donation, though, was one that the claimant had to make, as a Yeltsin-era oligarch, in order to keep favour with President Putin and his regime.

59.

There is nothing in the text, or the impression I formed on reading the Book, which would signal to the ordinary reasonable reader that the claimant knew where that money would go, or where it would end up, or that it would form part of a “slush fund” for President Putin’s regime or for his personal use. Indeed, the reader is told that it was others, namely Messrs Kolesnikov, Shamalov and Gorelov, who were involved in transferring 35% of the payment to a BVI company, and then a Panamanian company, which was the cash store that funded the Bank Rossiya expansion. Mr Kolesnikov, who provided the information to the author, does not say that the claimant knew anything about this.

Conclusion: Sibneft

60.

Next, Sibneft. The claimant sold Sibneft to Gazprom in 2005 for \$13 billion. My initial impression was that the claimant did so on the direction of President Putin or his men and the proceeds of sale were shared between the claimant and the associates of President Putin.

61.

In his oral submissions Mr Caldecott accepted that the reference to rumours in passage (15) was a breach of the repetition rule. He focussed his submission on the opinion of Mr Berezovsky, which he said referred to a future event, and was not determinative of whether the proceeds of the sale of Sibneft to Gazprom had been split between the claimant, President Putin and his associates. That argument does not, however, answer the allegation made earlier in the same paragraph, namely “Rumours flew that Abramovich had had to split the lion’s share of the \$13 billion he’d received with Putin’s men”. There is nothing in the text to signal to the reader that that allegation is not being adopted or endorsed. The ordinary reasonable reader would understand that allegation to mean that the claimant had already split the majority of the proceeds of sale with Putin’s men.

62.

The immediate context is that on p. 354 the reader is told that the claimant “had little choice” but to sell Sibneft to the state for \$13 billion in cash and that “barely any of the earnings were to be considered his own”. The sale of Sibneft is said to be the moment when the claimant’s wealth “became even more wedded to the Kremlin”. At p. 356 the reader is told that, although the claimant appeared to have received a fair market price for his company, his situation is compared with Mr Khodorkovsky, and that “nothing was quite as it seemed” as this was “just another evolution of an emerging KGB capitalism”. Two paragraphs later the reader is told “it was becoming a system in which all businesses of any scale were dependent on the goodwill of the Kremlin, where tycoons had to serve the state in order to preserve their standing and wealth”. It will be obvious to the reader that the claimant was forced by President Putin to split the majority of the cash received on the sale of Sibneft with his associates, namely “Putin’s men”.



## **The purchase of Chelsea Football Club**

63.

The relates to the claimant's meaning 2(b) and the defendants' meaning 3.

The parties' submissions

64.

Claimant's meaning 2(b). Mr Tomlinson submitted that the Book makes clear that the claimant's purchase of Chelsea Football Club was part of a Kremlin scheme to corrupt the West, and he was directed to do so by Present Putin as the acceptable face of his regime (passages (14) and (17)). This, he submitted, was a Chase level 1 allegation: the claimant was acting corruptly, presenting himself as an independent businessman, conducting a high profile transaction to purchase a very well-known football club, whilst all the while acting at the secret direction of President Putin.

65.

Defendants' meaning 2. Mr Caldecott submitted that, based on the author's two sources (Sergei Pugachev and "a Russian tycoon and a former Abramovich associate"), it was inconclusive whether the claimant had bought Chelsea Football Club at the direction of President Putin (passages (14) and (17)) and, in particular, the reader is told "The West hadn't known then that, for instance, when Abramovich bought Chelsea he may have been acting on Kremlin orders" (p. 364; underlining added). Mr Caldecott placed particular reliance on the word "may" and argued that was sufficient to produce a Chase level 2 allegation. As to the purpose of the purchase, Mr Caldecott submitted it was not to "corrupt" the British elite, but to make Putin's regime, which was objectively wholly unacceptable, acceptable to Western eyes (passages (15) and (17)). The word "corrupt" in this context does not mean bribing the elite or unlawful acts as distinct from the Book's thesis that President Putin's regime "by stealth was gaining ever great international acceptance and legitimacy" (p. 355).

Conclusion

66.

The story about the claimant's purchase of Chelsea Football Club is contained in chapter 11, which is entitled "Londongrad". It is a striking part of the Book, which will make an impression on the reader. My own initial impression, as I have already explained, is that the claimant purchased the club on the direction of President Putin for Russia to gain influence and acceptance in the UK. This was one of the reasons why Russian money was able to flood into London.

67.

Chapter 11 tells the reader much more about the claimant than they have read so far. The final paragraph of chapter 10 tells the reader that, of all the Yeltsin-era oligarchs, it was the claimant who performed the first and most loyal act to the Putin regime. This, it turns out, was because the claimant went to Chukotka, a remote region in the far east of Russia, on President Putin's orders and spent vast amounts of his own money improving facilities for the impoverished residents. According to the claimant's own spokesperson, he invested \$2.5 billion in "reconstructing the region" (footnote 1, p. 565). It was after that, in 2003, that the claimant purchased Chelsea Football Club and the reader knows that the claimant is loyal to the Putin regime (passage (11)).

68.

On pp. 352-353 the reader is told that "Putin's Kremlin has accurately calculated that the way to gain acceptance in British Society" was through football. The reader is then presented with information,

from two sources, that President Putin directed the claimant to buy the club. This is denied by a person close to the claimant, who says that the claimant looked at a number of clubs in and outside the UK, and settled on Chelsea Football Club “because it was a ‘distressed asset’” (footnote 41, p. 567). The author then tells the reader “whatever the truth of the matter” (p. 353), and that the claimant “may have been acting on Kremlin order’s” (p.364). The defendants placed particular reliance on these passages.

69.

In my view, these passages would not be understood by the ordinary reasonable reader as providing sufficient reason to doubt that the claimant purchased Chelsea Football Club on President Putin’s orders. First, the person close to the claimant is not an independent source and, in any event, conceded that it was likely that the claimant had spoken with President Putin before agreeing with the deal. Second, and more importantly, it is at odds with the defendants’ own case on meaning (which I agree with) which is that, as a Yeltsin-era oligarch, he had little choice but to comply with orders from the Kremlin or his wealth would in effect be forfeited to the state. Third, at the bottom of p. 353 and the top of p. 354 the reader is told “whether he wanted to or not, Abramovich had become part of the Putin machine, one of the Kremlin’s trusted custodians. He played an integral role in helping create a KGB capitalism that was becoming turbocharged as it extended its reach into the West while energy prices continued to soar”. In so far as there is antidote in footnote 41, it is completely undermined by this statement, and that is not salvaged by the use of the word “may” eleven pages later (p. 364).

