



Neutral Citation Number: [2022] EWHC 2511 (Ch)

Claim No: BR-2021-000044

**IN THE HIGH COURT OF JUSTICE**  
**BUSINESS AND PROPERTY COURTS OF**  
**ENGLAND AND WALES**  
**INSOLVENCY AND COMPANIES LIST (ChD)**

The Rolls Building  
7 Rolls Buildings  
Fetter Lane  
London EC4A 1NL

Date: Wednesday, 5th October 2022

**Before:**

**MRS JUSTICE FALK**

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**Between:**

**LYUBOV KIREEVA**  
**(as bankruptcy trustee of Georgy Bedzhamov)**  
**- and -**  
**GEORGY IVANOVICH BEDZHAMOV**

**Applicant**

**Respondent**

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**MR STEPHEN DAVIES KC and MR WILLIAM WILLSON (instructed by DCQ Legal)**  
appeared for the **Applicant**.

**MR JUSTIN FENWICK KC and MR MARK CULLEN (instructed by Greenberg Traurig LLP)** appeared for the **Respondent**.

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**Approved Judgment**

Transcript of the Stenograph Notes Marten Walsh Cherer Ltd.,  
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## MRS JUSTICE FALK:

1. This ruling relates to a hearsay application made by Ms Kireeva (the “Trustee”) on 26 September 2022 in respect of three witness statement of Ms Yulya Ermilova. The ruling also addresses objections raised on behalf of Mr Bedzhamov in relation to the late emergence and inclusion in the trial bundle of copies of certain notarial records obtained by the Trustee, and copies of certain other documents said to record known transactions.
2. I am going to grant the hearsay application. The application was made late. Under the directions for the remittal it should have been made by 10 July 2022, but I am satisfied that the need for it arose, as far as the Trustee is concerned, from an unforeseen change in circumstances connected with Ms Ermilova’s late refusal to come to give evidence, a refusal which I would describe in terms of unwillingness, rather than, it appears, inability. I am sufficiently satisfied that there was a good reason for the late application, and that it would be just in all the circumstances to grant an extension of time.
3. I obviously take into account the point Mr Davies has made this morning that the court is likely to focus, first and foremost, on the available documentary evidence, but nonetheless the relevant circumstances include the fact that the Trustee’s position statement relied quite heavily on Ms Ermilova’s evidence.
4. As to the details of Ms Ermilova’s refusal to give evidence, I should clarify that that is one of the matters that may be taken into account in assessing the weight, if any, to be given to the evidence.
5. That deals with the late application.
6. I then also have to decide whether I should exercise the court’s discretion to exclude Ms Ermilova’s witness statements, a discretion that the parties accept that I have. The tests are well-known. I was referred to *Polanski v Conde Nast* [2005] 1 WLR 637 at [36], where Lord Nicholls said,

“Such an exclusionary order should not be made automatically in respect of the non-attendance of a party or other witness for cross-examination. Such an order should be made only if, exceptionally, justice so requires.”
7. He went on to say,

“... in general, the preferable course is to admit hearsay evidence, and let the court attach whatever weight may be appropriate ...”
8. Similarly, it is worth referring to the judgment of David Richards J in *Daltel Europe v Makki* [2005] EWHC 749 at [56], which refers to it being,

“... rarely... a proper use of the power under Part 32.1(2) to exclude hearsay evidence which was relevant to the issues for decision ...”
9. The evidence is clearly relevant. This is not a case of excluding evidence on the basis that it would be disproportionate to bring it in. The Trustee’s case, at least originally, was built, at least in part, on the evidence of Ms Ermilova.

10. I am fully aware that had Mr Bedzhamov, through Mr Fenwick, had the chance to cross-examine Ms Ermilova, he would wish, among other things, to challenge what he says are inconsistencies. The point has also been made that Ms Ermilova's reasons for non-attendance appear, to use Mr Fenwick's word, thin. I make no comment on that at that stage, but I have made it clear to Mr Fenwick that time will be given to make in submissions the points that Mr Bedzhamov would want to make in that respect, and that the result may be that little or no weight may be accorded to some or indeed even all parts of Ms Ermilova's evidence.
11. I will also, as I indicated, be considering hearsay evidence put in by Mr Bedzhamov in relation to unnamed members of his staff, as to his movements on 23 October 2015. That is hearsay evidence to which no objection has been made. Again, I will be assessing what weight, if any, to give to that evidence.
12. I move on to what Mr Davies has described as the exclusion application. This was essentially an objection raised, on behalf of Mr Bedzhamov, to the inclusion of certain documents in the trial bundle, the most significant of which is evidence of records of a notary public, Ms Gagarina, who is said to have formally notarised documents in this case.
13. In particular, these records relate to powers of attorney said to have been given by Mr Bedzhamov in April 2013 to a personal assistant at VPB, in respect of what the Trustee says is the 2013 mortgage and 2013 guarantee, and a further power of attorney and a declaration dated 22 October 2015. The 2015 power of attorney is said to relate to what the Trustee says is the 2015 mortgage. The declaration is a declaration that Mr Bedzhamov had no spousal interest in the relevant property, which, again, is said to relate to that mortgage.
14. I accept the Trustee's explanation that the relevant notarial records were only received in September (last month). I also accept Mr Fenwick's point that they have not had an opportunity to test that evidence, although I did not understand Mr Fenwick to challenge Mr Davies's submission that the records are, in principle, covered by CPR 32.20 and section 9 of the Civil Evidence Act, in other words, documents not requiring further proof to bring them in as evidence.
15. I also take into account that, although the notarial records have only recently been made available, the documents to which they relate, and in particular the two powers of attorney for 2013, were known about by Mr Bedzhamov's team earlier. Indeed, Mr Bedzhamov himself disclosed the two powers of attorney from 2013 to which I have just referred. That was pursuant to an agreement with VPB that Mr Bedzhamov would provide to the Trustee any material responsive to a search for the term "VTB24" that had been disclosed by VPB in the bank proceedings. My point is that the existence of the powers of attorney, which bore a notarial stamp, has been known by Mr Bedzhamov for some period of time.
16. Overall, I do not think it would be unfair to introduce these additional records into the bundle. Mr Elliott, solicitor for the Trustee, has explained why they were only recently obtained. That explanation has not been directly challenged, and, overall, I think it is in the interests of justice to allow those documents to be included in the bundle. Of course, Mr Fenwick is fully at liberty to make submissions as to the weight that I should accord to them.

17. Essentially, the same applies in relation to the so-called additional transaction documents. These are documents the Trustee has received very recently from VTB. None of them is said to be signed by Mr Bedzhamov. They all relate to so-called known transactions. They do not, as far as I can see, make a material difference. For example, one of them relates to the original 2007 loan to Larisa Markus, the existence of which I do not understand to be in dispute.
18. So, in summary, I am granting the hearsay application, and I will consider the weight to be given to the evidence separately. I will also permit the other documents to be included in the bundle for trial, and again will hear submissions as to the weight I should give to those documents, if any.

**(Proceedings continued, please see separate transcript)**

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