70.

The second point in dispute here is what was the purpose of the claimant’s purchase of Chelsea Football Club. The reader is told that the purchase of the club in summer 2003 has “smoothed”, in part, the path for the Russian money that flooded into London, and the tycoons who came with that. Based on information from Mr Pugachev the reader is told that it was President Putin’s plan to acquire the club “in order to increase his influence and raise Russia’s profile, not only with the elite but with ordinary British people”. Then, at the end of chapter 11 the reader is told that “the infiltration of the UK has succeeded” not just through the claimant and Chelsea Football Club, but through a whole group of Russians “that have descended into the West”.

71.

I agree with Mr Caldecott that it was the prestige of the club that was being used, and that the words complained of in passage (17) are not particularly directed at the claimant. Rather, the allegations are directed at the Russian companies in London which were attracting the “great and the good” to their boards for very large salaries. It was this that was contributing to making the unacceptable Putin regime acceptable, and gaining legitimacy in the West (passage (15); p. 356).

72.

The impression that the reader has is that the Kremlin used the purchase of Chelsea Football Club to gain acceptance and influence for Russia in the UK. The underhand way in which this was achieved was to use the claimant, someone who was seen as the acceptable face of Russian business, as the front for it. That was my impression when I read the Book, and it is not altered by Mr Tomlinson submissions.

73.

Finally, in relation to this topic, I accept, as the defendants point out, that the reader is told that the claimant’s move to purchase Chelsea Football Club was also aimed at influencing FIFA so that Russia could then lobby for the World Cup. In my view, this is detail in relation to this aspect of the story

which the ordinary reasonable reader will not have retained in forming his or her overall impression of the Book.

### **The claimant's move to New York**

74.

This relates to the claimant's meaning 2(c), and the defendants' meaning 4.

The parties' submissions

75.

Claimant's meaning 2(c). The claimant relies on passages (23) and (24) and Mr Tomlinson submitted that the reader is told that all "private businessmen" had become agents of the Russian state and, as an example of the Kremlin "levers of influence" the claimant had "switched focus" to New York, where his then wife had bought a property and had "wined and dined" members of the Trump family. The claimant's physical move is alleged to be part of a wider move by the Kremlin to exert influence in the United States, which is a further example of the claimant's corrupt relationship with President Putin, whilst presenting himself as an independent businessman.

76.

Defendants' meaning 4: In his oral submissions Mr Caldecott accepted that the text says that President Putin sent the claimant to New York "to continue the influence campaign" and there is no antidote to this allegation.

Conclusion

77.

These allegations are contained in the last chapter of the Book entitled "the Network and Donald Trump". The immediate context is that the reader is told that "all of Russia's significant so-called 'private' businessmen had become agents of the state" (p.483) and that the claimant was being used as a "lever of influence" in the United States (p. 485).

78.

The ordinary reasonable reader will understand that the claimant was sent to New York on the direction of President Putin to influence the family of Donald Trump on behalf of Russia. That was my impression when I read the words complained of and, in the end, there was little dispute between the parties about this.

### **The High Court trial before Gloster J**

79.

This relates to the claimant's meanings 4 and 5, and the defendants' meaning 6.

The parties' submissions

80.

Claimant's meaning 4. The claimant's case is that, at the outset of the Book, the reader is told Mr Berezovsky had unsuccessfully claimed in London's High Court that he jointly owned Sibneft with the claimant. The reader is also told, for the first time, about a "Kremlin machine", which has "become relentless in its reach" and how it had "become adept at pursuing its enemies through the UK Court". Mr Berezovsky lost the case before Gloster J and she found that he had never owned these assets. The Book then states on a number of occasions that Mr Berezovsky was the owner, or part owner of

Sibneft (passages (3), (7), (9)) and was the claimant's business partner (passages (5), (6), (8) and (15)). The claimant submits that the reader is left in no doubt: the claimant and Mr Berezovsky were business partners who jointly owned Sibneft, and the claimant's denials of joint ownership in the trial before Gloster J must have been dishonest. The impression the reader therefore has is that Mr Berezovsky was right about ownership, the claimant was wrong, and the court was misled. This is an allegation of actual wrongdoing, which is a Chase level 1 allegation.

81.

Claimant's meaning 5. The claimant submits that serious doubt is cast on this finding of Gloster J as "it later turned out" that her step-son had been paid "nearly £500,000" to represent the claimant - with his involvement being "more extensive" than had been disclosed (passage (1)). The reasonable reader, it is submitted, can only conclude from the way this is dealt with in the text (and the fact it is mentioned twice), that "something dubious was going on" to influence the judge; there is no other explanation for it featuring in the Book immediately after the report of the judge's conclusion; the size of the payment, and the fact it was only disclosed later are highly suspicious; and the only "antidote" is a statement from the Judicial Office which is relegated to a footnote.

82.

Defendants' meaning 6. The defendants submit that the passage complained of has to be read with a number of common-sense factors in mind including that: the judge had to decide the case on the evidence before her; the case was brought by Mr Berezovsky (and not the Kremlin) against the claimant, and there is no detailed analysis of the case; the judge preferred the claimant as a witness; the Book questions the correctness of the judge's finding based on the reaction in Russia; and the context for introducing this case is its relevance to the steps which the Russian state took to pursue Mr Pugachev, one of the author's significant sources, in the UK courts. The reasonable reader would take passage (2) as casting reasonable doubt on whether the finding in the claimant's favour would have been the same, had other evidence been available.

83.

There was no meaning advanced by defendants in response to the claimant's meaning 5, which Mr Caldecott submitted was "remarkable" as it did not even say that the judge's stepson was paid £500,000 for working on the case. Rather, it reads as though the claimant was bribing the judge's stepson which, on any sensible reading of the text, cannot be right.

## Conclusion

84.

In relation to these meanings my initial view was that the claimant won the case against Mr Berezovsky in the High Court in London because he ran a false case denying that Mr Berezovsky had ever owned any interest in Sibneft or Rusal; the Kremlin was behind the claimant's involvement in the proceedings; and that, although the judge's stepson had been paid nearly £500,000 to represent the claimant in the early stages of the case, that had been disclosed by the judge, and Mr Berezovsky had not objected. The judge was not conflicted and was able to oversee the case between the claimant and Mr Berezovsky.

85.

In relation to the parties' submissions I agree with Mr Tomlinson that the defendants' approach is to attribute to the reasonable reader the knowledge and understanding of the court process. The reasonable reader is likely to have an interest in current affairs, but not High Court litigation. I agree with Mr Tomlinson that the reader is in no doubt that Mr Berezovsky were business partners and

jointly owned Sibneft. The reasonable reader will understand that the claimant's claim that Mr Berezovsky never owned Sibneft was untrue, and that is why Mr Berezovsky lost his case in the High Court in London. The words complained of appear right at the outset of the Book. In terms of the immediate context, in the *dramatis personae* the reader is told this about Mr Berezovsky: "when he acquired the Sibneft oil major, he became the epitome of the intensely politically-wired oligarchs of the Yeltsin era" (p. xii). The information provided to the reader from Mr Kagalovsky is that "many in Russia know that [Abramovich and Berezovsky] were 50:50 partners" and that "he himself had found documents testifying to that, but had since destroyed them". Thereafter, in the Book's subsequent narrative, the claimant and Mr Berezovsky are consistently referred to as business partners and owners of Sibneft.

86.

This aspect of the story is introduced as background to the Kremlin's subsequent successful pursuit of Mr Pugachev through the UK courts. In relation to the case between the claimant and Mr Berezovsky, what the reader is told is that this is the case when the Kremlin "first learned to navigate its way through the UK court system during its victory against Boris Berezovsky". That signals to the reader that it was the Kremlin who was behind the successful party in the case: the claimant. That is how the Kremlin learnt to navigate its way through the UK court system. The information provided to the reader in the rest of the Book does not shift this understanding. Rather, it is confirmed by the subsequent narrative, given the control that the Kremlin has over the claimant.

87.

The claimant's meaning 5 is advanced without foundation. It would be far-fetched for even a reader avid for scandal to think that this is what the words in passage (2) meant. First, the hypothetical reader will understand that the judge's stepson was paid nearly £500,000 for representing the claimant in the early stages of the case. The money was paid to him for working on the case. Second, it was the judge who declared this matter to Mr Berezovsky. Third, Mr Berezovsky knew about it, and raised no objection at the time. From this information the reader will understand that there was no problem with the judge hearing the case. If there was, Mr Berezovsky, armed with the information that the judge's stepson had acted for the claimant in the earlier stages of the case, could have raised an objection to the judge hearing the case. However, he did not do so. Fourth, it was Mr Berezovsky's lawyers who claimed that the judge's stepson's involvement was more extensive than previously disclosed. That is a complaint that the disclosure made by the judge of her stepson's involvement was inadequate. This is nothing to do with the claimant.

### **The claimant's relationship with President Yeltsin**

88.

This relates to the claimant's meaning 6, and the defendants' meaning 5.

The parties' submissions

89.

Claimant's meaning 6: Mr Tomlinson submitted that the claimant is introduced to the reader in the *dramatis personae* as the "cashier" to the Yeltsin family (passage (1)), a claim which is repeated in chapter 5 where it is said that he is "long labelled in the media" as the cashier of the Yeltsin family and, as a result of the repetition rule, that is treated as an allegation made in the Book. "Cashier" in this context means that the claimant was a person who received and paid out money on behalf of the Yeltsin family for their own private use. To do this for the President's family is corrupt, whoever was the President, and whatever the nature of the regime.

90.

Defendants' meaning 5: Mr Caldecott submitted that the claimant's meaning was "wide and unfocussed" and there is no suggestion in the Book that the claimant was the custodian of "slush funds" for the Yeltsin family. Rather, the true focus of this allegation is on only one commercial relationship, namely the alleged oil trades between Sibneft and Belka Trading, as owned by Yeltsin's son-in-law. The ordinary reader would see the connection between the claimant and the Yeltsin family as being specific to Belka Trading.

Conclusion

91.

My initial view was that, when President Yeltsin was in power, the claimant was the cashier to President Yeltsin and his family. This is because that is what the reader is told in the *dramatis personae* at the very outset of the Book, it is an allegation which is repeated in the text and there is nothing in the narrative that alters that description. The claimant provided the Yeltsin family with money to use for their own purposes and he did so using funds from his own business empire. This had nothing to do with any funds which had been siphoned by others off-shore, which are the "slush funds" the author refers to time and again. To this extent I agree with Mr Caldecott.

92.

However, Mr Caldecott's attempt to link the claimant to the Yeltsin family through the oil trades between Sibneft and Belka Trading is, in my view, fanciful. This is minute detail in the text, which will not have made any impression on the ordinary reasonable reader in his or her understanding of the relationship between the claimant and President Yeltsin and his family.

### **The source of the claimant's wealth**

The parties' submissions

93.

Defendants' meaning 7: The defendants maintain that the Book contains extensive criticism of the political patronage and the rigged nature of the privatisation schemes of the late 1990s, which expressly include the acquisition of Sibneft. That criticism, the defendants contend, is not distinct and severable from the meanings the claimant does complain of, which are central to how the Putin regime viewed the claimant's wealth on the Book's central thesis. The claimant's response to this is that this meaning concerns an allegation which is not made in the words complained of and in relation to which the claimant makes no complaint. This is a separate and distinct defamatory meaning, and the defendants do not contend there is a general sting. They are not entitled to add this additional defamatory imputation which is not complained of.

Conclusion

94.

I agree with the claimant. The relevant principle is set out in *Cruise v Express Newspapers Plc* [1999] QB 931, CA at 954H-955I:

"It is no defence to a charge that "You call me A" to say "Yes, but I also called you B on the same occasion, and that was true," if the second charge was separate and distinct from the first. It may in any given case be difficult to decide whether the two charges are indeed separate and distinct ... but whether they are or not is a question of law which can be conveniently be determined on an interlocutory application of this kind."

95.

The very clear impression that the reader has from the Book is that the claimant is a Yeltsin-era oligarch and how he is viewed by President Putin and his regime is inextricably linked with that. As I have explained above, precisely how or when the claimant acquired his extraordinary wealth is not entirely clear to the reader, except that the reader clearly understands it was before President Putin came to power. In these circumstances, the defendants' meaning 7 does not correspond with the impression I had from reading the Book as to how the claimant actually acquired his interest in Sibneft. In any event, how the claimant acquired his immense wealth is a separate and distinct issue and the defendants are not entitled to add this further charge.

## **Decision**

96.

I took care to identify my initial view of the words complained of. The parties made succinct oral submissions, but the written submissions, particularly in the case of the defendants, seemed to me to breach the prohibition on the court being too analytical in its approach. The words complained of are contained in 26 passages and I have to determine the impression that would have been conveyed to the ordinary reasonable reader reading those passages once.

97.

Applying the principles I have identified, my conclusions are that the natural and ordinary meanings of the words complained of, read in their proper context as they affect the claimant, are:

(1)

The claimant is under the control of President Vladimir Putin and, on the directions of President Putin and the Kremlin, he has had to make the fortune from his business empire available for the use of President Putin and his regime. The claimant has had little choice but to comply with these directions because, if he had not done so, he would have lost his wealth to the Russian state and could have been exiled or jailed.

(2)

Further to that relationship between the claimant and President Putin:

a.

the claimant invested \$2.5 billion of his own fortune in Chukotka, a remote region in Russia;

b.

the claimant purchased Chelsea Football Club in 2003 at the direction of President Putin so that Russia could gain acceptance and influence in the UK;

c.

the claimant split the majority of \$13 billion cash he received on the sale of Sibneft to Gazprom with the associates of President Putin;

d.

the claimant purchased about \$300 million of shares in Rosneft at the direction of the Kremlin so that the initial public offering would not fail; and

e.

the claimant moved to New York at the direction of President Putin so that Russia could influence the family of Donald Trump.

(3)

The claimant donated \$203 million to Petromed, a company purchasing medical equipment. Donations made to Petromed were not all used for that purpose. Money paid to Petromed was transferred out of Russia through a web of off-shore companies and used to fund Bank Rossiya's rapid expansion. This is what happened to 35% of the claimant's donation and, of that money, \$50 million ended up in a Panamanian company which funded the Bank Rossiya expansion.

(4)

Mr Berezovsky sued the claimant in the High Court in London for \$6.5 billion claiming that he jointly owned Sibneft and a stake in Rusal with the claimant. The claimant claimed that Mr Berezovsky had never owned these assets. The judge, Mrs Justice Gloster, decided the claim in the claimant's favour. The Kremlin was behind the claimant's case and, even though many in Russia knew that Mr Berezovsky was the owner of these assets, no one gave evidence to support him, as they did not want to fall out of favour with the claimant or the Russian authorities. The claimant won because he ran a false case denying that Mr Berezovsky had ever owned these assets.

(5)

The claimant acted as the cashier to the former Russian President Boris Yeltsin and his family providing them with money from his own business empire to use for their own private purposes.

#### **Is the meaning defamatory at common law?**

98.

The defendants contend that meanings 1 to 3 are not defamatory of the claimant at common law "if the increasingly extreme and objectionable nature of Mr Putin's regime (as presented in the Book) is left out of account". The Book, however, tells the story of how the totalitarian regime in Russia today has come about and it is therefore not possible to leave it out of account. Mr Caldecott recognised this in his oral submissions and accepted that meanings 1 to 3 were all defamatory of the claimant at common law. However, he maintained that the nature of the regime has a very material effect on the sting and gravity of the allegations as a reasonable person would not support a totalitarian regime. The defendants accept that meanings 4 and 5 are defamatory of the claimant at common law. In conclusion, therefore, the meanings I have identified are all defamatory of the claimant at common law.

#### **Fact or opinion?**

99.

The defendants maintain that the reasons why the claimant has made the fortune from his business empire available for the use of President Putin and his regime, purchased Chelsea Football Club, invested in Rosneft and moved to New York are statements of opinion. I disagree. These reasons are verifiable as facts, and that is how the words would strike the ordinary reasonable reader. The statements complained of are all statements of fact.

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#### **ANNEX**

The specific passages of the Book of which the claimant complains

#### **Dramatis Personae**

(1)



## **“‘The Family’, the coterie of relatives, officials and businessmen closely surrounding the first Russian president Boris Yeltsin**

...

Roman Abramovich – Oil trader who became Berezovsky’s protégé and later outmanoeuvred him to take over Berezovsky’s business empire. ‘Cashier’ to the Yeltsin Family and then to Putin.” [Pages xii – xiii]

### **Prologue**

(2)

“The Kremlin had first learned to navigate its way through the UK court system during its victory against Boris Berezovsky, the exiled oligarch who’d become Putin’s fiercest critic, in a case that seemed to turn Russian history on its head. Berezovsky was the fast-talking one-time Kremlin insider who had tried – and failed – to sue his erstwhile business partner Roman Abramovich, a close Kremlin ally, for \$6.5 billion in London’s High Court. The judge overseeing the case, Dame Elizabeth Gloster, had taken a dim view of Berezovsky’s claim that he’d jointly owned one of Russia’s biggest oil majors, Sibneft, and a stake in Rusal, Russia’s biggest aluminium giant, with Abramovich, and that Abramovich had forced him to sell his stakes at a knockdown price. Though Berezovsky was recognised throughout Russia as owner of these concerns, Mrs Justice Gloster said she found him to be ‘an inherently unreliable witness’,<sup>5</sup> and sided with Abramovich, who’d claimed that Berezovsky had never owned these assets; he’d merely been paid for providing political patronage. Later, it turned out that Mrs Justice Gloster’s stepson had been paid nearly £500,000 to represent Abramovich in the early stages of the case. Berezovsky’s lawyers claimed his involvement was more extensive than had previously been disclosed.<sup>6</sup>” [Pages 3-4]

“5 Jane Croft and Neil Buckley, ‘Kremlin Critic Loses \$6.5 Billion Lawsuit Against Fellow Oligarch’, Financial Times, September 1 2012; Konstantin Kagalovsky, the former representative of the Russian government to international financial institutions and an architect of the loans-for-shares privatisation schemes, later told me that ‘many in Russia knew that [Abramovich and Berezovsky] were 50:50 partners’. He said that he himself had found documents testifying to that, but had since destroyed them. (Kagalovsky also served as first deputy head of Khodorkovsky’s Menatep bank, and was working on merger plans between Khodorkovsky’s Yukos and Sibneft.) ‘During [Berezovsky’s] court case no one from Russia came to testify about Berezovsky’s ownership because they did not want to damage their relationship with the Russian authorities and with Roma [Abramovich],’ he said.” [Page 505]

“6 Berezovsky had condemned the ruling at the time. ‘Sometimes I have the impression that Putin himself wrote this judgment,’ he said. ‘Roman Abramovich wins Court Battle against Berezovsky’, BBC News, August 31 2012. Later, it turned out that Mrs Justice Gloster’s stepson had been paid nearly £500,000 to represent Abramovich in the early stages of the case. David Leppard, ‘Berezovsky Cries Foul Over £3.5bn Abramovich Trial Judge’, Sunday Times, September 22 2012. Mrs Justice Gloster declined to comment, while the Judicial Office, which represents judges, said she had declared the matter and that Berezovsky had raised no objection at the time.” [Pages 505-6]

### **PART ONE**

#### **Chapter 2: Inside Job**

(3)

"Another oil giant, Sibneft, was won for \$100 million by Boris Berezovsky, who already controlled sales at Russia's biggest carmaker and chaired a bank of his own." [Page 81]

### **Chapter 3: 'The Tip Of An Iceberg'**

(4)

"In essence, what had been created was what in Russian criminal parlance is called an 'obschak', a common cash pot or slush fund for a criminal gang. It was a model based on handing out riches to a tightly controlled network of close allies, where the lines between what was to be used for strategic operations and what was for personal use were always conveniently blurred. This model became the basis for the kleptocracy of the Putin regime, and later its influence operations too - and it was based on the clandestine networks and payments systems of the KGB." [Page 94]

### **Chapter 4: Operation Successor: 'It Was Already After Midnight'**

(5)

"Suspensions had long circulated that relations between Sibneft and the Yeltsin Family were too close, that the company had been the basis for its owner, Boris Berezovsky, to become the consummate insider oligarch. Sibneft had sold oil through two trading companies: one of them, Runicom, was owned by Berezovsky's business partner Roman Abramovich; the other, a more obscure outfit known as Belka Trading, was owned and run by Tatyana's then husband, Leonid Dyachenko.<sup>56</sup>" [Page 129]

### **Chapter 5: 'Children's Toys in Pools of Mud'**

(6)

"The Yeltsin Family still felt secure in the belief that Putin would protect their safety and their fortunes from attack. When Yeltsin had agreed to bow out ahead of time, behind the scenes they'd made a pact with his successor, according to a close Putin ally and a former senior government official.<sup>84</sup> One of Putin's first acts as acting president was to issue a decree granting Yeltsin immunity from prosecution. But a broader bargain had also been sealed behind the scenes. 'The negotiations that went on over Putin's rise and Yeltsin's departure were about property,' said Andrei Vavilov, first deputy finance minister at the time. 'The subject of these negotiations was about property, and not about the structure of society ... Everyone forgot. Everyone thought that democracy would just be there. Everyone was just thinking about their personal interests.'

The bargain was to guarantee the Yeltsin Family immunity from prosecution and preserve the financial empires of their acolytes, chief among them the vast businesses owned by Berezovsky's business partner Roman Abramovich, long labelled in the media as the cashier of the Yeltsin Family. The businesses involved included the Sibneft oil major and the aluminium giant Rusal, forged just before Putin took the presidency and permitted to take control of more than 60 per cent of the Russian aluminium industry - a potent symbol of the Family's continued power.<sup>85</sup> The deal also granted the Yeltsin Family's appointees the right to continue to run the economy during Putin's first term in power, the close Putin ally said.<sup>86</sup>

Yumashev, however, denies any such deal was ever made. The decree issued by Putin granting Yeltsin immunity had made no mention of the Yeltsin Family, he said, while the Family had no businesses to be preserved." [Pages 175-76]

## **PART TWO**

### **Chapter 6: 'The Inner Circle Made Him'**

(7)

"With branches in London, Geneva and the Isle of Man, it managed the foreign bank accounts of Khodorkovsky's Menatep Group, as well as the Swiss oil trader Runicom, which exported oil from Sibneft, the Russian oil major belonging to Boris Berezovsky and Roman Abramovich." [Pages 193-4]

(8)

"In February 2001, on the insistence of Voloshin, Berezovsky sold his shares in ORT to Roman Abramovich, who'd abandoned his former partner to become a financial bridge between the Yeltsin Family and Putin's men, and who promptly sold the shares to the state." [Page 208]

## **Chapter 7: 'Operation Energy'**

(9)

"When the most strategic and lucrative sectors of Soviet industry were sold off in the mid-nineties under the loans-for-shares auctions, many of these gold seams for KGB networks passed into private hands. The likes of Yukos and Sibneft, a neighbouring west Siberian oil producer, were sold into the hands of the young bankers close to the Yeltsin government, to Khodorkovsky and the partnership of Berezovsky and Abramovich, for just \$300 million and \$100 million apiece." [Page 212]

## **PART THREE**

### **Chapter 10: Obschak**

(10)

"When Putin took over the presidency, Petromed became a centre for collecting hundreds of millions of dollars in so-called donations, ostensibly to buy medical equipment from Siemens and General Electric to upgrade St Petersburg's Military Medical Academy. But the 'donations' were essentially tributes paid by oligarchs to the new Russian tsar, an entry ticket to Putin's inner circle, and they became part of a slush fund for Putin's rule. A large percentage of the money was used to fund Bank Rossiya's rapid expansion. It provided the cash for Bank Rossiya to acquire Gazprom's Sogaz insurance company - and for Gorelov and Shamalov to acquire stakes in Bank Rossiya. By that time Matthias Warnig, the former Stasi officer with whom Putin had also worked closely on technology transfers, had become chairman of Bank Rossiya. It was a sign that Putin's former KGB networks were more than being preserved: they were being resurrected, and then provided with tens of billions of dollars of siphoned Gazprom cash.

The story Kolesnikov was to tell me, years later, when he emerged from it all, still wide-eyed at the secrets he was daring to reveal, described how he worked with Shamalov and Gorelov to funnel the Petromed 'donations' through a web of offshore companies that stretched from Liechtenstein to the British Virgin Islands to Panama. Thirty-five per cent of one such donation - of \$203 million from the Yeltsin Family oligarch Roman Abramovich in July 2001 - was transferred to a BVI company, Rollins International, and \$50 million of that then made its way to a Panamanian company called Santal Trading, which Kolesnikov liked to call the 'safe'.<sup>18</sup> This was the cash store that funded the Bank Rossiya expansion, while Rollins International financed Gorelov and Shamalov's acquisition of 12.6 per cent stakes apiece in Bank Rossiya on the eve of the bank's rapid growth." [Pages 314-5]

(11)

"Cowed by the legal attack on Khodorkovsky, the remaining Yeltsin-era tycoons were, one by one, beginning to vow fealty to the Putin regime. The unruly media tycoons Gusinsky and Berezovsky had been exiled, their assets taken over by the state. A consolidation of assets was occurring across

industry – in particular in the strategic sector – and the new leaders who emerged all bowed to the Kremlin’s might. But it was Roman Abramovich, the billionaire oil trader who’d taken over Berezovsky’s business empire, a powerful broker long considered the purse-holder for the Yeltsin Family, who performed the first and most overt act of fealty of all.” [Page 343]

## **Chapter 11: Londongrad**

(12)

“According to a tycoon close to him, he was sent to Chukotka on Putin’s orders<sup>4</sup> because Putin wanted the fortune Abramovich had made through his stakes in the oil major Sibneft and in Rusal, the aluminium giant that controlled more than 90 per cent of the nation’s output, to be at his command. It wasn’t enough that Abramovich’s charitable foundation Pole of Hope was ready to later donate \$203 million to Petromed, the medical-equipment-supplies company connected to Bank Rossiya.<sup>5</sup> Putin wanted to be able to access the rest of Abramovich’s cash too, and the laws of the time made it easier to jail officials than businessmen. [Page 345]

(13)

“But the ever-present threat of tax fraud charges was part of a process that was gradually turning the Yeltsin-era oligarchs into loyal vassals. Abramovich, long before the others, had been first among them.

...

After Khodorkovsky’s trial, Russia’s businessmen were all too aware that a criminal case could be opened against them at any time, in which, guilty or not, the odds would be stacked against them from the start. A feudal system was being resurrected, where the owners of the country’s biggest companies, especially those in the strategic resource sector, were beginning to operate as hired managers, working on behalf of the state. They were no more than the guardians, and they kept their businesses by the Kremlin’s grace.

...

\*

The signs should have been troubling. But for a long time, it seemed the West didn’t understand the depth of Russia’s transformation. The rise of Putin’s KGB men was evident as they asserted control over the country’s strategic energy sector, and the boards of the biggest state companies. But to Western eyes, the rest of the nation’s business still appeared to be largely independent. Yeltsin-era tycoons like Abramovich were seen as symbols of modernising, pro-Western forces in the Russian economy.” [Pages 345-7]

(14)

“The city was awash with Russian cash. But instead of Russia being changed through its integration into Western markets, it was Russia that was changing the West. The tycoons coming to London, who the West hoped would become independent driving forces for change, were instead becoming more dependent on the Kremlin. They were vassals of Putin’s increasingly authoritarian and kleptocratic state. Instead of bringing Russia into line with its rules-based system, slowly the West was being corrupted. It was as if a virus was being injected into it.

\*

The path had been smoothed in part, it seemed, when Roman Abramovich bought London's Chelsea Football Club in the summer of 2003. The £150 million (\$240m) purchase was something of a PR coup. London newspapers marvelled at Abramovich's private Boeing 767 as he swooped into London to inspect his new club. They devoted copious column inches to his luxury yachts, including the world's biggest, the Eclipse, a 168-metre floating palace kitted out with two helicopter pads and its own submarine. The secretive oligarch, stubble-faced and dressed simply in jeans, was lauded as he spent lavish funds buying world-famous players for Chelsea, and upgrading its Stamford Bridge stadium. Few asked where his money came from. 'It's very good exposure,' one former Abramovich associate said. 'With Chelsea, he'll get three pages in the back of the papers, and there's nothing bad. No one questions him.'<sup>36</sup>

Putin's Kremlin had accurately calculated that the way to gain acceptance in British society was through the country's greatest love, its national sport. According to Sergei Pugachev, from the start the acquisition had been aimed at building a beachhead for Russian influence in the UK.<sup>37</sup> 'Putin personally told me of his plan to acquire the Chelsea Football Club in order to increase his influence and raise Russia's profile, not only with the elite but with ordinary British people,' he said.<sup>38</sup> Putin had directed Abramovich to buy the club, claimed a Russian tycoon and a former Abramovich associate. 'It was a great operation. No questions were asked.' The purchase made Abramovich an instant celebrity in Britain. An invitation to watch a match from his private box was one of the hottest tickets in town.

Abramovich's move into Premier League football had also been aimed at increasing Russia's clout with FIFA, the International Football Federation, which later chose Russia to host the 2018 World Cup. 'Roman was asked by Putin to go into football,' said the former Abramovich associate. 'He thought they should do it to win influence in FIFA, which was well-known as a corrupt organisation.'<sup>39</sup> 'Through Chelsea, he got an entry ticket into the football world,' said the Russian tycoon. 'He was able to use it to lobby for the World Cup, which meant a lot for Moscow. They wanted to win the hosting to show to people that Russia was not in isolation. It was very important for them.'<sup>40</sup>

A person close to Abramovich denied the tycoon was acting under Kremlin direction when he bought the club.<sup>41</sup> But whatever the truth of the matter, Abramovich's choice of Chelsea became a symbol of the Russian cash that was flooding into the UK, and his ready acceptance helped Russian money become part of the fabric of London life. 'It was also an entry ticket into UK high society. It was an entrance into the House of Lords,' said a former business partner. 'He created a club at Chelsea especially for this.'

The reason few questions were asked about Abramovich was partly that he appeared at first glance to have nothing to do with Putin's KGB men. He'd continued to maintain close ties with the Yeltsin Family - with Valentin Yumashev and with Alexander Voloshin, the Yeltsin-era Kremlin chief of staff. He was seen as the acceptable face of Russian business, a representative of the more liberal wing of the Russian elite the UK was so anxious to cultivate. But this perception was in fact no more than a convenience for Putin. 'Putin likes people like Abramovich and Yumashev to travel the world and tell people he's not such a crocodile,' said Alexander Temerko, the former Yukos shareholder who by the end of 2004 had fled Russia for the UK. 'He needs them to do this for him. They are voluntary unpaid ambassadors for him.'<sup>42</sup>

Whether he wanted to or not, Abramovich had become part of the Putin machine, one of the Kremlin's trusted custodians. He played an integral role in helping create a KGB capitalism that was becoming turbocharged as it extended its reach into the West while energy prices continued to soar. His Sibneft oil major was part of that transformation. In September 2005 it too was swallowed up by the state as

the Kremlin continued its drive to take control of the strategic energy sector. But instead of winding up in jail like Khodorkovsky, his company bankrupted over billions of dollars in back tax charges, Abramovich was able to sell Sibneft to the state for \$13 billion – cash. But barely any of the earnings were to be considered his own. Instead of merging with Yukos and selling the company to the US's Exxon or Chevron as he and Khodorkovsky had once planned, Abramovich had bowed instead to the Kremlin's new order. Once again, he had little choice. The sale of Sibneft to Gazprom at the end of 2005 was another stage in the process by which the Kremlin's energy takeover gained international legitimacy, further fuelling the Russian stock market boom. It was the moment when Abramovich's wealth became even more wedded to the Kremlin than before." [Pages 352-4]

"38 Pugachev said Putin had first raised it with him a year before Abramovich bought Chelsea, suggesting that he, Pugachev, buy the club as a way of increasing Russia's influence. 'Before the deal happened, Putin told me this was the best way to infiltrate England,' he said. 'He said it's the same as buying up all the pubs. "We'll get such depth.'"" [Page 567]

(15)

"Gazprom, in turn, announced that it was going to use the cash it received from the government for its shares for an acquisition of its own: rather than bankrupting Abramovich's Sibneft and then seizing control, it was going to buy it. This was a compromise amid the infighting with Sechin that would give Gazprom an oil operation of its own. In the end, Gazprom purchased Sibneft from Abramovich for \$13 billion, in a deal that seemed to underline how much Abramovich's fate differed from Khodorkovsky's.<sup>45</sup> The deal handed over yet another oil major from the private sector into the hands of Putin's men. But Abramovich appeared to have walked away with a fair market price for his company, without the forced sale, bankruptcy and back tax charges of the Khodorkovsky case – despite the fact that Sibneft paid an even lower effective tax rate than Yukos ever had. It was lauded as the biggest takeover deal in Russian history, and was seen by the market as a sign that the Kremlin had moved on from the Yukos affair, and that further expropriations would not occur.

But in fact it was just another evolution of an emerging KGB capitalism in which nothing was quite as it seemed. Rumours flew that Abramovich had had to split the lion's share of the \$13 billion he'd received with Putin's men. 'I've been saying for a long time that Putin is a business partner of Abramovich's,' said his former business partner Boris Berezovsky at the time. 'I have no doubt that the profits from the sale of Sibneft will be shared between Abramovich and Putin as well as among several other individuals.'<sup>46</sup>

'It's not just his money,' a Russian tycoon once close to Abramovich said.<sup>47</sup> 'He is Putin's representative.' 'No one knows how much he's got,' said another former associate.<sup>48</sup> Another Russian tycoon said Abramovich had once complained to him that he'd had to spend more than his share of the money from the Sibneft sale on implementing orders for Putin – on building football stadiums in Russia, on investments in Chukotka, and other strategic operations for the Kremlin's benefit.<sup>49</sup>

It was becoming a system in which all businesses of any scale were dependent on the good will of the Kremlin, where tycoons had to serve the state in order to preserve their standing and wealth. But it was also a system that, by stealth, was gaining ever greater international acceptance and legitimacy. While the West had immediately accepted what it believed were liberal-minded tycoons like Abramovich, it had also begun to reconcile itself to the Kremlin's new energy order." [Pages 355-6]

(16)

"But the [Rosneft] IPO had in fact not really been an IPO at all. Instead, it was more like a private placement. Foreign oil majors including BP, Malaysia's state oil company Petronas, and China National

Petroleum Corporation, anxious to curry favour with the Kremlin, had bought up almost half the total offering, while KGB-connected Gazprombank bought \$2.5 billion in shares.<sup>57</sup> It was widely reported that the Kremlin, which couldn't allow the sale to fail, had pressed tycoons like Abramovich to take part in it. Abramovich was reported to have bought as much as \$300 million worth of shares, a further indication that he was operating at the Kremlin's behest.<sup>58</sup> [Page 358]

(17)

"But London real-estate brokers were well aware that their biggest clients, splashing millions on the capital's finest property, were from the former Soviet Union, while the city's lawyers and bankers queued to service the billions of dollars at the command of the Russian tycoons. This money's provenance, and who really controlled it, were of little concern.

The West hadn't known then that, for instance, when Abramovich bought Chelsea he may have been acting on Kremlin orders. There was scant awareness that the British lords paid lavish salaries to sit on the boards of Russian companies had been granted little oversight of the corporate activities. 'In London, money rules everything,' said one Russian tycoon. 'Anyone and anything can be bought. The Russians came to London to corrupt the UK political elite.'<sup>85</sup> 'The Russians know very well how to play the game,' said a former senior London banker with ties at the top of Kremlin power. 'They manipulate lots of people with money. There are fifty people here I could name. What do you think all those lords are doing on the boards of Russian companies? They are being paid £500,000 a year.'<sup>86</sup>

As London became known as Londongrad, or Moskva-na-Thames (Moscow on the Thames), two of Russia's richest billionaires, Roman Abramovich and Alisher Usmanov, an Uzbek-born metals tycoon whose business had always gone hand in hand with the Russian state, set up residence in the city and took prime positions in the top ten of the Sunday Times rich list. For one Russian tycoon, the process reminded him of an old Soviet anecdote from many years before.<sup>87</sup> In those days, when the Soviet Union was careening towards bankruptcy, the KGB was preparing to send an agent to the US. The agent had thought up an attractive cover story for himself: he would arrive in America as a rich man, with a fleet of yachts and a prestigious mansion. The whole of US high society would come to him. He'd told his KGB boss how effective this plan would be, and the chief wholeheartedly approved. But when it came to seeking approval from the KGB finance department, the concept had to be changed. The agent was told there was no money for such a scheme. Instead, he would have to head to the US as a homeless person without money. 'This was the situation,' the tycoon said. 'And now the dream has come true. They have the big yachts and the private planes. And here they have their big houses. There is Chelsea Football Club. It's not just Abramovich, but it's a whole group that have descended into the West. The infiltration of the UK has succeeded.' " [Pages 364-5]

## **Chapter 12: The Battle Begins**

(18)

"For one of Putin's closest allies, Vladimir Yakunin, the former KGB officer who'd been one of the first shareholders of Bank Rossiya and who now served as head of Russian Railways, being on the US sanctions list was a badge of honour. But as far as he was concerned, the US government was behind the times in claiming that only Timchenko and Kovalchuk were cashiers for Putin: 'The Russian president has access to the funds of the entire country,' he said.<sup>88</sup>

It was a sentiment echoed in warning by another close former partner of Timchenko. When we met one rainy day in November 2014, he warned me that the US sanctions might be too little too late. By then a vast web of money men and tycoons were acting as proxies for the Putin regime. 'You'd have to sanction every one of them,' he said.<sup>89</sup> [Pages 393-4]

(19)

"For Pugachev, the danger was clear. The system of black cash to corrupt and buy off officials had long gone beyond the first custodians of the Putin regime, beyond Timchenko, Kovalchuk and Rotenberg, and had extended to all the Russian billionaires who acted as fronts at the Kremlin's command. 'They all get calls to send money for this and for that. They all say, "We'll give it. What else do you need?" This is the system. It all depends on the first person, because he has unlimited power. All are ready to work under those rules. And those who aren't are either in jail or abroad.'<sup>93</sup>

If the Soviet Union had run influence operations deep into the Middle East and Africa, now Putin's KGB capitalism had penetrated deep into Europe. 'This black cash is like a dirty atomic bomb,' said Pugachev. 'In some ways it's there, in some ways it's not. Nowadays it's much harder to trace.'<sup>94</sup>" [Pages 394-5]

### **Chapter 13: Black Cash**

(20)

"The scheme the ICIJ uncovered looked at first glance to provide a close-up glimpse into one of the crony slush funds that had become endemic to the Putin regime, a money machine by which tycoons paid 'donations' or tributes into the Putin obschak, sometimes in return for deals" [Page 398]

### **Chapter 14: Soft Power in an Iron Fist - 'I Call Them the Orthodox Taliban'**

(21)

"But as the Kremlin – and the FSB in particular – could turn to any businessman or illegal slush fund for support, unofficial sources of cash were also readily on tap." [Page 423]

(22)

"As Russia hurtled deeper into standoff with the West, some in the Obama administration became increasingly alarmed about the Putin regime's capacities. One of the most vocal at the time was vice president Joe Biden, who warned of how the Kremlin had generated the ability to direct loyal oligarchs to carry out geopolitical strategic operations, and was using corruption as a power to undermine democratic regimes. 'Corruption is the new tool of foreign policy,' said Biden. 'It's never been as handy and as useful in the hands of nations who want to disrupt and oligarchs that respond to them. It's like the kryptonite of a functioning democracy ... The stakes are strategic as well as economic, because Russia and others are using corruption and oligarchs as tools of coercion.'<sup>113</sup>" [Page 445]

### **Chapter 15: The Network and Donald Trump**

(23)

"Putin was being facetious. The use of the term 'private individuals' was a typical KGB tactic that allowed plausible deniability for any Kremlin involvement, and it went to the heart of how Putin's regime operated. By then under his KGB capitalism, all of Russia's significant so-called 'private' businessmen had become agents of the state. [Page 483]

(24)

"Even beyond this network of Moscow money men that had expanded to include the new generation from Brighton Beach (Sater and Dvoskin), Putin had developed other levers of influence. There was Dmitry Rybolovlev, the fertiliser tycoon who overpaid for Donald Trump's Palm Beach mansion. There was Roman Abramovich, the former oil magnate who in recent years had switched his focus from London to New York, where his second wife (until their August 2017 divorce) bought a brownstone



mansion and they wine and dine Trump's daughter Ivanka, her husband Jared Kushner and his brother. 'I know Putin sent Abramovich there to continue the influence campaign,' said one former close associate.<sup>172</sup> Then there was Viktor Vekselberg, the mandarin-like head of the Skolkovo high-tech hub who spent some of the fortune he'd acquired in Russian oil buying up American assets, including control of CIBC, one of the US's largest managers of collateralised loan obligations, which managed \$14 billion in private debt, making it a vehicle of potentially untold leverage and influence over indebted American businessmen. 'Each one of the top ten Russian businessmen is doing something', said a former close associate of one Russian billionaire. 'They have so much cash. They can buy anyone.' [Pages 485-6]

(25)

"But from the beginning the Russian black-cash networks had, in part, been embedded to erode the system, and exacerbate corruption in the West. For one senior Russian businessman, Putin's Russia posed an increasing threat to Western liberal democracy. In the impeachment probe and the 2020 US presidential race, the clash between liberal values and a Putin-style corrupt authoritarian order was reaching a denouement. 'Putin understands that Russia can spend any amount of money it wants [on sowing chaos in the West]. The obschak, the black-cash box, has become the size of the budget, and they can give orders to the oligarchs as well. It is a mafia that has seized power, and the state is acting as the mafia.'<sup>187</sup>

The system of KGB capitalism was still working. The networks were still in place." [Page 488]

## **Epilogue**

(26)

"In Russia, the West's willing complicity had helped produce a KGB simulation of a normal market economy. Institutions of power and the market that were meant to be independent were in fact no more than Kremlin fronts... The court system was not a court system, it was an arm of the Kremlin. The same went for the parliament, for elections, and for the oligarchy. Putin's KGB men controlled all of them." [Page 497]

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<sup>1</sup> Sub-paragraphs (1) to (4) of paragraph 2 of the Defendants' notice of their case on meaning are set out in paragraph 7 of this judgment.